

SUPREME COURT OF THE STATE OF DELAWARE

Christopher R. Desmond v. Joseph R. Biden, III

Desmond v. Biden, III, No. 567, 2014 (Del. Feb. 11, 2015) · No. No. 567, 2014 · Decided February 11, 2015

SUMMARY

The Delaware Supreme Court affirmed the Superior Court's dismissal of Christopher R. Desmond's complaint seeking a writ of mandamus to compel enforcement of an expired plea offer. The Court held that Desmond had an adequate remedy under Superior Court Criminal Rule 61, found the appeal legally frivolous, revoked his in forma pauperis status based on an untruthful certification, and ordered him to pay the filing fee.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Holland; Valihura; Vaughn
JURISDICTION	Delaware
DECIDED	February 11, 2015
DOCKET	No. 567, 2014
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Superior Court's summary dismissal of a complaint seeking a writ of mandamus and revocation of the appellant's in forma pauperis status.
STANDARD OF REVIEW	The Supreme Court reviewed the record to determine whether the Superior Court erred in dismissing the mandamus complaint; the opinion applied the legal requirements for issuance of mandamus and concluded that dismissal was proper.
PRECEDENTIAL VALUE	published
PARTIES	Christopher R. Desmond v. Joseph R. Biden, III

TOPICS

[appellate procedure](#)[state post-conviction relief](#)[successive petitions](#)[civil procedure](#)[remedies](#)

PRACTICE AREAS

[appellate procedure](#)[post-conviction relief](#)[civil procedure](#)[remedies](#)

QUESTIONS PRESENTED

1. Whether Desmond could obtain a writ of mandamus to compel enforcement of an expired 1992 plea offer after raising the same claim in prior postconviction proceedings.
2. Whether the Superior Court properly dismissed the mandamus complaint because Desmond had an adequate remedy under Superior Court Criminal Rule 61 and did not establish the prerequisites for mandamus.
3. Whether Desmond's in forma pauperis status should be revoked because his application contained materially untruthful certifications concerning prior litigation and prior in forma pauperis applications.

HOLDINGS

1. Mandamus was unavailable because Desmond had an adequate remedy under Superior Court Criminal Rule 61 and could not relitigate his prior postconviction claim by restating it as a mandamus request.
2. The Superior Court did not err in summarily dismissing the complaint, and the appeal was legally frivolous in light of the Delaware Supreme Court's prior affirmance of the denial of Desmond's ninth Rule 61 motion.
3. The Court revoked Desmond's in forma pauperis status and ordered him to pay the \$460 filing fee because he falsely certified that the claim had not previously been raised or disposed of and omitted multiple prior in forma pauperis applications.

KEY QUOTATIONS

“As a condition precedent to the issuance of the writ, a writ of mandamus will only issue if the petitioner can show: (i) a clear right to the performance of a duty; (ii) that no other adequate remedy is available; and (iii) there was an arbitrary failure or refusal to perform the duty.” (at 3)

“He could not attempt to relitigate this claim by restating it in the form a request for a writ of mandamus.” (at 4)

FACTUAL BACKGROUND

A Superior Court jury convicted Desmond in 1992 of multiple robbery, weapon, conspiracy, theft, and escape offenses, and he received more than seventy years of Level V incarceration. After unsuccessful postconviction proceedings, including a ninth motion based on an expired plea offer carrying a recommendation of no more than twenty years, Desmond filed a mandamus complaint seeking enforcement of that offer. He certified in his in forma pauperis application that the claim had not previously been raised or disposed of, although the claim had been litigated in his prior postconviction proceedings and appeals.

PROCEDURAL HISTORY

Desmond appealed the Superior Court's dismissal of his complaint seeking to compel the Attorney General to enforce an expired 1992 plea offer and provide him a twenty-year sentence. The Superior Court dismissed the complaint as factually and legally frivolous and because the face of the complaint showed that Desmond was not entitled to relief. The Delaware Supreme Court affirmed and revoked Desmond's in forma pauperis status, ordering him to pay the filing fee.

DISPOSITION

affirmed

CASES CITED

- Desmond v. State, 654 A.2d 821 (Del. 1994)
- Desmond v. State, 2014 WL 3809683, at *1-2 (Del. Aug. 1, 2014)
- In re Desmond, 2001 WL 1044609, at *2 (Del. Aug. 29, 2001)
- State v. Desmond, 2011 WL 91984, at *2-4 (Del. Super. Ct. Jan. 5, 2011)
- Desmond v. Snyder, 1999 WL 33220036, at *21 (D. Del. Nov. 16, 1999)
- State v. Desmond, 2013 WL 1090965 (Del. Super. Ct. Feb. 26, 2013)
- Desmond v. State, 2013 WL 4475177 (Del. Aug. 20, 2013)
- In re Desmond, 2014 WL 5342267 (Del. Oct. 20, 2014)
- Clough v. State, 686 A.2d 158, 159 (Del. 1996)
- In re Bordley, 545 A.2d 619, 620 (Del. 1988)
- In re Thomas, 2010 WL 4192992, at *1 (Del. Sept. 20, 2010)
- Evans v. State, 2002 WL 257506, at *1 (Del. Feb. 19, 2002)