

IN THE SUPREME COURT OF THE STATE OF DELAWARE

EDDIE A. CARTER,	§
	§ No. 376, 2007
Petitioner Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ C.A. No. 07M-04-071
	§ (Cr. ID No. 0511010801)
Respondent Below-	§
Appellee.	§

Submitted: January 25, 2008  
Decided: February 19, 2008

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

**ORDER**

This 19<sup>th</sup> day of February 2008, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The petitioner-appellant, Eddie A. Carter, filed an appeal from the Superior Court’s July 12, 2007 denial of his petition for a writ of habeas corpus. We find no merit to the appeal. Accordingly, we AFFIRM.

(2) In June 2006, Carter was found guilty by a Superior Court jury of Assault in the Second Degree, Assault in the Third Degree, and Possession of a Deadly Weapon During the Commission of a Felony. He was sentenced on the second-degree assault conviction to 8 years of Level V incarceration, to be suspended after 6 years for decreasing levels of

supervision. On the third-degree assault conviction, Carter was sentenced to 1 year at Level V, to be suspended for Level III probation. Finally, on the weapon conviction, he was sentenced to 10 years at Level V. Carter did not file a direct appeal from his convictions and sentences.

(3) In February 2007, Carter filed a motion for postconviction relief in the Superior Court. In April 2007, he filed a petition for a writ of habeas corpus. The Superior Court denied Carter's petition for a writ of habeas corpus in July 2007 and his postconviction motion in August 2007. The Superior Court docket does not reflect that Carter filed an appeal from the Superior Court's denial of his postconviction motion.

(4) In this appeal from the Superior Court's denial of his petition for a writ of habeas corpus, Carter claims that a) the Superior Court lacked jurisdiction to convict and sentence him on the assault and weapon charges; b) there was prosecutorial misconduct in connection with the indictment, grand jury and trial proceedings; and c) his counsel provided ineffective assistance. Carter also appears to include as an appeal point the Superior Court's denial of his request for transcripts at State expense.

(5) In Delaware, the writ of habeas corpus provides relief on a very limited basis.<sup>1</sup> Habeas corpus only provides "an opportunity for one

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<sup>1</sup> *Hall v. Carr*, 692 A.2d 888, 891 (Del. 1997).

illegally confined or incarcerated to obtain judicial review of the jurisdiction of the court ordering the commitment.”<sup>2</sup> “Habeas corpus relief is not available to ‘[p]ersons committed or detained on a charge of treason or felony, the species whereof is plainly and fully set forth in the commitment.’”<sup>3</sup> Moreover, a petition for a writ of habeas corpus cannot serve as a substitute for an appeal of a defendant’s convictions and sentences.<sup>4</sup>

(6) Carter has failed to demonstrate that the charges against him were not plainly and fully set forth in the commitment or that the Superior Court lacked jurisdiction over the charges against him. Moreover, Carter’s claims regarding the pretrial and trial proceedings are unavailing, since he may not use a writ of habeas corpus as a substitute for a direct appeal of those claims. Finally, Carter’s claim that he is entitled to transcripts at State expense is without merit. The Superior Court properly denied his request on the ground that there is no absolute right to a free transcript in postconviction proceedings.<sup>5</sup>

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<sup>2</sup> Id.

<sup>3</sup> Id. (quoting Del. Code Ann. tit. 10, § 6902(1)).

<sup>4</sup> *Curran v. Wooley*, 104 A.2d 771, 773 (Del. 1954).

<sup>5</sup> *United States v. MacCollum*, 426 U.S. 317, 325-26 (1976).

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.<sup>6</sup>

BY THE COURT:

/s/ Carolyn Berger  
Justice

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<sup>6</sup> In connection with the instant appeal, Carter also filed a motion for sanctions against the State of Delaware for failing to file original documents with its answering brief and a motion for remand to the Superior Court for an evidentiary hearing on the issues raised in his habeas corpus petition. In the absence of any legal support for the motions, we hereby deny them.