

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE § No. 610, 2002
PETITION OF JOSEPH WALKER § Cr. ID No. 9806001490
FOR A WRIT OF MANDAMUS. § Cr. ID No. 9810002187

Submitted: November 13, 2002

December: December 16, 2002

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

ORDER

This 16th day of December 2002, it appears to the Court that:

(1) In separate trials held in 2000, Superior Court juries convicted Joseph Walker of Attempted Rape in the Second Degree and three weapons offenses.¹ On appeal, the convictions were affirmed.²

(2) Walker has applied to this Court for a writ of mandamus to be directed to the Superior Court for the Court's alleged failure or refusal to rule upon Walker's requests for copies of his trial transcripts.³ After careful consideration, we have determined that the petition must be denied.

¹*State v. Walker*, Del. Super. Ct., Cr. ID No.9806001490; *State v. Walker*, Del. Super. Ct., Cr. ID No. 9810002187.

²*See Walker v. State*, 790 A.2d 1214 (Del. 2002); *Walker v. State*, 2002 WL 122643 (Del. Supr.).

³Walker filed a prior petition earlier this year requesting the same relief. By Order dated October 7, 2002, Walker's petition was dismissed after the Superior Court reported that it had never received Walker's requests for transcript. *In re Walker*, 2002 WL 31260319 (Del. Supr.).

(3) It appears that Walker submitted motions for transcript to the Superior Court in the latter part of October 2002. The Superior Court did not consider the motions. Rather, by letter docketed on October 31, 2002, the Superior Court returned the motions and advised Walker that if he was indigent, he had to file an affidavit in support of his application to proceed *in forma pauperis*. Moreover, the Superior Court advised Walker that he would have to submit motions for transcript that demonstrate a particularized need for the transcripts.

(4) It appears from the Superior Court docket that, on November 18, 2002, Walker filed motions for transcripts as well as affidavits in support of his application to proceed *in forma pauperis*. The motions and applications are pending before the Superior Court.

(5) A writ of mandamus is designed to compel a trial court to perform a duty if it is shown that (i) the complainant has a clear right to the performance of the duty; (ii) the trial court has arbitrarily failed or refused to perform the duty; and (iii) no other adequate remedy is available.⁴ In this case, Walker has not demonstrated that the Superior Court has arbitrarily failed or refused to perform

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

a duty owed to him. To the contrary, it appears that the Superior Court responded to Walker's requests for transcripts by returning the requests with a letter of explanation. It appears that Walker heeded the Superior Court's instructions and filed the appropriate motions and affidavits. The Superior Court will rule in due course upon Walker's motions for transcript. "This Court will not issue a writ of mandamus to compel a trial court to perform a particular judicial function, to decide a matter in a particular way, or to dictate the control of its docket."⁵

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

BY THE COURT:

/s/ Carolyn Berger
Justice

⁵*Id.*