

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF DANIEL §
COLEMAN FOR A WRIT OF § No. 263, 2000
MANDAMUS. §

Submitted: June 5, 2000
Decided: June 30, 2000

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

ORDER

This 30th day of June 2000, upon consideration of the petition of Daniel Coleman (“Coleman”) for a writ of mandamus and the State of Delaware’s answer and motion to dismiss, it appears to the Court that:

(1) In April 1987, a grand jury indicted Coleman on two counts of Kidnaping in the First Degree, one count of Robbery in the First Degree, and one count of Unlawful Sexual Contact in the Third Degree. In July 1987, a Superior Court jury convicted Coleman of two counts of Kidnaping in the First Degree and one count each of Robbery in the Second Degree and Unlawful Sexual Contact in the Third Degree. The Superior Court sentenced Coleman to life in prison on each First Degree Kidnaping conviction and to five years for Second Degree Robbery and to two years for Third Degree Unlawful Sexual Contact.¹ On direct appeal, Coleman’s convictions were affirmed.² Coleman’s

¹ By letter opinion dated October 7, 1988, the Superior Court withdrew one of the
(continued...)

subsequent applications for postconviction relief were denied.³ Coleman did not appeal to this Court.

(2) On May 11, 2000, Coleman applied to the Superior Court for a copy of transcripts of the grand jury proceedings, including the grand jury's return of the indictment against him. On May 18, 2000, the Superior Court denied Coleman's request for transcripts. The Superior Court held that Coleman has no apparent legal remedies available and thus no need for the transcripts.

(3) In his petition in this Court, Coleman seeks a writ of mandamus to compel the Superior Court to provide him with the requested transcripts. According to Coleman, he has a constitutional right to review the grand jury proceedings. Coleman contends that production of the transcripts is necessary to ensure that the requisite number of grand jurors voted to indict him.

(4) Coleman is not entitled to the issuance of a writ of mandamus to further his efforts to review the records of the grand jury proceedings. Coleman's claim, that he was not indicted by the requisite number of grand

¹(...continued)
two life sentences that had been imposed. *State v. Coleman*, Del. Super., Cr.A.Nos., IN87-03-0453, 0454; IN87-04-0025, 0026, Martin, J. (Oct. 7, 1988) (Letter Opinion).

² *Coleman v. State*, Del. Supr., 562 A.2d 1171 (1989).

³ *State v. Coleman*, Del. Super., Cr.A.Nos. IN87-03-0453, 0454; IN87-04-0025, 0026, Toliver, J. (Nov. 15, 1990) (Order); *State v. Coleman*, Cr.A.Nos. IN87-03-0453, 0454; IN87-04-0025, 0026, Toliver J. (Jan. 19, 1993) (Order).

jurors, is entirely speculative. “There is a strong presumption that the grand jury has faithfully performed its duty in returning an indictment, and a defendant bears the heavy burden of overcoming it.”⁴ Furthermore, Coleman’s challenge to the grand jury proceeding comes too late. Coleman did not raise the claim before his trial, and thus the claim is waived.⁵

(5) This Court will issue a writ of mandamus to a trial court only when the petitioner can show that there is a clear right to the performance of a duty at the time of the petition.⁶ Coleman has not demonstrated that he is entitled to the relief that he seeks, nor has he demonstrated that the Superior Court has arbitrarily refused to perform a duty owed to him.

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

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice

⁴ *Malloy v. State*, Del. Supr., 462 A.2d 1088, 1094 (1983).

⁵ Super. Ct. Crim. R. 12(b)(2), (f); *Malloy v. State*, Del. Supr., 462 A.2d 1088 (1983); *State v. Boyle*, Del.Gen.Sess., 61 A.2d 121, 125 (1948).

⁶ *In re Bordley*, Del. Supr., 545 A.2d 619, 620 (1988).