

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN RE THE PETITION OF §
KEAVNEY L. WATSON FOR A § No. 507, 2005
WRIT OF MANDAMUS §
§

Submitted: November 4, 2005
Decided: December 29, 2005

Before **STEELE**, Chief Justice, **HOLLAND** and **JACOBS**, Justices

ORDER

This 29th day of December 2005, it appears to the Court that:

(1) The petitioner, Keavney L. Watson, seeks to invoke this Court's original jurisdiction to issue an extraordinary writ of mandamus¹ to compel the Superior Court to decide his motion to proceed in forma pauperis ("IFP"). The State of Delaware has filed an answer and motion to dismiss. We find that Watson's petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be dismissed.

(2) In August and September 2005, Watson filed a number of civil complaints in the Superior Court and filed a motion to proceed IFP in each one. On November 23, 2005, the Superior Court held a hearing on Watson's motions to proceed IFP. On that same date, the Superior Court issued an order stating that the motions will not be decided until the court reporter files

¹ Del. Const. art. IV, § 11(6); Supr. Ct. R. 43.

the transcript of the hearing. The Superior Court docket reflects that the court reporter has not yet filed the transcript.

(3) A writ of mandamus is an extraordinary remedy issued by this Court to compel a trial court to perform a duty.² As a condition precedent to the issuance of the writ, Watson must demonstrate that he has a clear right to the performance of the duty, no other adequate remedy is available, and the trial court has arbitrarily failed or refused to perform its duty.³

(4) There is no basis for the issuance of a writ of mandamus in this case. The Superior Court has not decided Watson's motions because the court reporter has not yet filed the transcript of the hearing. There is no evidence that the Superior Court has arbitrarily failed or refused to perform a duty that is owed to Watson.

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

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

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

³ *Id.*