

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF KENNETH § No. 539, 2001
F. REEDER FOR A WRIT §
OF MANDAMUS. §

Submitted: November 6, 2001
Decided: December 10, 2001

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

ORDER

This 10th day of December 2001, upon consideration of the petition of Kenneth F. Reeder for a writ of mandamus and the State of Delaware's answer and motion to dismiss, it appears to the Court that:

(1) In September 1999, a Superior Court jury convicted Reeder of multiple counts of burglary and related offenses. On direct appeal, Reeder argued in part that the Superior Court erred when it denied his motion to suppress evidence that was seized from his car and residence. This Court, however, affirmed Reeder's conviction and sentence, concluding that the Superior Court properly denied Reeder's motion to suppress.¹

(2) In his petition for a writ of mandamus, Reeder continues to argue that the Superior Court erred when it denied his motion to suppress evidence.

¹*Reeder v. State*, Del. Supr., Nos. 552 and 583, 1999, Steele, J., 2001 WL 355732 (Mar. 26, 2001) (ORDER), *rearg. denied*, Steele, J. (May 21, 2001).

A writ of mandamus is not available, however, to correct alleged trial court errors that are, or were, subject to ordinary appellate review.² This Court will issue a writ of mandamus to a trial court only when the petition can show that there is a clear legal right to the performance of a duty at the time of the petition, no other adequate remedy is available, and that the trial court has failed or refused to perform its duty.³

(3) There is no basis for the issuance of a writ of mandamus in this case. Reeder has not demonstrated that the Superior Court has arbitrarily failed or refused to perform a duty owed to him. This Court will not allow Reeder, who had an adequate remedy in the appeal process, to invoke the extraordinary writ process as a substitute for further appellate review.

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

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice

²*Matushefske v. Herlihy*, Del. Supr., 214 A.2d 883, 885 (1965).

³*In re Bordley*, Del. Supr., 545 A.2d 619, 620 (1988).