

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF ERNEST A. § No. 402, 2005
CRUMP, JR., FOR A WRIT OF §
MANDAMUS §
§

Submitted: September 13, 2005

Decided: December 7, 2005

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

ORDER

This 7th day of December 2005, it appears to the Court that:

(1) The petitioner, Ernest A. Crump, Jr., pleaded guilty in June 1981 to Kidnapping in the First Degree, Burglary in the Second Degree, and Felony Theft. He was sentenced to a mandatory term of life imprisonment, plus an additional 5 years at Level V. Crump's first motion for postconviction relief, which was filed in 1996, was denied by the Superior Court.

(2) In the instant petition, Crump alleges that he filed a second postconviction motion in the Superior Court on December 29, 2004. He also alleges that thereafter he filed a motion in the Superior Court requesting transcripts of his 1981 guilty plea colloquy and sentencing, as well as a motion requesting the appointment of counsel. Crump asks this Court to

issue a writ of mandamus to compel the Superior Court to rule on his motions.

(3) A writ of mandamus is an extraordinary remedy issued to compel a lower tribunal to perform a duty.¹ As a condition precedent to the issuance of the writ, the petitioner must demonstrate that: he has a clear right to the performance of the duty; no other adequate remedy is available; and the lower tribunal has arbitrarily failed or refused to perform its duty.² 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.³

(4) Crump is not entitled to a writ of mandamus. The facts alleged by Crump fail to demonstrate that the Superior Court has arbitrarily failed or refused to perform its duty.⁴

NOW, THEREFORE, IT IS ORDERED that the petition for a writ of mandamus is DISMISSED.

BY THE COURT:

Jack B. Jacobs
Justice

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

² *Id.*

³ *Id.*

⁴ Should the Superior Court deny Crump's motion for postconviction relief, and should Crump decide to appeal that decision, he may raise the issues presented here in any such appeal.