

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DEVAN M. MILLS,	§	
	§	No. 144, 2001
Defendant Below,	§	
Appellant,	§	Court Below – Superior Court
	§	of the State of Delaware, in and
v.	§	for Kent County in C.A. No.
	§	01M-03-007.
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: July 24, 2001
Decided: August 21, 2001

Before **HOLLAND, BERGER** and **STEELE**, Justices.

ORDER

This 21st day of August 2001, it appears to the Court that:

(1) The appellant, Devan M. Mills, has filed this appeal from the Superior Court's denial of his petition for a writ of habeas corpus. The appellee, State of Delaware, has moved to affirm the judgment of the Superior Court on the ground that it is manifest on the face of Mills' opening brief that this appeal is without merit.

(2) Mills was found guilty by a Superior Court jury of two counts of Burglary in the Second Degree, Stalking, Lewdness, Harassment and

Misdemeanor Theft. Mills was declared a habitual offender and was sentenced to life in prison for one of his two burglary convictions. On direct appeal, this Court affirmed.¹

(3) In November 2000, Mills filed a *pro se* motion for postconviction relief in the Superior Court. Mills' motion was referred to a Superior Court Commissioner for proposed findings and recommendations. As directed by the Commissioner, Mills' former counsel filed an affidavit in response to the motion, and Mills and the Department of Justice filed briefs. Mills filed his final reply brief on April 4, 2001. The postconviction motion is pending before the Commissioner for decision.

(4) In this appeal from the denial of habeas corpus relief, Mills argues that (i) his trial counsel was ineffective, (ii) boots introduced into evidence at his trial were seized illegally, (iii) he did not qualify for sentencing as a habitual offender, and (iv) the trial judge committed judicial misconduct.

¹*Mills v. State*, Del. Supr., No. 159, 1999, , Berger, J., 2000 WL 1011059 (July 7, 2000) (ORDER).

(5) Mills’ contentions are not properly a matter subject to habeas corpus review. Habeas corpus is not a substitute for direct appeal or postconviction relief.² “Unlike its federal counterpart, the writ of habeas corpus under Delaware law provides relief on a very limited basis.”³ After a judgment of conviction and sentencing, “the only material fact to be ascertained upon a petition for a writ of habeas corpus is the existence of a judgment of conviction by a court of competent jurisdiction and a valid commitment of the prisoner to enforce the sentence.”⁴

(6) Both conditions are satisfied in this case. Mills was tried in a court of competent jurisdiction, was convicted of felony offenses, and was sentenced, as a habitual offender, to life in prison.⁵ Mills continues to be held pursuant to that valid commitment.

²See *Curran v. Woolley*, Del. Supr., 104 A.2d 771, 773 (1954) (on petition for writ of habeas corpus, prisoner may not obtain release by alleging trial errors).

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

⁴*Skinner v. State*, Del. Supr., 135 A.2d 612, 613 (1957) (citing *Curran*, 104 A.2d at 773).

⁵See Del. Const. art. IV, § 7 (establishing Superior Court as court of general jurisdiction); *Slater v. State*, Del. Supr., 606 A.2d 1334, 1337 (1992) (Superior Court has personal and subject matter jurisdiction over adults indicted for felony crimes).

(7) It is manifest on the face of Mills' opening brief that the appeal is without merit. The issues presented in this appeal are clearly controlled by settled Delaware law.

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

BY THE COURT:

/s/ Carolyn Berger
Justice