

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE            §  
PETITION OF VERA M. HOLMES § No. 575, 2001  
FOR A WRIT OF PROHIBITION    §

Submitted: December 6, 2001  
Decided: January 15, 2002

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

**ORDER**

This 15th day of January 2002, upon consideration of the petition of Vera M. Holmes for a writ of prohibition, as well as the responses and motions to dismiss filed by David Wooley and the Division of Child Support Enforcement (DCSE), respectively, it appears to the Court that:

(1) The petitioner, Vera Holmes, seeks to invoke the original jurisdiction of this Court by requesting that we issue a writ of prohibition to a Commissioner of the Family Court. Holmes requests that an ex parte order entered by the Commissioner on October 24, 2001 be vacated and that any further proceedings by the Family Court be “barred.” The respondents, respectively, have responded to Holmes’ petition and have moved to dismiss.

We find that Holmes’ petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be DISMISSED.

(2) The record reflects that the Commissioner's October 24, 2001 order granted respondent Wooley's motion to compel DCSE to dishonor a wage attachment issued by the Superior Court in Holmes' favor. Holmes had attached child support payments that she owed to Wooley, as the residential parent of the parties' two minor children, in order to satisfy an unrelated judgment that Holmes had obtained against Wooley in the Court of Chancery. The Superior Court subsequently quashed its writ of attachment on November 2, 2001 on the ground that garnishment and attachment of child support payments to satisfy a judgment against the parent obligee is against the public policy of this State. Holmes now seeks this Court to issue a writ of prohibition, in essence, to prevent the Family Court from ordering her to return \$1905 forwarded to her by DCSE pursuant to the writ of attachment.

(3) This Court has authority to issue a writ of prohibition to prevent a court in this State from exceeding the limits of its jurisdiction in either a civil or criminal proceeding and is designed primarily to keep the administration of justice in orderly channels.<sup>1</sup> A writ of prohibition will not be issued if the petitioner has another adequate and complete remedy at law to correct the act

---

<sup>1</sup> *In re Hovey*, 545 A.2d 626, 628 (Del. 1988).

of the trial court that is alleged to be erroneous.<sup>2</sup> A petitioner, who clearly 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, it is manifest that Holmes has an adequate remedy in the appellate process. The Commissioner's order is subject to review by a judge of the Family Court pursuant to DEL. CODE ANN. tit. 10, § 915(d) (1999) and thereafter may be reviewed by this Court on appeal once a judge of the Family Court issues a final order in the matter. Moreover, because this Court does not have jurisdiction to receive an appeal directly from a Family Court Commissioner,<sup>4</sup> Holmes may not use the extraordinary writ process to accomplish indirectly what may not be done directly.<sup>5</sup>

NOW, THEREFORE, IT IS ORDERED that the motions to dismiss are GRANTED. The petition for a writ of prohibition is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland  
Justice

---

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

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

<sup>4</sup> *Postles v. DCSE*, No. 322, 2001 (Del. Oct. 17, 2001).

<sup>5</sup> *In re Hovey*, 545 A.2d at 628.