

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE	§	
PETITION OF WILLIAM J.	§	No. 50, 2002
WEBB, JR., FOR A WRIT	§	
OF MANDAMUS.	§	Def. ID No. 9907017204
	§	9702013762

Submitted: February 20, 2002

Decided: March 22, 2002

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

ORDER

This 22nd day of March 2002, upon consideration of the petition for a writ of mandamus filed by William J. Webb, Jr., and the answer and motion to dismiss filed by the State of Delaware, it appears to the Court that:

(1) In March 2000, Webb pled guilty to Assault in the First Degree, Burglary in the First Degree and Endangering the Welfare of a Child.¹ As part of his sentence, Webb was sentenced on the burglary conviction to 12 years incarceration at Level V, to be suspended after five years for decreasing levels of probation.²

¹Webb also admitted to having violated probation. *State v. Webb*, Del. Super., Nos. 9907017204/ 9702013762, Barron J. (Mar. 16, 2000).

²Webb was sentenced by a different judge than the judge who accepted his guilty plea. *State v. Webb*, Del. Super., Nos. 9907017204/9702013762, Cooch, J. (June 23, 2000).

(2) By order December 7, 2001, this Court affirmed the November 27 denial of Webb's second postconviction motion. The Court remanded the case to the sentencing judge, however, with instructions to correct Webb's sentence for Burglary in the First Degree.³ It appears from the Superior Court docket that Superior Court resentenced Webb on February 28, 2002.

(3) On December 13, 2001, Webb filed a "motion for recusal" in the Superior Court. Webb sought the recusal of the sentencing judge from "any further proceedings in connection with this case." By order dated December 26, 2001, the Superior Court denied Webb's motion.

(4) On February 12, 2002, Webb filed a motion for correction or modification of sentence. By order dated February 28, 2002, the Superior Court denied Webb's motion. Webb has filed an appeal from the Superior Court's "order" of February 28, 2002.⁴

(5) Webb has applied for a writ of mandamus to be directed to the Superior Court. Webb requests that this Court issue a writ of mandamus to the Superior

³*See Webb v. State*, 2001 WL 1586877 (Del. Supr.) (remanding to the Superior Court for correction of Webb's sentence for Burglary in the First Degree from 12 years incarceration at Level V to 10 years incarceration at Level V).

⁴*Webb v. State*, No. 110, 2002 (Del. filed Mar. 5, 2002) (It is not clear whether Webb is appealing from the February 28 resentencing, from the February 28 denial of his February 12 motion for correction or modification of sentence, or from both).

Court to compel (i) the production of alleged “extrajudicial sources and/or contacts,” (ii) the disqualification of the Superior Court sentencing judge, and (iii) a “change of venue from State to Federal appellate review court.”

(6) This Court will issue a writ of mandamus to a trial court only when the petition can show that there is a clear legal right to the performance of a duty at the time of the petition, no other adequate remedy is available, and that the trial court has failed or refused to perform its duty.⁵ There is no basis for the issuance of a writ of mandamus in this case. Webb has not demonstrated that the Superior Court has arbitrarily failed or refused to perform a duty owed to him.

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

BY THE COURT:

Myron T. Steele
Justice

⁵*In re Bordley*, 545 A.2d 619, 620 (Del. 1988).