

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE                    §  
PETITION OF BRIAN CAMMILE       § No. 626, 2007  
FOR A WRIT OF MANDAMUS           §

Submitted: January 16, 2008

Decided: January 23, 2008

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

**ORDER**

This 23rd day of January 2007, upon consideration of the petition of Brian Cammile for an extraordinary writ, it appears to the Court that:

(1) The petitioner, Brian Cammile, has filed a document entitled “Writ of Compel,” which this Court has interpreted to be a petition for a writ of mandamus. Cammile requests this Court to compel the Superior Court to provide him with copies of certain psychological reports and the presentence investigation report. Cammile contends he needs these documents to pursue his pending appeal from the Superior Court’s denial of his petition for postconviction relief. The State has filed an answer and a motion to dismiss. After careful review, we find that Cammile’s petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be dismissed.

(2) The record reflects that Cammile pled guilty and was sentenced on multiple criminal charges in May 2006. Cammile did not appeal.

Instead, in May 2007, he filed a motion for postconviction relief, which the Superior Court denied. Cammile's appeal from that order is pending before this Court in case No. 481, 2007. Cammile filed this writ requesting that the Superior Court be directed to provide him with reports that he contends are necessary to pursue his appeal. The Superior Court docket, however, does not reflect that Cammile ever requested these documents from the Superior Court in the first instance.

(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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup>

(4) In this case, Cammile cannot demonstrate that Superior Court has arbitrarily refused to provide him with the reports he seeks because he never made that request to the Superior Court in the first instance. If he had

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<sup>1</sup> *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

<sup>2</sup> *Canaday v. Superior Court*, 116 A.2d 678, 682 (Del. 1955).

<sup>3</sup> *Matushefske v. Herlihy*, 214 A.2d 883, 885 (Del. 1965).

made his request to the Superior Court in conjunction with filing his postconviction petition and the Superior Court had denied his request for the reports, that issue could have been raised in his pending postconviction appeal. Thus, Cammile can establish neither an arbitrary refusal to act, nor the lack of an adequate legal remedy. Moreover, Cammile cannot demonstrate a clear right to obtain copies of these reports in order to pursue his postconviction appeal.

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

BY THE COURT:

/s/ Randy J. Holland  
Justice