

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE	§	No. 468, 2001
PETITION OF VICTOR	§	
RODRIGUEZ FOR A WRIT	§	Def. ID No. 0005017581
OF ERROR.	§	Def. ID No. 0006009296

Submitted: October 3, 2001

Decided: October 25, 2001

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

ORDER

This 25th day of October 2001, upon consideration of the petition of Victor Rodriguez for a writ of error, and the State of Delaware's answer and motion to dismiss, it appears to the Court that:

(1) In December 2000, a Superior Court jury convicted Rodriguez of three offenses: Arson in the Second Degree, Arson in the Third Degree, and Attempted Arson in the Second Degree.¹ In June 2001, Rodriguez pled guilty to two counts of Terroristic Threatening.² In both cases, Rodriguez was represented by Lloyd A. Schmid, Jr., Esquire ("Counsel"). Rodriguez was sentenced in both cases on August 28, 2001.³

¹*State v. Rodriguez*, Del. Super., Cr.A. Nos. IK00-10-0041 - 0043.

²*State v. Rodriguez*, Del. Super., Cr.A. Nos. IK00-06-0823, 0827.

³A corrected sentencing order issued on August 29, 2001.

(2) On September 19, 2001, Rodriguez filed a *pro se* notice of appeal from all five convictions. Rodriguez' *pro se* appeal was docketed as *Rodriguez v. State*, No. 456, 2001. On September 28, 2001, Counsel filed a notice of appeal on behalf of Rodriguez. Counsel limited the appeal, however, to the three arson-related convictions for which Rodriguez was adjudged guilty. Counsel's notice of appeal was also docketed in *Rodriguez v. State*, No. 456, 2001.

(3) On September 26, 2001, Rodriguez filed a petition for a writ of error. In his petition, Rodriguez raises what appear to be appeal issues related to his five convictions.

(4) It is clear that "writs of error" have been abolished. The Supreme Court now hears "appeals" from the Superior Court in criminal cases.⁴ Thus, to the extent Rodriguez intends his "writ of error" to serve as

⁴Del. Const. art. IV, § 11(1)(b) and (2).

a notice of appeal from his five Superior Court convictions, Rodriguez' writ must be dismissed as repetitive, as Rodriguez already has an appeal docketed in his criminal cases. To the extent Rodriguez has petitioned this Court to issue a "writ of error coram nobis," Rodriguez' petition must be dismissed for lack of jurisdiction. The writ of error coram nobis is not one of the extraordinary writs within the original jurisdiction of this Court.⁵

(5) Notwithstanding Counsel's attempt to limit Rodriguez' appeal to the three arson-related convictions, it is clear that Rodriguez intends to, and is entitled to, appeal all five of his Superior Court convictions, including the two Terroristic Threatening charges to which he pled guilty.⁶ The Court will enter a separate Order in *Rodriguez v. State*, No. 456, 2001, directing Counsel to file an amended notice of appeal on behalf of Rodriguez as to all five convictions.⁷

⁵Del. Const. art. IV, § 11(6).

⁶Del. Const. art. IV, § 11(1)(b).

⁷See Supr. Ct. R. 26(a) (providing for the continuing obligation of and representation by counsel).

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

BY THE COURT:

s/Joseph T. Walsh
Justice