

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WARDELL GILES,	§
	§ No. 453, 2006
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Sussex County
STATE OF DELAWARE,	§ C.A. No. 06M-07-014
	§
Plaintiff Below-	§
Appellee.	§

Submitted: February 9, 2007

Decided: March 15, 2007

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices

ORDER

This 15th day of March 2007, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Wardell Giles, filed an appeal from the Superior Court's July 21, 2006, order denying his petition for a writ of habeas corpus. We find no merit to the appeal. Accordingly, we affirm.

(2) In December 2001, Giles pleaded guilty to Robbery in the Second Degree and Conspiracy in the Second Degree. On the robbery conviction, he was sentenced to five years of Level V incarceration, to be suspended after successful completion of the Key Program for decreasing

levels of probation. On the conspiracy conviction, he was sentenced to two years of Level V incarceration, to be suspended for Level III probation.

(3) In April 2004, the Superior Court found that Giles had committed a violation of probation (“VOP”) and sentenced him on the robbery conviction to 1½ years at Level V, to be suspended for decreasing levels of probation and on the conspiracy conviction to two years at Level V, to be suspended for one year at Level III.

(4) In September 2004, the Superior Court again found that Giles had committed a VOP and sentenced him on the robbery conviction to six months at Level V, with the balance of the sentence suspended and discharged as unimproved, and on the conspiracy conviction to two years at Level V, to be suspended after successful completion of Boot Camp for one year at Level III.

(5) Giles subsequently was discharged from Boot Camp for disciplinary reasons. In April 2005, the Superior Court re-imposed his two-year sentence for conspiracy, suspending it after successful completion of the Greentree Program for six months of Level III Aftercare.

(6) Giles was found to have committed a third VOP in July 2006. He was sentenced on the conspiracy conviction to four months at Level V, to be suspended for four months at the VOP Center, to be followed by

discharge. The Superior Court modified that sentence *sua sponte* a few days later to provide Giles with credit for time served. Giles filed a petition for a writ of habeas corpus in the Superior Court challenging his sentence. In an order dated July 21, 2006, the Superior Court denied the petition on the ground that its *sua sponte* modification of Giles' sentence rendered his petition moot.

(7) In this appeal, Giles claims that he was not on probation at the time he was found to have committed his third VOP because he had already served his entire two-year Level V sentence for conspiracy, thereby rendering his July 2006 VOP sentence invalid on its face.

(8) In Delaware, the writ of habeas corpus provides relief on a very limited basis.¹ Habeas corpus only provides “an opportunity for one illegally confined or incarcerated to obtain judicial review of the jurisdiction of the court ordering the commitment.”² “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.’”³

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

² *Id.*

³ *Id.* (quoting Del. Code Ann. tit. 10, § 6902(1)).

(9) The record reflects that Giles was serving a six-month period of Level III Aftercare at the time he committed his third VOP. In April 2005, the Superior Court had re-imposed his two-year Level V sentence for conspiracy and added a six-month period of probation, which was mandated under Delaware law.⁴ Thus, because Giles has failed to demonstrate that his commitment was irregular on its face or that the Superior Court lacked jurisdiction to sentence him, he is not entitled to habeas corpus relief.⁵

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

BY THE COURT:

/s/ Randy J. Holland
Justice

⁴ Del. Code Ann. tit. 11, § 4204(l).

⁵ It also appears that Giles may already have been released from the VOP Center, which would render his petition moot. *Taylor v. State*, Del. Supr., No. 378, 2002, Holland, J. Nov. 4, 2002).