

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF DAVID § No. 256, 2008
BUCHANAN FOR A WRIT OF §
PROHIBITION §

Submitted: June 19, 2008

Decided: June 25, 2008

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

ORDER

This 25th day of June 2008, it appears to the Court that:

(1) Petitioner David Buchanan has filed a petition with this Court requesting the issuance of a writ of prohibition pursuant to Supreme Court Rule 43. Buchanan is currently incarcerated awaiting disposition by the Superior Court of charges of Burglary in the Third Degree, Criminal Mischief, Resisting Arrest, Criminal Contempt of a Protection From Abuse Order, and several weapon charges. He seeks an Order directed to the Superior Court to a) immediately release him from custody because the Superior Court has imposed bail in an “oppressive amount”; and b) transfer his charges to the Family Court.

(2) A writ of prohibition is the legal equivalent of the equitable remedy of injunction and may be issued to prevent the trial court from proceeding in a matter when it has no jurisdiction, or to prevent it from

exceeding its jurisdiction in a matter that is properly before it.¹ The jurisdictional defect must be manifest upon the record.² The burden is on the petitioner to demonstrate to this Court, by clear and convincing evidence, that the trial court is without jurisdiction in the matter or is attempting to exceed its jurisdiction.³ A writ of prohibition will not issue if the petitioner has another adequate remedy at law.⁴

(3) In his petition, Buchanan has provided no factual support for his allegation that bail in an “oppressive amount” has been imposed, much less that the Superior Court has exceeded its jurisdiction thereby. Moreover, the Superior Court has exclusive personal and subject matter jurisdiction over adults who are indicted for felonies.⁵ Thus, merely because the charges against Buchanan arose within the context of domestic problems does not serve to divest the Superior Court of jurisdiction over those charges. Finally, the petition for a writ of prohibition is improper because Buchanan may assert his claims in a timely-filed appeal. For all of these reasons, this Court is without jurisdiction to grant Buchanan the relief he seeks.

¹ *In re Hovey*, 545 A.2d 626, 628 (Del. 1988).

² *Id.*

³ *Id.* at 629.

⁴ *Id.* at 628.

⁵ Del. Const. art. IV, § 7.

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

BY THE COURT:

/s/ Randy J. Holland
Justice