

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MICHAEL A. SAMUEL,	§	
	§	No. 485, 2000
Petitioner-Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware,
v.	§	in and for Kent County
	§	C.A. No. 00M-09-004
STATE OF DELAWARE,	§	
	§	
Respondent-Below,	§	
Appellee.	§	

Submitted: October 10, 2000

Decided: November 8, 2000

Before **VEASEY, Chief Justice, BERGER and STEELE**, Justices.

ORDER

This 8th day of November 2000, it appears to the Court that:

(1) The appellant, Michael A. Samuel, has filed this appeal from the Superior Court’s denial of Samuel’s 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 Samuel’s opening brief that the appeal is without merit.¹

¹ The Court has not considered Samuel’s unsolicited “Respon[se] to State’s Motion to Affirm” that was filed on November 3, 2000. See Supr. Ct. R. 25(a) (providing that “there shall be no briefing, argument or response to the motion [to affirm], unless requested by the Court”).

(2) On December 6, 1999, Samuel was indicted on the following five charges stemming from an alleged shoplifting incident at Dover Cigarette and Tobacco on October 16, 1999: (i) Possession of a Deadly Weapon During the Commission of a Felony (i.e., Aggravated Menacing); (ii) Aggravated Menacing; (iii) Possession of a Deadly Weapon by a Person Prohibited; (iv) Carrying a Concealed Deadly Weapon; and (v) Shoplifting.² At his arraignment on December 16, 1999, Samuel waived the reading of the indictment, entered a plea of not guilty, and demanded a jury trial.

(3) On January 3, 2000, Samuel was indicted on the same five charges as well as on two additional felony charges: First Degree Robbery and Possession of a Deadly Weapon During the Commission of a Felony (i.e., First Degree Robbery).³ At his arraignment on January 13, 2000, Samuel waived the reading of the January 3 indictment, entered a plea of not guilty, and demanded a jury trial.

(4) On March 6, 2000, Samuel pleaded guilty, pursuant to Superior Court Criminal Rule 11(e)(1)(C), to the charges of First Degree Robbery and Possession of a Deadly Weapon During the Commission of a

² *State v. Samuel*, Del. Super., Cr.A.Nos. IK99-10-0565-0569.

Felony. Samuel agreed to serve 12 years at Level V, suspended after four years minimum mandatory incarceration, for three years at Level III probation, followed by two years at Level II probation. On the same date, the State entered a *nolle prosequi* on the remaining ten charges in the December 1999 and January 2000 indictments.

(5) Samuel did not file a direct appeal from his March 6 conviction and sentence. On September 6, 2000, however, Samuel filed a petition for a writ of habeas corpus in the Superior Court. By order dated September 8, 2000, the Superior Court summarily denied habeas corpus relief, holding that Samuel's March 6 commitment was regular on its face.

(6) In his habeas corpus petition in the Superior Court and now in his opening brief on appeal, Samuel alleges that the Superior Court lacked subject matter jurisdiction over Counts 6 and 7, i.e., First Degree Robbery and Possession of a Deadly Weapon During the Commission of a Felony, as charged in the January 3 indictment. Samuel contends that, without subject matter jurisdiction, the Superior Court was without authority to accept his guilty plea to those charges. Furthermore, Samuel alleges that

³ *State v. Samuel*, Del. Super., Cr.A.Nos. IK00-01-0009-0015.

the State's January 2000 indictment of him on the additional charges was vindictive prosecution and coerced him into entering his guilty plea.

(7) A writ of habeas corpus under Delaware law provides relief on a very limited basis.⁴ Habeas corpus provides only "an opportunity for one illegally confined or incarcerated to obtain judicial review of the jurisdiction of the court ordering the commitment."⁵ Habeas corpus is not a substitute for a direct appeal or for postconviction relief.⁶

(8) In this case, contrary to Samuel's contention, it appears that the Superior Court had subject matter jurisdiction over Counts 6 and 7, i.e., First Degree Robbery and Possession of a Deadly Weapon During the Commission of a Felony, as charged in the January 3 indictment.⁷ The Superior Court thus had the authority to accept Samuel's guilty plea to those offenses. The Superior Court's commitment of Samuel to the custody of the Department of Correction to serve a prison sentence for the conviction is valid on its face, and Samuel continues to be held pursuant to that valid commitment. Consequently, Samuel is not entitled to habeas corpus relief.

⁴ *Hall v. Carr*, Del. Supr., 692 A.2d 888, 891 (1997).

⁵ *Id.*

⁶ *Curran v. Woolley*, Del. Supr., 104 A.2d 771, 773 (1954).

⁷ DEL. CONST. art. IV, § 7; 11 *Del. C.* 2701(c); 10 *Del. C.* § 541.

(9) It is manifest on the face of Samuel's 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/ Myron T. Steele
Justice