

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF DETLEF F. § No. 139, 2009
HARTMANN FOR A WRIT OF § Cr. ID No. 9912000027
PROHIBITION. §

Submitted: March 17, 2009

Decided: March 18, 2009

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

ORDER

This 18th day of March 2009, upon consideration of the petition for a writ of prohibition filed by the petitioner, Detlef F. Hartmann, and his related motions for a “speedy hearing,” to “appeal denial of counsel appointment for evidentiary hearing on March 20, 2009,” and to proceed *in forma pauperis*, it appears to the Court that:

(1) Detlef F. Hartmann seeks to invoke this Court’s original jurisdiction to issue an extraordinary writ of prohibition to the Superior Court.¹ We conclude that Hartmann’s petition manifestly fails to invoke the original jurisdiction of this Court and therefore must be DISMISSED.

(2) It appears that Hartmann pled guilty in March 2001 to one count of Unlawful Sexual Intercourse in the Second Degree and two counts

¹ Del. Const. art. IV, § 11(5).

of Unlawful Sexual Contact.² Hartmann was immediately sentenced to an aggregate of nineteen years of incarceration suspended after ten mandatory years for decreasing levels of supervision. Hartmann did not appeal his conviction or sentence.

(3) It appears from the docket that the Superior Court has scheduled Hartmann for a “review of sentence” hearing on March 20, 2009. In his petition for a writ of prohibition and related motions, Hartmann appears to ask this Court to declare the March 20, 2009 hearing “null and void” and to order that the Superior Court appoint him counsel for a “proper relief hearing.”

(4) A writ of prohibition is the legal equivalent of the equitable remedy of injunction and may be issued to prevent a trial court from proceeding in a matter when it has no jurisdiction or to prevent the trial court from exceeding its jurisdiction in a matter that is properly before it.³ The jurisdictional defect must be manifest upon the record.⁴ Moreover, the burden is on the petitioner to demonstrate to this Court by clear and

² See *Hartmann v. Carroll*, 492 F.3d 478 (3rd Cir. 2007) (affirming denial of writ of habeas corpus).

³ *In re Hovey*, 545 A.2d 626, 628 (Del. 1988).

⁴ *Id.*

convincing evidence that the trial court is without jurisdiction in the matter or is attempting to exceed its jurisdiction.⁵

(5) A writ of prohibition also will not issue if the petitioner has another adequate remedy at law.⁶ In a criminal proceeding, the right to appeal generally is considered a complete and adequate remedy to review any alleged error in the trial court proceeding.⁷ The Court lacks jurisdiction to review interlocutory orders in criminal cases.⁸

(6) Having considered Hartmann's petition for a writ of prohibition, we are satisfied that the petition must be dismissed. Hartmann has not demonstrated that the Superior Court is proceeding in a matter when it has no jurisdiction or is attempting to exceed its jurisdiction in a matter that is properly before it. Moreover, Hartmann has an adequate remedy at law, namely an appeal to this Court from any modification of his sentence in the Superior Court. Recognizing this Court's limited jurisdiction to consider only those criminal matters that have reached final judgment, we "may not permit the use of the writ of prohibition to accomplish indirectly that which may not be done directly."⁹

⁵ *Id.* at 629.

⁶ *Id.* at 628.

⁷ *Id.* at 629.

⁸ Del. Const. art. IV, § 11(1)(b); *State v. Cooley*, 430 A.2d 789, 791 (Del. 1981).

⁹ *Hodsdon v. Superior Court*, 239 A.2d 222, 224 (Del. 1968).

NOW, THEREFORE, IT IS ORDERED, *sua sponte*, pursuant to Supreme Court Rule 29(c), that Hartmann’s petition for a writ of prohibition and his “motion to appeal denial of counsel appointment for evidentiary hearing on March 20, 2009,” are DISMISSED.¹⁰ Hartmann’s related motions for a “speedy hearing” and to proceed *in forma pauperis* are denied as MOOT.

BY THE COURT:

/s/ Randy J. Holland

Justice

¹⁰ See Del. Supr. Ct. R. 29(c) (providing in pertinent part that the Court may dismiss, *sua sponte*, without notice, a petition for an extraordinary writ and/or an appeal from any interlocutory order, when the petition and/or appeal manifestly fails on its face to invoke the jurisdiction of the Court and where the Court concludes, in the exercise of its discretion, that the giving of notice would serve no meaningful purpose and that any response would be of no avail).