

IN THE SUPREME COURT OF THE STATE OF DELAWARE

EDWARD T. ASHLEY,	§
	§
Petitioner Below-	§ No. 225, 2002
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ C.A. No. 02M-02-034
Respondent Below-	§
Appellee.	§

Submitted: July 12, 2002

Decided: August 28, 2002

Before **VEASEY**, Chief Justice, **WALSH** and **STEELE**, Justices

ORDER

This 28th day of August 2002, it appears to the Court that:

(1) The petitioner-appellant, Edward T. Ashley, filed an appeal from the February 22, 2002 order of the Superior Court denying his petition for a writ of habeas corpus. We find no merit to the appeal. Accordingly, we AFFIRM.

(2) In August 1995, after pleading guilty to Possession of Cocaine with Intent to Deliver, Ashley received a sentence of 2 years incarceration at Level V, suspended for time served for 1 year at Level III probation. In June 1997, after pleading guilty to Attempted Delivery of Cocaine, Ashley received a sentence of 7

years incarceration at Level V, to be suspended after 5 years for 2 years at decreasing levels of probation. In the same proceeding, the Superior Court also found that Ashley had committed a violation of probation (VOP) in connection with his 1995 drug conviction, revoked his probation and reimposed his 2-year Level V sentence. At a separate VOP hearing in November 1997, the Superior Court again found that Ashley had violated his probation in connection with his 1995 drug conviction and discharged Ashley from the probationary sentence as unimproved.¹

(3) In his appeal, Ashley claims that he is being detained illegally because the Superior Court's November 1997 order discharged him from the sentence the Superior Court imposed in 1995.²

¹The Superior Court docket sheet indicates that the judge who sentenced Ashley in November 1997 was a different judge than the one who had sentenced him in June 1997. It appears that, due to a clerical error, the second judge was unaware of the prior finding of a VOP and the revocation of Ashley's probation.

²It appears that, at the time Ashley filed his petition for a writ of habeas corpus, he had

(4) In Delaware, the writ of habeas corpus provides relief on a very limited basis.³ Habeas corpus only provides “an opportunity for one illegally

completed his 5-year Level V sentence and had begun serving the 2-year Level V sentence that was reimposed for the VOP.

³*Hall v. Carr*, 692 A.2d 888, 891 (Del. 1997).

confined or incarcerated to obtain judicial review of the jurisdiction of the court ordering the commitment.”⁴ “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.’”⁵

(5) There is no basis for habeas corpus relief in this case. Moreover, the Superior Court’s November 1997 order discharging Ashley from his 1995 probationary sentence as unimproved was of no effect, since the Superior Court had already issued an order in June 1997 revoking Ashley’s 1995 probationary sentence and reimposing his 2-year Level V sentence. Ashley is legally detained pursuant to the Superior Court’s June 1997 order.

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

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice

⁴*Id.*

⁵*Id.* (quoting DEL. CODE ANN. tit 11, § 6902(1) (2001)).