

IN THE SUPREME COURT OF THE STATE OF DELAWARE

VARIS R. AIZUPITIS,	§
	§
Petitioner Below-	§ No. 149, 2007
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ C.A. No. 07M-03-044
Respondent Below-	§ Cr. ID 9507001267
Appellee.	§

Submitted: June 17, 2007

Decided: August 20, 2007

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

ORDER

This 20th day of August 2007, upon consideration of the appellant’s opening brief, the State’s motion to affirm, and the record below, it appears to the Court that:

(1) The appellant, Varis Aizupitis, filed this appeal from the Superior Court’s order denying his petition for a writ of habeas corpus. The State has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Aizupitis’ opening brief that the appeal is without merit. We agree and affirm.

(2) The record reflects that, in 1996, a Superior Court jury found Aizupitis guilty but mentally ill of first degree murder and possession of a

firearm during the commission of a felony. This Court affirmed his convictions on direct appeal.¹ Since that time, Aizupitis has been confined at the Delaware Psychiatric Center, consistent with 11 Del. C. § 408. In February 1999, Aizupitis filed a motion for postconviction relief. Based on a psychiatric evaluation performed in October 1999, the Superior Court determined that Aizupitis was not competent to proceed in the postconviction proceedings. In September 2001, the Superior Court ordered a subsequent competency evaluation. The trial court stayed disposition of the matter, however, until Aizupitis agreed to be examined by an additional psychiatrist. In March 2007, Aizupitis filed a petition for a writ of habeas corpus seeking review of the Superior Court's determination that he was not competent. The Superior Court denied the writ, and this appeal followed.

(3) In Delaware, the writ of habeas corpus provides relief on a very limited basis.² Pursuant to Section 6902 of Title 10 of the Delaware Code, habeas corpus relief is not available to a petitioner who is “committed or detained on a charge of treason or felony, the species whereof is plainly and fully set forth in the commitment.”³ In this case, a Superior Court jury

¹ *Aizupitis v. State*, 699 A.2d 1092 (Del. 1997).

² *Hall v. Carr*, 692 A.2d 88, 891 (Del. 1997).

³ DEL. CODE. ANN. tit. 10, § 6902 (1999).

found Aizupitis guilty but mentally ill. His commitment to the Delaware Psychiatric Center, therefore, is valid on its face.⁴ To the extent Aizupitis seeks to challenge his continued commitment to the psychiatric center, the Superior Court has jurisdiction to review such a challenge under 11 Del. C. § 408(c) without invoking the writ process.

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

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

⁴ 11 Del. C. § 408(b).