

NO. 25531

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

BRIAN SHAUGHNESSY, Petitioner,

vs.

ALLENE SUEMORI, in her official capacity as Family Court Judge
of the Family Court of the First Circuit of the
State of Hawai'i; THE FAMILY COURT OF THE FIRST CIRCUIT
OF THE STATE OF HAWAI'I, Respondents.

ORIGINAL PROCEEDING

ORDER

(By: Moon, C.J., Levinson, Nakayama,
Ramil, and Acoba, JJ.)

Upon consideration of Petitioner Brian Shaughnessy's petition for a writ of mandamus, the papers in support, and the records and files herein, it appears that: (1) Petitioner asks the court to review the actions of the respondent judge related to the entry of default in Villanueva v. Villanueva, FC-D No. 99-2624, presently pending in the Family Court of the First Circuit; (2) a writ of mandamus is an extraordinary remedy that will not issue unless the petitioner demonstrates a clear and indisputable right to relief and a lack of other means to redress adequately the alleged wrong or obtain the requested action. State v. Hamili, 87 Hawai'i 102, 104, 952 P.2d 390, 392 (1998); (3) such writs are not meant to supersede the legal discretionary authority of the lower courts, nor are they meant to serve as legal remedies in lieu of normal appellate procedures. Id.; (4) where a trial court has discretion to act, mandamus clearly will not lie to interfere with or control the exercise of that

discretion, even when the judge has acted erroneously, unless the judge has exceeded his or her jurisdiction, has committed a flagrant and manifest abuse of discretion, or has refused to act on a subject properly before the court under circumstances in which it has a legal duty to act. Id.; (5) the respondent judge's decision to require a written motion to set aside the default is within her discretion; (6) Petitioner filed a written motion to set aside the default, and he can present his arguments at the hearing on the motion; (7) the issues can also be raised on appeal if the respondent judge enters an adverse judgment; and (8) thus, Petitioner fails to demonstrate that he is entitled to a writ of mandamus. Therefore,

IT IS HEREBY ORDERED that the petition for a writ of mandamus is denied without prejudice to Petitioner raising any issue at the hearing on the motion to set aside default and without prejudice to any remedy by way of appeal from any adverse judgment.

DATED: Honolulu, Hawai'i, December 23, 2002.