

XI. APPENDIX

- A. Ruling Dismissing Original Action Against State Officer, Judgement entered August 29, 2024 by Washington Supreme Court Commissioner Michael Johnston.
- B. Order Dismissing Motion to Modify Commissioner's Ruling, Judgement entered Nov. 5, 2024 by Washington Supreme Court Chief Justice Steven González.
- C. Letter denying further action on Motion for Reconsideration, Washington State Supreme Court Clerk, Nov. 20, 2024.

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

WARREN LEE WEISMAN,
Petitioner,

v.

CHARLES E. CLARK,
Respondent.

No. 1 0 3 1 2 2 - 0

RULING DISMISSING ORIGINAL
ACTION AGAINST STATE OFFICER

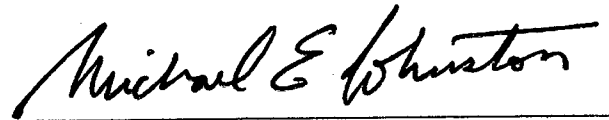
Pro se petitioner Warren Weisman seeks issuance of a writ of mandamus directing respondent Charles E. Clark, the director of the Washington State Department of Financial Institutions, to appoint petitioner "Director of Regulatory and Legal Affairs." Respondent opposes the writ and urges it be dismissed. Now before me for determination is whether to refer the petition to this court for consideration on the merits, transfer it to the appropriate superior court for further proceedings, or dismiss it outright. RAP 16.2(d).

The writ of mandamus is an extraordinary remedy, made rare by considerations of separation of powers. *Colvin v. Inslee*, 195 Wn.2d 879, 890-91, 467 P.3d 953 (2020). A petitioner seeking mandamus relief must show that the official who is the subject of the petition has a mandatory, ministerial duty to perform an act required by law as part of that official's duties. *Id.* at 892. Thus, if the law does not require an official to take a specific action, neither may a writ of mandamus. *Id.* at 893.

Mandamus therefore may not be employed to control acts involving the official's exercise of discretion. *Id.* In other words, mandamus is appropriate only where the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion or judgment. *Id.*

As indicated, petitioner seeks to compel respondent to appoint them to a position with the Department of Financial Institution. But a government official's decision whether to employ a particular individual is the very essence of discretion. Petitioner fails to show otherwise. Accordingly, petitioner cannot establish an actionable basis for seeking a writ of mandate.

The petition is dismissed.¹

A handwritten signature in black ink, reading "Michael E. Whinston". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

COMMISSIONER

August 29, 2024

¹ Petitioner's motion to waive personal service is denied as moot in light of the Attorney General's representation that it accepted service pursuant to RCW 4.92.020.

THE SUPREME COURT OF WASHINGTON

WARREN LEE WEISMAN,

No. 103122-0

Petitioner,

ORDER

v.

CHARLES E. CLARK,

Respondent.

Department II of the Court, composed of Chief Justice González and Justices Madsen, Stephens, Yu and Whitener, considered this matter at its November 5, 2024, Motion Calendar and unanimously agreed that the following order be entered.

IT IS ORDERED:

That the Petitioner's motion to expedite relief and motion to modify the Commissioner's ruling are both denied.

DATED at Olympia, Washington, this 6th day of November, 2024.

For the Court


CHIEF JUSTICE

ERIN L. LENNON
SUPREME COURT CLERK

SARAH R. PENDLETON
DEPUTY CLERK/
CHIEF STAFF ATTORNEY

THE SUPREME COURT
STATE OF WASHINGTON



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November 20, 2024

LETTER SENT BY E-MAIL ONLY

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Re: Supreme Court No. 1031220 – Warren Lee Weisman v. Charles E. Clark

Counsel and Warren Lee Weisman:

On November 18, 2024, the Court received the Petitioner's "MOTION FOR RECONSIDERATION". The motion seeks reconsideration of this Court's November 5, 2024 order denying modification of the Commissioner's ruling denying review.¹ A copy of the motion is enclosed for the Respondent.

The Rules of Appellate Procedure (RAP) do not allow a motion for reconsideration in this situation. Specifically, RAP 12.4 states that "A party may not file a motion for reconsideration of an order refusing to modify a ruling by the commissioner or clerk."

Accordingly, although the motion has been placed in the closed file, this Court can take no further action on it.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah R. Pendleton".

Sarah R. Pendleton
Acting Supreme Court Clerk

SRP:bw

¹ It is noted that the Department of the Court that unanimously denied the motion to modify was comprised of five of the nine Justices of this Court, a majority of the Court.