

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DEAN BLACK,	§
	§
Defendant Below-	§ No. 353, 2000
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. Nos. IN84-06-0594
Plaintiff Below-	§ IN84-07-1944
Appellee.	§

Submitted: September 18, 2000

Decided: October 26, 2000

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

ORDER

This 26th day of October 2000, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Dean Black, filed an appeal from an order of the Superior Court denying his petition for a writ of prohibition.

We find no merit to the appeal. Accordingly, we AFFIRM.

(2) In this appeal, Black claims that he was improperly charged with and convicted of rape. He contends that he should have been charged with incest and that he should have been tried in the Family Court rather

than the Superior Court. Black seeks a retrial in the Family Court or, alternatively, dismissal of the charges against him.

(3) In 1984, Black was indicted for rape in the first degree and attempted rape in the first degree and in 1985 was convicted of two counts of attempted rape in the first degree. He was sentenced to a total of 25 years incarceration at Level V, to be suspended after 15 years for 10 years probation. This Court affirmed Black's convictions and sentences on direct appeal.¹ This Court also affirmed the Superior Court's subsequent denials of several motions for postconviction relief filed by Black.² In June 1997, Black was found to have violated his probation. He was sentenced to 10 years incarceration at Level V, to be suspended after 9 ½ years for 6 months Level IV work release. Black is currently serving that sentence.

(4) Black's claim is without merit. The Superior Court properly denied his petition for a writ of prohibition on two grounds. First, a writ of prohibition is the legal equivalent of the equitable remedy of injunction and may be issued to prevent a trial court from proceeding in a matter

¹*Black v. State*, Del. Supr., No. 173, 1985, Walsh, J., 1986 WL 16979 (June 23, 1986) (ORDER).

²*Black v. State*, Del. Supr., No. 9, 1989, Moore, J., 1989 WL 42302 (Mar. 3, 1989) (ORDER); *Black v. State*, No. 499, 1996, Hartnett, J., 1996 WL 742795 (Dec. 17, 1996) (ORDER); *Black v. State*, No. 242, 1999, Holland, J., 1999 WL 1098171 (Nov. 2, 1999) (ORDER).

when it has no jurisdiction, or to prevent it from exceeding its jurisdiction in a matter that is properly before it.³ In this case, Black was charged and tried approximately 15 years ago. Black's petition for a writ of prohibition to prevent the criminal proceedings against him in the Superior Court simply comes too late. Second, the Superior Court clearly had jurisdiction over the charges of rape and attempted rape brought against Black.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:
Randy J. Holland
Justice

³*In re Hovey*, Del. Supr., 545 A.2d 626, 628 (1988).