

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF CHARLES N. § No. 208, 2003
BEEBE FOR A WRIT OF §
MANDAMUS §

Submitted: May 5, 2003
Decided: June 19, 2003

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

ORDER

This 19th day of June 2003, it appears to the Court that:

(1) The petitioner, Charles N. Beebe, seeks to invoke this Court's original jurisdiction to issue an extraordinary writ of mandamus¹ to compel the Office of the Prothonotary to issue process with respect to a petition for a writ of mandamus Beebe filed in the Superior Court.² The State of Delaware, as the real party in interest, has filed an answer requesting that Beebe's petition be dismissed. We find that Beebe's petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be dismissed.

(2) On February 4, 2003, Beebe filed a petition for a writ of mandamus, and a petition to proceed *in forma pauperis*, in the Superior Court.

¹DEL. CONST. art. IV, § 11(6); SUPR. CT. R. 43.

²*Beebe v. Thomas Carroll, Delaware Board of Parole, and M. Jane Brady, Esquire*, C.A. No. 03M-02-003.

In his petition for a writ of mandamus, Beebe requested the Superior Court to compel the Board of Parole to grant his request for parole. He claimed that: he has a liberty interest in being paroled; the Board's denials of his requests have violated his constitutional right to due process; he has finished all available rehabilitation programs; and the denials are based on Board rules not in effect at the time his crime was committed, thus violating the ex post facto provisions of the state and federal constitutions.

(3) On May 6, 2003, the Superior Court granted Beebe's petition to proceed *in forma pauperis*, but dismissed his petition for a writ of mandamus prior to the issuance of service of process on the defendants. The grounds for the denial were that: a) the Superior Court does not have jurisdiction to review decisions of the Board of Parole; and b) an inmate has no legally enforceable right to parole and no due process claim as a result of being denied parole.

(4) 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, Beebe must demonstrate that: he has a clear right to the

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

performance of the duty; no other adequate remedy is available; and the trial court has arbitrarily failed or refused to perform its duty.⁴

(5) There is no basis for the issuance of a writ of mandamus by this Court in this case. This Court's original jurisdiction to issue a writ of mandamus is limited to instances where the respondent is a court or a judge.⁵ Because Beebe asks this Court to direct the Prothonotary to issue process with respect to his petition for a writ of mandamus filed in the Superior Court, this Court is without jurisdiction to issue a writ of mandamus as the Prothonotary is neither a court nor a judge.

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

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice

⁴Id.

⁵*In re Hitchens*, 600 A.2d 37, 38 (Del. 1991).