

**SUPERIOR COURT
OF THE
STATE OF DELAWARE**

WILLIAM L. WITHAM, JR.
RESIDENT JUDGE

**KENT COUNTY COURT HOUSE
38 THE GREEN
DOVER, DELAWARE 19901**

April 20, 2015

Mr. Jason J. Collins - Inmate
James T. Vaughn Correctional Center
1181 Paddock Road
Smyrna, Delaware 19977

Re: *Jason J. Collins v. State of Delaware*
I.D. No. 0904002027
C.A. No. K15M-04-001 WLW
Letter Order upon Defendant's Writ of Mandamus

Dear Mr. Collins:

The Court has reviewed your Affidavit in Support of Application to Proceed *In Forma Pauperis*, as well as your Motion for Writ of Mandamus. Your application to proceed *in forma pauperis* is **granted**.

The issues you raise were previously raised in your Petition for Writ of Habeas Corpus filed on March 6, 2015, and denied on March 10, 2015.

The Court notes that a writ of mandamus is designed to compel a court to preform a duty if it is shown that: the complainant has a clear right to the performance of the duty; that no other adequate remedy is available; and that the trial court has arbitrarily failed or refused to perform its duty.¹ Mandamus will not lie to challenge the performance of a discretionary act.² Clearly, this writ is not appropriate for the

¹ *In re Bordley*, Del. Supr., 545 A2d 619, 620 (1988).

² *In re Marvel*, 2003 WL 1442466 (Del. Mar. 19, 2003).

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relief requested, and is **DENIED**.

I will treat this filing as a Superior Court Rule 35 review of sentence for additional Level V credit time. The Court has examined this and it appears that you have been given all credit for which you are entitled. You have a number of sentences involved with all Level V time correctly given, including Level V credit for all wait times. Therefore, no Rule 35 relief may be given.

IT IS SO ORDERED.



Hon. William L. Witham, Jr.
Resident Judge

WLW/dmh

oc: Prothonotary

xc: Department of Justice
Office of the Public Defender
DOC Central Records *via fax*