

Not For Publication.

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

IN RE: JANELLE K. SARAUW,) **S. Ct. Civ. No. 2017-0049**
Petitioner.)
_____)

On Petition for Writ of Mandamus

Considered and Filed: May 17, 2017

BEFORE: RHYS S. HODGE, Chief Justice; **MARIA M. CABRET**, Associate Justice; and **IVE ARLINGTON SWAN**, Associate Justice.

JUDGMENT

PER CURIAM.

THIS MATTER is before the Court pursuant to a petition for writ of mandamus filed by Janelle Sarauw. In her petition, Sarauw requests that this Court issue a writ directing the Board of Elections to certify the results of the April 8, 2017 special election to fill the vacancy in the 32nd Legislature.

To obtain a writ of mandamus, a petitioner must establish that his or her right to the writ is clear and indisputable and that there is no other adequate means to attain the desired relief. *In re Le Blanc*, 49 V.I. 508, 516 (V.I. 2008). Furthermore, even if those two prerequisites are met, the issuing court must be satisfied that the writ is appropriate under the circumstances. *In re Morton*, 56 V.I. 313, 319 (V.I. 2012). If this Court concludes that a petitioner cannot meet this burden, it shall deny the petition without ordering an answer from the respondent. V.I. R. APP. P. 12(b).

Although Sarauw correctly recognizes that this Court possesses original jurisdiction over proceedings for writ of mandamus, *see* 4 V.I.C. § 32(b), this jurisdiction is concurrent with the Superior Court, which also may issue writs of mandamus. *See, e.g., Moorhead v. Mapp*, 62 V.I. 595, 597-98 (V.I. 2015); *Hansen v. O'Reilly*, 62 V.I. 494, 505-06 (V.I. 2015). When a higher court

and a lower court both possess concurrent jurisdiction to issue a writ of mandamus to a respondent, the availability of mandamus relief from the lower court constitutes an adequate alternate means to obtain the desired relief, which means that “the application should first be made in the inferior court unless a good and sufficient reason is given for applying in the first instance to the court of last resort.” *Hutchens v. Mercer*, 27 S.W.2d 795, 797 (Tex. 1930); *see also Ambrosier v. Brownback*, 375 P.3d 1007, 1009 (Kan. 2016) (because Supreme Court’s mandamus jurisdiction is “discretionary and concurrent” with the lower courts, a petitioner must explain why action must be brought in Supreme Court rather than in the trial court); *State ex rel. King v. Lyons*, 248 P.3d 878, 885-86 (N.M. 2011) (since Supreme Court and trial court possess concurrent jurisdiction over mandamus cases, petitioner seeking relief from the Supreme Court in first instance must show that issue is of exceptional public importance and involves pure issues of law with no factual determinations); *State ex rel. Silver v. Wilkes*, 584 S.E.2d 548 (W. Va. 2003) (“Where circuit courts have concurrent original jurisdiction with the West Virginia Supreme Court of Appeals over matters arising in family court, the preferred court of first report [for mandamus petitions] is the circuit court.”); *State ex rel. Blad v. Jones*, 261 P.2d 519, 520 (Nev. 1953) (“Concurrent jurisdiction in mandamus is held by the district courts to which no resort has yet been had in this matter. It is the practice of this court to exercise its discretion to accept original jurisdiction in the first instance under these circumstances.”); *cf. V.I. R. APP. P. 8(b)* (requiring that a party seeking a stay either petition the Superior Court for relief in the first instance or explain why doing so is not practicable).

Here, Sarauw has failed to state in her petition that she has sought mandamus relief from the Superior Court. And while there may very well be reasons that may justify bypassing the Superior Court and filing a mandamus petition with this Court in the first instance, Sarauw has not

provided any reasons—let alone a sufficient reason—for doing so, and this Court will not relieve her of her burden of proof by speculating as to what those reasons may be. *In re Colony Ins.*, 978 S.W.2d 746, 747 (Tex. App. 1998) (“We will not issue a writ of mandamus when the petition and the record supporting it require us to speculate.”). Thus, because Sarauw appears to have an alternate adequate means to attain the desired relief that has not yet been sought, in the form of filing a petition for writ of mandamus against the Board of Elections with the Superior Court, Sarauw has failed to establish one of the mandatory prerequisites to obtaining a writ of mandamus from this Court. Accordingly, it is hereby

ORDERED that the petition for writ of mandamus is **DENIED** without prejudice to its re-filing in the Superior Court; and it is further

ORDERED that copies of this Order shall be served on the parties.

SO ORDERED this 17th day of May, 2017.

ATTEST:
VERONICA J. HANDY, ESQ.
Clerk of the Court