

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE
PETITION OF ABDULLAH
KARIM a.k.a. EDWARD J.
KELLY FOR A WRIT OF
MANDAMUS.

No. 290, 2000

Submitted: July 5, 2000
Decided: July 25, 2000

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

ORDER

This 25th day of July 2000, upon consideration of the petition for a writ of mandamus filed by Abdullah Karim a.k.a. Edward J. Kelly (“Karim”) and the answer and motion to dismiss filed by the State of Delaware,¹ it appears to the Court that:

(1) In January 1983, a Superior Court jury convicted Karim, who was then known as Edward J. Kelly, of three counts of Robbery in the First Degree and one count each of Conspiracy in the Second Degree, Possession of a Deadly Weapon During the Commission of a Felony, and Possession of a Deadly Weapon by a Person Prohibited. Karim was sentenced as a

¹ On July 19, 2000, Karim filed a response to the State’s motion to dismiss. The Court has not considered Karim’s unsolicited response. See Supr. Ct. R. 43(b)(ii) (providing

habitual offender to life imprisonment without parole.² On direct appeal, one of the robbery convictions was reduced to attempted robbery, and the remaining convictions and the sentence were affirmed.³

(2) Karim has filed a petition for a writ of mandamus requesting that this Court issue an order directing that the Superior Court act on Karim's motion for correction of an illegal sentence pursuant to Superior Court Criminal Rule 35(a). Karim contends that he filed the motion in September 1999.

(3) This Court's independent review of the Superior Court docket reveals that Karim has filed three motions for modification of sentence within the last year.⁴ By order docketed on December 13, 1999, the Superior Court denied Karim's motion for modification of sentence, pursuant to Superior Court Criminal Rule 35(b). It does not appear that Karim has filed a motion for correction of sentence.

that "unless the Court otherwise directs, no further submissions of the parties shall be accepted").

² 11 *Del. C.* § 4214(b).

³ *Kelly v. State*, Del. Supr., No. 23, 1984, Moore, J., 1985 WL 13673 (July 9, 1985) (ORDER). Furthermore, Karim has filed a series of unsuccessful postconviction actions in the Superior Court and in the federal district court.

⁴ It appears that Karim filed a motion for modification of sentence on September 10, 1999, October 1, 1999, and December 9, 1999.

(4) 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.⁵ Karim has not established that he filed a motion for correction of sentence in the Superior Court in recent years.⁶ Thus, Karim cannot demonstrate that the Superior Court has arbitrarily failed or refused to rule on such a motion.

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

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice

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

⁶ The Superior Court denied a motion for correction of sentence in June 1996. The Superior Court's judgment was affirmed on appeal. *Karim v. State*, Del. Supr., No. 315, 1996, Walsh, J., 1996 WL 627537 (Oct. 18, 1996) (ORDER).