

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF JOHN R. § No. 196, 2001
DRAYER, JR. FOR A WRIT OF §
CERTIORARI §

Submitted: May 17, 2001
Decided: June 25, 2001

Before **VEASEY**, Chief Justice, **WALSH**, and **HOLLAND**, Justices.

ORDER

This 25th day of June 2001, it appears to the Court that:

(1) The petitioner, John R. Drayer, Jr., pled no contest in June 1997 to one count of first degree reckless endangering. The Superior Court sentenced him to five years at Level V imprisonment, suspended for three years at Level II probation. The Superior Court docket reflects that, in November 1997, a *capias* was issued for Drayer's failure to appear for a violation of probation hearing. That *capias* remains outstanding. On December 4, 2000, the Superior Court denied Drayer's motion for postconviction relief on the ground that it was not filed within the three year time limitation of Superior Court Criminal Rule 61(i)(1).

(2) Drayer now seeks to invoke the original jurisdiction of this Court by requesting the issuance of a writ of certiorari. Supr. Ct. R. 43. The grounds upon which Drayer seeks certiorari review are unclear on the face of his

petition. The nature of Drayer's complaint, however, is not relevant to our disposition of this petition. The outstanding *capias* means that Drayer is a fugitive in this State because of his failure to appear before the Superior Court when directed to do so. Generally, a fugitive from justice, while he remains a fugitive, has no right to pursue the avenues of relief ordinarily available to those who follow "the orderly course of justice." *Crawford v. State*, Del. Supr., 94 A.2d 603, 604 (1953). *See also Schmidt v. Schmidt*, Del. Supr., 610 A.2d 1374, 1376 (1992). Accordingly, until Drayer submits himself to the authority of the State, he is not entitled to seek relief from the courts.

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

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice