

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WESLEY K. WINWARD,	§
	§ No. 322, 2005
Petitioner Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
THOMAS CARROLL, Warden,	§ in and for New Castle County
Delaware Correctional Center,	§ C.A. No. 05M-06-080
	§
Respondent Below-	§
Appellee.	§

Submitted: January 27, 2006

Decided: April 4, 2006

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

**ORDER**

This 4<sup>th</sup> day of April 2006, upon consideration of the parties' briefs and the record on appeal, it appears to the Court that:

(1) The appellant, Wesley Winward, filed this appeal from the Superior Court's denial of his petition for a writ of habeas corpus. Winward sought the writ on the ground that the Department of Correction had miscalculated his short-term prison release date. Therefore, Winward argued, he had spent more time at Level V incarceration than the Court of Common Pleas' sentencing order required. We find no merit to Winward's appeal. Accordingly, we affirm the Superior Court's judgment.

(2) The record reflects that Winward pled guilty on November 21, 2002 to one count of shoplifting. The Court of Common Pleas in Kent County sentenced him to one year at Level V incarceration to be suspended after serving ten days for probation. In January 2003, Winward was arrested on new criminal charges and subsequently was charged with a violation of the probation (VOP) associated with the shoplifting sentence. On March 18, 2003, the Court of Common Pleas sentenced him on the VOP charge to one year at Level V to be suspended upon successful completion of the short-term Key Program for Level IV Crest. In September 2003, Winward pled guilty to one count of second degree burglary. The Superior Court sentenced him to five years at Level V to be suspended after serving two years for Level IV and decreasing levels of supervision. Winward began serving the Level IV portion of his sentence on July 27, 2005 while being held at Level V. When space became available, Winward was transferred to the Central Violation of Probation Center on August 5, 2005.

(3) Winward filed his petition for a writ of habeas corpus in June 2005. He asserted that the Department of Correction had miscalculated his short-term release date by two months. The Superior Court denied the writ on the ground that Winward was being legally detained pursuant to the Superior Court's sentencing order.

(4) Unlike its federal counterpart, the writ of habeas corpus under Delaware law provides relief on a very limited basis.<sup>1</sup> Habeas review provides an opportunity for one illegally detained to challenge the jurisdiction of the court ordering the commitment.<sup>2</sup> A writ of habeas corpus is not available to any person “committed or detained on a charge of treason or felony, the species whereof is plainly and fully set forth in the commitment.”<sup>3</sup> It is clear in this matter that Winward is not challenging the jurisdiction of the trial courts to sentence him. Accordingly, we find no error in the Superior Court’s denial of habeas relief.<sup>4</sup>

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

BY THE COURT:

/s/ Jack B. Jacobs  
Justice

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

<sup>2</sup> *In re Pitt*, 541 A.2d 554, 557 (Del. 1988).

<sup>3</sup> 10 Del. C. § 6902(1).

<sup>4</sup> *See Curran v. Wooley*, 104 A.2d 771, 773 (Del. 1954).