

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF ALTON CANNON § No. 563, 2009
FOR AN EXTRAORDINARY WRIT §

Submitted: October 6, 2009
Decided: October 20, 2009

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

ORDER

This 20th day of October 2009, upon consideration of Alton Cannon's document entitled "Writ of Right," and the State's answer and motion to dismiss, it appears to the Court that:

(1) In 1998, the petitioner, Alton Cannon, pleaded guilty to Assault in the Second degree and Unlawful Sexual Contact in the First Degree and was sentenced to ten years at Level V, suspended after five years for one year at Level IV and four years of probation. Cannon was found in violation of probation in 2002 and 2003.

(2) It appears that Cannon filed motions for postconviction relief in 1999 and 2000, both of which were denied. Moreover, between 2001 and 2003, Cannon filed numerous other applications for relief, including motions for reduction or modification of sentence and petitions for a writ of habeas corpus, all of which were denied.

(3) In December 2006, Cannon was discharged from probation, and the case was closed. Now, in his document entitled “Writ of Right,” Cannon “moves to be discharged” from any future consequences of the 1998 convictions. In its answer and motion to dismiss, the State aptly characterizes Cannon’s request as seeking, in effect, mandamus relief to compel the expungement of the convictions.

(4) Mandamus relief is available only when a petitioner has demonstrated that he has a clear right to the performance of a duty owed by the trial court, and that no other adequate remedy is available.¹ In this case, Cannon has not stated a cognizable claim invoking this Court’s original jurisdiction to issue a writ of mandamus or, for that matter, any other extraordinary writ within the Court’s limited jurisdiction.²

NOW, THEREFORE, IT IS ORDERED that the State’s motion to dismiss is GRANTED. Cannon’s petition for a “Writ of Right” is DISMISSED.³

BY THE COURT:

/s/ Carolyn Berger
Justice

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

² *See generally* Del. Const. art. IV, § 11(5); Del. Supr. Ct. R. 43 (governing Court’s original jurisdiction over proceedings involving extraordinary writs).

³ Cannon’s motion to proceed *in forma pauperis* filed on September 25, 2009, is moot.