

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE PETITION §
OF SHERMAN B. WILLIAMS § No. 78, 2014
FOR A WRIT OF MANDAMUS §

Submitted: March 7, 2014
Decided: April 4, 2014

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

ORDER

This 4th day of April 2014, upon consideration of the petition of Sherman Williams for a writ of mandamus, it appears to the Court that:

(1) The petitioner, Sherman Williams, seeks to invoke the original jurisdiction of this Court, pursuant to Supreme Court Rule 43, to issue a writ of mandamus directing the Superior Court to provide him with a copy of transcripts in a case identified by Criminal ID 9707002071. The State has filed a motion to dismiss Williams' petition on the ground that it manifestly fails to invoke this Court's original jurisdiction. We agree.

(2) A writ of mandamus is designed to compel a lower court to perform 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 A writ of

¹*In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

mandamus will not be issued “to compel a trial court to perform a particular judicial function, to decide a matter in a particular way, or to dictate the control of its docket.”²

(3) A writ of mandamus is not warranted under the present circumstances because Williams cannot establish that the Superior Court has arbitrarily refused to perform a duty owed to him and that he has no other adequate remedy. The Superior Court docket in Cr. ID 9707002071 reflects that Williams pled guilty in that case in 1997. His sentence has been served, and the case was closed in 2006. Williams now contends that he needs the transcripts in order to file a direct appeal in that case. By failing to file a timely appeal from his conviction, Williams has waived any right to direct appellate review of his 1997 conviction and sentence,³ and thus cannot establish his right to transcript at State expense.⁴ Moreover, given that Williams’ sentence in that case has been fully served, any collateral proceeding challenging that conviction

² *Id.*

³ *Eller v. State*, 531 A.2d 951, 953 (Del. 1987) (holding that the Delaware Supreme Court lacks jurisdiction to consider a direct criminal that was not filed within 30 days of sentencing)

⁴ *See United State v. MacCollom*, 426 U.S. 317, 323-35 (1976) (noting under federal law that, while an indigent defendant is entitled to free transcript to pursue a direct criminal appeal, there is no right to free transcript to pursue collateral relief).

and sentence would likely be dismissed as moot.⁵ Even assuming that Williams might be able to overcome that hurdle, his only possible remedy is to file a motion for postconviction relief under Superior Court Criminal Rule 61 and to request preparation of the transcript in conjunction with that petition.⁶ If his petition is unsuccessful, Williams may then appeal to this Court for a review of that final judgment and any interlocutory ruling on his request for transcripts.⁷ No extraordinary relief is warranted.

NOW, THEREFORE, IT IS ORDERED that the petition for the issuance of an extraordinary writ of mandamus is DENIED.

BY THE COURT:

/s/ Randy J. Holland
Justice

⁵ See *Gural v. State*, 251 A.2d 344, 345 (Del. 1969) (holding that completion of a sentence renders a case moot unless the defendant can establish a right lost by reason of the conviction).

⁶ *In re Hyson*, 649 A.2d 807, 808 (Del. 1994).

⁷ *Id.*