

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE PETITION §
OF FREDERICK W. SMITH, JR. FOR § No. 324, 2012
A WRIT OF MANDAMUS §

Submitted: June 26, 2012

Decided: July 30, 2012

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

ORDER

This 30th day of July 2012, upon consideration of the petition of Frederick Smith for an extraordinary writ of mandamus and the State's response thereto, it appears to the Court that:

(1) The petitioner, Frederick Smith, seeks to invoke the original jurisdiction of this Court to issue a writ of mandamus to compel the Superior Court to "correct an injustice in the indictment" issued against him in 1993. The State of Delaware has filed a response and motion to dismiss. After review, we find that Smith's petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be **DISMISSED**.

(2) This Court has authority to issue a writ of mandamus only when the petitioner can demonstrate a clear right to the performance of a duty, no other adequate remedy is available, and the trial court arbitrarily failed or

refused to perform its duty.¹ Smith's petition meets none of these criteria. Smith was convicted in 1993, and this Court affirmed his convictions on direct appeal.² Smith has filed multiple unsuccessful petitions seeking state postconviction and federal habeas corpus relief. Smith, in fact, has unsuccessfully challenged the indictment against him on multiple occasions.³ Accordingly, Smith cannot establish that he is entitled to the relief he seeks.

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

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

¹ *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

² *Smith v. State*, 669 A.2d 1 (Del. 1995).

³ *See, e.g., Smith v. State*, 2009 WL 2888258 (Del. Sept. 10, 2009).