

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF GORDON L. § No. 138, 2002
MANIS FOR A WRIT OF §
PROHIBITION. § Def. ID No. 9812000028

Submitted: April 8, 2002
Decided: May 22, 2002

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

ORDER

This 22nd day of May 2002, upon consideration of the petition for a writ of prohibition filed by Gordon L. Manis, and the answer and motion to dismiss filed by the State of Delaware, it appears to the Court that:

(1) In October 1999, Gordon L. Manis pled guilty to Manslaughter and Driving Under the Influence. By sentencing order dated January 7, 2000, as later modified on February 17, 2000, and October 26, 2001, the Superior Court sentenced Manis to a total of 15 years imprisonment, suspended after 30 months for 7½ years at Level IV home confinement, suspended after 18 months, for the balance at Level III probation.¹ Manis was ordered to be held at Level V imprisonment pending his transfer to Level IV home confinement.

¹*State v. Manis*, Del. Super., No. 9812000028, Silverman J.

(2) By order dated February 21, 2002, the Superior Court modified Manis' sentence to provide that he should be "held at Level III while awaiting for Level IV in any program." On March 5, 2002, Manis was transferred to a Level IV facility where he is participating in the Crest program.

(3) In his petition for a writ of prohibition, Manis argues that the Superior Court exceeded its jurisdiction when it modified Manis' sentence to allow for "any" Level IV program. According to Manis, the Level IV Crest program constitutes "imprisonment." Manis seeks to restrain the Superior Court "from allowing [his] continued imprisonment [in the Crest program] in excess of the 30 months" at Level V that was imposed pursuant to the plea agreement.

(4) The Court has the authority to issue a writ of prohibition to prevent a court in this State from exceeding the limits of its jurisdiction.² A writ of prohibition will not be issued if the petitioner has another adequate and complete remedy at law to correct the act of the trial court that is alleged to be erroneous.³

²*In re Hovey*, 545 A.2d 626, 628 (Del. 1988).

³*Id.*

(5) In this case, it is manifest that Manis could have appealed from the Superior Court's February 21 sentence modification order, but he did not. Manis may not invoke the Court's extraordinary writ process as a substitute for the regular avenue of appellate review.⁴

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

BY THE COURT:

s/Joseph T. Walsh
Justice

⁴*In re Barbee*, 693 A.2d 317,319 (Del. 1997).