

IN THE SUPREME COURT OF THE STATE OF DELAWARE

NELSON HOOVER,	§	
	§	No. 576, 2000
Petitioner Below,	§	
Appellant,	§	Court Below: Superior Court
	§	of the State of Delaware, in
v.	§	and for Sussex County, in
	§	C.A. No. 00M-10-011.
WARDEN ROBERT SNYDER,	§	
WARDEN RAPHAEL WILLIAMS,	§	
	§	
Respondents Below,	§	
Appellees.	§	

Submitted: April 6, 2001

Decided: May 9, 2001

Before **VEASEY**, Chief Justice, **WALSH** and **STEELE**, Justices.

ORDER

This 9th day of May 2001, it appears to the Court that:

(1) The appellant, Nelson Hoover, has filed this appeal from the Superior Court's denial of Hoover's petition for a writ of habeas corpus. The appellees, officials at the Department of Correction, have moved to affirm the judgment of the Superior Court on the ground that it is manifest on the face of Hoover's opening brief that the appeal is without merit.

(2) On August 9, 1996, Hoover pleaded guilty in the Sussex County Superior Court to resisting arrest and receiving stolen property.¹ On October 25, 1996, Hoover was sentenced, as a habitual offender on the charge of receiving stolen property, to eight months at Level V. For resisting arrest, the Superior Court sentenced Hoover to one year at Level V, suspended after completion of the New Hope Program. Hoover's sentence was ordered to start after he had completed a Kent County Superior Court sentence imposed on October 11, 1996.²

(3) On a violation of probation sentence imposed by the Sussex County Superior Court on October 25, 1996, the Superior Court sentenced Hoover to a total of 3½ years at Level V suspended after completion of the New Hope Program.³ By order dated August 21, 2000, the Superior Court modified Hoover's sentence to require that Hoover complete the Key Program instead of the New Hope Program.

¹*State v. Hoover*, Del. Super., Cr.A.No. S96-04-0149I, Graves, J. (Aug. 9, 1996).

²*State v. Hoover*, Del. Super., Cr.A.No. K95-11-0524I, Terry, J. (Oct. 11, 1996).

³*State v. Hoover*, Del. Super., Cr.A.No. 93-02-0276, Graves, J. (Oct. 25, 1996).

(4) On October 30, 2000, Hoover filed his petition for a writ of habeas corpus. Hoover complained that the Department of Correction had not, as of that date, placed him into the Key Program. Hoover stated that he had finished his Kent County Superior Court sentence, as well as the eight months ordered by the Sussex County Superior Court, and was eligible for placement in the Key Program as of April 11, 2000.

(5) By order dated December 4, 2000, the Superior Court denied Hoover's habeas corpus petition as moot, because Hoover started the Key Program in November 2000, and as without merit, because Hoover's commitment was pursuant to a valid order of the Court. This appeal followed.

(6) On January 16, 2001, prior to the parties' briefing on appeal, Hoover filed a motion asking this Court to compel the appellees to provide him with a copy of his October 1996 sentencing transcript, as well as copies of various policies and procedures promulgated by the Department of Correction, and unspecified sections of Title 11 of the Delaware Code. By the Clerk's letter dated January 23, 2001, the Court deferred taking action on Hoover's motion for production of documents until Hoover applied to the Superior Court for a copy of the sentencing transcript.

(7) Hoover applied to the Superior Court for the transcript, and his request was granted. Hoover filed his opening brief and appendix on March 27, 2001. Hoover did not, however, respond to the Clerk's March 29, 2001 letter that informed him that the Court had pending before it his deferred motion for production of documents and requested his comments on the sentencing transcript.

(8) In his opening brief on appeal, Hoover argues that the Department of Correction had a responsibility to place him into the Key Program when he first became eligible for the program, i.e., on April 11, 2000. Hoover argues that the eight months he spent waiting to be placed into the Key Program should be credited to his time in the program. Hoover's arguments, however, are not a proper subject for habeas corpus.

(9) In reviewing a denial of habeas corpus relief, this Court has held that "the only material fact to be ascertained upon a petition for a writ of habeas corpus is the existence of a judgment of conviction by a court of competent jurisdiction and a valid commitment of the prisoner to enforce the sentence."⁴

⁴*Skinner v. State*, Del. Supr., 135 A.2d 612, 613 (1957) (citing *Curran v. Woolley*, Del. Supr., 104 A.2d 771, 773 (1954)).

Habeas corpus is not used “to explore the reasons for classification within the prison system in any of its programs.”⁵

(10) The record reflects that the Superior Court’s sentencing order of October 25, 1996 (as modified on August 21, 2000) is valid on its face. Hoover continues to be held pursuant to that valid commitment. The Department of Correction’s placement of Hoover into the Level V Key Program, eight months into his 3½ year Level V sentence, is not a proper subject for habeas corpus review. Accordingly, Hoover is not entitled to habeas corpus relief.

(11) It is manifest on the face of Hoover’s opening brief that his appeal is without merit. The issues presented in this appeal are clearly controlled by settled Delaware law.

NOW, THEREFORE, IT IS ORDERED that Hoover’s motion for production of documents is DENIED. The appellees’ motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice

⁵*Dorbolo v. Sullivan*, Del. Supr., 450 A.2d 1185, 1186 (1982).