

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE	§	
PETITION OF RONALD G.	§	No. 343, 2005
JOHNSON FOR A WRIT OF	§	
MANDAMUS.	§	
IN THE MATTER OF THE	§	
PETITION OF RONALD G.	§	No. 431, 2005
JOHNSON FOR A WRIT OF	§	
MANDAMUS.	§	
IN THE MATTER OF THE	§	
PETITION OF RONALD G.	§	No. 494, 2005
JOHNSON FOR A WRIT OF	§	
ERROR.	§	
IN THE MATTER OF THE	§	
PETITION OF RONALD G.	§	No. 518, 2005
JOHNSON FOR A WRIT OF	§	
MANDAMUS.	§	
IN THE MATTER OF THE	§	
PETITION OF RONALD G.	§	No. 553, 2005
JOHNSON FOR A WRIT OF	§	
MANDAMUS or PROHIBITION.	§	
	§	Consolidated for Decision

Submitted: November 9, 2005  
Decided: December 13, 2005

Before **HOLLAND, JACOBS** and **RIDGELY**, Justices.

**ORDER**

This 13<sup>th</sup> day of December 2005, the Court has considered Ronald G. Johnson's pro se petitions for a writ of mandamus filed respectively in No. 343, 2005, No. 431,

2005 and No. 518, 2005, the petition for a writ of mandamus or prohibition filed in No. 553, 2005, and the petition for a writ of error filed in No. 494, 2005 (collectively “the petitions for extraordinary relief”); the answers and motions to dismiss filed by the State of Delaware in No. 343, 2005, No. 431, 2005, No. 494, 2005 and No. 518, 2005,<sup>1</sup> and the State’s motion for leave to file answer out of time in No. 553, 2005, and it appears to the Court that:

(1) Johnson’s petitions for extraordinary relief arise from a pending Superior Court criminal matter.<sup>2</sup> In the interest of judicial economy, the petitions for extraordinary relief have been consolidated, *sua sponte*, for decision.

(2) On May 31, 2005, Johnson was indicted on nine offenses, including unlawful imprisonment, offensive touching, resisting arrest, menacing and weapons offenses. Johnson’s final case review was held on November 7, 2005, and his criminal trial is scheduled to begin on May 16, 2006.

(3) The aggregated petitions for extraordinary relief seek an Order of this Court compelling the Superior Court to (a) release Johnson by habeas corpus, (b) assign his criminal case to a different judge, (c) docket his various pro se applications,

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<sup>1</sup>The Court has not considered Johnson’s unsolicited submissions, including his various motions and his responses to the State’s answers and motions to dismiss. *See generally* Supr. Ct. R. 43 (governing procedure for extraordinary relief); *see* Supr. Ct. R. 43(b)(ii), (vii) (prohibiting such submissions unless directed by the Court).

<sup>2</sup>*See State v. Johnson*, Del. Super., Cr. ID No. 0504012348.

(d) order discovery, (e) hold an evidentiary hearing, (f) remove his assistant public defender, and (g) dismiss the charges.<sup>3</sup> The petitions for extraordinary relief also seek an Order compelling the prison warden and the prosecutor to take certain action. Finally, the petitions for extraordinary relief seek to compel the Court to reconsider its Order of August 31, 2005 that affirmed the denial of Johnson's earlier pro se habeas corpus petition.<sup>4</sup>

(4) This Court has no jurisdiction to issue either a writ of habeas corpus or a writ of error.<sup>5</sup> Moreover, the Court's jurisdiction to issue a writ of mandamus is limited to judicial officers or courts and does not include the warden or the prosecutor.<sup>6</sup> Thus, to the extent Johnson seeks a writ of habeas corpus, a writ of error, and writs of mandamus directed to the warden and the prosecutor, the petitions for extraordinary relief must be dismissed.

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<sup>3</sup>Johnson is currently in custody in default of bail. He has filed a motion to remove his counsel; the motion is pending before a Superior Court Commissioner.

<sup>4</sup>*See Johnson v. State*, 2005 WL 2123789 (Del. Supr.) (affirming denial of habeas corpus relief).

<sup>5</sup>*See* Del. Const. art. IV, § 11(6) (providing that the Court may issue "writs of prohibition, quo warranto, certiorari and mandamus"); *In re Cantrell*, 678 A.2d 525, 526 (Del. 1996) (dismissing habeas corpus petition for lack of jurisdiction); *In re Phillips*, 2002 WL 31190861 (Del. Supr.) (dismissing petition for writ of error for lack of jurisdiction).

