

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE  
PETITION OF JOSEPH S.  
PACZKOWSKI FOR A WRIT OF  
MANDAMUS.

No. 524, 2000

Submitted: November 22, 2000

Decided: December 27, 2000

Before **VEASEY, Chief Justice, WALSH and STEELE**, Justices.

**ORDER**

This 27th day of December 2000, upon consideration of the petition for a writ of mandamus filed by Joseph S. Paczkowski and the answer and motion to dismiss filed by the State of Delaware, it appears to the Court that:

(1) In August 1999, Joseph S. Paczkowski entered a *Robinson* plea in the Superior Court to one count of Third Degree Unlawful Sexual Intercourse.<sup>1</sup> Paczkowski was sentenced, pursuant to his Superior Court Criminal Rule 11(e)(1)(c) agreement, to 20 years imprisonment, suspended after two years for 15 years probation.<sup>2</sup>

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<sup>1</sup>*Robinson v. State*, Del. Supr., 291 A.2d 279 (1972) (permitting Superior Court to accept guilty plea where guilt of offense charged is not admitted).

<sup>2</sup>*State v. Paczkowski*, Del. Super., Cr.A.No. S99-05-0080, Stokes, J. (Aug. 19, 1999) (ORDER).

(2) On November 2, 2000, Paczkowski filed a petition for a writ of mandamus in this Court. Paczkowski requests that this Court issue an order directing the Superior Court to compel the production of alleged exculpatory information related to Paczkowski's criminal case, including: a Dupont Hospital medical report, a tape-recorded statement given by the victim to a Delaware State Police detective, and a transcript of the prosecutor's remarks at Paczkowski's plea and sentencing. According to Paczkowski, the requested items prove his innocence. The State has filed an answer and motion to dismiss Paczkowski's mandamus petition in this Court.

(3) It appears that Paczkowski made the same, or a similar, request for production in a Superior Court mandamus petition and in a motion for postconviction relief, both of which were denied by the Superior Court earlier this year.<sup>3</sup> Paczkowski also made the same, or a similar, request for production in a habeas corpus petition that was filed in, and dismissed by, this

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<sup>3</sup>See *Paczkowski v. Haller*, Del. Supr., No. 154, 2000, Veasey, C.J., 2000 WL 1196160 (July 14, 2000) (ORDER) (affirming denial of mandamus relief); see *State v. Paczkowski*, Del. Super., Cr.A.No. S99-05-0080, Stokes, J., 2000 WL 703246 (April 13, 2000) (ORDER) (denying postconviction relief).

Court earlier this year<sup>4</sup> and in a Superior Court habeas corpus petition, the denial of which is currently on appeal in this Court.<sup>5</sup>

(4) This Court will issue a writ of mandamus to a trial court only when the petitioner can show that there is a clear right to the performance of a duty at the time of the petition, no other adequate remedy is available, and the trial court has failed or refused to perform the duty.<sup>6</sup> “This Court will not issue a writ of mandamus to compel a trial court to perform a particular judicial function, to decide a matter in a particular way, or to dictate the control of its docket.”<sup>7</sup>

(5) There is no basis for the issuance of a writ of mandamus to the Superior Court in this case. Paczkowski has not demonstrated that he is entitled to the relief he seeks. Furthermore, Paczkowski has not demonstrated that the Superior Court has arbitrarily refused to perform a duty owed to him.

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<sup>4</sup>See *In re Paczkowski*, Del. Supr., No. 371, 2000, Walsh, J., 2000 WL 1508629 (Sept. 20, 2000) (ORDER) (dismissing habeas corpus petition for lack of jurisdiction).

<sup>5</sup>*Paczkowski v. State*, Del. Supr., No. 455, 2000.

<sup>6</sup>*In re Bordley*, Del. Supr., 545 A.2d 619, 620 (1988).

<sup>7</sup>*Id.*

NOW, THEREFORE, IT IS ORDERED that the State's motion to dismiss is GRANTED. Paczkowski's petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ E. Norman Veasey  
Chief Justice