

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF DONNIE RAY § No. 193, 2008
HAWKINS FOR A WRIT OF §
PROHIBITION §

Submitted: May 12, 2008
Decided: August 1, 2008

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

ORDER

This 1st day of August 2008, upon consideration of Donnie Ray Hawkins' petition for a writ of prohibition and the State's answer and motion to dismiss, it appears to the Court that:

(1) Donnie Ray Hawkins filed a petition seeking to invoke the original jurisdiction of this Court pursuant to Supreme Court Rule 43 to issue an extraordinary writ of prohibition barring his former trial counsel from filing a response to the claims of ineffective assistance of counsel raised in Hawkins' second petition for postconviction relief.

(2) The relief Hawkins seeks is moot. Since the filing of his petition for a writ in this Court, the Superior Court has denied Hawkins' motion for postconviction relief without receiving a response from defense counsel. Moreover, it is clear that Hawkins' petition fails to invoke the original jurisdiction of this Court. A writ of prohibition is intended to prevent the

unwarranted exercise of power over persons or matters that are not within the jurisdiction of the particular tribunal.¹ In this case, the Superior Court clearly had jurisdiction to determine whether defense counsel's response to Hawkins' second postconviction motion was necessary to the court's consideration of the motion.

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

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

¹ *In re Hovey*, 545 A.2d 626, 628 (Del. 1988).