

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF ABRAHAM K. § No. 379, 2002
NORFLEET FOR A WRIT OF §
MANDAMUS §

Submitted: July 18, 2002
Decided: September 24, 2002

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

ORDER

This 24th day of September 2002, upon consideration of the petition of Abraham Norfleet for a writ of mandamus, as well as the State's answer and motion to dismiss, it appears to the Court that:

(1) The petitioner, Abraham Norfleet, seeks to invoke the original jurisdiction of this Court by requesting that a writ of mandamus be issued to the Superior Court in order to correct his sentence to give him credit for seven days he allegedly spent in an Ohio institution awaiting extradition to Delaware. The State has filed a motion to dismiss. The Court has reviewed the parties' respective positions carefully. We find Norfleet's petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be **DISMISSED**.

(2) This Court has authority to issue a writ of mandamus only when the petitioner can demonstrate a clear right to the performance of a duty, no

other adequate remedy is available, and the trial court arbitrarily has failed or refused to perform its duty.¹ An extraordinary writ 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.² In this case, there is nothing in the Superior Court docket to reflect that Norfleet has requested the Superior Court to give him credit for the eight days he allegedly spent incarcerated in Ohio. Accordingly, in the absence of a formal request, Norfleet cannot establish that the Superior Court has refused to act. Moreover, Norfleet has an adequate remedy in the Superior Court's process to seek correction of his sentence to credit him with all time previously served.

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

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice

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

² *Canaday v. Superior Court*, 116 A.2d 678, 682 (Del. 1955).