

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF JAMES ARTHUR § No. 46, 2014
BIGGINS FOR A WRIT OF §
CERTIORARI. §

Submitted: February 20, 2014

Decided: April 15, 2014

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

ORDER

This 15th day of April 2014, upon consideration of the petition for a writ of certiorari filed by James Arthur Biggins and the answer and motion to dismiss filed by the State of Delaware, it appears to the Court that:

(1) The petitioner, James Arthur Biggins, is serving a thirty-year sentence imposed in 1997 for convictions for unlawful sexual intercourse and related offenses. Following an unsuccessful direct appeal in 1999,¹ Biggins has unsuccessfully challenged his convictions under Superior Court Criminal Rule 61 a total of seven times.² Biggins has also filed unsuccessful

¹ *Biggins v. State*, 1999 WL 1192332 (Del. Nov. 24, 1999).

² *See Biggins v. State*, 2011 WL 2731214 (Del. July 11, 2011) (affirming denial of seventh postconviction motion); *Biggins v. State*, 2011 WL 199114 (Del. Jan. 19, 2011) (affirming denial of sixth postconviction motion); *Biggins v. State*, 2010 WL 892106 (Del. Mar. 11, 2010) (affirming denial of fifth postconviction motion); *Biggins v. State*, 2009 WL 1847663 (Del. June 29, 2009) (dismissing untimely appeal from denial of fourth postconviction motion); *Biggins v. State*, 2003 WL 22998846 (Del. Dec. 18, 2003) (affirming denial of third postconviction motion); *Biggins v. State*, 2001 WL 760859

petitions purporting to invoke the Court's original jurisdiction over his criminal case.³

(2) In his pending petition for a writ of certiorari, Biggins purports to seek relief for an alleged error the Superior Court made when instructing the jury on lesser-included offenses at Biggins' jury trial. The petition manifestly fails to invoke the original jurisdiction of this Court and must be dismissed.

(3) A writ of certiorari is an extraordinary remedy that is used to correct irregularities in the proceedings of a trial court.⁴ Certiorari is available to challenge only a final order of a trial court where the right of appeal is denied, a grave question of public policy and interest is involved, and no other basis for review is available.⁵ "Where these threshold requirements are not met, this Court has no jurisdiction to consider the petitioner's claims."⁶

(May 19, 2001) (affirming denial of second postconviction motion); *Biggins v. State*, 2000 WL 1504868 (Del. Sept. 26, 2000) (affirming denial of first postconviction motion).

³ See *In re Biggins*, 2010 WL 2696531 (Del. July 8, 2010) (dismissing petition for a writ of certiorari); *In re Biggins*, 2003 WL 1857525 (Del. April 7, 2003) (dismissing petition for a writ of prohibition).

⁴ *Shoemaker v. State*, 375 A.2d 431, 437 (Del. 1977).

⁵ *Id.* at 437-38.

⁶ *In re Butler*, 609 A.2d 1080, 1081 (Del. 1992).

(4) In this case, Biggins has not demonstrated that his right of appeal was denied, a grave question of public policy is involved, or that no other basis for review is available. As such, he has not met the threshold requirements for the issuance of a writ of certiorari by this Court and, therefore, his petition for a writ of certiorari must be dismissed.

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

BY THE COURT:

/s/ Randy J. Holland

Justice