

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE PETITION §  
OF NORMAN INGRAM AND MARTIN § No. 411, 2013  
FOUNTAIN FOR A WRIT OF §  
CERTIORARI §

Submitted: August 8, 2013  
Decided: August 20, 2013

Before **STEELE**, Chief Justice, **JACOBS**, and **RIDGELY** Justices.

**ORDER**

This 20<sup>th</sup> day of August 2013, upon consideration of the petition of Norman Ingram and Martin Fountain for a writ of certiorari, as well as the State's answer and motion to dismiss, it appears to the Court that:

(1) The petitioners seek to invoke this Court's original jurisdiction to issue an extraordinary writ of certiorari requesting review of their respective 2003 sentences. In separate proceedings, each petitioner was convicted of Possession with Intent to Deliver a Schedule II Controlled Substance and was sentenced as a non-addict to serve fifteen years, minimum mandatory, at Level V incarceration. The petitioners contend that, pursuant to the United States Supreme Court's recent decision in *Alleyne v. United States*,<sup>1</sup> the jury, not the trial judge, was required to make the factual finding that each was a non-addict and that the element of being a non-addict should have been charged in the indictment.

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<sup>1</sup> 133 S. Ct. 2151 (June 17, 2013).

(2) The State has filed an answer and motion to dismiss the petition. The State asserts that the petitioners have failed to invoke this Court’s original jurisdiction to issue an extraordinary writ because they have another adequate remedy at law. After careful review, we agree and conclude that the petition manifestly fails to invoke the original jurisdiction of this Court.

(3) A writ of certiorari is an extraordinary remedy that is used to correct irregularities in the proceedings of a trial court.<sup>2</sup> Certiorari is only available to challenge a final order of a trial court where the right of appeal is denied, a grave question of public policy and interest is involved, and no other basis for review is available.<sup>3</sup> “Where these threshold requirements are not met, this Court has no jurisdiction to consider the petitioner's claims.”<sup>4</sup>

(4) In this case, the petitioners argue that the holding of *Alleyne v. United States* creates a new constitutional right that should be retroactively applied to their respective cases. Such an argument, however, may be reviewed by the Superior Court in the first instance in conjunction with a motion for postconviction relief pursuant to Superior Court Criminal Rule 61.<sup>5</sup> Because the petitioners have another adequate legal

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

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> See Del. Super. Ct. Crim. R. 61(i)(1), (5) (2013).

basis for review of their claim, their petition fails to meet the threshold requirements for the issuance of an extraordinary writ of certiorari. Accordingly, we conclude that the petition must be dismissed.

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

BY THE COURT:

/s/ Henry duPont Ridgely  
Justice