

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF CHRISTOPHER E. §
WALLS FOR A WRIT OF § No. 390, 2002
MANDAMUS §

Submitted: July 26, 2002

Decided: August 12, 2002

Before **VEASEY**, Chief Justice, **WALSH** and **STEELE**, Justices

ORDER

This 12th day of August 2002, it appears to the Court that:

(1) The petitioner, Christopher E. Walls, seeks to invoke this Court's original jurisdiction to issue an extraordinary writ of mandamus¹ compelling the Superior Court to act upon his October 17, 2001 motion for correction of illegal sentence.² The State of Delaware, as the real party in interest, has filed an answer and a motion to dismiss the petition. Because we find that Walls' petition manifestly fails to invoke the original jurisdiction of this Court, the motion to dismiss must be GRANTED and the petition for a writ of mandamus DISMISSED.

¹DEL. CONST. art. IV, § 11(6); SUPR. CT. R. 43.

²SUPER. CT. CRIM. R. 35(a).

(2) On July 26, 2001, the Superior Court determined that Walls had violated his probation in connection with a previous conviction for Robbery in the First Degree. Walls subsequently filed two motions for sentence modification, the first on September 7, 2001 and the second on September 18, 2001. He also filed a motion for correction of sentence on October 19, 2001. The Superior Court docket sheet reflects that the Superior Court denied Walls' motions in its order dated December 3, 2001.

(3) A writ of mandamus is an extraordinary remedy issued by this Court to compel a lower court to perform a duty.³ 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.⁴

(4) There is no basis for the issuance of a writ in this case, since the Superior Court has already ruled on Walls' motions in its December 3, 2001

³*In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

⁴*Id.*

order. Walls' request that the Superior Court rule on his October 19, 2001 motion is, therefore, moot.

NOW, THEREFORE, IT IS ORDERED that the State of Delaware's motion to dismiss is GRANTED. Walls' petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice