

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ARSON I. GIBBS,	§
	§
Defendant Below-	§ No. 299, 2005
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ Cr. ID 0404009981
Plaintiff Below-	§
Appellee.	§

Submitted: September 1, 2005

Decided: November 1, 2005

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

**ORDER**

This 1<sup>st</sup> day of November 2005, upon consideration of the opening brief, the State's motion to affirm, and the record below, it appears to the Court that:

(1) The defendant-appellant, Arson Gibbs, filed this appeal from the Superior Court's denial of his petition for habeas corpus. The State of Delaware has filed a motion to affirm the Superior Court's judgment on the ground that it is manifest on the face of Gibbs' opening brief that the appeal is without merit. We agree and affirm.

(2) The record reflects that Gibbs was indicted in July 2004 in two separate bills of indictment with multiple counts of forgery and theft. He

subsequently was reindicted in a consolidated indictment in March 2005. He was convicted in July 2005, following a Superior Court bench trial, of five counts of forgery and five counts of theft. Gibbs had filed a petition for a writ of habeas corpus in June 2005, which the Superior Court summarily dismissed on the ground that Gibbs was lawfully detained in default of bail.

(3) The Superior Court's decision is manifestly correct. Under state law, a writ of habeas corpus is not available to any person who is committed or detained on a felony charge, "the species whereof is plainly and fully set forth in the commitment."\* Gibbs was being lawfully held on felony charges in default of bail. Accordingly, he was not entitled to habeas corpus relief.

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

BY THE COURT:

/s/ Myron T. Steele  
Justice

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\* 10 Del. C. § 6902(1).