

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE                    §  
PETITION OF JOHN C. JOHNSON       § No. 404, 2010  
FOR A WRIT OF ERROR CORAM       §  
NOBIS                                       §

Submitted: July 26, 2010  
Decided: August 31, 2010

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

**ORDER**

This 31<sup>st</sup> day of August 2010, upon consideration of the petition of John Johnson for a writ of error *coram nobis*, it appears to the Court that:

(1) The petitioner, John Johnson, pled guilty in 1998 to one count of aggravated menacing. In 2001, he pled guilty to second degree murder and possession of a firearm during the commission of a felony. He did not file a direct appeal from his conviction. Instead, in 2008, he filed a motion for postconviction relief, which the Superior Court denied.<sup>1</sup> This Court affirmed that judgment.<sup>2</sup> Johnson filed his current petition alleging that the Superior Court did not have jurisdiction over his 1998 conviction, which led to his receiving an enhanced minimum mandatory sentence for his 2001 weapon conviction.

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<sup>1</sup> *State v. Johnson*, 2009 WL 866180 (Del. Super. Mar. 31, 2009)

<sup>2</sup> *Johnson v. State*, 2009 WL 2860974 (Del. Sept. 4, 2009).

(2) This Court has held that the writ of error *coram nobis*, which was an ancient common law writ of error for review of facts only, has been abolished in Delaware and has been supplanted by modern rules of procedure for reopening a judgment.<sup>1</sup> In Delaware, Superior Court Criminal Rule 61 is the exclusive remedy for seeking to set aside a final judgment of conviction.<sup>2</sup> Accordingly, the writ of error *coram nobis* is not one of the extraordinary writs within the original jurisdiction of this Court.<sup>3</sup>

NOW, THEREFORE, IT IS ORDERED that Johnson's petition for a writ of error *coram nobis* is DISMISSED.

BY THE COURT:

/s/ Carolyn Berger  
Justice

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<sup>1</sup> See *In re Nicholson*, 1994 WL 35367 (Del. Jan. 31, 1994) (citing *Tweed v. Lockton*, 167 A. 703, 705 n.2 (Del. Super. 1932)).

<sup>2</sup> Del. Super. Ct. Crim. R. 61(a)(2) (2010).

<sup>3</sup> See Del. Const. art. IV, § 11(5).