

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF ANTONIO D. § No. 200, 2000
JONES FOR A WRIT OF §
MANDAMUS §

Submitted: May 22, 2000

Decided: June 26, 2000

Before **HOLLAND, HARTNETT**, and **BERGER**, Justices.

ORDER

This 26th day of June 2000, upon consideration of Antonio D. Jones' petition for a writ of mandamus and the State's response and motion to dismiss,¹ it appears to the Court that:

(1) The petitioner, Antonio D. Jones, filed a petition with this Court for a writ of mandamus apparently requesting that Department of Correction officials be ordered to place him in a treatment program. The State of Delaware, as the real party in interest, has filed a response and a motion to dismiss Jones' petition. After careful consideration of the parties' positions, we have determined that the State's motion to dismiss must be granted.

¹On May 22, 2000, after the State filed its response and motion to dismiss, Jones filed a "Memorandum of Points and Authorities in Support of Writ of Mandamus." Under Supreme Court Rule 43, no further written submissions are permitted after a response to the petition has been filed, unless requested by the Court. The Court did not request further submissions in this case. Accordingly, Jones' memorandum shall be stricken as a non-conforming document.

(2) The record reflects that Jones pled guilty in December 1997 to possession of heroin within 300 feet of a park and to possession of a deadly weapon by a person prohibited. The Superior Court sentenced Jones to seven years in jail, suspended after five years for two years probation. The Superior Court also directed that, while in jail, Jones should be placed in the Key Program. In August 1999, the Superior Court modified the drug treatment provision to allow Jones' placement in either the Key, New Hope, or Greentree Programs.

(3) Jones filed his petition for a writ of mandamus with this Court, apparently requesting that the Department of Correction be compelled to place him in a drug treatment program. This Court may issue a writ of mandamus to compel a lower court to perform a duty. As a condition precedent to the performance of that duty, it must be demonstrated to this Court: that the complainant has a clear right to the performance of the duty; that no other remedy is available; and that the trial court has arbitrarily failed or refused to perform its duty.²

(4) In this case, Jones requests that a writ of mandamus issue to correctional authorities. This Court, however, only has jurisdiction to issue an

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

extraordinary writ when the respondent is a court or judge thereof.³ Accordingly, to the extent Jones requests a writ of mandamus directed to correctional authorities, his petition manifestly fails on its face to invoke the Court's original jurisdiction.

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

BY THE COURT:

s/Maurice A. Hartnett

Justice

³Del. Const. art. IV, § 11(6); *In re Hitchens*, Del. Supr., 600 A.2d 37, 38 (1991).