

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF KEVIN S. § No. 473, 2009
EPPERSON FOR A WRIT OF §
MANDAMUS §

Submitted: August 28, 2009
Decided: September 25, 2009

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

ORDER

This 25th day of September 2009, upon consideration of Kevin Epperson's petition for a writ of mandamus and the State's answer and motion to dismiss, it appears to the Court that:

(1) Epperson filed a petition requesting this Court to issue an extraordinary writ of mandamus directed to the Superior Court Prothonotary. Epperson asserts that he filed "a notice of motion with exhibits about a civil matter" in July, which the Prothonotary has failed to docket. In support of his assertion, Epperson attaches pages 18-21 of a docket in an unidentified criminal case. Epperson seeks a writ of mandamus directing the Superior Court Prothonotary to docket his motion with exhibits. The State has filed a motion to dismiss Epperson's writ on the ground that Epperson has not provided sufficient information to reflect that the Prothonotary has failed to perform a duty owed to him. We agree.

(2) Epperson's petition for a writ fails to identify either the motion he seeks to have the Prothonotary docket or the Superior Court case in which he intended to docket his motion. Given the vagueness of Epperson's assertions, we conclude that he has not established by clear and convincing evidence that the Prothonotary has arbitrarily failed or refused to perform a ministerial duty owed to him.¹

NOW, THEREFORE, IT IS ORDERED that Epperson's petition for the issuance of an extraordinary writ of mandamus is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland
Justice

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