

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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

No. 371, 2000

Submitted: August 15, 2000
Decided: September 20, 2000

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

ORDER

This 20th day of September 2000, upon consideration of the petition for a writ of habeas corpus 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.¹

Paczkowski was sentenced to 20 years imprisonment, suspended after a minimum mandatory term of 2 years for 15 years probation.²

(2) Paczkowski has filed two motions for post-conviction relief. The Superior Court denied the motions in April 2000 and August 2000, respectively.

In August 2000, the Superior Court also denied Paczkowski's motion to

¹ *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).

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

withdraw his guilty plea. Paczkowski has not filed an appeal from any of those decisions. Paczkowski has, however, filed a timely appeal from the Superior Court's August 7 denial of Paczkowski's petition for a writ of habeas in that court. The appeal is proceeding as *Paczkowski v. State*, Del. Supr., No. 455, 2000.

(3) On July 28, 2000, Paczkowski filed a petition for a writ of habeas corpus in this Court. Paczkowski attached to his petition a copy of the medical report of the victim's physical examination. Paczkowski claims that the medical report is newly-discovered evidence that establishes his innocence. The State has filed an answer and motion to dismiss Paczkowski's habeas corpus petition for lack of jurisdiction.

(4) Under Article IV, ' 11(6) of the Delaware Constitution and Supreme Court Rule 43, this Court has limited jurisdiction to issue extraordinary writs. The Court has no original jurisdiction to issue a writ of habeas corpus.³

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

BY THE COURT:

³ *Rocker v. State*, Del. Supr., 240 A.2d 141, 142 (1968).

s/Joseph T. Walsh
Justice