

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE	§	
PETITION OF GORDON L.	§	No. 68, 2002
MANIS FOR A WRIT OF	§	
MANDAMUS.	§	Def. ID No. 9812000028

Submitted: March 4, 2002

Decided: April 1, 2002

Before **VEASEY**, Chief Justice, **WALSH** and **STEELE**, Justices.

ORDER

This 1st day of April 2002, upon consideration of the petition for a writ of mandamus filed by Gordon L. Manis, and the answer and motion to dismiss filed by the State of Delaware, it appears to the Court that:

(1) By sentencing order dated January 7, 2000, as later modified on February 17, 2000, and October 26, 2001, the Superior Court sentenced Manis to a total of 15 years imprisonment, suspended after 30 months for 7½ years at Level IV home confinement, suspended after 18 months, for the balance at Level III probation.¹ Manis was ordered to be held at Level V imprisonment pending his transfer to Level IV home confinement.

(2) Anticipating the completion of the Level V portion of his sentence, Manis, on February 11, 2002, filed a writ of mandamus directed to

¹*State v. Manis*, Del. Super., No. 9812000028, Silverman, J.

the Superior Court to compel a further modification of his sentence. According to Manis, without a modification, he would remain at Level V indefinitely because of problems he would encounter arranging for Level IV home confinement.

(3) As a prerequisite for mandamus relief, a petitioner seeking a writ of mandamus must show that there is no adequate remedy at law.² In this case, Superior Court Criminal Rule 35(b) provides an adequate remedy at law for Manis to request a modification of sentence. Consequently, there is no basis for the issuance of a writ of mandamus. Moreover, it appears that Manis' petition is moot. By order dated February 21, 2002, the Superior Court modified Manis' sentence to provide that he should be held at Level III while awaiting placement in any Level IV program.

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

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice

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