

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOSEPH PACZKOWSKI,	§
	§
Petitioner Below-	§ No. 154, 2000
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
KARL HALLER, ESQUIRE,	§ in and for Sussex County
	§ C.A. No. 99M-12-007
Respondent Below-	§
Appellee.	§

Submitted: June 15, 2000

Decided: July 14, 2000

Before **VEASEY**, Chief Justice, **WALSH** and **BERGER**, Justices

ORDER

This 14th day of July 2000, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The petitioner-appellant, Joseph Paczkowski, filed this appeal from an April 4, 2000 order of the Superior Court dismissing his petition for a writ of mandamus.¹ The State of Delaware, as the real party in interest, has moved to affirm the judgment of the Superior Court on the ground that it is manifest on

¹Adopting the Commissioner's Proposed Findings of Fact and Recommendations, the Superior Court granted Paczkowski's motion to proceed in forma pauperis, but concluded that his petition for a writ of mandamus was legally frivolous and should be dismissed pursuant to 10 Del. C. § 8803(b).

the face of Paczkowski's opening brief that the appeal is without merit.² We agree and AFFIRM.

(2) In this appeal, Paczkowski claims that: 1) he was subjected to an illegal search; 2) his rights to be confronted by his accusers and to compel the witnesses in his favor to testify were violated; and 3) he was provided ineffective assistance of counsel. He does not challenge the dismissal of his petition for a writ of mandamus.

(3) Paczkowski entered a Robinson plea to one count of unlawful sexual intercourse in the third degree. He was sentenced to 20 years in prison at Level V, to be suspended after 2 years for 15 years at Level III probation.³ Paczkowski is currently serving his prison sentence at the Sussex Correctional Institution.

(4) Paczkowski filed his petition for a writ of mandamus to compel the Public Defender's Office to produce various items from his criminal file bearing on his claim of innocence; specifically, a DuPont Hospital report on the victim of the unlawful sexual intercourse; a Child Protective Services report on the victim; a list of witnesses he asked his attorney to subpoena to testify; letters from a Superior Court judge; the results of a polygraph test performed on him;

²Supr. Ct. R. 25(a).

³Paczowski was sentenced pursuant to a Rule 11(e) (1) (C) plea agreement.

a list of potential witnesses interviewed by his counsel and their proposed testimony; the tape recorded statement given by the victim to a State Police detective; letters sent by him to his counsel during the investigation of the case; and all of counsel's file materials pertaining to him. The Superior Court denied Paczkowski's petition because the Public Defender's Office has no duty to provide these materials to him. A motion for postconviction relief filed by Paczkowski, which requested essentially the same materials, was also denied by the Superior Court.

(5) We conclude that the Superior Court's denial of the petition for a writ of mandamus was correct. A writ of mandamus is a command that may be issued by the Superior Court to an inferior court, public official or agency to compel the performance of a duty to which the petitioner has established a clear legal right.⁴ The Superior Court's denial of Paczkowski's petition was proper because he has no "clear legal right" to have the Public Defender's Office provide him with the materials he seeks. Moreover, a writ of mandamus will not issue where there is an adequate remedy at law available.⁵ In his motion for postconviction relief Paczkowski requested copies of essentially the same

⁴*Clough v. State*, Del. Supr., 686 A.2d 158, 159 (1996).

⁵*In re Hyson*, Del. Supr., 649 A.2d 807, 808 (1994).

materials he requests here. The Superior Court properly denied the petition for a writ of mandamus on that basis as well.

(5) It is manifest on the face of Paczkowski's opening brief that the appeal is without merit because the issues presented on appeal clearly are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, clearly there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED. The judgment of the Superior Court is hereby AFFIRMED.

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice