

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAY T. SMITH,	§
	§
Petitioner Below-	§ No. 493, 2000
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
RAPHAEL WILLIAMS, Warden	§ in and for New Castle County
M.P.C.J.F., EDITH	§ C.A. Nos. 00M-06-078
WASHINGTON, Records	§ 00M-09-007
Supervisor M.P.C.J.F., M. JANE	§
BRADY, Attorney General,	§
	§
Respondents Below-	§
Appellees.	§

Submitted: June 14, 2001

Decided: July 10, 2001

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

ORDER

This tenth day of July 2001, upon consideration of the briefs on appeal, the record below, the Superior Court's May 8, 2001 report following remand and the parties' supplemental memoranda, it appears to the Court that:

(1) The petitioner-appellant, Jay T. Smith, filed this appeal from a September 21, 2000 order of the Superior Court denying his petition for a writ of habeas corpus. Smith's fundamental complaint was that his short-

term release date was calculated improperly by the Department of Correction due to his premature release by the Board of Parole on March 15, 1999, which led to his subsequent parole violations, the revocation of his parole in January and May, 2000, his re-incarceration and the loss of his good time credits. By Order of this Court dated March 21, 2001, the matter was remanded to the Superior Court for consolidation for decision with Smith's petition for a writ of mandamus, which had been pending in the Superior Court since June 29, 2000, and for an evidentiary hearing to clarify Smith's short-term release date.¹ The Superior Court held an evidentiary hearing on May 4, 2001 and issued a written decision on May 8, 2001 denying Smith's petitions. The Superior Court's decision was correct and, accordingly, we AFFIRM.²

(2) Based upon his briefs on appeal and his supplemental memorandum following remand, Smith's claims can be fairly summarized as follows: a) because of his premature release from prison on March 15,

¹*Smith v. Williams et al.*, Del. Supr., No. 493, 2000, Holland, J., 2001 WL 292608 (Mar. 21, 2001) (ORDER).

²Smith filed a motion to compel in this Court on June 6, 2001. On June 14, 2001, the Clerk directed appellees' to file a response to the motion on or before June 25, 2001. On June 12, 2001, Smith wrote to the Court requesting that this matter be decided expeditiously in light of his impending release date. Based upon Smith's request for an expeditious decision, we deem his motion to compel to be withdrawn.

1999, he can not be held responsible for and should not have been punished for violations he committed after that date; b) the Board of Parole had no authority to revoke the good time to which he was entitled on his TIS sentences;³ and c) at the evidentiary hearing, the Superior Court improperly refused to admit into evidence a copy of an August 31, 2000 sentence status report from the Multi-Purpose Criminal Justice Facility. Smith asks this Court to reverse the decision of the Superior Court and order his immediate release from prison.

(3) There is no merit to Smith's first claim. Having received a windfall from an apparent error by the Department of Correction that led to his early release, Smith now claims entitlement to another windfall in the form of forgiveness for violations he admittedly committed after his premature release from prison. Public policy and common sense will not permit such an absurd and unjust result. Smith remained under the supervision of the Board of Parole following his premature release and was

³These are sentences imposed pursuant to the Truth in Sentencing Act of 1989, 11 *Del. C.*, Chap. 42. Smith was originally sentenced in 1986 prior to TIS. From 1993 to 1998 Smith was convicted of committing four separate felonies while released on parole and received TIS sentences for those convictions.

correctly held accountable by the Board of Parole for violations he committed during that time.⁴

(4) Smith's second claim is also without merit. Under Delaware law, the Board of Parole has the authority to revoke good time credits and re-incarcerate an individual who commits a violation while under its supervision, without regard to whether that individual was sentenced pursuant to TIS or pursuant to the previous sentencing statutes.⁵

(5) Smith's final claim is equally meritless. Our review of the transcript of the evidentiary hearing reflects that the Superior Court placed no limitation on the documents Smith sought to have admitted. At the end of the hearing, the Superior Court noted that all of Smith's sentence status reports had been attached to the Supreme Court briefs and, therefore, were already part of the record. When the Superior Court asked Smith if he wanted any additional documents to be admitted, he said "No." The document about which Smith complains does not contain any information that would alter the instant decision in any case.

⁴11 *Del. C.* § 4348; *Jackson v. State*, Del. Supr., 700 A.2d 1203, 1206 (1997).

⁵11 *Del. C.* § 4352.

(6) A writ of habeas corpus provides “an opportunity for one illegally confined or incarcerated to obtain judicial review of the jurisdiction of the court ordering the commitment.”⁶ A writ of mandamus is a command that may be issued by the Superior Court to an inferior court, public official or agency to compel the performance of a duty to which the petitioner has established a clear legal right.⁷ Smith’s meritless claims provide no basis for his release from prison since he is not being illegally confined and he has no legal right to be released.

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

BY THE COURT:
/s/ Randy J. Holland
Justice

⁶*Hall v. Carr*, Del. Supr., 692 A.2d 888, 891 (1997).

⁷*Clough v. State*, Del. Supr., 686 A.2d 158, 159 (1996).