

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF RONALD G. § No. 239, 2013
JOHNSON FOR A WRIT OF §
MANDAMUS §

Submitted: May 23, 2013
Decided: May 30, 2013

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices

ORDER

This 30th day of June 2013, it appears to the Court that:

(1) The petitioner, Ronald G. Johnson, seeks to invoke this Court's original jurisdiction to issue an extraordinary writ of mandamus¹ to compel the Superior Court to immediately permit him to proceed *pro se* in his criminal case and to immediately decide several pending *pro se* motions. The State of Delaware has filed an answer requesting that Johnson's petition be dismissed. We find that Johnson's petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be dismissed.

(2) The record before us reflects that, in August 2012, Johnson was indicted on the charge of Possession of a Controlled Substance. He was released on unsecured bail. Johnson's trial was scheduled for March 5,

¹ Del. Const. art. IV, §11(5); Supr. Ct. R. 43.

2013. Johnson failed to appear and the Superior Court issued a *capias* for his arrest. The *capias* was returned the same day and Johnson has been held in lieu of \$20,000 cash bail since that time.

(3) Despite being represented by the Office of the Public Defender, Johnson has filed a number of *pro se* motions, including a motion to dismiss his counsel and appoint new counsel, a motion to recuse the Superior Court judge assigned to his case, a motion to assign a new prosecutor, a motion to obtain full discovery and a motion to reduce bail.

(4) On April 4, 2013, Johnson's counsel filed a motion for psychiatric/psychological evaluation to determine whether Johnson was competent to stand trial. The Superior Court granted counsel's motion. During April and May, 2013, Johnson filed a *pro se* response to the motion for a psychiatric/psychological evaluation and motions to reduce bail, to dismiss counsel, to compel an immediate hearing on his motions and to proceed *pro se*. The Superior Court referred the motions to Johnson's counsel.²

² Under Superior Court Criminal Rule 47, the Superior Court may not consider *pro se* applications by defendants who are represented by counsel unless the defendant has been granted permission to participate with counsel in his defense.

(5) A writ of mandamus is an extraordinary remedy issued by this Court to compel a trial court to perform a duty.³ As a condition precedent to the issuance of the writ, the defendant must demonstrate that: a) he has a clear right to the performance of the duty; b) no other adequate remedy is available; and c) the trial court has arbitrarily failed or refused to perform its duty.⁴ 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.⁵

(6) There is no basis for the issuance of a writ of mandamus in this case. Johnson has failed to demonstrate that the Superior Court has arbitrarily failed or refused to perform a duty to which he has a clear right. Moreover, this Court will not issue a writ of mandamus to compel the Superior Court to immediately schedule and grant Johnson's various motions. Johnson's petition for a writ of mandamus must, therefore, be dismissed.

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

⁴ *Id.*

⁵ *Id.*

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

BY THE COURT:

/s/ Randy J. Holland
Justice