

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DEAN M. CAMPBELL,	§	
	§	
Petitioner Below-	§	No. 408, 2003
Appellant,	§	
	§	
v.	§	Court Below---Superior Court
	§	of the State of Delaware,
	§	in and for New Castle County
RAPHAEL WILLIAMS et al.,	§	C. A. No. 03M-07-045
	§	
Respondents Below-	§	
Appellees.	§	

Submitted: January 16, 2004
Decided: February 17, 2004

Before **BERGER, STEELE** and **JACOBS**, Justices

ORDER

This 17th day of February 2004, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The petitioner-appellant, Dean M. Campbell, filed an appeal from the Superior Court's July 22, 2003 order denying his petition for a writ of habeas corpus. We find no merit to the appeal. Accordingly, we AFFIRM.

(2) In September 1993, Campbell pleaded guilty to Attempted Unlawful Delivery of a Non-Controlled Substance. He was sentenced to 8 years incarceration at Level V, to be suspended after 2 years for decreasing levels of probation. In March 2002, Campbell was found to have committed a VOP in connection with his 1993 sentence. His probation was revoked and he was given a

5-year, 6-month Level V sentence, to be suspended after 6 months for decreasing levels of probation.

(3) In March 2003, Campbell again was found to have committed a VOP in connection with his 1993 sentence. His probation was revoked and he was given a 4-year Level V sentence, to be suspended after 2 years for probation. Campbell did not file a direct appeal. In June 2003, Campbell filed a motion for sentence modification and, when that motion was denied, a petition for a writ of habeas corpus. On July 2, 2003, the Superior Court denied Campbell's petition for a writ of habeas corpus. Campbell appeals from the denial of his habeas corpus petition.

(4) On July 21, 2003, Campbell filed another motion for sentence modification and another petition for a writ of habeas corpus. The Superior Court granted the sentence modification motion, permitting Campbell to move to Level IV probation after 9 months rather than 2 years, but denied Campbell's petition for a writ of habeas corpus.

(5) In this appeal, Campbell claims that: a) there was insufficient evidence presented at the March 2003 hearing to support a finding of a VOP; b) the Superior Court violated his due process rights in connection with the VOP

hearing;¹ c) the Superior Court abused its discretion by basing its findings on inaccurate information; d) his counsel provided ineffective assistance; e) his VOP sentence does not reflect proper credit for time spent at Level V; and f) he should have been provided with a transcript of the VOP hearing.

(6) In Delaware, the writ of habeas corpus provides relief on a very limited basis.² Habeas corpus offers an opportunity for one who is illegally confined or incarcerated to obtain judicial review of the jurisdiction of the court ordering the commitment.³ Habeas corpus relief is not available to persons “committed or detained on a charge of treason or felony, the species whereof is plainly and fully set forth in the commitment.”⁴

(7) In this case, the record reflects that Campbell is serving a sentence imposed by the Superior Court, which had jurisdiction to find a VOP and impose a VOP sentence.⁵ Because the record reflects that Campbell is being held pursuant to a valid commitment, he is not entitled to habeas corpus relief.⁶ Moreover, Campbell chose not to file a direct appeal from the Superior Court’s finding of a

¹ Super. Ct. Crim. R. 32.1(a).

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

³ *Id.*

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

⁵ Del. Code Ann. tit. 11, §§ 4302(6) and 4334(c) (2001).

⁶ *Maxion v. State*, 686 A.2d 148, 151 (Del. 1996).

VOP or the VOP sentence. The extraordinary writ process may not be used as a substitute for a direct appeal.⁷

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

BY THE COURT:

/s/ Myron T. Steele
Justice

⁷ *In re Barbee*, 693 A.2d 317, 319 (Del. 1997).