

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE                   §  
PETITION OF JESSIE E. WALKER   § No. 510, 2007  
FOR A WRIT OF MANDAMUS           §

Submitted: October 15, 2007

Decided: October 25, 2007

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

**ORDER**

This 25<sup>th</sup> day of October 2007, it appears to the Court that:

(1) The petitioner, Jessie E. Walker, seeks to invoke this Court's original jurisdiction to issue an extraordinary writ of mandamus<sup>1</sup> to compel the Superior Court to issue a decision on his motion for return of property. The State of Delaware has filed an answer requesting that Walker's petition be dismissed. We find that Walker's petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be dismissed.

(2) Walker alleges that he filed a motion for return of property in the Superior Court over 18 months ago in Superior Court Criminal I.D. No. 0411019425. He further alleges that the Superior Court has failed to act on his motion. Walker requests that this Court compel the Superior Court to either grant or deny the motion.

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

(3) A writ of mandamus is an extraordinary remedy issued by this Court to compel a lower court to perform a duty.<sup>2</sup> As a condition precedent to the issuance of the writ, the petitioner 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) We have reviewed the Superior Court docket in Cr. I.D. No. 0411019425 and there is no indication that a motion for return of property filed by Walker is pending. In fact, there is a note at the end of the docket entries stating, “There is not a petition for return of property pending civil action.” Because Walker has failed to demonstrate that the Superior Court has failed to perform a duty owed to him, there is no basis for the issuance of a writ of mandamus in this case.

NOW, THEREFORE, IT IS ORDERED that Walker’s petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ Jack B. Jacobs  
Justice

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

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