

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE § No. 478, 2001
PETITION OF PARRIS WALL §
FOR A WRIT OF MANDAMUS. § Def. ID No. 90K01991DI

Submitted: October 12, 2001

Decided: October 31, 2001

Before **VEASEY**, Chief Justice, **WALSH** and **STEELE**, Justices.

ORDER

This 31st day of October 2001, upon consideration of the petition for a writ of mandamus filed by Parris Wall and the answer and motion to dismiss filed by the State of Delaware,¹ it appears to the Court that:

(1) In July 1990, a grand jury indicted Wall, charging him with Assault in the Second Degree. On September 11, 1990, Wall pled guilty to Assault in the Third Degree and was sentenced to two years imprisonment, suspended for two years probation. Wall is seeking to challenge his 1990 state conviction because, according to Wall, the conviction was used to enhance a sentence imposed by the United States District Court in February 2000 for federal drug offenses.

¹The Court has not considered Wall's letter filed on October 19, 2001, responding to the State's motion to dismiss. *See* Supr. Ct. R. 43(b)(ii) (providing that, other than the respondent's answer to the petitioner's complaint, "unless the Court otherwise directs, no further submissions of the parties shall be accepted.").

(2) On September 20, 2001, Wall applied to this Court for a writ of mandamus to be directed to the Superior Court. According to Wall, he has “sought relief” from the Superior Court with respect to his 1990 case “since the fall of 1999 . . . to no avail.” Wall asks that this Court direct the Superior Court to “hear his motion in a timely fashion.”

(3) It appears from the Superior Court docket that Wall submitted a letter to the Prothonotary on September 20. In that letter, a copy of which Wall included with his mandamus petition, Wall asked that all of his “previous request[s] for relief . . . be ignored.” Wall asked that the Superior Court consider a “motion for relief” and a “motion for the plea colloquy, transcripts and the plea agreement” that Wall purported to enclose with the letter. On the same date, *i.e.*, September 20, 2001, Wall also filed a document entitled “Writ of Coram Nobis.”

(4) On October 5, 2001, the Superior Court issued a notice of noncompliance that returned Wall’s “Writ of Coram Nobis.” The Superior Court instructed Wall to use an appropriate form to apply for postconviction relief and provided a copy of the form to Wall. The Superior Court took no action with respect to Wall’s September 20 letter with enclosed “motion for relief” and “motion

for the plea colloquy, transcripts and plea agreement” because, according to the Prothonotary, Wall’s letter did not contain any enclosures.²

(5) The Court will issue a writ of mandamus to a trial court only when the petitioner can show that there is the clear right to the performance of a duty at the time of the petition, no other adequate remedy is available, and the trial court has failed or refused to perform its duty.³ In this case, Wall has not demonstrated that the Superior Court has failed or refused to perform a duty owed to him. Wall has not submitted a motion for postconviction relief in response to the Superior Court’s notice of noncompliance. Moreover, although Wall may have intended to submit various motions with his letter filed on September 20, the Prothonotary reports that Wall’s letter did not contain any enclosures.

NOW, THEREFORE, IT IS ORDERED that the State’s motion to dismiss is GRANTED. Wall’s petition for a writ of mandamus is DISMISSED.

BY THE COURT:

s/Joseph T. Walsh
Justice

²Wall did not provide this Court with a copy of the enclosures.

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