

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BRIAN WARREN,	§	
	§	
Petitioner Below-	§	No. 441, 2004
Appellant,	§	
	§	
v.	§	Court Below---Superior Court
	§	of the State of Delaware,
	§	in and for Kent County
STATE OF DELAWARE,	§	C.A. No. 04M-09-016
	§	
Respondent Below-	§	
Appellee.	§	

Submitted: October 22, 2004

Decided: December 17, 2004

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

ORDER

This 17th day of December 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, Brian Warren, filed an appeal from the Superior Court's September 29, 2004 order dismissing 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 Warren's opening brief that the appeal is without merit.¹ We agree and AFFIRM.

(2) The record reflects that Warren pleaded guilty to a felony drug charge on March 12, 1999 and was sentenced to a term of Level V imprisonment, to be followed by probation. Warren was found in violation of his probation on three separate occasions between that date and January 30, 2004. The Superior Court docket also reflects that Warren filed six unsuccessful petitions for a writ of habeas corpus, as well as two unsuccessful motions for sentence reduction, in the Superior Court before filing the petition for a writ of habeas corpus that resulted in the instant appeal.

(3) In this appeal, Warren claims that he has not been credited with 8 months of Level V time he previously served. He requests credit for this Level V time and immediate release. Warren does not provide any documentation in support of his allegation.

(4) In Delaware, the writ of habeas corpus affords 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

¹ Supr. Ct. R. 25(a).

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

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

(5) Warren has presented no evidence that the felony drug charge to which he pleaded guilty was not valid on its face or that there were any jurisdictional defects. We, thus, find no abuse of discretion on the part of the Superior Court in dismissing Warren’s repetitive habeas corpus petition.⁵

(6) It is manifest on the face of Warren’s opening brief that this appeal is without merit because the issues presented on appeal are controlled by Delaware law and, to the extent that judicial discretion is implicated, clearly there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that the State of Delaware’s motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

³ Id.

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

⁵ *Desmond v. State*, Del. Supr., No. 692, 2002, Holland, J. (Mar. 20, 2003).