

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE                   §  
PETITION OF JAMES ARTHUR       § No. 115, 2011  
BIGGINS FOR A WRIT OF           §  
MANDAMUS                           §

Submitted: March 16, 2011  
Decided: April 12, 2011

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

**ORDER**

This 12<sup>th</sup> day of April 2011, it appears to the Court that:

(1) The petitioner, James Arthur Biggins, seeks to invoke this Court's original jurisdiction to issue an extraordinary writ of mandamus<sup>1</sup> to the Court of Chancery in connection with C.A. No. 5121. The State of Delaware has filed an answer requesting that Biggins' petition be dismissed. We dismiss Biggins' petition on the ground that it manifestly fails to invoke the original jurisdiction of this Court. We also prohibit Biggins from filing any further appeals or extraordinary writ petitions in connection with C.A. No. 5121 without prior permission to do so by a Justice of this Court.

(2) The record reflects that this is Biggins' third filing in this Court in connection with C.A. No. 5121. On January 6, 2010, the Court dismissed Biggins' interlocutory appeal from the Court of Chancery in C.A. No. 5121 for his failure to

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<sup>1</sup> Del. Const. art. IV, §11(6); Supr. Ct. R. 43.

comply with Supreme Court Rule 42.<sup>2</sup> On September 10, 2010, the Court dismissed Biggins' second interlocutory appeal from the Court of Chancery in C.A. No. 5121.<sup>3</sup> Biggins' instant petition for a writ of mandamus requests this Court to issue a writ of mandamus to the Court of Chancery in connection with C.A. 5121.

(3) A writ of mandamus is an extraordinary remedy issued by this Court to compel a trial court to perform a duty.<sup>4</sup> As a condition precedent to the issuance of the writ, the petitioner must demonstrate that a) he has a clear right to the performance of the duty; b) no other adequate remedy is available; and c) the trial court has arbitrarily failed or refused to perform its duty.<sup>5</sup>

(4) There is no basis for the issuance of a writ of mandamus in this case. There is no evidence that Biggins has a clear right to the performance of a duty by the Court of Chancery that it has arbitrarily failed or refused to perform. Moreover, we find that Biggins' latest filing in this Court in connection with C.A. 5121 constitutes an abuse of the processes of the Court.

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

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<sup>2</sup> *Biggins v. Phelps et al.*, Del. Supr., No. 702, 2009, Steele, C.J. (Jan. 6, 2010).

<sup>3</sup> *Biggins v. Phelps et al.*, Del. Supr., No. 451, 2010, Berger, J. (Sept. 10, 2010).

<sup>4</sup> *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

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

IT IS FURTHER ORDERED that Biggins is prohibited from filing any further appeals or petitions involving C.A. 5121 unless granted permission by a Justice of this Court.

BY THE COURT:

/s/ Henry duPont Ridgely  
Justice