

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DAVID J. BUCHANAN,	§
	§ No. 280, 2010
Petitioner Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Sussex County
STATE OF DELAWARE,	§ C.A. No. S10M-04-007
	§ Cr. ID No. 0801031784
Respondent Below-	§
Appellee.	§

Submitted: May 26, 2010

Decided: August 2, 2010

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

**ORDER**

This 2<sup>nd</sup> day of August 2010, 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 petitioner-appellant, David J. Buchanan, filed an appeal from the Superior Court’s April 13, 2010 order denying his petition for a writ of habeas corpus. The respondent-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.<sup>1</sup>

We agree and affirm.

(2) The record reflects that, in September 2008, Buchanan was found guilty by a Superior Court jury of Burglary in the Third Degree, Resisting Arrest, Criminal Contempt, 3 counts of Possession of a Firearm by a Person Prohibited, and 2 counts of Carrying a Concealed Deadly Weapon. On direct appeal, this Court reversed Buchanan's burglary conviction, but affirmed his remaining convictions.<sup>2</sup>

(3) In this appeal from the Superior Court's denial of his petition for a writ of habeas corpus, Buchanan claims that, as to his convictions of possession of a firearm by a person prohibited, the indictment does not adequately allege the grounds upon which he was a "prohibited person" pursuant to Del. Code Ann. tit. 11, §1448.

(4) In Delaware, the writ of habeas corpus provides relief on a very limited basis.<sup>3</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>4</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> Supr. Ct. R. 25(a).

<sup>2</sup> *Buchanan v. State*, 981 A.2d 1098, 1099-1100 (Del. 2009).

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

<sup>4</sup> *Id.*

felony, the species whereof is plainly and fully set forth in the commitment.”<sup>5</sup>

(5) In this case, Buchanan has not demonstrated that he is entitled to the issuance of a writ of habeas corpus. He was convicted and sentenced in the Superior Court, a court of competent jurisdiction, and there is no evidence that his commitment was facially defective. As such, the Superior Court properly denied Buchanan’s petition for a writ of habeas corpus.

(6) It is manifest on the face of the opening brief that the 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’s motion to affirm pursuant to Supreme Court Rule 25(a) is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele  
Chief Justice

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<sup>5</sup> Id. (quoting Del. Code Ann. tit. 10, §6902(1)).