

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF GREGORY S. §
PHILLIPS FOR A WRIT OF § No. 541, 2002
CERTIORARI §
 §

Submitted: October 2, 2002
Decided: October 28, 2002

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

ORDER

This 28th day of October 2002, it appears to the Court that:

(1) Petitioner Gregory S. Phillips is an inmate in the custody of the Delaware Department of Corrections. Phillips seeks to invoke the original jurisdiction of this Court by requesting the issuance of a writ of certiorari.¹ In his petition, Phillips, purportedly on behalf of “all smoking prisoners,” seeks an injunction to prevent the Department of Corrections from enforcing its ban on all tobacco products in the Delaware prison system. Phillips contends that the policy is discriminatory and a violation of free speech. The State of Delaware, as the real party in interest, has filed a response to Phillips’ petition requesting that the petition be dismissed.

¹SUPR. CT. R. 43.

(2) 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 where the right of appeal is denied, a grave question of public policy and interest is involved, and no other basis for review is available.³ Unless these threshold requirements are met, this Court has no jurisdiction to hear the claims.⁴

(2) Phillips has failed to demonstrate that he is challenging a final order of a trial court where the right of appeal was denied and no other basis for review is available. Moreover, he has failed to demonstrate that the ability to smoke while incarcerated presents a grave question of public policy and interest that would support the issuance of a writ of certiorari. Because Phillips fails to meet the threshold requirements for the issuance of a writ of certiorari, this Court has

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

³*Id.*

⁴*In re Butler*, 609 A.2d 1080, 1081 (Del. 1992).

no jurisdiction to hear his claims. Accordingly, Phillips' petition must be dismissed.

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

BY THE COURT:

/s/Carolyn Berger
Justice