

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE PETITION       §  
OF DAVID BUCHANAN FOR A               § No. 23, 2013  
WRIT OF CERTIORARI                   §

Submitted: April 19, 2013  
Decided: April 23, 2013

Before **HOLLAND, BERGER** and **JACOBS**, Justices.

**ORDER**

This 23<sup>rd</sup> day of April 2013, upon consideration of David Buchanan's petition for a writ of certiorari, as well as the State's answer and motion to dismiss, it appears to the Court that:

(1) Buchanan again seeks to invoke this Court's original jurisdiction to issue an extraordinary writ of certiorari to review alleged errors occurring in a Family Court civil proceeding. The State of Delaware has filed a response to Buchanan's petition and has moved to dismiss. We conclude that Buchanan's petition manifestly fails to invoke the original jurisdiction of this Court and therefore must be dismissed.

(2) A writ of certiorari is an extraordinary remedy that is used to correct irregularities in the proceedings of a trial court.<sup>1</sup> Certiorari is available to challenge a final order of a trial court where the right of appeal is denied, a grave question of

---

<sup>1</sup> *Shoemaker v. State*, 375 A.2d 431, 437 (Del. 1977).

public policy and interest is involved, and no other basis for review is available.<sup>2</sup>

“Where these threshold requirements are not met, this Court has no jurisdiction to consider the petitioner's claims, and the proceedings will be dismissed.”<sup>3</sup>

(3) In this case, Buchanan argues that the Family Court had no jurisdiction to consider his ex-wife’s petition for a protection from abuse (PFA) order and had no jurisdiction to prohibit Buchanan from possessing firearms or to exclude him from the marital home. He contends that this Court has jurisdiction to review his petition because there was never any “proper appellate review” to address the Family Court’s alleged errors at the time the alleged errors occurred.

(4) We disagree. Buchanan attaches to his current petition a copy of the decision by a Family Court judge, dated May 9, 2008, which rejected Buchanan’s appeal from the Commissioner’s issuance of the PFA. Buchanan did not appeal that decision to this Court. Our previous holding that Buchanan had a full and fair opportunity to challenge the validity of the PFA<sup>4</sup> is the law of the case and governs the outcome of this proceeding. Because Buchanan has failed to establish that our prior

---

<sup>2</sup> *Id.* at 437-38.

<sup>3</sup> *In re Butler*, 609 A.2d 1080, 1081 (Del. 1992).

<sup>4</sup> *See Buchanan v. State*, 2011 WL 3452148 (Del. Aug. 8, 2011).

ruling is clearly in error or produced an injustice,<sup>5</sup> we conclude that his petition must be dismissed.

NOW, THEREFORE, IT IS ORDERED that the petition for a writ of certiorari is DISMISSED.

BY THE COURT:

/s/ Carolyn Berger  
Justice

---

<sup>5</sup> See *Gannett Co., Inc. v. Kanaga*, 750 A.2d 1174, 1181 (Del. 2000) (noting that, unlike the doctrine of *res judicata*, the law of the case doctrine it is not an *absolute* bar to reconsideration of a prior decision that is clearly wrong, produces an injustice or should be revisited because of changed circumstances).