

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN RE THE PETITION OF §
FAMOUS RHOADES FOR A § No. 115, 2006
WRIT OF MANDAMUS §
§

Submitted: March 14, 2006

Decided: May 18, 2006

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

ORDER

This 18th day of May 2006, it appears to the Court that:

(1) The petitioner, Famous Rhoades, seeks to invoke this Court's original jurisdiction to issue an extraordinary writ of mandamus¹ to compel the Superior Court to rule on his motion to correct his sentence pursuant to Superior Court Criminal Rule 35(a). The State of Delaware has filed an answer requesting that Rhoades' petition be dismissed. We find that Rhoades' petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be dismissed.

(2) In April 2003, Rhoades pleaded guilty to Attempted Possession of Cocaine With Intent to Distribute. In September 2005, he filed a motion in the Superior Court to correct his sentence pursuant to Rule 35(a). The

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

Superior Court docket sheet reflects that, on March 14, 2006, the Superior Court issued an order denying Rhoades' motion.

(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, Rhoades 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 docket reflects that the Superior Court ruled on Rhoades' motion to correct his sentence on March 14, 2006. Rhoades' request for an Order directing the Superior Court to rule on his motion is, therefore, moot.

NOW, THEREFORE, IT IS ORDERED that Rhoades' 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.*