

SUPREME COURT OF THE STATE OF DELAWARE

Matter of Christopher Harry West

No. 257, 2019 (Del. Aug. 27, 2019) · No. No. 257, 2019 · Decided August 27, 2019

SUMMARY

The Delaware Supreme Court dismissed Christopher Harry West’s petition for a writ of mandamus seeking release from prison. The Court held that it lacked jurisdiction to issue mandamus to the Department of Correction and that amendment to name a Superior Court judge would be futile because West had adequate alternative remedies and failed to show an arbitrary failure to perform a duty.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Per Curiam; Leo E. Strine, Chief Justice; Karen L. Valihura, Justice; James T. Vaughn Jr., Justice
JURISDICTION	Delaware
DECIDED	August 27, 2019
DOCKET	No. 257, 2019
DISPOSITION	dismissed
PROCEDURAL POSTURE	West petitioned the Delaware Supreme Court under its original jurisdiction for a writ of mandamus ordering his release from prison. The State moved to dismiss, and West moved to amend the petition to name a Superior Court judge rather than the Department of Correction as respondent.
STANDARD OF REVIEW	Mandamus relief is available only when the petitioner establishes a clear right to performance of a duty, the absence of another adequate remedy, and the Superior Court's arbitrary failure or refusal to perform that duty.
PRECEDENTIAL VALUE	Published Delaware Supreme Court order
PARTIES	Christopher Harry West v. State of Delaware

TOPICS

[appellate jurisdiction](#)[appellate procedure](#)[post-conviction relief](#)[due process](#)[criminal procedure](#)

PRACTICE AREAS

appellate procedure

criminal procedure

post-conviction relief

constitutional law

QUESTIONS PRESENTED

1. Whether the Delaware Supreme Court had original jurisdiction to issue a writ of mandamus directed to the Department of Correction.
2. Whether West could amend his petition to name a Superior Court judge as respondent and obtain mandamus relief.
3. Whether West demonstrated the elements required for mandamus relief, including the absence of an adequate remedy in the appellate or postconviction process.
4. Whether amended Superior Court Criminal Rule 61 unconstitutionally limited court access and violated due process.

HOLDINGS

1. The Delaware Supreme Court's original jurisdiction to issue a writ of mandamus is limited to circumstances in which the respondent is a court or judge; therefore, the Court lacked jurisdiction to issue mandamus to the Department of Correction.
2. Amendment to name a Superior Court judge as respondent would be futile because West did not establish a basis for mandamus relief.
3. West was not entitled to mandamus merely because his prior motions and appeals were unsuccessful.
4. West's argument that amended Rule 61 unconstitutionally limited court access and violated due process was without merit.

KEY QUOTATIONS

“A petitioner who has an adequate remedy in the appellate process may not use the extraordinary writ process as a substitute for a properly filed appeal.” (at 3)

“The fact that West’s motions and appeals were unsuccessful does not mean West is now entitled to mandamus relief.” (at 3)

FACTUAL BACKGROUND

West pleaded guilty to first-degree robbery and second-degree robbery and agreed that he was eligible for habitual-offender sentencing. The Superior Court sentenced him in 2012 to twenty-eight years of Level V incarceration, suspended after twenty-five years. West later asserted that he had been in a straightjacket when he entered his plea and that he had been resentenced without counsel in 2016, but his prior postconviction and sentence-correction efforts were unsuccessful.

PROCEDURAL HISTORY

West pleaded guilty to first-degree robbery and second-degree robbery in January 2012. The Superior Court declared him a habitual offender and sentenced him to twenty-eight years of Level V incarceration, suspended after twenty-five years. He did not take a direct appeal, but pursued three unsuccessful Rule 61 postconviction motions and an unsuccessful Rule 35 motion; the United States District Court for the District of Delaware denied his federal habeas petition in 2017. The Delaware Supreme Court denied amendment, granted the State's motion to dismiss, and dismissed the mandamus petition.

DISPOSITION

dismissed

CASES CITED

- In re Hitchens, 600 A.2d 37, 38 (Del. 1991)
- In re Bordley, 545 A.2d 619, 620 (Del. 1988)
- In re Noble, 2014 WL 5823030, at *1 (Del. Nov. 6, 2014)
- Matushefske v. Herlihy, 214 A.2d 883, 885 (Del. 1965)
- In re Resop, 2015 WL 5168155, at *1 (Del. Sept. 1, 2015)
- West v. State, 2016 WL 5349354, at *1-*2 (Del. Sept. 23, 2016)
- West v. State, 2016 WL 4547912, at *1-*2 (Del. Aug. 31, 2016)
- West v. Metzger, 2017 WL 4798124 (Del. Oct. 24, 2017)
- Turnage v. State, 2015 WL 6746644, at *2 (Del. Nov. 2015)

OPINION

PER CURIAM.

