

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF JIMMIE LEWIS § No. 460, 2006
FOR A WRIT OF MANDAMUS §

Submitted: September 7, 2006

Decided: October 30, 2006

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

ORDER

This 30th day of October 2006, upon consideration of the petition of Jimmie Lewis for a writ of mandamus, as well as the State's answer and motion to dismiss, it appears to the Court that:

(1) The petitioner, Jimmie Lewis, seeks to invoke this Court's original jurisdiction by requesting the Court to issue a writ of mandamus to compel the Superior Court to order a complete psychiatric evaluation and hold a competency hearing. The State of Delaware has filed an answer and motion to dismiss Lewis' petition. The Court has reviewed the parties' respective positions carefully. We find that Lewis' petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be DISMISSED.

(2) The record reflects that a Superior Court jury convicted Lewis in October 2003 of carjacking, felony theft, and resisting arrest. After his conviction but before his sentencing, the Superior Court transferred Lewis to

the Delaware Psychiatric Center for an evaluation of his mental health. The evaluation reflected that Lewis was malingering, i.e., exaggerating his condition in order to avoid being transferred to prison. The Center, therefore, requested that Lewis be transferred back to the Department of Correction. Thereafter, the Superior Court gave the parties ten days to request a competency hearing. No request was made by either party. Consequently, Lewis was sentenced in February 2005. His convictions and sentence were affirmed on direct appeal.¹ In January 2006, he filed a petition for postconviction relief, which was denied.

(3) This Court has authority to issue a writ of mandamus only when the petitioner can demonstrate a clear right to the performance of a duty, no other adequate remedy is available, and the trial court arbitrarily failed or refused to perform its duty.² An extraordinary writ will not be issued if the petitioner has another adequate and complete remedy at law to correct the act of the trial court that is alleged to be erroneous.³ A petitioner who has an adequate remedy in the appellate process may not use the extraordinary writ process as a substitute for a properly filed appeal.⁴

¹ *Lewis v. State*, 2005 WL 2414293 (Del. Sept. 29, 2005).

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

³ *Canaday v. Superior Court*, 116 A.2d 678, 682 (Del. 1955).

⁴ *Matushefske v. Herlihy*, 214 A.2d 883, 885 (Del. 1965).

(4) In this case, Lewis raised the issue of his competency in his direct appeal. This Court found no genuine issue regarding Lewis' competency. Having litigated the issue once, Lewis may not use the writ process to attempt to argue the issue again.⁵ Moreover, Lewis cannot establish a clear legal right to the relief sought.

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

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

⁵ See *id.*