

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF BARBARA §
BEEGHLEY FOR A WRIT OF § No. 82, 2002
MANDAMUS §

Submitted: March 14, 2002

Decided: June 14, 2002

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

ORDER

This 14th day of June 2002, it appears to the Court that:

(1) The petitioner, Barbara Beeghley, filed a petition in this Court requesting that the Family Court be ordered to provide her copies of transcripts at State expense for purposes of her appeal. Because Beeghley fails to invoke this Court's original jurisdiction, her petition must be DISMISSED.

(2) The record reflects that Beeghley requested the Family Court to provide her copies of transcripts at State expense. Attached to Beeghley's request was a form of affidavit stating that she had limited income and was on disability and that the Family Court had already granted her request to file in that court in forma pauperis. There was no specific information regarding Beeghley's financial resources in the affidavit.

(3) On January 23, 2002, the Family Court denied Beeghley's request for transcripts, but stated that the request would be reconsidered upon receipt of an appropriate affidavit describing Beeghley's financial resources.¹ Instead of filing an appropriate affidavit in the Family Court, Beeghley filed a motion for reargument. The Family Court denied Beeghley's motion, noting that she still had not filed an appropriate affidavit.

(4) On February 1, 2002, the Clerk's Office sent Beeghley a letter stating that, unless she filed an appropriate affidavit in accordance with the Family Court's order or made arrangements to pay for the transcripts by February 15, 2002, a notice to show cause would issue based on her failure to diligently prosecute the appeal. Beeghley then filed the instant mandamus petition asserting that the form of affidavit she filed in the Family Court was adequate.

¹In its order, the Family Court judge stated, "The information provided by Ms. Beeghley in her motion is insufficient for this Court to determine whether she should be awarded a transcript at state expense The Court denies the motion at this point, without prejudice. The Court will reconsider the application upon receipt of an Affidavit completely describing the financial resources of Ms. Beeghley."

(5) This Court will issue a writ of mandamus to a trial court only when the petitioner can show that there is a clear right to the performance of a duty at the time of the petition, no other adequate remedy is available, and that the trial court has failed or refused to perform the duty.² “[T]his Court will not issue a writ of mandamus to compel a trial court to perform a particular judicial function, to decide a matter in a particular way, or to dictate the control of its docket.”³

(6) Beeghley’s mandamus petition manifestly fails to invoke this Court’s original jurisdiction. Beeghley has not demonstrated that she is entitled to the relief she seeks and has not demonstrated that she is without an adequate remedy. The Family Court’s order explicitly afforded Beeghley the opportunity to submit an appropriate affidavit describing her financial resources. Instead of following the Family Court’s instructions, however, Beeghley filed a motion for reargument, which was denied. Because Beeghley continues to have the option of filing an appropriate affidavit in the Family Court, she has an adequate remedy and her petition for a writ of mandamus must, therefore, be dismissed.

²*In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

³*Id.*

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

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice