

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF JAMES A. § No. 73, 2003
WILSON FOR A WRIT OF §
MANDAMUS. § Def. ID No. 9912006359

Submitted: March 12, 2003

Decided: March 31, 2003

Before **WALSH, HOLLAND** and **BERGER**, Justices.

ORDER

This 31st day of March 2003, upon consideration of the petition for a writ of mandamus filed by James A. Wilson and the answer and motion to dismiss filed by the State of Delaware, it appears to the Court that:

(1) In 2001, a Superior Court jury convicted James A. Wilson of Trafficking in Cocaine and several other drug offenses. The convictions were affirmed on direct appeal.¹

(2) In October 2002, Wilson filed a motion for postconviction relief. By order dated November 18, 2002, the Superior Court directed Wilson's trial counsel to file an affidavit responding to allegations of ineffective assistance of counsel. Wilson's former counsel did not file the affidavit. Wilson then filed two motions for "default judgment."

¹ *Wilson v. State*, 2002 WL 31106354 (Del. Supr.).

(3) By letter dated February 11, 2003, the Superior Court again directed Wilson's former counsel to file an affidavit. It appears that counsel did not file the affidavit by the February 21 deadline established by the Superior Court; however, counsel eventually filed the affidavit on March 12, 2003. Thereafter, by order dated March 13, 2003, the Superior Court directed that the State file a response to Wilson's postconviction motion and to counsel's affidavit. Wilson's reply to the State's response is due on or before April 21, 2003.

(4) In his petition in this Court, Wilson seeks a writ of mandamus to compel the Superior Court to rule on his postconviction motion. Wilson's petition must be denied. This Court will issue a writ of mandamus to a trial court only when the petitioner can show that the trial court has arbitrarily failed or refused to perform a duty.² Wilson has not demonstrated that the Superior Court has arbitrarily failed or refused to perform a duty. Moreover, "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

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

³ *Id.*

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

BY THE COURT:

/s/ Randy J. Holland
Justice