## IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE PETITION

§ No. 625, 2013

OF DONALD F. BASS FOR A WRIT OF MANDAMUS

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Submitted: November 20, 2013 Decided: January 7, 2014

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

## <u>ORDER</u>

This 7<sup>th</sup> day of January 2014, upon consideration of the petition of Donald Bass for an extraordinary writ of mandamus and the State's response thereto, it appears to the Court that:

- (1) The petitioner, Donald Bass, seeks to invoke the original jurisdiction of this Court to issue a writ of mandamus to compel the Superior Court to order a judge to recuse himself "from presiding over any further proceedings" in Bass' case, to set aside previous findings and orders of that judge, and to afford Bass "a full and fair opportunity to due process of his case." The State of Delaware has filed a response and motion to dismiss. After review, we find that Bass's petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be DISMISSED.
- (2) Bass was convicted in 1998 of Robbery in the First Degree and related offenses and was sentenced to a lengthy period of incarceration.

Since that time, Bass has filed multiple unsuccessful motions seeking postconviction relief. In conjunction with those motions, Bass has filed other applications seeking: (i) a free copy of the transcript of a case review hearing held in December 1996, and (ii) recusal of the trial judge from any further proceedings in Bass' case. The basis of Bass' petition is that at the December 1996 case review hearing the trial judge threatened him with a lengthy prison term, thus reflecting that judge's bias against him.

- (3) Bass was informed in 2002 that the stenographer's notes from the December 1996 hearing had been lost when the assigned stenographer had left the Superior Court's employment several years earlier. Accordingly, this Court denied Bass' prior petition for mandamus directing the preparation of the transcript of that hearing because reproduction was not possible. Furthermore, we previously affirmed the Superior Court judge's denial of Bass' motion seeking his recusal when we affirmed the denial of Bass' third motion for postconviction relief.<sup>2</sup>
- (4) This Court has authority to issue a writ of mandamus only when the petitioner can demonstrate a clear right to the performance of a duty, no other adequate remedy is available, and the trial court arbitrarily failed or

<sup>&</sup>lt;sup>1</sup> In re Bass, 2002 WL 31546532 (Del. Nov. 14, 2002).

<sup>&</sup>lt;sup>2</sup> Bass v. State, 2010 WL 2183574 (Del. June 1, 2010).

refused to perform its duty.<sup>3</sup> Under the circumstances, Bass cannot establish any clear right to the recusal of the trial judge or to have any of the trial court's prior rulings set aside because of judicial bias.

NOW, THEREFORE, IT IS ORDERED that Bass's petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

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<sup>&</sup>lt;sup>3</sup> In re Bordley, 545 A.2d 619, 620 (Del. 1988).