

(2) By Order dated November 19, 1999, this Court denied Murphy's first petition for a writ of mandamus on the basis that Murphy had not demonstrated that the Superior Court had arbitrarily failed or refused to perform a duty owed to him in connection with his Rule 61 motion.² By Order dated April 14, 2000, this Court denied Murphy's second petition for a writ of mandamus on that same basis.³

(3) Murphy's complaint in this third petition is that the Superior Court Commissioner improperly granted the State additional time to respond to his amended Rule 61 motion for postconviction relief. He further contends that the State's delay in responding to his motion amounts to prosecutorial misconduct. He, finally, contends that the granting of the extension by the Superior Court Commissioner was motivated by racial prejudice.

²*In re Murphy*, Del. Supr., No. 501, 1999, Hartnett, J., 1999 WL 1098209 (Nov. 19, 1999) (ORDER).

³*In re Murphy*, Del. Supr., No. 109, 2000, Holland, J., 2000 WL 949649 (Apr. 14, 2000) (ORDER).

(4) This Court will issue a writ of mandamus to a trial court only when the petitioner can show that he has a clear right to the performance of a duty, no other adequate remedy is available, and the trial court has arbitrarily failed or refused to perform its duty.⁴ Furthermore, A[t]his 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.⁵

(5) Murphy's petition manifestly fails to invoke this Court's original jurisdiction. It appears that the State requested, and the Superior Court Commissioner granted, an extension of time in which to respond to Murphy's amended Rule 61 motion. There is no evidence of an arbitrary failure or refusal to perform a duty owed to Murphy on the part of the Superior Court.

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

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice

⁴*In re Brookins*, Del. Supr., 736 A.2d 204, 206 (1999).

⁵*In re Bordley*, Del. Supr., 545 A.2d 619, 620 (1988).