

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KENNETH T. DEPUTY,	§	
	§	No. 690, 2013
Petitioner Below,	§	
Appellant,	§	Court Below—Superior Court of
	§	the State of Delaware in and for
v.	§	New Castle County
	§	
STATE OF DELAWARE,	§	C.A. No. N13M-11-118
	§	
Respondent Below,	§	
Appellee.	§	

Submitted: April 18, 2014

Decided: June 5, 2014

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

ORDER

This 5th day of June 2014, upon consideration of the briefs on appeal and the Superior Court record, it appears to the Court that:

(1) The appellant, Kenneth T. Deputy, is an inmate incarcerated at the James T. Vaughn Correctional Center (“JTVCC”). On November 21, 2013, Deputy filed a petition seeking the issuance of a writ of mandamus to compel the Warden of JTVCC and the Commissioner of the Delaware Department of Correction (“DOC”) to provide him with a new pair of boots.

(2) Upon receipt of Deputy’s petition, the Superior Court conducted a preliminary review and determined that the petition was both factually and

legally frivolous. By order dated November 22, 2013, the petition was dismissed. This appeal followed.

(3) A writ of mandamus is an extraordinary remedy issued by the Superior Court to compel a board or agency to perform a duty.¹ As a condition precedent to the issuance of the writ, the petitioner must demonstrate that he has a clear right to the performance of the duty; that no other adequate remedy is available; and that the board or agency has arbitrarily failed or refused to perform the duty.²

(4) Deputy has not demonstrated that he has a clear right to receive a new pair of boots from either JTVCC or DOC. In the absence of Deputy's clear right to the relief he seeks, we conclude, as did the Superior Court, that Deputy is not entitled to mandamus relief.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

¹ 10 Del. C. § 564; *Clough v. State*, 686 A.2d 158, 159 (Del. 1996).

² *Clough*, 686 A.2d at 159; *In re Petition of Hyson*, 649 A.2d 807, 808 (Del. 1994).