

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF KENNETH F. § No. 372, 2006
REEDER FOR A WRIT OF §
MANDAMUS. § ID No. 9901009851A

Submitted: July 28, 2006
Decided: October 4, 2006

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

ORDER

This 4th day of October 2006, upon consideration of the petition for a writ of mandamus filed by Kenneth F. Reeder and the answer and motion to dismiss filed by the State of Delaware, it appears to the Court that:

(1) Following a Superior Court jury trial in 1999, the petitioner, Kenneth F. Reeder, was convicted of multiple counts of burglary and related offenses. On direct appeal, Reeder unsuccessfully argued that the Superior Court should have suppressed evidence that was obtained during an unlawful search of his car and by extension during the subsequent search of his residence.¹ In 2001, Reeder raised the suppression claim again in an unsuccessful petition for a writ of mandamus.²

(2) In 2004, Reeder filed a motion for postconviction relief pursuant to Superior Court Criminal Rule 61. Reeder raised numerous grounds for relief,

¹*Reeder v. State*, 2001 WL 355732 (Del. Supr.).

²*In re Reeder*, 2001 WL 1636552 (Del. Supr.).

including the formerly adjudicated claim that the Superior Court should have suppressed evidence that, according to Reeder, was unlawfully seized from his car and his residence. Reeder also claimed that he was convicted as a result of the State's knowing reliance on a police detective's perjured testimony.

(3) By order dated May 26, 2005, the Superior Court denied Reeder's postconviction claims as factually and/or legally without merit.³ On appeal from that order, this Court applied the procedural requirements of Rule 61⁴ and affirmed the denial of Reeder's postconviction motion.⁵

(4) In his pending petition for a writ of mandamus, Reeder contends that the Superior Court failed to grant his motion to suppress, the police seized evidence illegally and relied on false statements to establish probable cause, and the State knowingly relied on a police detective's perjured testimony to secure the convictions. Reeder seeks the issuance of a writ of mandamus to compel the Superior Court to conduct a *Franks* hearing.⁶

³*State v. Reeder*, 2005 WL 1249041 (Del. Super. Ct.).

⁴*See Eaves v. State*, 2006 WL 1911098 (Del. Supr.) (citing *Younger v. State*, 580 A.2d 552, 554 (Del. 1990)).

⁵*Reeder v. State*, 2006 WL 1210986 (Del. Supr.).

⁶*See Franks v. Delaware*, 438 U.S. 154, 155-56 (1978) (requiring a hearing when a defendant has made a "substantial preliminary showing" that the police knowingly or "with reckless disregard for the truth" relied on a false statement to establish probable cause).

(5) The Court may issue a writ of mandamus to compel a trial court to perform a duty owed to a petitioner when the trial court has arbitrarily failed or refused to perform the duty and there is no other adequate remedy available.⁷ A writ of mandamus is not available to correct alleged trial court errors that were, or could have been, subject to ordinary appellate review.⁸

(6) Reeder has not met the requirements for mandamus relief. He has not established that the Superior Court failed or refused to perform a duty to which he is entitled. Moreover, he may not seek mandamus relief as a substitute for further appellate review.

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

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

⁷*In re Hyson*, 649 A.2d 807, 808 (Del. 1994).

⁸*In re Manis*, 2002 WL 202400 (Del. Supr.) (citing *Matushefske v. Herlihy*, 214 A.2d 883, 885 (Del. 1965)).