

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF EZEADIGO § No. 67, 2008
ODUCHE FOR A WRIT OF §
HABEAS CORPUS §

Submitted: February 27, 2008

Decided: March 7, 2008

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

ORDER

This 7th day of March 2008, it appears to the Court that:

(1) The petitioner, Ezeadigo Oduche, seeks to invoke this Court's original jurisdiction to issue an extraordinary writ of habeas corpus on the ground that he was coerced by his counsel to plead guilty to a criminal charge. The State of Delaware has filed an answer requesting that Oduche's petition be dismissed. We find that Oduche's petition manifestly fails to invoke the original jurisdiction of this Court and, accordingly, must be dismissed.

(2) In March 2006, Oduche pleaded guilty to Aggravated Menacing and was immediately sentenced. In March 2007, he was found to have committed a violation of probation ("VOP") and his probation was revoked. In October 2007, Oduche filed a motion for postconviction relief, which the

Superior Court denied. Oduche then filed the instant petition for a writ of habeas corpus.

(3) Oduche's petition fails because the Delaware Constitution does not confer original jurisdiction upon this Court to entertain petitions for writs of habeas corpus.¹ To the extent that Oduche seeks a writ of certiorari, that, too, is unavailing. Issuance of a writ of certiorari assumes that there is no other adequate remedy available² and, in this case, Oduche has an adequate remedy in State postconviction proceedings. Moreover, a petitioner who has an adequate remedy in the appellate process may not use an extraordinary writ as a substitute for a properly filed appeal.³ For all of the above reasons, Oduche's petition must be dismissed.

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice

¹ Del. Const. art. IV, § 11(6); *In re Cantrell*, 678 A.2d 525, 526 (Del. 1996).

² *Shoemaker v. State*, 375 A.2d 431, 436-38 (Del. 1977).

³ *Matushefske v. Herlihy*, 214 A.2d 883, 885 (Del. 1965).