IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF DAVID-MICHAEL § No. 203, 2009
BAKER FOR A WRIT OF §
MANDAMUS §

Submitted: April 20, 2009
Decided: June 2, 2009

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

O R D E R

This 2nd day of June 2009, upon consideration of the petition of David-Michael Baker for a writ of mandamus, it appears to the Court that:

(1)   The petitioner seeks to invoke the original jurisdiction of this Court, pursuant to Supreme Court Rule 43, to issue a writ of mandamus directing the Court of Chancery to grant his petition to file his complaint against several defendants, including the State of Pennsylvania and other state or local officials, without prepayment of the required filing fee. The Court of Chancery denied petitioner's motion to proceed *in forma pauperis* in that court and also indicated that the complaint was subject to dismissal for failure to state a claim under Court of Chancery Rule 12(b)(6). We find that Baker's petition manifestly fails to invoke this Court's original jurisdiction. Accordingly, the petition must be dismissed.

(2)   A writ of mandamus is designed to compel a lower court to perform a duty if it is shown that: the complainant has a clear right to the performance of the duty; that no other adequate remedy is available; and that the trial court has arbitrarily failed or refused to perform its duty.[1] A writ of mandamus will not be issued "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."[2] A writ of mandamus is not warranted under the present circumstances because the grant of *in forma pauperis* status is a matter within the sound discretion of the trial court and mandamus will not lie to challenge the performance of a discretionary act.[3]

NOW, THEREFORE, IT IS ORDERED that the petition for the issuance of an extraordinary writ of mandamus is DENIED.

BY THE COURT:

/s/ Carolyn Berger
Justice

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[1] *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).
[2] *Id.*
[3] *Id.*