

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE PETITION §
OF SCOTT MELODY FOR A WRIT OF § No. 360, 2001
PROHIBITION §

Submitted: September 5, 2001

Decided: October 19, 2001

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

ORDER

This 19th day of October 2001, upon consideration of Scott Melody's petition for a writ of prohibition and the State's response and motion to dismiss, it appears to the Court that:

(1) The petitioner, Scott Melody, filed a petition purportedly seeking an extraordinary writ of prohibition directed to the Superior Court. The relief Melody seeks is the "termination" of his sentences imposed by the Superior Court on three different sets of charges. The record reflects that Melody pled guilty and was sentenced on July 13, 1995 for theft and related charges. Thereafter, Melody pled guilty and was sentenced on November 13, 1995 for receiving stolen property. Finally, Melody pled guilty and was sentenced on May 23, 1996 for first degree robbery.

(2) Through the years, Melody has filed numerous unsuccessful petitions in Superior Court seeking habeas corpus relief. He has not appealed to this Court from any of those rulings. Most recently, Melody

applied to this Court in a separate matter seeking a writ of mandamus directing the Superior Court to rule on a petition for a writ of habeas corpus that Melody had filed in February 2001. We directed the Superior Court to provide us with a status report on Melody's petition. The Superior Court filed its report on May 16, 2001 and included with its report a copy of its order denying Melody's habeas petition. After the Superior Court issued its decision denying Melody's petition for a writ of habeas corpus, this Court dismissed Melody's petition for a writ of mandamus as moot. *See In re Melody*, No. 110, 2001, Holland, J. (Oct. 12, 2001).

(3) Instead, Melody appears to have filed the instant petition as a means of challenging the Superior Court's denial of his latest petition for habeas corpus relief. Although Melody's current petition is captioned as a petition for a writ of prohibition, the relief Melody seeks, i.e. "termination" of his sentences, is in the nature of a writ of mandamus. While it is not entirely clear, the gist of Melody's complaints appear to be that the Superior Court's respective sentencing orders have been misinterpreted by the Department of Correction, which has resulted in Melody spending more time in prison than he should.

(4) In support of his argument, Melody cites to a document dated December 14, 2000, which the Superior Court attached to its May 16, 2001

report to this Court in case No. 110, 2001. The document, which is unsigned and is not on Superior Court letterhead, purports to be an order granting a petition for habeas corpus relief that Melody had filed on December 7, 2000. It is not clear why the Superior Court attached this document, which obviously was in draft form, to its May 16, 2001 report to this Court. What is clear, however, is that the Superior Court docket reflects the entry of a final order on January 23, 2001 denying Melody's December 7, 2000 petition.

(5) Melody appears to contend that he is entitled to the relief he now seeks, i.e. "termination" of the remaining time left on his sentences, based on the contents of the Superior Court's December 14, 2000 draft letter. Melody's contention has no merit. This Court will not issue a writ of mandamus to compel a trial court to reach a particular result in a case.¹ It is clear that, notwithstanding the December 14, 2000 draft, the Superior Court ultimately denied Melody's habeas corpus petition, and Melody did not appeal from that ruling. The extraordinary writ process may not be used as a substitute for a timely-filed appeal.² Accordingly, this Court is without jurisdiction to grant the relief Melody seeks.

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

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

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

BY THE COURT:

/s/ Randy J. Holland
Justice