

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF BRUCE R. § No. 249, 2011
BANTHER FOR A WRIT OF §
PROHIBITION. § Cr. ID No. 9705000270

Submitted: May 25, 2011
Decided: August 16, 2011

Before **STEELE**, Chief Justice, **HOLLAND** and **JACOBS**, Justices.

ORDER

This 16th day of August 2011, upon consideration of the *pro se* petition for a writ of prohibition filed by Bruce R. Banther and the answer and motion to dismiss filed by the State of Delaware, it appears to the Court that:

(1) In 2008, Bruce R. Banther was convicted of Murder in the First Degree and Possession of a Deadly Weapon During the Commission of a Felony. Banther's convictions were affirmed on appeal.¹

(2) The Court has the authority to issue a writ of prohibition to prevent a court in this State from exceeding the limits of its jurisdiction.² In this case, Banther has been tried and convicted. Consequently, Banther's

¹ *Banther v. State*, 977 A.2d 870 (Del. 2009). It appears from the Superior Court docket that Banther's *pro se* motion for postconviction relief is pending in the Superior Court. See docket at 419, *State v. Banther*, Del. Super., Cr. ID No. 9705000270 (July 18, 2011) (filing of defendant's reply brief to State's response to motion for postconviction relief).

² See *In re Biggins*, 2003 WL 1857525 (Del. Supr.) (citing *In re Hovey*, 545 A.2d 626, 628 (Del. 1988)).

petition for a writ of prohibition to prevent criminal proceedings against him simply comes too late and must be dismissed.³

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice

³ *Id.*