

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WILLIAM FRANCIS,	§	
	§	
Petitioner Below-	§	No. 8, 2004
Appellant,	§	
	§	
v.	§	Court Below---Superior Court
	§	of the State of Delaware,
	§	in and for New Castle County
STATE OF DELAWARE,	§	C.A. No. 03M-12-060
	§	
Respondent Below-	§	
Appellee.	§	

Submitted: May 25, 2004
Decided: July 19, 2004
Corrected: September 15, 2004

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

ORDER

This 19th day of July 2004, 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, William Francis, filed an appeal from the Superior Court's December 22, 2003 order denying his petition for a writ of habeas corpus. The respondent-appellee, the State of Delaware, has moved to affirm the judgment of the Superior Court on the ground that it is manifest on the face of Francis' opening brief that the appeal is without merit.¹ We agree and AFFIRM.

¹ Supr. Ct. R. 25(a).

(2) In July 1991, Francis pleaded guilty to Conspiracy in the First Degree and Possession of a Deadly Weapon During the Commission of a Felony. He was sentenced to a total of 12 years incarceration at Level V, to be suspended after 6 years for probation. After being sentenced by the Superior Court, Francis was sent to federal prison to serve a federal sentence prior to returning to Delaware to serve his state sentences.

(3) In this appeal, Francis claims that he is entitled to immediate release because the Superior Court sentencing order required him to serve his Delaware sentences prior to serving his federal sentence and because the original release date of March 14, 2001 on his Delaware sentences was never changed and has now expired.

(4) In Delaware, the writ of habeas corpus provides relief on a very limited basis.² 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.”³ “Habeas corpus relief is not available to ‘[p]ersons committed or detained on a charge of treason or felony, the species whereof is plainly and fully set forth in the commitment.’”⁴

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

³ *Id.*

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

(5) In this case, there is no evidence that the charges to which Francis pleaded guilty were not facially valid or that there was any jurisdictional defect. Moreover, there is no legal support for Francis' argument that he was required to serve his Delaware sentences prior to serving his federal sentence and that he is entitled to immediate release because the expiration date on those sentences has already passed.⁵ As such, habeas corpus relief is not available to Francis and the Superior Court properly so determined.

(6) It is manifest on the face of Francis' opening brief that this 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, clearly there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that, pursuant to Supreme Court Rule 25(a), the State of Delaware's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.⁶

BY THE COURT:

Chief Justice

⁵ The statutes cited by Francis govern only Delaware sentences.

⁶ In connection with his opening brief, Francis also filed a motion to compel requesting the State to supply him with a copy of each out-of-state case cited in its answering brief on the ground that inmates do not have access to out-of-state cases. Rather than filing an answering brief, however, the State filed a motion to affirm, which is decided on the basis of settled Delaware law. In the absence of any discernible prejudice to Francis due to his lack of access to out-of-state cases, his motion to compel is denied.

