

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF RAYMOND A. § No. 166, 2002
REVEL FOR A WRIT OF §
PROHIBITION §

Submitted: April 17, 2002
Decided: April 30, 2002

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

ORDER

This 30th day of April 2002, upon consideration of the petition of Raymond Revel for a writ of prohibition, as well as the State's answer and motion to dismiss, it appears to the Court that:

(1) The petitioner, Raymond Revel, seeks to invoke the original jurisdiction of this Court by requesting a writ of prohibition be issued to the Superior Court in order to correct his sentence. The State has filed a motion to dismiss. The Court has reviewed the parties' respective positions carefully. We find that Revel's petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be DISMISSED.

(2) The record reflects that Revel pled guilty and was sentenced in September 2000 to one count each of felony DUI and third degree escape. He did not appeal. Thereafter, the Superior Court sentenced Revel on two different occasions for violation of probation (VOP). Revel did not file an appeal from

either proceeding. In January 2002, Revel filed a motion for correction of sentence, which the Superior Court denied on January 29, 2002. Revel did not appeal that ruling. Instead, Revel filed this petition for a writ of prohibition on March 28, 2002. Although it is not entirely clear, it appears that Revel seeks an extraordinary writ compelling the Superior Court to correct his most recent VOP sentence to conform to the terms of Revel's September 2000 plea agreement.

(3) This Court has authority to issue a writ of prohibition to prevent a court in this State from exceeding the limits of its jurisdiction in either a civil or criminal proceeding and is designed primarily to keep the administration of justice in orderly channels.¹ 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.² A petitioner who clearly has an adequate remedy in the appellate process may not use the extraordinary writ process as a substitute for a properly filed appeal.³

(4) In this case, it is manifest that Revel could have appealed from the Superior Court's imposition of sentence following the most recent VOP

¹ *In re Hovey*, 545 A.2d 626, 628 (Del. 1988).

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

proceeding. Revel also could have filed an appeal from the Superior Court's denial of his motion for correction of sentence. Revel had an adequate remedy in the ordinary appellate process but failed to avail himself of that process. Revel may not invoke the Court's extraordinary writ process as a substitute for his failure to file a timely appeal.⁴

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

BY THE COURT:

s/Joseph T. Walsh
Justice

³ See *Matushefske v. Herlihy*, 214 A.2d 883, 885 (Del. 1965).

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