

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE                   §  
PETITION OF EDDIE LEE               §     No. 284, 2002  
MAXION FOR A WRIT OF               §  
MANDAMUS                               §     Def. ID No. 30002608DI

Submitted: June 11, 2002  
Decided: August 19, 2002

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

**ORDER**

This 19<sup>th</sup> day of August 2002, upon consideration of the petition of Eddie Lee Maxion for a writ of mandamus and the State's answer and motion to dismiss, it appears to the Court that:

(1) In 1991, a Superior Court jury convicted Eddie Lee Maxion of Kidnapping in the First Degree and Unlawful Sexual Intercourse in the First Degree. Maxion's convictions were affirmed on direct appeal.<sup>1</sup> Maxion's subsequent efforts to obtain postconviction relief were unsuccessful.<sup>2</sup>

(2) In December 2001, Maxion filed another motion for postconviction relief. The Superior Court directed the State to file a response to Maxion's

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<sup>1</sup>*Maxion v. State*, 1992 WL 183093 (Del. Supr.).

<sup>2</sup>*See generally Maxion v. State*, 686 A.2d 148 (Del. 1996).

postconviction motion. According to Maxion, the State did not file a response to Maxion's postconviction motion, as it had been directed to do.

(3) By order dated March 27, 2002, the Superior Court denied Maxion's postconviction motion.<sup>3</sup> Maxion filed an appeal from the Superior Court's denial of his postconviction motion.<sup>4</sup> The appeal is pending a decision by this Court on the basis of the parties' briefs.

(4) In his petition for a writ of mandamus, Maxion complains that the State did not file a response to Maxion's postconviction motion, as it had been directed to do. Maxion seeks an Order from this Court vacating the Superior Court's denial of his postconviction motion and compelling the Superior Court to conduct an evidentiary hearing.

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<sup>3</sup>*State v. Maxion*, Del. Super., Cr.A. No. IN90-04-0130, Toliver, J. (Mar. 27, 2002).

<sup>4</sup>*Maxion v. State*, Del. Supr., No. 220, 2002.

(5) Maxion may not invoke relief under a writ of mandamus while pursuing another adequate remedy to that same end.<sup>5</sup> The claims underlying Maxion's request for mandamus relief are currently on appeal. Not only is there an adequate legal remedy for Maxion's claims, but Maxion is fully pursuing that remedy.

NOW, THEREFORE, IT IS ORDERED that the motion to dismiss is GRANTED. The petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ Carolyn Berger  
Justice

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<sup>5</sup>*In re Bordley*, 545 A.2d 619, 620 (Del. 1988).