

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF ELMER DANIELS § No. 90, 2010
FOR A WRIT OF ERROR §

Submitted: March 9, 2010
Decided: March 17, 2010

Before **HOLLAND, BERGER** and **JACOBS**, Justices

ORDER

This 17th day of March 2010, upon consideration of the petition of Elmer Daniels for a “writ of error” or a “writ of error *coram nobis*” and the State of Delaware’s answer and motion to dismiss, it appears to the Court that:

(1) In May 1980, Daniels was found guilty by a Superior Court jury of Rape in the First Degree. He was sentenced to life in prison. This Court affirmed Daniels’ conviction on direct appeal.¹ Between September 1982 and November 2008, Daniels filed six postconviction motions, all of which were denied by the Superior Court. Daniels appealed the Superior Court’s denials of his first two postconviction motions. This Court affirmed the Superior Court’s judgment in both instances.² Most recently, this Court

¹ *Daniels v. State*, Del. Supr., No. 173, 1980, McNeilly, J. (Aug. 13, 1981).

² *Daniels v. State*, Del. Supr., No. 91, 1983, Moore, J. (July 25, 1983); *Daniels v. State*, Del. Supr., No. 190, 1997, Holland, J. (Sept. 24, 1997).

affirmed the Superior Court’s denial of his motion for discovery and for the appointment of counsel in connection with his 1980 conviction.³

(2) Daniels has now filed a petition for a “writ of error” or a “writ of error *coram nobis*” on the grounds that, at his trial, the State failed to disclose fingerprint evidence to the defense and his counsel provided ineffective assistance by failing to contest the State’s evidence. As remedy for those alleged errors, Daniels asks that his criminal conviction be reversed.

(3) This Court does not have jurisdiction to issue “writs of error,” but, rather, hears “appeals” from the Superior Court in criminal cases.⁴ Likewise, “writs of error *coram nobis*” are not among the extraordinary writs within the original jurisdiction of this Court.⁵ To the extent that Daniels intends his petition to serve as a notice of appeal, it is clearly untimely.⁶ For all of the above reasons, Daniels’ petition must be dismissed.

³ *Daniels v. State*, Del. Supr., No. 541, 2009, Berger, J. (Oct. 20, 2009).

⁴ Del. Const. art. IV, §11(1)(b), (2), and (3); *In re Rodriguez*, Del. Supr., No. 468, 2001, Walsh, J. (Oct. 25, 2001).

⁵ Del. Const. art. IV, §11(5); *Id.*

⁶ Supr. Ct. R. 6(a)(ii).

NOW, THEREFORE, IT IS ORDERED that the petition for a “writ of error” or a “writ of error *coram nobis*” is DISMISSED.⁷

BY THE COURT:

/s/ Carolyn Berger
Justice

⁷ Daniels’ motion for the appointment of counsel, filed on February 18, 2010, is hereby denied as moot.