

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY**

JOSEPH CHAMBERS,	)	
	)	
Petitioner,	)	
	)	C.A. No. 09M-07-137-JEB
v.	)	
	)	
DELAWARE DEPARTMENT OF	)	
CORRECTION	)	
	)	
Respondent.	)	

Submitted: November 30, 2009  
Decided: March 11, 2010

*Upon Petitioner's Request for Writ of Mandamus  
Dismissed*

**ORDER**

Joseph Chambers, Smyrna, Delaware, Pro Se Petitioner

Stacey X. Stewart, Deputy Attorney General, Wilmington Delaware  
Attorney for Respondent Delaware Department of Correction

**DIANE CLARK STREETT  
JUDGE**

On this 11th day of March, 2010, upon consideration of Petitioner's Request for Writ of Mandamus, the Court finds that:

1. On July 14, 2009, Petitioner Joseph Chambers, an inmate at the James T. Vaughn Correctional Center, filed a Petition for Writ of Mandamus in order to obtain from the Delaware Department of Correction ("DOC") a change as to prison classification from "medium-high segregated security housing" to medium security housing. On November 2, 2009, the DOC filed a Motion to Dismiss Petitioner's request pursuant to Superior Court Civil Rule 12(b)(6) for failure to state a claim upon which relief may be granted.

2. Petitioner alleges that his liberty interest in obtaining a particular type of prison housing is being infringed upon due to the DOC's failure to provide him with his proper prison classification.<sup>1</sup> However, while the Petitioner concedes that a prisoner does not have a liberty interest in any specific type of housing, he also alleges that the Fourteenth Amendment due process clause protects a state-created liberty interest emphasized in a prison regulation. Petitioner does not provide the Court with the prison regulation of which he speaks. The Department of Correction contends that Petitioner has no clear right to a specific type of housing or classification and that the prison regulations do not provide any such right.

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<sup>1</sup> Since petitioning the Court for mandamus on July 14, 2009, Petitioner has been transferred to medium security housing.

3. The Court may issue a writ of mandamus in order to compel performance of a duty by an administrative agency.<sup>2</sup> However, a writ is an extraordinary remedy that is issued only where a petitioner can demonstrate “a clear legal right to the performance of a non-discretionary duty.”<sup>3</sup> The duty must be specific and precise such that no discretion is involved in its performance.<sup>4</sup> And, while a writ may compel performance of a duty, it may not dictate the manner of performance or any particular result.<sup>5</sup> Furthermore, the petitioner must also show that the agency has failed to perform its duty and that no other remedy is available.<sup>6</sup>

4. Here, since petitioner has not provided any demonstration that he has a clear legal right to a non-discretionary duty, the Petitioner’s request for writ of mandamus does not stand.

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<sup>2</sup> Del. Code Ann. Tit. 10, § 564; *Clough v. State*, 686 A.2d 158,159 (Del. 1996).

<sup>3</sup> *Darby v. New Castle Gunning Bedford Ed. Ass'n*, 336 A.2d 209, 210 (Del. 1975).

<sup>4</sup> *Darby*, 336 A.2d at 211.

<sup>5</sup> *Darby*, 336 A.2d at 211.

<sup>6</sup> Del. Code Ann. Tit. 10, § 564; *Clough*, 686 A.2d at 159.

5. Accordingly, the Petitioner's request for writ of mandamus is *DISMISSED*, and the case is closed.

***IT IS SO ORDERED.***

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Diane Clarke Streett  
Judge

DCS/lrb/bjw  
Original to Prothonotary