

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DERRICK L. JOHNSON,	§
	§ No. 568, 2005
Petitioner Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
COMMISSIONER STAN TAYLOR	§ C.A. No. 05M-09-111
et al.,	§
	§
Respondents Below-	§
Appellees.	§

Submitted: March 31, 2006

Decided: June 13, 2006

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

**ORDER**

This 13<sup>th</sup> day of June 2006, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The petitioner-appellant, Derrick L. Johnson, filed an appeal from the Superior Court's October 18, 2005 order summarily dismissing his petition for a writ of mandamus. We find no merit to the appeal. Accordingly, we AFFIRM.

(2) In 1984, Johnson pleaded guilty to Murder in the Second Degree. He was sentenced to life imprisonment. In 2005, Johnson filed a petition for a writ of mandamus in the Superior Court challenging the

Department of Correction's calculation of his good time credits. He also moved for leave to proceed in forma pauperis ("IFP"). The Superior Court granted Johnson leave to proceed IFP, but summarily dismissed his petition for a writ of mandamus as legally frivolous.<sup>1</sup>

(3) A writ of mandamus is an extraordinary remedy issued by this Court to compel a trial court to perform a duty.<sup>2</sup> As a condition precedent to the issuance of the writ, the defendant 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.<sup>3</sup>

(4) Johnson argues that, because Delaware law requires that good time credit be applied to reduce his life sentence,<sup>4</sup> the Superior Court had a duty to order prison officials to recalculate his release date. Johnson's argument is incorrect. Under the applicable Delaware law,<sup>5</sup> good time credit may only be applied to Johnson's sentence to accelerate his parole eligibility date, not the length of his sentence. Johnson is not eligible for conditional release and must remain incarcerated until his death, unless he is granted

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<sup>1</sup> Del. Code Ann. tit. 10, §§ 8801(5); 8803(b).

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

<sup>3</sup> *Id.*

<sup>4</sup> *Crosby v. State*, 824 A.2d 894 (Del. 2003).

<sup>5</sup> *Evans v. State*, 872 A.2d 539, 558 (Del. 2005) (citing *Jackson v. Multi-Purpose Criminal Justice Facility*, 700 A.2d 1203 (Del. 1997)).

parole.<sup>6</sup> Johnson has, thus, failed to demonstrate that the Superior Court had a duty that it failed or refused to perform.

(5) While the Superior Court did not provide any reasons for its summary dismissal of Johnson’s petition,<sup>7</sup> we do not believe that any purpose would be served by remanding the matter to the Superior Court. It is within our discretion to affirm a decision of the trial judge, “if, upon a reading of the record in relation to the order, the reasons [for the decision] appear obvious.”<sup>8</sup> In this case, it is clear that the Superior Court’s summary dismissal of Johnson’s petition was proper.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele  
Chief Justice

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<sup>6</sup> Id.

<sup>7</sup> *Ball v. Division of Child Support Enforcement*, 780 A.2d 1101, 1104-05 (Del. 2001) (“The failure of a trial judge to give reasons for the court’s disposition constitutes a per se abuse of discretion.”)

<sup>8</sup> Id. at 1105.