

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DONALD W. WALKER,	§
	§
Defendant Below-	§ No. 249, 2004
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ C.A. No. 04M-05-015
Plaintiff Below-	§ Cr. ID 0208007855
Appellee.	§

Submitted: July 8, 2004
Decided: September 7, 2004

Before **STEELE**, Chief Justice, **HOLLAND**, and **JACOBS**, Justices.

ORDER

This 7th day of September 2004, upon consideration of the appellant's opening brief, the State's motion to affirm, and the record below, it appears to the Court that:

(1) The defendant-appellant, Donald Walker, filed this appeal from the Superior Court's order denying his petition for a writ of habeas corpus. The Superior Court summarily denied Walker's petition on the ground that Walker is being legally detained. We agree and affirm.

(2) The record reflects that Walker pled guilty in November 2002 to one count of first degree reckless endangering. The Superior Court sentenced him in January 2003 to five years at Level V incarceration, to be

suspended after serving three years, suspended in turn upon successful completion of the Key Program for one year at Level IV Crest Program, to be suspended upon successful completion of Crest for nine months at Level III Crest Aftercare. Walker filed several motions to modify his sentence, which were denied. He did not appeal the denial of any of those motions.

(3) Instead, Walker filed a petition seeking habeas corpus relief. Walker's petition alleged that he is unable to complete the Key/Crest portions of his sentence because the Key Program will not accept him due to an outstanding detainer that Maryland authorities have lodged against him for a parole violation. The Superior Court summarily dismissed Walker's petition. This appeal followed.

(4) The Court has reviewed the parties' respective positions carefully. We find it manifest that the judgment of the Superior Court must be affirmed. The writ of habeas corpus under Delaware law provides relief on a very limited basis.¹ Pursuant to Section 6902 of Title 10 of the Delaware Code, habeas corpus relief is not available to a petitioner who is "committed or detained on a charge of treason or felony, the species whereof

¹ *Hall v. Carr*, 692 A.2d 888, 891 (Del. 1997).

is plainly and fully set forth in the commitment.”² Walker does not contend, nor could he contend, that his present confinement at Level V is illegal. The Superior Court properly sentenced Walker to five years at Level V. Although the Superior Court allowed for the suspension of Walker’s Level V sentence if he successfully completed the Key Program, Walker’s subsequent ineligibility to participate in the Key Program due to the Maryland detainer does not render his commitment to Level V invalid. In this case, Walker’s commitment is proper on its face. Accordingly, we find no error in the Superior Court’s summary dismissal of his petition.

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

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

² 10 Del. C. § 6902 (1999).