

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF KENNETH T. § No. 27, 2004
DEPUTY FOR A WRIT OF §
MANDAMUS. §

Submitted: February 13, 2004
Decided: April 20, 2004

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

ORDER

This 20th day of April 2004, upon consideration of the petition for a writ of mandamus filed by Kenneth T. Deputy and the answer and motion to dismiss filed by the State of Delaware, it appears to the Court that:

(1) The complainant, Kenneth T. Deputy, is an inmate at the Delaware Correctional Center. In April 2002, Deputy filed a civil complaint in the Superior Court against Roy Dekler, a nurse practitioner at the prison medical care facility, Warden Thomas Carroll, and the Attorney General of the State of Delaware. By decision dated February 20, 2003, the Superior Court granted summary judgment as to all claims against the Attorney General and the claims brought under 42 U.S.C. § 1983. Moreover, the Court granted Deputy ninety days to conduct discovery and produce competent expert support

for his medical negligence claims.¹ By final decision dated November 25, 2003, the Superior Court granted Dekler's and Carroll's motions for summary on the basis that Deputy had not secured competent expert testimony in support of his claims.²

(2) According to Deputy, he mailed a notice of appeal to the Supreme Court on December 18, 2003, but the Court did not receive it. In his petition for a writ of mandamus, Deputy asks that this Court issue a writ of mandamus to correctional authorities to compel the production of the prison's mail log for the latter half of December 2003. Deputy contends that he needs the prison mail log to support an internal grievance he filed with the prison regarding the alleged mishandling of his mail and to show cause why his untimely appeal should be accepted by the Court.³

¹*Deputy v. Roy*, 2003 WL 367827 (Del. Super.)

²*Deputy v. Roy*, Del. Super., C.A. No. 02C-04-314, Slights, J. (Nov. 25, 2003).

³It appears that Deputy filed a notice of appeal with the Supreme Court on March 19, 2004. The Clerk issued a notice directing Deputy to show cause why the appeal should not be dismissed as untimely. That notice is pending before the Court in that appeal. *Deputy v. Roy*, Del. Supr., No. 107, 2004.

(3) A writ of mandamus is an extraordinary remedy issued by this Court to compel a trial court to perform a duty.⁴ This Court's original jurisdiction to issue a writ of mandamus is limited to instances when the respondent is a court or a judge thereof.⁵ We do not have original jurisdiction to issue a writ to correctional officials of the facility where Deputy is confined.⁶ Deputy's petition must be dismissed.

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

BY THE COURT:

/s/ Myron T. Steele
Justice

⁴*In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

⁵Del. Const. art. IV, §11(6); *In re Hitchens*, 600 A.2d 37, 38 (Del. 1991).

⁶*In re Perez*, 2002 WL 31818084 (Del. Supr.).