

IN THE SUPREME COURT OF THE STATE OF DELAWARE

THOMAS R. MILLER,	§
	§ No. 400, 2009
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Sussex County
STATE OF DELAWARE,	§ C.A. No. S09M-07-004
	§
Plaintiff Below-	§
Appellee.	§

Submitted: August 31, 2009  
Decided: September 10, 2009

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices

**ORDER**

This 10th day of September 2009, upon consideration of the appellant’s opening brief and the appellee’s motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, Thomas R. Miller, filed an appeal from the Superior Court’s July 6, 2009 order denying his petition for a writ of habeas corpus. The plaintiff-appellee, the State of Delaware, has moved to affirm the Superior Court’s judgment on the ground that it is manifest on the face of the opening brief that the appeal is without merit. We agree and affirm.

(2) In May 1994, Miller was found guilty by a Superior Court jury of Unlawful Sexual Intercourse in the First Degree and Burglary in the First Degree in connection with the rape of an eighty-five year-old woman at a senior citizen apartment complex in Lewes, Delaware. Miller was sentenced to life in prison on the conviction of unlawful sexual intercourse and to eight years at Level V on the burglary conviction. This Court affirmed Miller's convictions and sentences on direct appeal.<sup>1</sup> Miller has unsuccessfully sought postconviction relief on numerous occasions since that time.

(3) In Miller's current appeal from the Superior Court's denial of his habeas corpus petition, he claims that the Superior Court abused its discretion when it denied his petition for habeas corpus. He bases his claim on his contention that the Superior Court lacked jurisdiction to convict him because the FBI forensic report did not link him to the crime scene.

(4) In Delaware, the writ of habeas corpus provides relief on a very limited basis.<sup>2</sup> Habeas corpus only provides "an opportunity for one illegally confined or incarcerated to obtain judicial review of the jurisdiction of the court ordering the commitment."<sup>3</sup> "Habeas corpus relief is not available to '[p]ersons committed or detained on a charge of treason or

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<sup>1</sup> *Miller v. State*, Del. Supr., No. 236, 1994, Hartnett, J. (May 9, 1995).

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

<sup>3</sup> *Id.*

felony, the species whereof is plainly and fully set forth in the commitment.”<sup>4</sup>

(5) There is no basis for the issuance of a writ of habeas corpus in this case. Miller, having been convicted of two felonies, is being detained on the basis of a sentence of life plus eight years at Level V. As the Superior Court properly determined, Miller has presented no evidence that he is being illegally confined. As such, we conclude that the Superior Court properly denied Miller’s petition for a writ of habeas corpus.

(6) It is manifest on the face of the opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that the State of Delaware’s motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland  
Justice

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<sup>4</sup> *Id.* (quoting Del. Code Ann. tit. 10, §6902(1)).