

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF WILLIAM § No. 586, 2001
JOHN EVANS FOR A WRIT §
OF PROHIBITION. §

Submitted: December 17, 2001

Decided: February 4, 2002

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

ORDER

This 4th day of February 2002, upon consideration of William John Evans' petition for a writ of prohibition and the State of Delaware's answer and motion to dismiss, it appears to the Court that:

(1) William John Evans has filed a petition for a writ of prohibition to be directed to the "State of Delaware along with the Department of Corrections." Evans' petition seeks his conditional release upon the completion of the Level V portion of his sentence. Evans is concerned that he will be held at Level V facility pending availability of a Level IV placement.¹

¹ Evans' concern appears to be moot. According to the Department of Correction, Evans is currently at the Level IV Work Release Center in Sussex County.

(2) Evans sought similar relief in a declaratory judgment action in the Superior Court. By order dated July 31, 2001, the Superior Court granted the State's motion for summary judgment.² Evans attempted to appeal the decision; however, his appeal was dismissed as untimely.³

(3) This Court has the authority to issue a writ of prohibition to prevent a court in this State from exceeding the limits of its jurisdiction.⁴ The Court does not have the authority to issue a writ of prohibition to a non-judicial entity such as the Department of Correction.⁵ Thus, to the extent Evans requests that this Court issue a writ of prohibition to the Department of Correction, his petition manifestly fails on its face to invoke the Court's original jurisdiction.⁶ To the extent Evans seeks this Court's review of the Superior Court's decision of July 21, 2001, his petition is unavailing. A petitioner may not use the extraordinary writ process as a substitute for appellate review.⁷

² *State v. Evans*, 2001 WL 1482570 (Del. Super. Ct.).

³ *Evans v. State*, Del. Supr., No. 423, 2001, Walsh, J. (Oct. 15, 2001).

⁴ DEL. CONST. art. IV, § 11(6); *In re Hovey*, 545 A.2d 626, 628 (Del. 1988).

⁵ *In re Hitchens*, 600 A.2d 37, 38 (Del. 1991).

⁶ *Id.*

⁷ *In re Barbee*, 693 A.2d 317, 319 (Del. 1997).

NOW, THEREFORE, IT IS ORDERED that the State's motion to dismiss is GRANTED. Evans' petition for a writ of prohibition is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland
Justice