

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE           §  
PETITION OF DONALD A.       § No. 421, 2000  
BOWERS, JR.,<sup>1</sup> FOR A WRIT OF §  
MANDAMUS<sup>2</sup>                   §

Submitted: September 19, 2000  
Decided: October 10, 2000

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

**ORDER**

This 10<sup>th</sup> day of October 2000, upon consideration of the petition of Donald A. Bowers, Jr., for a writ of mandamus and Donna M. Tripp's answer and motion to dismiss,<sup>3</sup> it appears to the Court that:

(1) Bowers and Tripp have been litigating the matter of custody of their minor child in the Family Court. On August 1, 2000, the Family Court entered an order forbidding the acceptance of any further filings from Bowers by any Family Court employee pending a hearing on September 14, 2000. The basis for the Family Court's order was Bowers'

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<sup>1</sup>This Court sua sponte assigned pseudonyms to the parties in this case. Supr. Ct. R. 7(d).

<sup>2</sup>Although in his petition Bowers requests a "writ of Mandamus, writ of Certiorari, and writ for relief, or any other relief that can be granted," he essentially requests that this Court issue a writ of mandamus to the Family Court.

<sup>3</sup>The Court deems Tripp's response to be an answer and motion to dismiss.

filing of new petitions for custody and visitation 15 days after his previously-filed petitions for custody and visitation were dismissed, Bowers' failure to appear for a hearing in other related matters after the entry of court orders denying his request to participate by telephone and Bowers' filing of eight separate petitions for interim relief between July 21, 2000 and July 26, 2000, notwithstanding the Family Court's order that he cease filing frivolous and duplicative motions.

(2) In his petition for a writ of mandamus, Bowers claims that his due process rights have been violated by the Family Court's order forbidding the acceptance of any further filings from him. He requests this Court to order the recusal of the Family Court judge who issued the order, stay further proceedings in the Family Court<sup>4</sup> and "fully review" the entire Family Court file.<sup>5</sup>

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<sup>4</sup>On September 7, 2000, Bowers filed a "motion for immediate stay of proceedings" requesting that this Court stay the Family Court hearing scheduled for September 14, 2000. On September 8, 2000, the Family Court continued the hearing. Bowers' motion is, therefore, denied as moot.

<sup>5</sup>On September 26, 2000, Bowers also filed a "motion for relief" requesting that his petition for a writ of mandamus be granted because he was not served with any response from Tripp. The Supreme Court docket reflects that the Clerk's office sent Bowers a copy of Tripp's response on September 19, 2000. Bowers' motion is, therefore, denied.

(3) This Court will issue a writ of mandamus to a trial court only when the petitioner can show that there is a clear 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 the duty.<sup>6</sup> “[T]his Court will not issue a writ of mandamus to compel a trial court to perform a particular judicial function, to decide a matter in a particular way, or to dictate the control of its docket.”<sup>7</sup>

(4) Bowers’ mandamus petition manifestly fails to invoke this Court’s original jurisdiction. Bowers has not demonstrated that he is entitled to the relief he seeks. Furthermore, Bowers has not demonstrated that he is without an adequate remedy.

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

BY THE COURT:  
Randy J. Holland  
Justice

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<sup>6</sup>*In re Bordley*, Del. Supr., 545 A.2d 619, 620 (1988).

<sup>7</sup>*Id.*