

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE
PETITION OF NYLES JARMON
FOR A WRIT OF MANDAMUS.

No. 282, 2000

Submitted: July 3, 2000
Decided: August 8, 2000

Before **VEASEY, Chief Justice, WALSH and BERGER**, Justices.

ORDER

This 8th day of August 2000, upon consideration of the petition for a writ of mandamus filed by Nyles Jarmon (“Jarmon”), the answer and motion to dismiss filed by the State of Delaware, and the “motion for continuance” filed by Jarmon, it appears to the Court that:

(1) In November 1995, a grand jury charged Jarmon with having committed various drug and weapons offenses. The basis for the charges was Jarmon’s sale of crack cocaine to two undercover officers on the same day. Eventually, a Superior Court jury convicted Jarmon of one count of delivery of cocaine. Jarmon was acquitted of another count of delivery of cocaine as well as a conspiracy charge. The remaining charges were *nolle*

pressed by the prosecution. On appeal, Jarmon's conviction of one count of delivery of cocaine was affirmed.¹

(2) Jarmon has filed a petition for a writ of mandamus requesting that this Court issue an order directing that the Superior Court clarify which of the two drug buys testified about at trial led to Jarmon's one conviction of delivery of cocaine. According to Jarmon, he needs this information to prepare a motion for postconviction relief.

(3) This Court may issue a writ of mandamus to compel a trial court to perform a duty, but only when the complainant has a clear right to the performance of the duty, no other adequate remedy is available, and the trial court has failed or refused to perform its duty.² In his "motion for continuance," Jarmon concedes that he has not "give[n] the Superior Court an opportunity to address [the] issue" raised in his mandamus petition. Absent a clear showing that the trial court has arbitrarily failed or refused to act, "this Court will not issue a writ of mandamus to compel a trial court

¹ *Jarmon v. State*, Del. Supr., No. 420, 1997, Berger, J., 1998 WL 609679 (Sept. 8, 1998) (ORDER).

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

to perform a particular judicial function, to decide a matter in a particular way, or to dictate the control of its docket.”³

NOW, THEREFORE, IT IS HEREBY ORDERED that Jarmon’s “motion for continuance” is DENIED. The State’s motion to dismiss is GRANTED. Jarmon’s petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice

³ *Id.*