

IN THE SUPREME COURT OF THE STATE OF DELAWARE

STEVEN A. WHITE,	§
	§
Petitioner Below-	§ No. 394, 2006
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE, BOARD	§ in and for New Castle County
OF PAROLE,	§ C.A. No. 06M-06-054
	§
Respondent Below-	§
Appellee.	§

Submitted: February 9, 2007

Decided: April 18, 2007

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices.

ORDER

This 18th day of April 2007, upon consideration of the parties' briefs and the record on appeal, it appears to the Court that:

(1) The appellant, Steven White, filed this appeal from the Superior Court's dismissal of his petition for a writ of mandamus. White sought the writ to challenge a November 2004 decision of the Board of Parole, which revoked his parole and ordered him to serve the balance of his sentence at Level V incarceration. We find no merit to White's appeal. Accordingly, we affirm the Superior Court's judgment.

(2) The record reflects that White was paroled in June 2003. Initially, he was placed at Level IV Crest and then, in June 2004, he was placed on Level III supervision. The conditions of White's parole included a zero tolerance for drug use. In August 2004, White was subjected to a random urine screen, which tested positive for cocaine and other controlled substances. White admitted using cocaine at the time of his arrest. The Board of Parole held a revocation hearing on November 9, 2004. The Board found that White had violated his parole by using illegal drugs. The Board revoked his parole and ordered him to serve the balance of his sentence in prison. The Board further ordered, however, that White could reapply for parole consideration in 48 months.

(3) In June 2006, more than 18 months after his parole was revoked, White filed a petition for a writ of mandamus in the Superior Court. The Superior Court dismissed White's petition on the ground that the Board of Parole's revocation decision was within its discretion and that White's complaint, filed 18 months after the decision, was not timely. This appeal followed.

(4) A writ of mandamus is an order to a state agency or official to compel the performance of a non-discretionary duty to which the petitioner

has established a clear legal right.¹ In cases involving the Board of Parole, the court must ensure that the Board followed the procedures set out in the parole statutes and the Board's regulations.²

(5) After careful consideration of the parties' respective positions on appeal, we find it manifest that the judgment of the Superior Court should be affirmed. Despite any contention to the contrary, there is nothing to reflect that Board of Parole failed to follow the procedures set out in the parole statutes and the Board's regulations. Having determined that there were no procedural defects, mandamus relief will not lie to review the Board of Parole's discretionary decision.³

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

BY THE COURT:

/s/ Randy J. Holland
Justice

¹ *Clough v. State*, 686 A.2d 158, 159 (Del. 1996).

² *Bradley v. Board of Parole*, 460 A.2d 532, 534 (Del. 1983).

³ *Semick v. Dep't of Corr.*, 477 A.2d 707, 708 (Del. 1984).