

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF WILLIAM WISHER § No. 467, 2018
FOR A WRIT OF MANDAMUS. §
 §

Submitted: September 19, 2018
Decided: December 5, 2018

Before **VALIHURA**, **VAUGHN**, and **SEITZ**, Justices.

ORDER

(1) On September 10, 2018, Wisher filed a petition asking this Court to issue a writ of mandamus directing the Superior Court to accept a *pro se* motion to suppress evidence in Wisher’s then-pending criminal case, which was scheduled for trial.¹ The following day, September 11, 2018, Wisher pleaded guilty to three of the sixteen charges in the Superior Court case and was sentenced.

(2) In response to Wisher’s petition, the State represents that Wisher withdrew his petition for a writ of mandamus at the guilty plea hearing on September 11, 2018. The State’s representations are supported by the Superior Court docket.²

(3) When invoking this Court’s original jurisdiction to issue extraordinary relief, the burden is on the petitioner to establish an entitlement to such relief.³ In this case, even if he had not withdrawn his mandamus petition on September 11,

¹ *State v. Wisher*, Del. Super., Cr. ID Nos. 1709004017 & 1710006788.

² *See, e.g.*, Docket at 42, *State v. Wisher*, Cr. ID No. 1709004017.

³ *In re Wittrock*, 649 A.2d 1053, 1054 (Del. 1994).

2018, Wisher is not entitled to compel the Superior Court to consider a suppression motion in a case he decided not to take to trial.

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

BY THE COURT:

/s/ James T. Vaughn, Jr.
Justice