

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION FOR A WRIT OF § No. 334, 2001
CERTIORARI BY JUSTO L. §
MORALES. §

Submitted: August 24, 2001
Decided: September 10, 2001

Before **HOLLAND, BERGER** and **STEELE**, Justices.

ORDER

This 10th day of September 2001, upon consideration of the petition for a writ of certiorari filed by Justo L. Morales and the answer and motion to dismiss filed by the State of Delaware, it appears to the Court that:

(1) In March 1999, Justo Morales pled guilty to one count of delivery of heroin. Morales was sentenced to eight years at Level V, suspended after five years, for three years at Level III.¹

(2) In April 1999, Morales moved for postconviction relief. By order dated March 8, 2001, the Superior Court denied Morales' motion.

¹*State v. Morales*, Del. Super., Cr.A. No.IN98-10-0961, Gebelein, J. (Mar. 31, 1999).

Morales did not appeal. In April 2001, Morales moved for a reduction of his sentence. By order dated May 29, 2001, the Superior Court denied Morales' motion. Morales did not appeal.

(3) Morales seeks a writ of certiorari to review the Superior Court's May 29 denial of his motion for reduction of sentence. A writ of certiorari is an extraordinary remedy used to correct irregularities in the proceedings of a trial court.² Certiorari is available to challenge a final order of a trial court only when the right to appeal is denied, a grave question of public policy and interest is involved, and no other basis for review is available.³

(4) There is no basis for the issuance of a writ of certiorari in this case. Morales is not seeking review of an unappealable final order. Morales had a right to file an appeal from the Superior Court's May 29 order. The extraordinary writ process cannot be used as a substitute for appellate review.⁴

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

²*Shoemaker v. State*, Del. Supr., 375 A.2d 431, 437 (1977).

³*Id.*

⁴*See Matushefske v. Herlihy*, Del. Supr., 214 A.2d 883,885 (1965).

BY THE COURT:

/s/ Carolyn Berger
Justice