

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE           §  
PETITION OF RICHARD PEREZ   § No. 632, 2002  
FOR A WRIT OF MANDAMUS       §

Submitted: December 2, 2002  
Decided: December 12, 2002

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

**ORDER**

This 12<sup>th</sup> day of December 2002, upon consideration of the petition for a writ of mandamus filed by Richard Perez and the answer and motion to dismiss filed by the State of Delaware, it appears to the Court that:

(1) Perez has applied to this Court for a writ of mandamus directed to correctional officials compelling them to recalculate his sentence. The State has filed a motion to dismiss Perez's petition. We conclude that the petition manifestly fails on its face to invoke the original jurisdiction of this Court and must be dismissed.

(2) This Court's original jurisdiction to issue a writ of mandamus is limited to instances when the respondent is a court or a judge thereof.<sup>1</sup> We do not have original jurisdiction to issue a writ to the Department of Corrections. Accordingly, Perez's petition must be dismissed on this ground.

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<sup>1</sup> DEL. CONST. art. IV, § 11(6); *In re Hitchens*, 600 A.2d 37, 38 (Del. 1991).

(3) Furthermore, this Court has previously rejected the underlying substantive issue that Perez raises in his petition.<sup>2</sup> That ruling is the law of the case and cannot be relitigated through the writ process.<sup>3</sup>

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

BY THE COURT:

/s/ Myron T. Steele  
Justice

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<sup>2</sup> *Perez v. State*, 2002 WL 549401 (Del. Supr.)

<sup>3</sup> *Evans v. State*, Del. Supr., No. 588, 2001, Berger, J. (Feb. 19, 2002).