

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF KEVIN S. § No. 48, 2010
EPPERSON FOR A WRIT OF §
MANDAMUS §

Submitted: February 19, 2010

Decided: April 13, 2010

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

ORDER

This 13th day of April 2010, upon consideration of Kevin Epperson's petition for a writ of mandamus and the State's response thereto, it appears to the Court that:

(1) Epperson has filed a petition requesting this Court to issue an extraordinary writ of mandamus directed either to the Superior Court Prothonotary and/or to the Superior Court. It is not entirely clear what relief he seeks. Epperson asserts that he filed a motion for postconviction relief on January 15, 2010. He contends that the Prothonotary failed to provide him with copies of his motion and corresponding memorandum. The balance of Epperson's petition is devoted to the merits of his postconviction claim of ineffective assistance of counsel. The Superior Court docket reflects that the Superior Court dismissed his motion for postconviction relief on January 21, 2010.

(2) The State has filed a motion to dismiss Epperson's writ of mandamus.¹ The State argues that Epperson's complaints about the Prothonotary are moot given that his motion and memorandum were docketed by the Prothonotary on January 15, 2010 and then summarily dismissed by the Superior Court on January 21, 2010. To the extent that Epperson is arguing the merits of his ineffectiveness claims, his writ must be dismissed because Epperson has an adequate remedy in the appellate process,² as reflected by Epperson's pending appeal from the Superior Court's denial of his motion. After review of the parties' positions, we agree with the State that Epperson's petition manifestly fails to invoke the original jurisdiction of this Court. His request for relief against the Prothonotary is moot. His request for relief directed to the Superior Court is properly the subject of appeal that is currently pending before the Court.

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

BY THE COURT:

/s/ Carolyn Berger
Justice

¹ Epperson has filed a motion requesting to file an affidavit in support of his petition. Given our disposition of this matter, his request is moot.

² *Matushefske v. Herlihy*, 214 A.2d 883, 885 (Del. 1965).