

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES CHRISTOPHER	§	
DEANGELO,	§	No. 255, 2004
	§	
Defendant Below,	§	Court Below–Superior Court of
Appellant,	§	the State of Delaware in and for
	§	New Castle County in C.A. No.
v.	§	04M-02-070.
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	
Appellee.	§	Def. ID No. 9903023368

Submitted: February 18, 2005

Decided: March 22, 2004

Before **HOLLAND, BERGER** and **JACOBS**, Justices.

ORDER

This 22nd day of March 2005, upon consideration of the briefs of the parties, it appears to the Court that:

(1) In April 1999, the appellant, James Christopher DeAngelo was indicted on one count of Murder in the First Degree and one count of Possession of a Deadly Weapon During the Commission of a Felony (PDWDCF). In May 2000, a Superior Court jury found DeAngelo guilty of Murder in the Second Degree and PDWDCF. For the second degree murder conviction, the Superior Court sentenced DeAngelo, in June 2000, to twenty years at Level V, suspended after fifteen years for five years of probation. For

PDWDCF, the Superior Court sentenced DeAngelo to fifteen years at Level V.¹

(2) On direct appeal, the Court affirmed DeAngelo's conviction for Murder in the Second Degree and reversed, as time-barred, the conviction for PDWDCF.² The Court remanded the case to the Superior Court for resentencing on the second degree murder conviction.³ On remand, the Superior Court resentenced DeAngelo to twenty years for the murder conviction.⁴ DeAngelo appealed.

(3) In his opening brief on appeal from the Superior Court resentencing, DeAngelo raised errors that allegedly occurred during his trial. He did not, however, challenge the resentencing order. Thus, "[i]n the absence of any challenge by DeAngelo to the Superior Court's resentencing order," this Court affirmed.⁵

¹*State v. DeAngelo*, Del. Super., Cr. A. Nos. IN99-04-1179W (Murder in the Second Degree), IN99-04-1180W (PDWDCF), Cr. ID No. 9903023368, Cooch, J. (June 16, 2000).

²*DeAngelo v. State*, 2002 WL 714294 (Del. Supr.).

³*Id.* at **5 (“[a]fter a related sentence has been vacated on appeal, a trial judge may resentence a defendant up to the combined duration of the original sentences without violating the constitutional prohibition against double jeopardy” (quoting *White v. State*, 576 A.2d 1322, 1328 (Del. 1990))).

⁴*State v. DeAngelo*, 2002 WL 1308359 (Del. Super. Ct.).

⁵*DeAngelo v. State*, 2003 WL 21321719, at **1 (Del. Supr.).

(4) In February 2004, DeAngelo filed in the Superior Court a petition for a writ of habeas corpus. DeAngelo contended that his continued confinement was illegal in view of the alleged errors that occurred during his trial and other errors that allegedly occurred at his sentencings and on appeal. He urged the Superior Court to exercise its inherent power to vacate, modify or set aside the conviction and sentence.

(5) By order dated March 3, 2004, the Superior Court denied DeAngelo's petition for a writ of habeas corpus. This appeal followed.

(6) In his appeal from the denial of habeas corpus relief, DeAngelo raises the same claims that he made in his habeas corpus petition. He also raises several additional claims, all of which stem from his trial, sentencings, and appeals. We find no error in the Superior Court's denial of habeas corpus relief. Accordingly, we affirm.

(7) Under well-settled Delaware law, the writ of habeas corpus is available only to ensure that the prisoner is held pursuant to a legally valid

commitment issued by a court of competent jurisdiction.⁶ Habeas corpus is not a substitute for postconviction relief.⁷

(8) In this case, the Superior Court did not err in summarily denying DeAngelo's habeas corpus petition. DeAngelo was convicted by a court of competent jurisdiction and is serving a term of imprisonment on a valid commitment that has not expired.

(9) DeAngelo is not entitled to habeas corpus relief. Nonetheless, DeAngelo has raised, and the State has acknowledged, a legitimate concern with respect to the status of his sentence in the Department of Correction's records. From the Offender Status Sheet dated June 26, 2002, that is included in DeAngelo's appendix, it appears that the Department of Correction (DOC) has *not* removed either DeAngelo's conviction for PDWDCF that was reversed by this Court on direct appeal or the attendant fifteen-year sentence that was vacated by that reversal. To resolve this apparent confusion in the DOC's records, the Court will, as the State suggests, remand DeAngelo's appeal to the

⁶*Hall v. Carr*, 692 A.2d 888, 891 (Del. 1997); *Curran v. Woolley*, 104 A.2d 771, 773 (Del. 1954).

⁷*See* Super. Ct. Crim. R. 61(a)(2) (providing in part that "the [postconviction] remedy may not be sought by a petition for a writ of habeas corpus"); *Ingram v. State*, 2002 WL 86748 (citing *Curran v. Woolley*, 104 A.2d 771, 773 (Del. 1954)).

Superior Court for the entry of an order that expressly vacates the PDWDCF conviction and the fifteen-year sentence that was imposed for that conviction.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is hereby AFFIRMED. This matter is remanded to the Superior Court for the entry of an order that expressly vacates the conviction for PDWDCF in *State v. DeAngelo*, Cr. A. No. IN99-04-1180, Cr. ID No. 9903023368, and the attendant fifteen-year sentence that was imposed on June 16, 2000. Jurisdiction is not retained.

BY THE COURT:

/s/ Carolyn Berger
Justice