

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE           §  
PETITION OF SHIRLEY           §  
WILSON FOR A WRIT OF       § No. 592, 1999  
CERTIORARI                   §  
   §  
   §

Submitted: December 30, 1999  
Decided: February 28, 2000

Before **VEASEY**, Chief Justice, **HARTNETT** and **BERGER**, Justices

**ORDER**

This 28th day of February 2000, upon consideration of the petition for a writ of certiorari filed by Shirley Wilson (“Wilson”) and the response and motion to dismiss filed by Darryl R. Jenkins and Jenkins Painting Company (“Jenkins”), it appears to the Court that:

(1) Wilson petitions this Court to review the Justice of the Peace Court’s dismissal of her case against Jenkins based upon her failure to file a Bill of Particulars. Wilson contends that a different standard was applied to her with respect to the filing of a Bill of Particulars than was applied to

Jenkins in a previous case<sup>1</sup> and that this inconsistency offends principles of due process.

(2) Jenkins' response requests this Court to dismiss Wilson's petition on procedural and jurisdictional grounds.

(3) A petition requesting that this Court issue a writ of certiorari to a Justice of the Peace Court "shall have been first presented to and denied by the Superior Court."<sup>2</sup> Wilson did not present her petition to the Superior Court in the first instance and, therefore, the petition must be dismissed on that procedural ground.

(4) Even if the petition were properly before us, it would be denied for lack of jurisdiction. Certiorari is available to challenge a final order of a lower court only when the right to appeal is denied, a question of grave public policy and interest is involved, and no other basis for review is

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<sup>1</sup>Jenkins previously had brought suit against Wilson in the Justice of the Peace Court and Wilson had made a demand upon Jenkins for a Bill of Particulars.

<sup>2</sup>Supr. Ct. R. 43(b) (vi).

available.<sup>3</sup> Unless these threshold requirements are met, this Court has no jurisdiction to hear the claim.<sup>4</sup>

(5) Wilson had the right to file an appeal in the Court of Common Pleas for a trial de novo.<sup>5</sup> She has presented nothing to indicate an “excusable inability . . . to obtain relief through normal appellate review . . . .”<sup>6</sup> Thus, because another basis for review was available to Wilson and her right to appeal was not denied, this Court is without jurisdiction to consider her petition for a writ of certiorari.

NOW, THEREFORE, IT IS ORDERED that Jenkins’ motion to dismiss is GRANTED. Wilson’s petition for a writ of certiorari is DISMISSED.

BY THE COURT:

/s/ Carolyn Berger  
Justice

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<sup>3</sup>*Shoemaker v. State*, Del. Supr., 375 A.2d 431, 438 (1977).

<sup>4</sup>*Matter of Butler*, Del. Supr., 609 A.2d 1080, 1081 (1992).

<sup>5</sup>10 Del. C. §§ 9570-9574.

<sup>6</sup>*In re Frazer*, Del. Supr., 721 A.2d 920, 922 (1988); see also *Ney v. Polite*, Del. Supr., 399 A.2d 527, 528-529 (1979).