

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE                   §  
PETITION OF BILLY G.               § No. 421, 2010  
JOHNSON FOR A WRIT OF           §  
MANDAMUS                           §

Submitted: July 22, 2010  
Decided: September 20, 2010

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

**ORDER**

This 20<sup>th</sup> day of September 2010, upon consideration of the petition of Billy Johnson for an extraordinary writ of mandamus, it appears to the Court that:

(1) The petitioner, Billy Johnson, seeks to invoke the original jurisdiction of this Court to issue a writ of mandamus to compel the Superior Court to provide him with copies of the original and amended grand jury indictments in his criminal case. The State of Delaware has filed a response and motion to dismiss Johnson's petition. We find that Johnson's petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be DISMISSED.

(2) This Court has authority to issue a writ of mandamus only when the petitioner can demonstrate a clear right to the performance of a duty, no other adequate remedy is available, and the trial court arbitrarily failed or

refused to perform its duty.<sup>1</sup> In this case, the Superior Court record reflects that Johnson requested and received a copy of the indictment against him in October 2008. Moreover, the Superior Court does not reflect the existence of an amended indictment. Under the circumstances, Johnson cannot establish that the Superior Court has failed to perform a duty owed to him when, in fact, it provided him with the one and only indictment issued against him. Accordingly, we conclude that Johnson's petition fails to invoke this Court's original jurisdiction to issue an extraordinary writ.

NOW, THEREFORE, IT IS ORDERED that Johnson's petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ Carolyn Berger  
Justice

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