

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHARLES BEEBE,	§
	§ No. 467, 2012
Petitioner Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
CARL C. DANBERG, et al.,	§ C.A. No. N11M-10-096
	§
Respondents Below-	§
Appellees.	§

Submitted: January 7, 2013
Decided: February 12, 2013

Before **HOLLAND, BERGER** and **JACOBS**, Justices

ORDER

This 12th day of February 2013, upon consideration of the appellant’s opening brief and the appellees’ motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The petitioner-appellant, Charles Beebe, filed an appeal from the Superior Court’s denial of his petition for a writ of mandamus. The respondents-appellees, Carl C. Danberg, *et al.*, have moved to affirm the Superior Court’s judgment on the ground that it is manifest on the face of the opening brief that the appeal is without merit.¹ We agree and affirm.

¹ Supr. Ct. R. 25(a).

(2) The record before us reflects that Beebe is a prisoner currently housed at the James T. Vaughn Correctional Center in Smyrna, Delaware. Beebe filed a petition for a writ of mandamus requesting that the Superior Court order the Department of Correction (“DOC”) to award him the proper amount of “good time” credit towards his conditional release. At a hearing on February 15, 2012, the Superior Court granted the State of Delaware’s motion to dismiss Beebe’s petition on the ground that Beebe, having received a life sentence prior to the 1989 Truth in Sentencing Act (“TIS”),² was only eligible for release by grant of parole by the Delaware Board of Parole.³

(3) In his appeal, Beebe claims that a) the Superior Court erred when it ruled that his “good time” credits are limited to his right to participate in prison programs; and b) the Superior Court erroneously relied on the *Evans* decision in making its ruling.

(4) A writ of mandamus is an extraordinary remedy issued to compel an administrative agency to perform a duty.⁴ As a condition precedent to the issuance of the writ, the petitioner must demonstrate that a)

² Del. Code Ann. tit. 11, Chap. 42.

³ *Evans v. State*, 872 A.2d 539, 554, 557-58 (Del. 2005). The Superior Court requested that the DOC calculate Beebe’s “good time” credits, but solely for the purpose of establishing his eligibility for certain prison programs. At the hearing, the Superior Court also denied Beebe’s motion for summary judgment.

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

he has a clear right to the performance of the duty; b) no other adequate remedy is available; and c) the agency has arbitrarily failed or refused to perform its duty.⁵

(5) The Superior Court properly relied on *Evans* in determining that Beebe could be released from prison only by grant of parole by the Board of Parole because he was serving a pre-TIS life sentence. Moreover, in the absence of any evidence that the DOC failed to perform a duty owed to Beebe, there was no basis upon which to grant his petition for a writ of mandamus. Therefore, the Superior Court properly granted the State's motion to dismiss Beebe's petition for a writ of mandamus and properly denied his motion for summary judgment.

(6) It is manifest on the face of the opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice

⁵ Id.