

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WILLIAM JOSEPH WEBB, JR.,	§
	§ No. 425, 2005
Petitioner Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
THOMAS CARROLL, Warden,	§ C.A. No. 05M-07-021
	§
Respondent Below-	§
Appellee.	§

Submitted: January 13, 2006

Decided: March 8, 2006

Before **HOLLAND, JACOBS** and **RIDGELY**, Justices.

**ORDER**

This 8<sup>th</sup> day of March 2006, it appears to the Court that:

(1) The petitioner-appellant, William Joseph Webb, Jr., filed an appeal from the Superior Court's denial of his petition for a writ of habeas corpus. We find no merit to the appeal. Accordingly, we affirm.

(2) In May 1997, Webb pleaded guilty to Burglary in the Second Degree. He was sentenced to 8 years incarceration at Level V, to be suspended after 1 year for probation. In March 2000, Webb pleaded guilty to Assault in the First Degree, Burglary in the First Degree and Endangering the Welfare of a Child. He also admitted violating his probation in connection with his 1997 sentence. Webb was sentenced on the burglary

conviction to 12 years at Level V, to be suspended after 5 years for decreasing levels of probation.<sup>1</sup> On the assault conviction, he was sentenced to 30 months at Level V, to be suspended after 24 months for probation. On the child endangerment conviction, he was sentenced to 12 months at Level V, to be suspended for probation. Finally, Webb was sentenced to 3 years at Level V for violating his probation.

(3) In July 2005, Webb filed a petition for a writ of habeas corpus in the Superior Court. In the petition, Webb claimed that his 2000 sentence was improperly enhanced based upon his 1997 conviction, which, he contended, was illegal.<sup>2</sup>

(4) In this appeal, Webb claims that the Superior Court improperly failed to bring him into court in order to decide his habeas corpus petition, as required by Del. Code Ann. tit. 10, § 6907. Webb also requests damages in the amount of \$1,000 for the alleged failure of the Superior Court to issue the writ “without delay” as required by Del. Code Ann. tit. 10, § 6906.

(5) In Delaware, the writ of habeas corpus provides relief on a very limited basis.<sup>3</sup> Habeas corpus only provides “an opportunity for one illegally confined or incarcerated to obtain judicial review of the jurisdiction

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<sup>1</sup> The Superior Court subsequently reduced Webb’s burglary sentence to 10 years at Level V, to be suspended after 5 years for probation.

<sup>2</sup> Webb does not address this issue in the instant appeal.

<sup>3</sup> *Hall v. Carr*, 692 A.2d 888, 891 (Del. 1997).

of the court ordering the commitment.”<sup>4</sup> “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.’”<sup>5</sup>

(6) Under Delaware law, once the Superior Court has determined that a writ of habeas corpus should issue, “[t]he Court or Judge, to whom an application [for a writ of habeas corpus] is made, shall, without delay, under penalty of \$1,000 to the party aggrieved, award and issue a writ of habeas corpus under seal of the Court, directed to the officer or person in whose custody the prisoner is detained, returnable forthwith before such Court or Judge.”<sup>6</sup> Moreover, following service of the writ upon prison officials, such prison officials shall “without delay and within 3 days thereafter, produce the body of the prisoner . . . and shall fully certify in writing and under oath, the true cause or causes of the prisoner’s detainer, and a copy of all process under which the prisoner is detained.”<sup>7</sup>

(7) There is no basis for the issuance of a writ of habeas corpus in this case. Webb has failed to demonstrate that his commitment was irregular on its face or that the Superior Court lacked jurisdiction to convict and

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<sup>4</sup> Id.

<sup>5</sup> Id. (quoting Del. Code Ann. tit. 10, § 6902(1)).

<sup>6</sup> Del. Code Ann. tit. 10, § 6906(a).

<sup>7</sup> Del. Code Ann. tit. 10, § 6907(a).

sentence him. Moreover, Webb's contentions that the Superior Court improperly failed to bring him into court and that he is entitled to damages because the Superior Court failed to follow the proper procedures are incorrect as a matter of law. Sections 6906 and 6907 only apply once the Superior Court has determined in the first instance that a petition for a writ of habeas corpus should be granted. In this case, Webb's petition did not state a claim that would support the issuance of a writ of habeas corpus and the Superior Court properly dismissed his petition on that basis.<sup>8</sup>

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

BY THE COURT:

/s/ Jack B. Jacobs  
Justice

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<sup>8</sup> Del. Code Ann. tit. 10, § 8803(b).