

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE
PETITION OF JOHN E. FOSTER
FOR A WRIT OF MANDAMUS.

No. 281, 2001

Submitted: July 9, 2001
Decided: July 27, 2001

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

ORDER

This 27th day of July 2001, the Court has considered the petition for a writ of mandamus filed by John E. Foster and the answer and motion to dismiss filed by the State of Delaware, and it appears to the Court that:

(1) Foster has applied to this Court for a writ of mandamus to be directed to the Warden of the Multi-Purpose Criminal Justice Facility. Foster is incarcerated at the Multi-Purpose Criminal Justice Facility, serving a prison sentence on a number of convictions.¹

(2) In his petition in this Court, Foster alleges that the Warden has refused to respond to Foster's written requests for information about a 1998 closed criminal case. It appears that Foster wants the Warden to

¹ See *State v. Foster*, Del. Super., Cr.A.No. IN99-07-1360, Gebelein, J. (April 25, 2001) (sentence); see *State v. Foster*, Del. Super., Cr.A.No. IN01-02-0402, Toliver, J. (June 11, 2001) (sentence).

explain in writing why, in the 1998 case, Foster was allegedly not released from prison until December 20, 1998, when the State had *nolle prossed* the charges more than 20 days earlier, *i.e.*, on November 17, 1998.²

(3) Foster’s petition manifestly fails on its face to invoke the Court’s original jurisdiction. “[T]his Court’s original jurisdiction to issue a writ of mandamus is limited to instances when a respondent is a court or a judge thereof.”³ The Court’s original jurisdiction to issue a writ of mandamus does not extend to the Warden of the Multi-Purpose Criminal Justice Facility, who is a prison official.⁴

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

BY THE COURT:

/s/ Randy J. Holland
Justice

² *State v. Foster*, Del. Super., Cr.A.No. N98-11-0582.

³ Del. Const. art. IV, § 11(6); *In re Hitchens*, Del. Supr., 600 A.2d 37, 38 (1991).

⁴ *Id.*