

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF LEE R. WRIGHT § No. 176, 2008
FOR A WRIT OF MANDAMUS §

Submitted: April 17, 2008
Decided: April 24, 2008

Before **STEELE**, Chief Justice, **HOLLAND** and **JACOBS**, Justices

ORDER

This 24th day of April 2008, it appears to the Court that:

(1) The petitioner, Lee R. Wright, seeks to invoke this Court's original jurisdiction to issue an extraordinary writ of mandamus¹ to compel the Superior Court to act on his motion for sentence modification. The State of Delaware has filed an answer requesting that Wright's petition be dismissed. We find that Wright's petition manifestly fails to invoke the original jurisdiction of the Court. Accordingly, the petition must be DISMISSED.

(2) On June 11, 1998, Wright pleaded guilty to two counts of Unlawful Sexual Intercourse in the Second Degree. On September 25, 1998, Wright was sentenced to a total of 15 years of Level V incarceration, to be followed by decreasing levels of supervision. On April 30, 2007, Wright filed a motion for sentence modification. On April 1, 2008, two days before

¹ Del. Const. art. IV, § 11(6); Supr. Ct. R. 43.

the instant petition was filed, the Superior Court granted Wright's motion for sentence modification. In his petition, Wright asks this Court to compel the Superior Court to act upon his motion for sentence modification.

(3) A writ of mandamus is an extraordinary remedy issued by this Court to compel a trial court to perform a duty.² As a condition precedent to the issuance of the writ, Wright must demonstrate that: he has a clear right to the performance of the duty; no other adequate remedy is available; and the trial court has arbitrarily failed or refused to perform its duty.³

(4) Wright has failed to demonstrate that he is entitled to the issuance of a writ of mandamus. While we do not condone the inordinate amount of time it took for the Superior Court to act upon Wright's motion for sentence modification, nevertheless, the record reflects that, at the time Wright filed the instant petition, the Superior Court had already granted his motion. As such, the petition for a writ of mandamus must be dismissed as moot.

² *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

³ *Id.*

NOW, THEREFORE, IT IS ORDERED that the State of Delaware's motion to dismiss is GRANTED. The petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice