

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §  
PETITION OF KENDALL GUINN § No. 145, 2005  
FOR A WRIT OF MANDAMUS. §  
§ Def. ID Nos. 0109014778  
§ 0112002560

Submitted: May 4, 2005  
Decided: June 23, 2005

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

**ORDER**

This 23<sup>rd</sup> day of June 2005, upon consideration of the petition for a writ of mandamus filed by Kendall Guinn and the answer and motion to dismiss filed by the State of Delaware, it appears to the Court that:

(1) In April 2002, Kendall Guinn pleaded guilty to one count each of Burglary in the Second Degree, Assault in the Third Degree, and Criminal Contempt of a Protection from Abuse Order.<sup>1</sup> At sentencing on July 9, 2002, the Superior Court declared Guinn a habitual offender and sentenced him to ten years at Level V for Burglary in the Second Degree and to one year each at Level V for the other two offenses, followed by probation.

---

<sup>1</sup>*State v. Guinn*, Del. Super., Cr. ID Nos. 0112002560, 0109014778, Ridgely, P.J., (April 26, 2002).

(2) In October 2004, Guinn filed a motion for postconviction relief.

A Superior Court judge referred Guinn's motion to a Superior Court Commissioner for proposed findings and recommendations. By order dated October 20, 2004, as amended on January 7, 2005, the Commissioner established filing deadlines for the State's and defense counsel's responses to the postconviction motion and for Guinn's reply to the responses.

(3) In his petition in this Court, Guinn complains that the Superior Court has not acted upon his letter requests to sanction the State for failing to file its response on or before the deadlines established by the Commissioner.<sup>2</sup> Guinn requests that this Court compel the Superior Court to strike the State's response.

(4) There is no basis for the issuance of a writ of mandamus in this case. Guinn has not established that he has a right to the relief he seeks.<sup>3</sup>

---

<sup>2</sup>It appears from the Superior Court docket that the State's response was due on February 1, 2005, and was filed on February 9, 2005. Guinn filed his reply on March 1, 2005. By report dated June 3, 2005, the Commissioner recommended that the Superior Court deny Guinn's motion for postconviction relief.

<sup>3</sup>*See In re Bordley*, 545 A.2d 619, 620 (Del. 1988) (providing that the Court will issue a writ of mandamus only when the petitioner can show "a clear right to the performance of a duty by a trial court, that no other adequate remedy is available, and that the trial court has failed or refused to perform its duty). *See* Del. Code Ann. tit. 10, § 512(b)(1), Super. Ct. Crim. R. 62 (providing for review of Commissioner's proposed findings and recommendations).

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

BY THE COURT:

/s/ Myron T. Steele  
Chief Justice