IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE PETITION OF RONALD G. JOHNSON FOR A WRIT OF PROHIBITION	§ § § §	No. 240, 2013

Submitted: May 23, 2013
Decided: May 30, 2013

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

O R D E R

This 30th day of June 2013, it appears to the Court that:

(1) The petitioner, Ronald G. Johnson, seeks to invoke this Court's original jurisdiction to issue an extraordinary writ of prohibition[1] to compel the Superior Court to prohibit any psychiatric/psychological evaluation of him in connection with his criminal case. The State of Delaware has filed an answer requesting that Johnson's petition be dismissed. We find that Johnson's petition manifestly fails to invoke the original jurisdiction of the Court. Accordingly, the petition must be dismissed.

(2) The record before us reflects that, in August 2012, Johnson was indicted on the charge of Possession of a Controlled Substance. He was released on unsecured bail. Johnson's trial was scheduled for March 5, 2013. Johnson failed to appear and the Superior Court issued a capias for

[1] Del. Const. art. IV, §11(5); Supr. Ct. R. 43.

his arrest. The capias was returned the same day and Johnson has been held in lieu of $20,000 cash bail since that time.

(3) Despite being represented by the Office of the Public Defender, Johnson has filed a number of *pro se* motions, including a motion to dismiss his counsel and appoint new counsel, a motion to recuse the Superior Court judge assigned to his case, a motion to assign a new prosecutor, a motion to obtain full discovery and a motion to reduce bail.

(4) On April 4, 2013, Johnson's counsel filed a motion for psychiatric/psychological evaluation to determine whether Johnson was competent to stand trial. The Superior Court granted counsel's motion. During April and May, 2013, Johnson filed a *pro se* response to the motion for a psychiatric/psychological evaluation and motions to reduce bail, to dismiss counsel, to compel an immediate hearing on his motions and proceed *pro se*. The Superior Court referred the motions to Johnson's counsel.[2]

(5) A writ of prohibition is the legal equivalent of the equitable remedy of injunction and may be issued to prevent a trial court from

[2] Under Superior Court Criminal Rule 47, the Superior Court may not consider *pro se* applications by defendants who are represented by counsel unless the defendant has been granted permission to participate with counsel in his defense.

exceeding the limits of its jurisdiction.[3] Like a writ of mandamus, a writ of prohibition will not issue if the petitioner has another adequate remedy at law.[4] A writ of prohibition is not a substitute for a timely-filed appeal and will issue only if the trial court's lack of jurisdiction is manifest on the record.[5]

(6) There is no basis for the issuance of a writ of prohibition in this case. Johnson has failed to demonstrate that, by granting counsel's motion for a psychiatric/psychological evaluation, the Superior Court has manifestly exceeded its jurisdiction.[6] Therefore, Johnson's petition for a writ of prohibition must be dismissed.

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

BY THE COURT:

/s/ Randy J. Holland
Justice

[3] *In re Hovey*, 545 A.2d 626, 628 (Del. 1988).
[4] Id.
[5] Id.
[6] Under Superior Court Criminal Rule 12.2, the Superior Court may order a mental evaluation of a defendant to determine whether the defendant is competent to stand trial.