

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF JONATHAN § No. 437, 2022
JOHNSON FOR A WRIT OF §
MANDAMUS §

Submitted: December 7, 2022

Decided: January 5, 2023

Before **SEITZ**, Chief Justice; **VAUGHN**, and **TRAYNOR**, Justices.

ORDER

After consideration of the petition for a writ of mandamus, the State’s answer and motion to dismiss, and the motion to apply plain-error standard of review and to reply to the motion to dismiss, it appears to the Court that:

(1) In April 2017, the petitioner, Jonathan Johnson, pleaded guilty to possession of a firearm during the commission of felony (“PFDCF”) and drug dealing in Criminal ID No. 1602004456A. After granting the State’s habitual offender petition, the Superior Court sentenced Johnson as follows: (i) for PFDCF, twenty-five years of Level V incarceration; and (ii) for drug dealing, eight years of Level V incarceration, suspended for decreasing levels of supervision. Johnson did not file a direct appeal, but did file unsuccessful motions and petitions challenging his convictions and sentence.¹

¹ See, e.g., *Johnson v. State*, 2022 WL 3695880, at *1 (Del. Aug. 25, 2022) (affirming the Superior Court’s summary dismissal of Johnson’s second motion for postconviction relief); *Johnson v. State*, 2021 WL 4699252, at *1 (Del. Oct. 7, 2021) (affirming the Superior Court’s denial of

(2) Beginning in September 2022, Johnson filed multiple motions for correction of illegal sentence and to withdraw his guilty plea in the Superior Court. On November 18, 2022, he filed his petition for a writ of mandamus in this Court. He asks this Court to direct the Superior Court to review his motions, vacate his sentence, and grant withdrawal of his plea.

(3) A writ of mandamus will only issue if the petitioner can show: (i) a clear right to the performance of a duty; (ii) that no other adequate remedy is available; and (iii) that the trial court has arbitrarily failed or refused to perform its duty.² “[I]n the absence of a clear showing of an arbitrary refusal or failure to act, this Court will not issue a writ of mandamus to compel a trial court to perform a particular judicial function, to decide a matter in a particular way, or to dictate the control of its docket.”³

(4) There is no basis for the issuance of a writ of mandamus in this case. First, the matter is moot because the Superior Court has reviewed and summarily dismissed Johnson’s motions.⁴ Second, Johnson has an adequate remedy because he may appeal the Superior Court’s decision once the Superior Court resolves his

Johnson’s first motion for postconviction relief); *In re Johnson*, 2020 WL 1881069, at *1 (Del. Apr. 15, 2020) (dismissing Johnson’s petition for a writ of mandamus).

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

³ *Id.*

⁴ *State v. Johnson*, 2022 WL 17076222, at *1 (Del. Super. Ct. Nov. 18, 2022).

pending motion for reargument.⁵ A petitioner who has an adequate remedy in the appellate process may not use the extraordinary-writ process as a substitute.⁶ Third, this Court will not issue a writ of mandamus to compel the Superior Court to decide a matter in a particular way in the absence of a clear showing of an arbitrary refusal or failure to act.⁷

(5) In the last three years, Johnson has filed three appeals and two writ petitions relating to his convictions in this Court. We warn Johnson that if he continues to file appeals or writs making repetitive claims, he could be enjoined from filing future appeals or writs without leave of the Court.

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

BY THE COURT:

/s/Gary F. Traynor
Justice

⁵ Johnson appealed the Superior Court's decision to this Court while his motion for argument was still pending. *Johnson v. State*, No. 465, 2022. In light of the pending motion for reargument, a notice to show cause was issued in No. 465, 2022.

⁶ *In re Safford*, 2005 WL 1654016, at *1 (Del. July 1, 2005) (citing *Matushefske v. Herlihy*, 214 A.2d 883, 885 (Del. 1965)).

⁷ *Bordley*, 545 A.2d at 620.