<sup>6</sup>*In re Abdul-Akbar*, 1998 WL 986004 (Del. Supr.) (citing *In re Hitchens*, 600 A.2d 37, 38 (Del. 1991)).

(5) A writ of mandamus and a writ of prohibition are both “coercive orders [that are] used to grant relief when the traditional appeal route is unavailable or will not provide an adequate remedy at law.”<sup>7</sup> When seeking a writ of mandamus, the petitioner must demonstrate that the trial court has arbitrarily failed or refused to perform a duty.<sup>8</sup> When seeking a writ of prohibition, the petitioner must demonstrate that the trial court is without jurisdiction or is attempting to exceed its jurisdiction.<sup>9</sup>

(6) The Court concludes that neither mandamus nor prohibition relief is warranted in Johnson’s case. Johnson has not demonstrated that the Superior Court has failed or refused to perform a duty owed to him or that the Superior Court lacks jurisdiction to proceed with his criminal trial.<sup>10</sup> Moreover, Johnson has not established that the appellate remedy is insufficient to address his claims in the event he is convicted. If Johnson is convicted and his sentence satisfies the Court’s jurisdictional requirements, he will have a right to file an appeal.<sup>11</sup> Conversely, unless

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<sup>7</sup>*Rogers v. State*, 457 A.2d 727, 731 (Del. 1983).

<sup>8</sup>*In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

<sup>9</sup>*In re Hovey*, 545 A.2d 626, 628 (Del. 1988).

<sup>10</sup>*See* Del. Code Ann. tit. 11, § 2701 (providing that the Superior Court has jurisdiction “over all crimes, except where jurisdiction is exclusively vested in another court”).

<sup>11</sup>*See* Del. Const. art. IV, § 11(1)(b) (providing that the Court’s criminal appellate jurisdiction is limited to cases “in which the sentence shall be death, imprisonment exceeding one month, or fine exceeding One Hundred Dollars”).

and until Johnson is convicted and sentenced, his case will not be appealable.<sup>12</sup> The extraordinary writ process is not a substitute for appellate review.<sup>13</sup>

(7) Between May 13, 2005 and the date of this Order, Johnson has initiated a total of ten pro se cases concerning his pending Superior Court criminal matter. To date, the Court has disposed of four of Johnson's cases, including his prior unsuccessful petition for writs of habeas corpus, mandamus and prohibition.<sup>14</sup> Of the remaining six cases that are pending before the Court, one is an appeal from a Commissioner's ruling.<sup>15</sup> The other five are the petitions for extraordinary relief that are the subject of this consolidated Order of dismissal.

(8) In view of the Court's earlier dismissal of Johnson's petition for writs of habeas corpus, mandamus and prohibition, the petitions for extraordinary relief that are the subject of this dismissal Order are repetitive, frivolous and constitute an abuse of the Court's judicial process. Consequently, the Court has concluded that, in the

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<sup>12</sup>*Reid v. State*, 2005 WL 991250 (Del. Supr.) (citing *Gottlieb v. State*, 697 A.2d 400, 401 (Del. 1997)).

<sup>13</sup>*In re Safford*, 2005 WL 1654016 (Del. Supr.) (citing *Matushefske v. Herlihy*, 214 A.2d 883, 885 (Del. 1965)).

<sup>14</sup>*See In re Johnson*, 2005 WL 1355126 (Del. Supr.) (dismissing petition for writs of habeas corpus, mandamus and prohibition). *See also Johnson v. State*, 2005 WL 2123789 (Del. Supr.) (affirming denial of petition for habeas corpus); *Johnson v. State*, \_\_\_ WL \_\_\_, Del. Supr., No. 254, 2005, Holland, J. (July 11, 2005) (ORDER) (dismissing untimely appeal); *Johnson v. State*, 2005 WL 2105388 (Del. Supr.) (dismissing criminal interlocutory appeal).

<sup>15</sup>*Johnson v. Williams*, Del. Supr., No. 413, 2005. A motion to dismiss the appeal is pending before the Court.

absence of a specific Order of this Court, the Clerk shall not docket any further pro se petitions for extraordinary relief that are filed by Johnson concerning his pending Superior Court criminal case.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rules 29(c)<sup>16</sup> and 43, that the petitions for extraordinary relief are hereby DISMISSED. The State's motion for leave to file answer out of time filed in No. 553, 2005 is moot.

BY THE COURT:

/s/ Jack B. Jacobs  
Justice

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<sup>16</sup>The Court is dismissing No. 553, 2005, *sua sponte*, pursuant to Supr. Ct. R. 29(c), which provides that the Court may dismiss a petition for extraordinary relief that “manifestly fails on its face to invoke the jurisdiction of the Court.”