

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LARRY O. PIERCE,	§	
	§	
Petitioner Below,	§	
Appellant,	§	No. 400, 1999
	§	
v.	§	Court Below: Superior Court
	§	of the State of Delaware, in and
STATE OF DELAWARE,	§	for Kent County in C.A. No.
	§	99M-08-022.
Respondent Below,	§	
Appellee.	§	

Submitted: January 7, 2000
Decided: February 29, 2000

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

ORDER

This 29th day of February 2000, it appears to the Court that:

(1) The appellant, Larry O. Pierce (“Pierce”), has filed this appeal from the Superior Court’s denial of Pierce’s petition for a writ of habeas corpus. The appellee, State of Delaware (“State”), has moved to affirm the judgment of the Superior Court on the ground that it is manifest on the face of Pierce’s opening brief that the appeal is without merit.¹

¹ On January 12, 2000, Pierce filed a response to the State’s motion to affirm. A response, however, is not permitted to a motion to affirm unless requested by the Court. Supr. Ct. R. 25(a). Accordingly, Pierce’s response was not considered by the Court.

(2) On September 21, 1992, Pierce pled guilty in the Kent County Superior Court to two felony offenses and was sentenced.² Pierce was found guilty of violating his probation in February 1995, January 1998, and December 1998. In December 1998, Pierce was sentenced to two years at Level V, suspended after successful completion of the Key Program, for six months at Level III.

(3) In January 1999, Pierce pleaded guilty in the Sussex County Superior Court to a felony offense. Pierce was sentenced to serve six months at Level V.³

(4) In February 1999, Pierce filed a motion for postconviction relief in the Kent County Superior Court. It appears from the Superior Court docket that, as of February 17, 2000, the postconviction motion is pending before a Superior Court Commissioner for report and recommendation.

(5) On August 24, 1999, Pierce filed a petition for a writ of habeas corpus in the Superior Court. Pierce's petition complained that neither his former counsel nor the Department of Justice had complied with the Superior Court's scheduling deadlines in Pierce's postconviction case. By order dated

² *State v. Pierce*, Del. Super., Cr. A. Nos. PK92-08-0155I, 0158I.

³ *State v. Pierce*, Del. Super., Cr. A. No. IS98-12-0645.

August 25, 1999, the Superior Court denied Pierce's petition. This appeal followed.

(6) In his opening brief on appeal, Pierce argues the underlying merit of his postconviction application and renews his complaints about his opposing parties' noncompliance with the Superior Court's scheduling deadlines in the postconviction case. Neither of Pierce's contentions is properly a matter subject to habeas corpus review.

(7) Under Delaware law, the writ of habeas corpus provides relief on a very limited basis. "Habeas corpus provides an opportunity for one illegally confined or incarcerated to obtain judicial review of the jurisdiction of the court ordering the commitment."⁴

(8) It appears from the record that Pierce was tried in courts of competent jurisdiction, was convicted of felony offenses, and was sentenced, in December 1998 and January 1999, to terms of incarceration. It appears that Pierce continues to be held pursuant to those valid commitments.

⁴ *Hall v. Carr*, Del. Supr., 692 A.2d 888, 891 (1997) (citing *In re Pitt*, Del. Supr., 541 A.2d 554, 557 (1988)).

(9) It is manifest on the face of Pierce'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/ E. Norman Veasey
Chief Justice