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APPENDIX A

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

TIFFANY RECINOS,

Petitioner,

v.

MIKE KREIDLER, ET AL.,

Respondents.

NO. 101665-4

RULING DISMISSING ORIGINAL
ACTION AGAINST STATE OFFICER

Pro se petitioner Tiffany Recinos seeks a writ of mandamus directing Insurance Commissioner Mike Kreidler and other individuals to disclose documents allegedly concerning petitioner's insurance coverage dispute with Nationwide General Insurance Company. The petition is dismissed without considering whether to transfer the case to the Court of Appeals under RAP 16.2(d).

As indicated, petitioner has an ongoing dispute with Nationwide over insurance policy coverage for water damaged allegedly caused by a leaking sink in petitioner's home. Petitioner filed a consumer complaint with the insurance commissioner and asked the commissioner to order Nationwide to produce certain documents concerning petitioner's coverage claim and to take steps to repair petitioner's home. Petitioner also submitted a public records request to the insurance commissioner, demanding the commissioner produce the records petitioner previously demanded from Nationwide.

The insurance commissioner informed petitioner that the Public Records Act did not have a procedure allowing the Office of the Insurance Commissioner to use the act as a mechanism to demand that a private company produce its records. The commissioner further informed petitioner that it did not have at that time responsive records, only the papers submitted by petitioner.

Petitioner asked the insurance commissioner to conduct an administrative hearing for purposes of providing petitioner with emergency relief concerning the water damage. The commissioner declined to do so.

The insurance commissioner provided petitioner with access to digital copies of the documents it had on petitioner's consumer complaint, with social security numbers redacted. The commissioner assured petitioner any documents received from Nationwide concerning her claim would be provided to her as part of her consumer complaint. Nationwide would later file papers in response to petitioner's consumer complaint, which were shared with petitioner.

The insurance commissioner later determined Nationwide properly handled petitioner's claims and that there was nothing for the commissioner to resolve as a consumer complaint matter. The commissioner closed petitioner's consumer complaints in January 2023.

Meanwhile petitioner filed two complaints in Pierce County Superior Court, both naming as defendants Nationwide and the insurance commissioner. Petitioner separately moved for a writ of execution and for a preliminary injunction, both of which the superior court denied. In February 2023 Nationwide removed both civil actions to the United States District Court for the Western District of Washington. The district court dismissed one of the cases as duplicative, leaving one action in that court. No. 3:23-cv-05097.

Petitioner now asks this court to issue a writ of mandamus.¹ Before me now for determination is whether to retain the case in this court, transfer it to a superior court for further proceedings, or dismiss it outright. RAP 16.2(d).

Mandamus is an extraordinary remedy that is available only when the responding state officer is under a clear and nondiscretionary duty to take a specific action; the petitioner has no plain, speedy, and adequate remedy at law; and the petitioner is beneficially interested. *Colvin, et al. v. Inslee, et al.*, 195 Wn.2d 879, 890-94, 467 P.3d 953 (2020). More specifically, a writ of mandamus is an extraordinary remedy that allows this court to direct a coordinate, equal branch of Washington's government to take specific actions, notwithstanding constitutional doctrine of the separation of powers. *Walker v. Munro*, 124 Wn.2d 402, 407, 879 P.2d 920 (1994). The availability of mandamus is strictly limited because under separation of powers principles this court ordinarily "will not usurp the authority of the coordinate branches of government." *Id.* at 410. Consistent with these separation of powers principles, mandamus is available only when the law plainly requires a government official to take a particular action. *Freeman v. Gregoire*, 171 Wn.2d 316, 323, 256 P.3d 264 (2011). Stated another way, mandamus is an appropriate remedy only where the law defines the duty to be performed by the official with such precision that there is no room for discretion or judgment. *Walker*, 124 Wn.2d at 407. On the other hand, if the law does not require a government official to take a specific action, this court may not order such action by way of a writ of mandamus. *See State ex rel. Taylor v. Lawler*, 2 Wn.2d 488, 490, 98 P.2d 658 (1940) (this court's jurisdiction under Article IV, section 4 of the Washington Constitution does not authorize issuance of a writ of mandamus generally controlling or directing the actions of state officers). Thus, a writ of mandamus may not

¹ Petitioner initially filed the petition in the superior court, titling it as a petition for writ of certiorari. This court received it the next day and treated it as the instant petition for writ of mandamus.

be employed to control an official's discretionary acts. *SEIU Healthcare 775NW v. Gregoire*, 168 Wn.2d 593, 599, 229 P.3d 774 (2010).

Besides showing that a state official has a clear duty to act, those seeking the writ of mandamus must show they have no "plain, speedy, and adequate remedy in the ordinary course of law," and that they are "beneficially interested." RCW 7.16.170. Petitioners must prove all three of these elements to justify mandamus. *Eugster v. City of Spokane*, 118 Wn. App. 383, 403, 76 P.3d 741 (2003).

Petitioner fails to show that the insurance commissioner or any other state officer owes her a duty actionable in mandamus. Petitioner is embroiled in a coverage dispute with Nationwide. She filed a consumer complaint that the Office of the Insurance Commissioner apparently treated in the normal course. Petitioner has not identified a single nondiscretionary duty on the part of the commissioner or the commissioner's staff that can be compelled by way of the requested writ. Further, petitioner has an adequate remedy at law by means of litigation in federal court. In addition, to the extent petitioner argues the insurance commissioner violated the Public Records Act, her recourse would be to seek judicial review in accordance with the act's provisions. *See* RCW 42.56.550.

In sum, petitioner cannot demonstrate any possibility of obtaining relief by mandamus. It therefore would not be a good use of judicial resources to retain this case for a decision on the merits or transfer it to the superior court for further development. The better course is to dismiss the case outright under RAP 16.2(d).

The original action is dismissed.


COMMISSIONER

March 23, 2023

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APPENDIX B

THE SUPREME COURT OF WASHINGTON

TIFFANY RECINOS,

Petitioner,

v.

MIKE KREIDLER, et al.,

Respondents.

No. 101665-4

ORDER

Department II of the Court, composed of Chief Justice González and Justices Madsen, Stephens, Yu and Whitener (Justice Johnson sat for Justice Whitener), considered this matter at its June 6, 2023, Motion Calendar and unanimously agreed that the following order be entered.

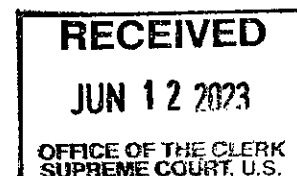
IT IS ORDERED:

That the Petitioner's motion to modify the Commissioner's ruling is denied.

DATED at Olympia, Washington, this 7th day of June, 2023.

For the Court

González C.J.
CHIEF JUSTICE



**Additional material
from this filing is
available in the
Clerk's Office.**