

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHARLES B. SANDERS,	§	
	§	No. 53, 2010
Plaintiff Below,	§	
Appellant,	§	Court Below—Superior
	§	Court of the State of
v.	§	Delaware in and for
	§	Sussex County
CARL DANBERG, COMMISSIONER,	§	
STATE DEPARTMENT OF	§	
CORRECTION, MIKE DELROY,	§	
WARDEN OF SUSSEX CORRECTIONAL	§	
INSTITUTION, MELVIN HENNESSY,	§	
SECURITY SUPERINTENDENT, STAFF	§	
LT. MICHAEL ATTALION, JOSEPH	§	
JOHNSON, STAFF LT.-HEARING	§	
OFFICER SERGEANT JEREMY BLANK,	§	
SUSSEX CORRECTIONAL	§	
INSTITUTION,	§	
	§	
Defendants Below,	§	C.A. No. S07M-08-014
Appellees.	§	

Submitted: April 26, 2010

Decided: June 8, 2010

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

**ORDER**

This 8<sup>th</sup> day of June 2010, upon consideration of the appellant's opening brief and the appellees' motion to affirm, it appears to the Court that:

(1) The appellant, Charles B. Sanders (Sanders), is incarcerated at the Sussex Correctional Institution. The appellees are prison officials employed by the Department of Correction (DOC).

(2) In 2007, Sanders brought a miscellaneous mandamus civil action in the Superior Court against DOC. Sanders alleged that his transfer to administrative segregation pending an investigation and disciplinary hearing violated due process, and that his subsequent charge and conviction of a Class I offense violated an inmate conduct policy of DOC. Sanders requested that the Superior Court direct DOC to remove the disciplinary conviction from his institutional file and reinstate fifteen days of good time credit. Sanders also sought compensatory damages in the amount of \$32,000.00.

(3) By order dated October 21, 2009, the Superior Court granted DOC's motion for summary judgment and dismissed Sanders' amended complaint seeking mandamus relief.<sup>1</sup> This appeal followed. On behalf of DOC, the State of Delaware has filed a motion to affirm the Superior Court's judgment on the ground that it is manifest on the face of Sanders' opening brief that this appeal is without merit. We agree and affirm.

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<sup>1</sup> *Sanders v. Danberg*, 2009 WL 3531803 (Del. Super.).

(4) The Superior Court may issue a writ of mandamus to compel a state agency such as DOC to perform a duty.<sup>2</sup> A writ of mandamus is an extraordinary remedy, however, and is “appropriate only when a plaintiff is able to establish a clear legal right to the performance of a non-discretionary duty.”<sup>3</sup> “[T]he duty must be prescribed with such precision and certainty that nothing is left to discretion or judgment.”<sup>4</sup> Mandamus will not issue to “force a particular result.”<sup>5</sup>

(5) In this case, the Superior Court acted well within its discretion when it dismissed Sanders’ amended complaint for mandamus relief. Following DOC’s discovery of a large amount of contraband in Sanders’ cell, DOC did not have a duty to provide Sanders with a hearing prior to transferring him to administration segregation pending further investigation.<sup>6</sup> Moreover, in the disciplinary proceedings that followed, DOC did not have a duty to charge and/or to convict Sanders only of a Class II offense instead of the Class I offense for which he was charged and found guilty.<sup>7</sup>

(6) It is manifest on the face of Sanders’ opening brief that this appeal is without merit. The issues presented on appeal are controlled by

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<sup>2</sup> Del. Code Ann. tit. 10, § 564 (1999); *Clough v. State*, 686 A.2d 158, 159 (Del. 1996).

<sup>3</sup> *Darby v. New Castle Gunning Bedford Ed. Ass’n*, 336 A.2d 209, 210 (Del. 1975).

<sup>4</sup> *Id.* at 211.

<sup>5</sup> *Id.*

<sup>6</sup> *Clough v. State*, 686 A.2d 158, 159 (Del. 1996).

<sup>7</sup> Sanders’ argument that he was wrongly charged and convicted of a Class I offense was heard at two levels within the prison system and was found to be without merit.

settled Delaware law, and to the extent that judicial discretion is implicated, there was no abuse of discretion. The Superior Court's judgment shall be affirmed on the basis of, and for the reasons set forth in, the Superior Court's well-reasoned decision of October 21, 2009.

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Henry duPont Ridgely  
Justice