

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF CHARLES § No. 30, 2007
EDWARDS FOR A WRIT OF §
MANDAMUS §

Submitted: February 7, 2007

Decided: March 9, 2007

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

ORDER

This 9th day of March 2007, upon consideration of the petition of Charles Edwards 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, Charles Edwards, seeks to invoke this Court's original jurisdiction by requesting the issuance of a writ of mandamus to compel the Superior Court to act on his pending motion to withdraw his guilty plea. The State of Delaware has filed an answer and motion to dismiss Edwards' petition. The Court has reviewed the parties' respective positions carefully. We find that Edwards' petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be **DISMISSED**.

(2) The record reflects that Edwards was indicted on several counts of rape in March 2006. On July 7, 2006, Edwards entered a plea of no

contest to one count of third degree rape. Before sentencing, defense counsel filed a motion to withdraw the plea. Edwards, acting pro se, subsequently filed a second motion to withdraw. The Superior Court passed on the motion and ordered preparation of the transcript of the plea colloquy. Thereafter, the Superior Court directed defense counsel to respond to Edwards' motion and then gave Edwards an opportunity to file a reply.

(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.¹ In this case, the record reflects that, through January 2007, Edwards continued to file multiple letters and affidavits supporting his motion. Under the circumstances, we do not find the passage of a few weeks evidence that the trial court has arbitrarily refused to act on Edwards' motion.²

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

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

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

² *In re Brookins*, 736 A.2d 204, 206 (Del. 1999) (noting that passage of four months did not establish an arbitrary refusal to act).