

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF SANDRA JONES § No. 552, 2001
FOR A WRIT OF PROHIBITION. §

Submitted: November 20, 2001

Decided: December 7, 2001

BEFORE VEASEY, Chief Justice, WALSH and HOLLAND, Justices.

ORDER

This 7th day of December 2001, upon consideration of the petition of Sandra Jones for a writ of prohibition and the State's answer and motion to dismiss, it appears to the Court that:

(1) In April 2001, a grand jury indicted Sandra Jones on the charges of Felony Theft and Financial Exploitation of an Infirm Adult.¹ On July 2, 2001, the Superior Court dismissed the indictment without prejudice. In September 2001, a grand jury returned a superceding indictment on the same charges. Jones is proceeding *pro se* in the Superior Court. Her trial is scheduled to begin on December 11, 2001.

(2) Jones has applied for a writ of prohibition to prevent any further action in the pending criminal case. Jones contends that the Superior Court is without jurisdiction to try her on charges that the Court previously

¹*State v. Jones*, Del. Super., Cr.A. Nos. IS01-04-0617W, 0618W.

dismissed. The decision to grant or deny a petition for a writ of prohibition in a criminal case rests within the sound discretion of this Court.²

(3) A writ of prohibition is the legal equivalent of the equitable remedy of injunction and may be issued to prevent a trial court from proceeding in a matter when it has no jurisdiction or is exceeding its jurisdiction.³ The jurisdictional defect alleged by the petitioner must be manifest from the record.⁴ Moreover, “the petitioner has the burden of demonstrating to this Court, by clear and convincing evidence, that the action contemplated by the trial court is in excess of its jurisdiction.”⁵

(4) The Court will not issue a writ of prohibition if the petitioner has another adequate and complete remedy.⁶ The right to appeal a criminal conviction is generally considered to be such an adequate and complete remedy, unless the lack of jurisdiction is “clear and unmistakable.”⁷

²*In re Hovey*, Del. Supr., 545 A.2d 626, 629(1988).

³*Id.* at 628.

⁴*Id.*

⁵*Id.* at 629.

⁶*Id.* at 628.

⁷*Id.* at 629.

(5) Jones has failed to demonstrate by clear and convincing evidence that the Superior Court is without jurisdiction to proceed with her trial. Jones has been indicted by a superceding indictment on charges over which the Superior Court has jurisdiction. Moreover, Jones has an adequate remedy at law for consideration of the jurisdictional claim that she has advanced in her petition for a writ of prohibition. Jones may raise the claim in the Superior Court. If she is convicted, she may reassert the claim on direct appeal.

NOW, THEREFORE, IT IS ORDERED that the State's motion to dismiss is GRANTED. Jones' petition for a writ of prohibition is DISMISSED. The mandate shall issue forthwith.

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice