

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHRISTOPHER R. DESMOND,	§
	§
Petitioner Below-	§ No. 341, 2001
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
ROBERT SNYDER, Warden, Delaware	§ in and for New Castle County
Correctional Center and M. JANE	§ C.A. No. 01M-06-055
BRADY, Attorney General, State of	§
Delaware,	§
	§
Respondents Below-	§
Appellees.	§

Submitted: August 30, 2001
Decided: October 16, 2001

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

ORDER

This 16th day of October 2001, upon consideration of the appellant's opening brief and the appellee's motion to affirm,¹ it appears to the Court that:

(1) The petitioner-appellant, Christopher R. Desmond, filed this appeal from the July 2, 2001 order of the Superior Court denying his petition for a writ of habeas corpus. The State of Delaware, as the real party in interest, has moved to affirm the judgment of the Superior Court on the ground that it is manifest on

¹The appellant's reply brief responding to the motion to affirm, which was not requested by the Court, is hereby stricken. Supr. Ct. R. 25(a).

the face of Desmond's opening brief that the appeal is without merit.² We agree and AFFIRM.

(2) In 1992, Desmond was convicted by a Superior Court jury of ten counts of Robbery in the First Degree, ten counts of Possession of a Deadly Weapon During the Commission of a Felony, two counts of Conspiracy in the Second Degree, three counts of Possession of a Deadly Weapon by a Person Prohibited, three counts of Felony Theft and one count of Escape in the Third Degree. Desmond was sentenced to 70 years incarceration at Level V. This Court affirmed Desmond's convictions and sentences on direct appeal.³ This Court also denied Desmond's two subsequent motions for post-conviction relief.⁴

(3) In this appeal, Desmond claims that he is entitled to habeas corpus relief because the Superior Court denied his constitutional right to self-representation and the Superior Court judge's bias at trial deprived him of due process.

²Supr. Ct. R. 25(a).

³*Desmond v. State*, Del. Supr., 654 A.2d 821 (1994) (en banc).

⁴*Desmond v. State*, Del. Supr., No. 487, 1995, Berger, J., 1996 WL 145818 (Mar. 8, 1996) (ORDER); *Desmond v. State*, Del. Supr., No. 5, 2001, Berger, J., 2001 WL 257803 (Mar. 8, 2001) (ORDER).

(4) In Delaware, the writ of habeas corpus provides relief on a very limited basis.⁵ 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.”⁶ “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.’”⁷

(5) Desmond has presented no evidence indicating the Superior Court lacked jurisdiction to convict and sentence him; indeed he has made no such allegation. As such, habeas corpus relief is not available to Desmond and the Superior Court was correct in so deciding.

(6) It is manifest on the face of Desmond’s opening brief that the appeal from the Superior Court’s July 2, 2001 order is without merit because the issues presented on appeal clearly are controlled by settled law and, to the extent that judicial discretion is implicated, clearly there was no abuse of discretion.

⁵*Hall v. Carr*, Del. Supr., 692 A.2d 888, 891 (1997).

⁶*Id.*

⁷*Id.* (quoting 10 Del. C. § 6902(1)).

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/ Myron T. Steele
Justice