

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE § No. 576, 2005
PETITION OF JOSEPH LODGE §
FOR A WRIT OF PROHIBITION. § Cr. ID No. 890007853DI

Submitted: December 12, 2005
Decided: February 7, 2006

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

ORDER

This 7th day of February 2006, upon consideration of the petition for a writ of prohibition filed by Joseph Lodge and the answer and motion to dismiss filed by the State of Delaware,¹ it appears to the Court that:

(1) Joseph Lodge was convicted in 1990 of Attempted Unlawful Sexual Intercourse in the First Degree, Burglary in the First Degree and Assault in the First Degree. He was sentenced to a total of forty years of imprisonment, suspended after thirty years, for ten years of probation.²

(2) In his petition for a writ of prohibition, Lodge asks this Court to “review a [c]ertified [q]uestion” and provide “clarification to the Superior Court and the [D]epartment of [C]orrection” that [n]on-TIS inmates, *i.e.*, those inmates who are serving a sentence not imposed under the Truth-in-Sentencing Act of 1989, may

¹The Court has not considered Lodge’s unsolicited response to the State’s answer and motion to dismiss. *See* Supr. Ct. R. 43(b)(ii) (prohibiting further submissions unless directed by the Court).

²*State v. Lodge*, 1991 WL 269901 (Del. Super.), *aff’d*, 1991 134474 (Del. Supr.).

receive a modification of sentence under Title 11 § 4217.” According to Lodge, the Department of Correction has declined to submit a section 4217 sentence modification request on his behalf, because he was not sentenced under the Truth-in-Sentencing Act.

(3) The Court is unable to grant the relief sought by Lodge. First, the Court has no authority to review Lodge’s certified question.³ Second, Lodge has not stated a claim in prohibition that the Superior Court is exceeding the limits of its jurisdiction.⁴ Third, to the extent Lodge contends that the Department of Correction is misinterpreting section 4217, the Court has no authority to issue an extraordinary writ to the Department of Correction.⁵

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

BY THE COURT:

/s/ Carolyn Berger
Justice

³The Court can accept certification only from the courts specified in Supreme Court Rule 41.

⁴The purpose of a writ of prohibition is to restrain a trial court from exceeding the limits of its jurisdiction. *See generally In re Hovey*, 545 A.2d 626 (Del. 1988) (examining original jurisdiction of Court to issue writ of prohibition).

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