

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE § No. 591, 2011
PETITION OF JERMAINE PIPER §
FOR A WRIT OF MANDAMUS § Cr. ID No. 0811013861

Submitted: March 23, 2012
Decided: April 25, 2012

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

ORDER

This 25th day of April 2012, it appears to the Court that:

(1) On April 15, 2010, the petitioner, Jermaine Piper, was sentenced to two years at Level V imprisonment followed by six months at Level IV work release and six months at Level III probation.¹ The sentence order included credit for thirty-seven days Piper was incarcerated in default of bail.²

(2) Piper seeks the issuance of a writ of mandamus to the Superior Court to compel a modification of his April 15, 2010 sentence³ to provide for an additional forty-two days of credit for time he spent incarcerated between his

¹ *State v. Piper*, Del. Super., Cr. ID No. 08110138861, (April 15, 2010) (sentencing).

² *Id.* See docket at 27 (April 15, 2010) (docketing of sentence order).

³ To be more exact, Piper's mandamus petition sought to compel the Superior Court to rule on his motion for credit for time served filed on July 28, 2011. *Id.* See docket at 51. The docket reflects that the Superior Court issued a modified sentence order on November 28, 2011; it is not clear, however, that the order was intended to dispose of Piper's motion. *Id.* See docket at 60.

March 4, 2010 conviction (and revocation of bail) and his April 15, 2010 sentencing.⁴

(3) A writ of mandamus is an extraordinary remedy issued by this Court to compel a trial court to perform a duty.⁵ Relief is granted only when a mandamus petitioner demonstrates, among other things, that he has a clear right to the performance of the duty.⁶

(4) Piper has not established a clear right to any additional credit applied to his sentence. On the face of it, the Superior Court's April 15, 2010 sentence order made March 4, 2010 its *effective date* and, in doing so, properly credited Piper with the time he spent incarcerated between his conviction and sentencing.⁷ In the absence of his clear right to additional credit time applied to his sentence, the Court concludes that Piper is not entitled to mandamus relief.

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice

⁴ In view of his reported release from Level V incarceration, Piper has amended his request to seek forty-two days of credit applied to his Level IV sentence.

⁵ *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

⁶ *Id.*

⁷ It is not clear from the docket why the November 28, 2011 sentence modification order changed the effective date of the April 15, 2010 sentence from March 4, 2010 to March 9, 2010.