

NO. 29805

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

CATINA BEAM, nka CATINA STEFANIK, Petitioner

vs.

THE HONORABLE LINDA K.C. LUKE, JUDGE OF THE FAMILY COURT
OF THE FIRST CIRCUIT, STATE OF HAWAI'I, Respondent.

K. HANAKAHO
CLERK, APPELLATE COURTS
STATE OF HAWAII

2009 MAY 15 AM 9:45

FILED

ORIGINAL PROCEEDING
(FC-D NO. 07-1-0232)

ORDER

(By: Moon, C.J., Nakayama, Acoba, Duffy, and Recktenwald, JJ.)

Upon consideration of the petition for a writ of mandamus filed by petitioner Catina Stefanik and the papers in support, it appears that the motion to dismiss the custody proceeding is not scheduled for hearing after the custody trial inasmuch as the motion to dismiss is scheduled for hearing on July 15, 2009, Wednesday, at 8:30 a.m. and the custody matter is scheduled for trial during the week of -- not on -- July 13, 2009. There is no evidence that the motion to dismiss will not be heard before commencement of the custody trial and the denial of the motion to shorten the time to hear the motion to dismiss is reviewable on appeal from a final order on the custody proceeding. Thus, petitioner is not entitled to mandamus relief. See Kema v. Gaddis, 91 Hawai'i 200, 204, 982 P.2d 334, 338 (1999) (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 alternative means to redress adequately the alleged wrong or obtain the requested action. Such writs are not intended to supersede the legal discretionary

authority of the lower courts, nor are they intended to serve as legal remedies in lieu of normal appellate procedures.).

Accordingly,

IT IS HEREBY ORDERED that the petition for a writ of mandamus is denied.

DATED: Honolulu, Hawai'i, May 15, 2009.



Paula A. Nakayama



James E. Duggan, Jr.

Mark E. Rechtenwald