IN THE SUPREME COURT OF THE STATE OF DELAWARE IN THE MATTER OF THE § PETITION OF CHRISTOPHER § No. 257, 2019 HARRY WEST FOR A WRIT OF § MANDAMUS § Submitted: July 15, 2019 Decided: August 27, 2019 Before STRINE, Chief Justice; VALIHURA and VAUGHN, Justices. ORDER After consideration of the petition for a writ of mandamus, the State's answer and motion to dismiss, and the motion for leave to amend the petition, it appears to the Court that: (1) The petitioner, Christopher Harry West, seeks to invoke the original jurisdiction of this Court, under Supreme Court Rule 43, to issue a writ of mandamus ordering his release from prison.

He originally asked the Court to issue a writ of mandamus to the Department of Correction, but then sought to amend the petition to seek issuance of a writ of mandamus to a Superior Court judge. We conclude that the petition, even if amended, is without merit and must therefore be dismissed.

(2) The record reflects that, in January 2012, West pled guilty to Robbery in the First Degree and Robbery in the Second Degree. Through counsel, West agreed that he was eligible for sentencing

as a habitual offender under 11 Del. C. § 4214.

On March 30, 2012, the Superior Court declared West to be a habitual offender and sentenced him to twenty-eight years of Level V incarceration, suspended after twenty-five years for decreasing levels of supervision. West did not file a direct appeal. Since his sentencing, West has filed three unsuccessful motions for postconviction relief under Superior Court Criminal Rule 61 and an unsuccessful motion for correction of sentence under Rule 35.1 The United States District Court for the District of Delaware denied West's petition for a writ of habeas corpus in 2017.² (3) On June 17, 2019, West filed his petition for a writ of mandamus in this Court.

He asked this Court to issue a writ of mandamus to the Department of Correction ordering his release from prison because the Superior Court refused to review new evidence that he was in a straightjacket at the time of his 2012 guilty plea and the Superior Court resentenced him without counsel in 2016.

The State filed an answer and motion to dismiss, arguing that this Court lacks jurisdiction to issue a writ of mandamus to the Department of Correction and that West failed to establish a basis for issuance of a writ of mandamus. West filed a motion to amend his petition to name a Superior Court judge as the respondent, rather than the Department of Correction.

1 See, e.g., *West v. State*, 2016 WL 5349354, at *1 (Del. Sept. 23, 2016) (affirming the Superior Court's denial of West's motion for correction of sentence); *West v. State*, 2016 WL 4547912, at *1 (Del. Aug. 31, 2016) (affirming the Superior Court's denial of West's third motion for postconviction relief under Rule 61). 2 *West v. Metzger*, 2017 WL 4798124 (Del.

Oct. 24, 2017). 2 (4) This Court's original jurisdiction to issue a writ of mandamus is limited to circumstances where the respondent is a court or a judge.³ 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) the Superior Court has arbitrarily failed or refused to perform its duty.⁴ A petitioner who has an adequate remedy in the appellate process may not use the extraordinary writ process as a substitute for a properly filed appeal.⁵ (5) As an initial matter, this Court lacks jurisdiction to issue a writ of mandamus to the Department of Correction.⁶ Amendment of West's petition to name a Superior Court judge as respondent would be futile because there is no basis for the issuance of a writ of mandamus in this case.

West has not shown that the Superior Court arbitrarily failed or refused to perform a duty owed to him, or that he was without an adequate remedy to address the claims he raises in his mandamus petition. He could have raised those claims in the appellate process or under Rule 61.

In fact, he unsuccessfully raised the new evidence claim in his third motion for postconviction relief and the resentencing claim in his motion for sentence 3 Del. Const. Art. IV, § 11(5); *In re Hitchens*, 600 A.2d 37, 38 (Del. 1991). 4 *In re Bordley*, 545 A.2d 619, 620 (Del. 1988). 5 *In re*

Noble, 2014 WL 5823030, at *1 (Del. Nov. 6, 2014); Matushefske v. Herlihy, 214 A.2d 883, 885 (Del.

1965). 6 See supra n. 3. See also In re Resop, 2015 WL 5168155, at *1 (Del. Sept. 1, 2015) (recognizing this Court's lack of jurisdiction to issue a writ of mandamus to the Department of Correction). 3 correction. The fact that West's motions and appeals were unsuccessful⁷ does not mean West is now entitled to mandamus relief.

As to West's argument that Rule 61 as amended in 2014 places unconstitutional limits on his right to court access and violates due process, this Court has previously found such arguments without merit.⁸ NOW, THEREFORE, IT IS ORDERED that West's motion to amend is DENIED and the State's motion to dismiss is GRANTED.

The petition for the issuance of a writ of mandamus is DISMISSED. BY THE COURT: /s/ Karen L. Valihura Justice 7 West, 2016 WL 5349354, at *2 (finding no merit to West's assertion that the Superior Court was required to appoint counsel to represent West at hearing that he mistakenly characterized as a resentencing hearing); West, 2016 WL 4547912, at *2 (affirming the Superior Court's denial of West's third postconviction motion and concluding that West failed to plead with particularity the existence of new evidence creating a strong inference of actual innocence where West characterized his physical restraints at the time of his plea as new evidence entitling him to relief).

⁸ Turnage v. State, 2015 WL 6746644, at *2 (Del. Nov. 2015) (holding "amended Rule 61 provides more due process and access to the courts than is constitutionally required"). ⁴