

2. Petitioner has filed a petition for a Writ of Habeas Corpus requesting that his sentence as to IN96-01-0681 be vacated in accordance with Delaware Supreme Court's ruling in *Nave v. State of Delaware*, 783 A.2d 120 (Del. 2001).
3. The ruling in *Nave* however, is not relevant to Defendant's situation, since Defendant's sentence was never corrected *sua sponte* by the Superior Court without first affording Defendant the opportunity to appear before the Court. Also, the Superior Court never suspended any part of Drummond's original sentence for which it lacked authority under 11 *Del. C.* § 4214(a).
4. There is nothing in 11 *Del. C.* 1447(c)¹, and 11 *Del. C.* 1447A(c)² referred to by the Defendant in his petition, that impacts Defendant's sentence.
5. Petitioner is therefore, being held pursuant to lawful orders as to IN96-01-0688.
6. In a habeas corpus proceeding, the only issues before the court are whether the judgment of conviction at issue was handed down by a court of competent jurisdiction and whether there is a valid commitment to enforce the sentence.³

When a prisoner's commitment is regular on its face, there can be no relief

¹11 *Del. C.* 1447(c) states: Any sentence imposed upon conviction for possession of a deadly weapon during the commission of a felony shall not run concurrently with any other sentence. In any instance where a person is convicted of a felony, together with a conviction for the possession of a deadly weapon during the commission of such felony, such person shall serve the sentence for the felony itself before beginning the sentence imposed for possession of a deadly weapon during such felony.

²11 *Del. C.* 1447A(c) states: A person convicted under subsection (a) of this section, and who has been at least twice previously convicted of a felony in this State or elsewhere, shall receive a minimum sentence of 5 years at Level V, notwithstanding the provisions of §§ 4205(b)(2) and 4215 of this title.

³*Curran v. Woolly*, Del. Supr., 104 A.2d 771, 773 (1954).

through habeas corpus.⁴ Petitioner's request does not fall within the ambit of
remedy afforded by a Writ of Habeas Corpus.

IT IS SO ORDERED.

The Honorable Richard S. Gebelein

orig: Prothonotary
cc: Mr. Mark A. Drummond - SCI
Sussex Correctional Institution - Records Dept.

⁴*Jones v. Anderson*, Del. Supr. 183 A.2d 177, 178 (1962).