

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE § No. 321, 2026
PETITION OF DEVEARL L. §
BACON FOR A WRIT OF §
MANDAMUS

Submitted: August 20, 2026

Decided: August 27, 2026

Before **SEITZ**, Chief Justice; **TRAYNOR** and **GRIFFITHS**, Justices.

ORDER

After consideration of the petition for a writ of mandamus and the Superior Court docket, it appears to the Court that:

(1) The petitioner, Devearl L. Bacon, seeks to invoke the original jurisdiction of this Court, under Supreme Court Rule 43, to issue a writ of mandamus to the Superior Court. The relief he seeks relates to a civil lawsuit that Bacon filed against Mark Purnell and Herbert W. Mondros, Esquire. The civil complaint alleges that Bacon assisted Purnell with postconviction proceedings that resulted in the reversal of Purnell's murder conviction. It alleges that Purnell agreed to pay Bacon a portion of any funds that Purnell received to resolve a civil claim against the State arising from his conviction, but Purnell has not done so despite receiving a settlement payment.

(2) In November 2025, the Superior Court granted Mondros's motion to dismiss Bacon's claims against him. In January 2026, Bacon filed a motion for default judgment against Purnell. At a hearing on the motion on March 4, 2026, a

Superior Court Commissioner denied the motion for default judgment on the ground that Bacon had not perfected service on Purnell. Bacon then filed a motion seeking a copy of the order denying the motion for default judgment and a transcript of the March 4 hearing. The court sent Bacon a copy of the order and directed him that his transcript request must be accompanied by a motion and affidavit to proceed *in forma pauperis* (an “IFP motion”). Bacon filed an IFP motion on March 27, 2026. On May 6, 2026, Bacon filed a letter requesting a copy of the docket sheet.

(3) In his petition for a writ of mandamus, filed July 27, 2026, Bacon asks this Court to order the Superior Court to provide him with a copy of the docket sheet and a transcript of the March 4 hearing on the motion for default judgment. He states that a docket sheet will help him determine what attempts the sheriff made to serve Purnell and enable him to seek “other attempts/remedies if [Purnell] has not been severed [sic].” He further states that he wants a copy of the transcript to support an appeal once the Superior Court case concludes.

(4) On July 29, 2026, the Superior Court issued a letter order acknowledging receipt of the mandamus petition. The letter order stated that the court believed that court staff had previously sent a docket sheet to Bacon but, “in an abundance of caution,” enclosed a copy of the docket sheet. It further explained that the IFP motion should have been rejected for filing because it did not include the necessary financial information. Specifically, the court stated that, because

Bacon is incarcerated, he was required to include with his IFP motion a certified copy of his inmate account statement. The court denied Bacon's IFP motion without prejudice to his refiling with the required information.

(5) After careful review, we conclude that the petition for a writ of mandamus is without merit and must be dismissed. A writ of mandamus will issue only if the petitioner can show: (i) a clear right to the performance of a duty; (ii) that no other adequate remedy is available; and (iii) that the Superior Court has arbitrarily failed or refused to perform its duty.¹ “[I]n the absence of a clear showing of an arbitrary refusal or failure to act, this Court will not issue a writ of mandamus 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

(6) There is no basis for the issuance of a writ of mandamus here. To the extent that Bacon seeks a copy of the docket sheet, the matter is moot because the Superior Court has provided it to him.³ To the extent that he seeks a transcript of the March 4 hearing, he has not shown that he has a clear right to a copy of the transcript at state expense or that the Superior Court arbitrarily refused or failed to provide it

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

² *Id.*

³ See *In re Browne*, 2002 WL 31106353, at *1 (Del. Sept. 16, 2002) (“To the extent that the Superior Court already has afforded Browne the relief he requests [in his petition for a writ of mandamus], the matter is moot.”).

to him.⁴ Nor has he shown that no other adequate remedy is available. He can file another IFP motion with all required information, as directed by the Superior Court. And if the court denies his request for the transcript and Bacon is ultimately unsuccessful in the lawsuit, he can raise the transcript denial in an appeal from the Superior Court's final judgment.⁵

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

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Chief Justice

⁴ *See id.* (“To the extent that Browne seeks a writ of mandamus compelling the Superior Court to provide additional transcripts, he has failed to invoke the original jurisdiction of this Court. Because even an indigent appellant in a civil case does not have an absolute right to transcripts at State expense and the Superior Court had discretion to deny any such request, Browne has failed to demonstrate a clear right to the performance of a duty which the Superior Court has failed or refused to perform.” (footnotes omitted)).

⁵ *In re Stanford*, 2019 WL 494456, at *2 (Del. Feb. 7, 2019).