

**IN THE  
SUPREME COURT OF THE REPUBLIC OF PALAU  
APPELLATE DIVISION**

<p><b>ELLENDER NGIRAMEKETII,</b> <i>Petitioner,</i></p> <p style="text-align:center"><b>v.</b></p> <p><b>LOURDES F. MATERNE, Associate Justice of the Supreme Court,</b> and <b>REPUBLIC OF PALAU,</b> <i>Respondents.</i></p>
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Cite as: 2021 Palau 4  
Special Proceeding No. 21-001  
Criminal Case No. 19-097

Decided: January 27, 2021<sup>1</sup>

Counsel for Petitioner ..... Brien Sers Nicholas

BEFORE: OLDIAIS NGIRAIKELAU, Chief Justice  
JOHN K. RECHUCHER, Associate Justice  
ALEXANDRO C. CASTRO, Associate Justice

**ORDER DENYING WRIT OF MANDAMUS**

PER CURIAM:

[¶ 1] Before the Court is Ellender Ngirameketii’s Petition for a Writ of Mandamus pursuant to Republic of Palau Rule of Appellate Procedure 21, which he filed on January 22, 2021. Petitioner asks us to order the trial court to dismiss his criminal case because the prosecutor failed to appear for trial at the originally scheduled trial date.

[¶ 2] It is well established that “[a] writ of mandamus is an extraordinary writ reserved for extraordinary situations,” and “[t]he burden is on the

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<sup>1</sup> This Order was amended on February 4, 2021, to remove a factual misstatement.

petitioner to show the right to the issuance of the writ is clear and indisputable.” *First Commercial Bank v. Mikel*, 15 ROP 1, 2 (2007). A writ of mandamus will only issue upon a showing that “there is: 1) a specific, incontrovertible right in the petitioner to have the act in question performed; 2) a corresponding ministerial duty to be performed by the respondent; and 3) no other specific and adequate relief, such as appeal, available.” *ROP v. Asanuma & Malsol*, 3 ROP Intrm. 48, 49 (1991). As we have previously explained, “[f]ailure to meet any one of the criteria is fatal to the petition.” *Ngirameketii v. Materne*, 2020 Palau 23 ¶ 2.

[¶ 3] In this case, Petitioner has the ability to raise any issue with the prosecutor’s failure to appear on appeal to the Appellate Division after a final judgment has entered. We reject Petitioner’s argument that he is entitled to a writ of mandamus because an appeal would likely be dismissed as interlocutory at this stage. Further, we are not persuaded by Petitioner’s argument that judicial efficiency supports granting the writ.

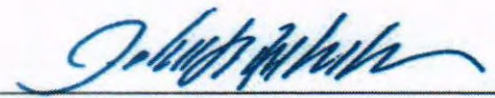
[¶ 4] Accordingly, the Petition for the Writ of Mandamus is **DENIED**.

**SO ORDERED**, this 27th day of January, 2021.



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OLDIAIS NGIRAIKELAU  
Chief Justice



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JOHN K. RECHUCHER  
Associate Justice



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ALEXANDRO C. CASTRO  
Associate Justice