

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHARLES N. BEEBE,	§	
	§	
Petitioner Below-	§	No. 281, 2003
Appellant,	§	
	§	
v.	§	Court Below---Superior Court
	§	of the State of Delaware,
	§	in and for New Castle County
THOMAS CARROLL, BOARD	§	C.A. No. 03M-02-003
OF PAROLE, M. JANE BRADY,	§	
Attorney General,	§	
	§	
Respondents Below-	§	
Appellees.	§	

Submitted: April 2, 2004
Decided: May 27, 2004

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

ORDER

This 27th day of May 2004, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The petitioner-appellant, Charles N. Beebe, filed an appeal from the Superior Court's May 6, 2003 order denying his petition for a writ of mandamus. We find no merit to the appeal. Accordingly, we AFFIRM.

(2) In 1985, Beebe was released on parole. In 1987, Beebe was found to have violated the conditions of his parole and was returned to custody. The record reflects that, since then, Beebe has been denied parole at least three times. As grounds for its denials, the Board of Parole has cited the violent nature of Beebe's

offense, his prior failure under parole supervision, his lack of improvement between parole hearings, and his failure to participate in appropriate treatment programs.

(3) In this appeal, Beebe claims that the Superior Court abused its discretion by denying his petition for a writ of mandamus without requiring the State of Delaware to file an answer. He contends that the Board of Parole has violated his constitutional right to parole. He further contends that, under the 1989 Truth in Sentencing Act, Kidnapping in the First Degree has been re-classified as a Class B, rather than a Class A, felony, further justifying his right to parole. Finally, Beebe contends that the Board of Parole's application of rules that were not in effect at the time he was sentenced is an unconstitutional ex post facto violation.

(4) A writ of mandamus is an extraordinary remedy issued to compel a lower tribunal to perform a duty.¹ As a condition precedent to the issuance of the writ, the petitioner must demonstrate that: he has a clear right to the performance of the duty; no other adequate remedy is available; and the lower tribunal has arbitrarily failed or refused to perform its duty.²

¹ *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

² *Id.*

(5) The Board of Parole has wide discretion to grant or deny parole.³ Moreover, a prisoner has no legally enforceable right to be paroled and a prisoner who is denied parole has no claim of a due process violation.⁴ While Beebe is correct that the 1989 Truth in Sentencing Act reduced Kidnapping in the First Degree from a Class A felony to a Class B felony, and reduced the penalty therefor from life in prison to 20 years in prison, the Act has no retroactive application and, therefore, is not relevant to his situation.⁵ Moreover, while Beebe argues that the Board of Parole is requiring him to follow rules that were not in effect at the time he was sentenced, he does not specify what those rules are.

(6) Beebe has failed to demonstrate that he has a right to be paroled and that the Board of Parole violated its duty. There was, therefore, no abuse of discretion on the part of the Superior Court in denying his petition for a writ of mandamus.

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

BY THE COURT:

/s/ Carolyn Berger
Justice

³ Del. Code Ann. tit. 11, § 4347(c) (2001).

⁴ *Eskridge v. Casson*, 471 F. Supp. 98, 101 (D. Del. 1979) (interpreting Section 4347(c)).

⁵ *Robinson v. State*, 584 A.2d 1203, 1205 (Del. 1990).

