IN THE SUPREME COURT OF THE STATE OF DELAWARE

RONELL SIMS,	§	
	§	
Defendant Below,	§	No. 592, 2013
Appellant,	§	
	§	
v.	§	Court Below—Superior Court
	§	of the State of Delaware,
STATE OF DELAWARE,	§	in and for New Castle County
	§	Cr. ID Nos. 1202015078
Plaintiff Below,	§	1111015634
Appellee.	§	

Submitted: December 17, 2013
Decided: January 30, 2014

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

O R D E R

This 30th day of January 2014, upon consideration of the appellant's opening brief and the State's motion to affirm, it appears to the Court that:

(1) The appellant, Ronell Sims, filed this appeal from the Superior Court's denial of his "motion to compel." The State has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Sims' opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that Sims pled guilty but mentally ill in September 2012 to one count of Robbery in the First Degree and one count of Possession of a Deadly Weapon During the Commission of a Felony. Following a presentence investigation, the Superior Court sentenced Sims to eight years at Level V

incarceration. Sims did not appeal. In January 2013, Sims filed a motion for modification of sentence requesting, among other things, that he be housed at the Delaware Psychiatric Center (DPC). The Superior Court denied Sims' motion, holding that the decision to move Sims to the DPC was a decision to be made jointly by the Department of Correction's Commissioner and the mental health professionals at DPC. Sims did not appeal. Instead, in August 2013, he filed a motion entitled "Rule to Show Cause and Motion to Compel," which essentially requested the Superior Court to compel the Department of Correction to transfer him to DPC for treatment. The Superior Court denied his motion on September 25, 2013. This appeal followed.

(3) Sims' motion to compel, in essence, sought a writ of mandamus. Under Delaware law, a writ of mandamus is a command that may be issued by the Superior Court to an inferior court, public official or agency to compel the performance of a duty to which the petitioner has established a clear legal right.[1] As a condition precedent to the issuance of the writ, the petitioner must demonstrate that: a) he has a clear right to the performance of the duty; b) no other adequate remedy is available; and c) there was an arbitrary failure or refusal to perform the duty.[2] A writ of mandamus will not be issued to compel a

[1] *Clough v. State*, 686 A.2d 158, 159 (Del. 1996).

[2] *In re Hyson*, 649 A.2d 807, 808 (Del. 1994).

discretionary act.[3] As the Superior Court properly held in this case, assessing a prisoner's treatment needs and deciding on appropriate housing is a matter within the sound discretion of correctional officials,[4] unless the prisoner can establish that correctional officials are deliberately indifferent to the prisoner's serious medical needs. Sims did not establish deliberate indifference. Accordingly, we find no abuse of the Superior Court's discretion in denying Sims' motion.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

[3] *Desmond v. Phelps*, 2012 WL 424891, at *1 (Del. Feb. 8, 2012).

[4] *Id.*