

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF RONALD E. § No. 539, 2002
PROCTOR, JR., FOR A WRIT OF §
PROHIBITION. §

Submitted: October 2, 2002
Decided: October 16, 2002

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

ORDER

This 16th day of October 2002, upon consideration of the petition for a writ of prohibition filed by Ronald E. Proctor, Jr., and the answer and motion to dismiss filed by the Attorney General on behalf of the real parties in interest, it appears to the Court that:

(1) Proctor requests that this Court issue a writ of prohibition to two Justice of the Peace Courts. Proctor's petition suffers from a fatal procedural defect and must be dismissed.

(2) A petition requesting that this Court issue a writ of prohibition to a Justice of the Peace Court must "have been first presented to and denied by the Superior Court."¹ Proctor does not demonstrate, and it does not

¹ Supr. Ct. R. 43(b)(vi).

otherwise appear from the Superior Court civil docket, that he presented his petition to the Superior Court in the first instance.²

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

BY THE COURT:

/s/ Randy J. Holland
Justice

² When a writ is sought under Rule 43(b)(vi), following a denial by the Superior Court, a copy of the opinion, if any, shall be served and filed with the complaint. Supr. Ct. R. 43(b)(vi).