

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE                   §  
PETITION OF ROBERT ALLEY       § No. 661, 2014  
FOR A WRIT OF CERTIORARI       §

Submitted: December 11, 2014  
Decided: December 18, 2014

Before **STRINE**, Chief Justice, **HOLLAND**, and **VALIHURA**, Justices.

**ORDER**

This 18<sup>th</sup> day of December 2014, upon consideration of the petition of Robert Alley for a writ of certiorari and the answer and motion to dismiss of the State of Delaware, it appears to the Court that:

(1) The petitioner, Robert Alley, seeks to invoke the original jurisdiction of this Court, under Supreme Court Rule 43, to issue a writ of certiorari. The State filed an answer to Alley's petition and moved to dismiss the petition. After careful review, we conclude that Alley's petition manifestly fails to invoke this Court's original jurisdiction. Accordingly, the petition must be dismissed.

(2) On December 22, 2008, Alley pled guilty to Resisting Arrest and Criminal Impersonation. Alley was sentenced to two years of Level V incarceration, suspended after three months for one year of Level III probation, for Resisting Arrest and one year of Level V incarceration, suspended for one year of Level III probation, for Criminal Impersonation. Alley did not file a direct appeal.

(3) On February 18, 2011, the Superior Court found that Alley had violated his probation. Alley was sentenced to two years of Level V incarceration, suspended after nine months, and then discharged as unimproved for Resisting Arrest. Alley was discharged as unimproved for Criminal Impersonation.

(4) On March 22, 2013, Alley filed a *pro se* motion for postconviction relief. With the assistance of counsel, Alley filed an amended motion for postconviction relief. Alley argued that his counsel was ineffective in connection with his 2008 guilty plea because she incorrectly informed him that he would be subject to habitual offender sentencing under 11 *Del. C.* § 4214(a) if he was convicted at trial. The Superior Court denied Alley's motion because it was untimely under Superior Court Criminal Rule 61(i)(1) and because Alley failed to state a colorable claim of a miscarriage of justice under Superior Court Criminal Rule 61(i)(5).<sup>1</sup> This Court affirmed the Superior Court's judgment.<sup>2</sup>

(5) On December 1, 2014, Alley filed a petition in this Court for issuance of a writ of certiorari. Alley claims he is entitled to relief because the State threatened him with an unlawful sentence under 11 *Del. C.* § 4214(a) in 2008 and he received ineffective assistance of counsel. The State answered the petition for issuance of a writ of certiorari and moved to dismiss.

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<sup>1</sup> *State v. Alley*, 2014 WL 605440 (Del. Super. Ct. Feb. 14, 2014).

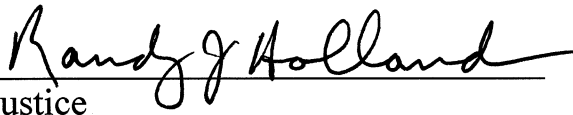
<sup>2</sup> *Alley v. State*, 2014 WL 7009961 (Del. Nov. 20, 2014).

(6) A writ of certiorari is an extraordinary remedy that is used to correct irregularities in the proceedings of a trial court.<sup>3</sup> Certiorari is available to challenge a final order of a trial court where the right of appeal is denied, a grave question of public policy and interest is involved, and no other basis for review is available.<sup>4</sup> “Where these threshold requirements are not met, this Court has no jurisdiction to consider the petitioner's claims, and the proceedings will be dismissed.”<sup>5</sup>

(7) There is no basis for the issuance of a writ of certiorari in this case. Alley has not shown that he has been denied his right of appeal, nor that a grave question of public policy or interest is at stake. Because Alley has not met the threshold requirements for the issuance of a writ of certiorari, his petition for a writ of certiorari must be dismissed.

NOW, THEREFORE, IT IS ORDERED that the motion to dismiss is GRANTED and the petition for the issuance of a writ of certiorari is DISMISSED.

BY THE COURT:

  
Justice

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<sup>3</sup> *Shoemaker v. State*, 375 A.2d 431, 437 (Del. 1977).

<sup>4</sup> *Id.*

<sup>5</sup> *In re Butler*, 609 A.2d 1080, 1081 (Del. 1992).