

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DANIEL M. WOODS,	§
	§ No. 2, 2007
Petitioner Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
RAPHAEL WILLIAMS	§ C.A. No. 05M-08-042
(WARDEN) and BOARD OF	§
PAROLE,	§
	§
Respondents Below-	§
Appellees.	§

Submitted: February 15, 2007

Decided: March 15, 2007

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

ORDER

This 15th day of March 2007, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The petitioner-appellant, Daniel M. Woods, filed an appeal from the Superior Court's December 20, 2006, order granting the summary judgment motion of the respondents-appellees, Raphael Williams and the Board of Parole, and denying his motions for the appointment of counsel and for an injunction. The respondents-appellees have moved to affirm the

Superior Court's judgment on the ground that it is manifest on the face of the opening brief that the appeal is without merit.¹ We agree and affirm.

(2) The record reflects that, in 1981 and 1982, Woods was convicted of Conspiracy, Criminal Trespass, Burglary, Felony Theft, Misdemeanor Theft, Conspiracy and Unauthorized Use of a Vehicle. Woods was sentenced and remained incarcerated between June 1981 and April 1989, at which time he was released on parole.

(3) In 1990, Woods violated the conditions of his parole by being arrested on new charges. The Board of Parole (the "Board") also found that he failed to report to his parole officer and failed to report a change of address/employment. The Board revoked Woods' parole as well as his good time credits and ordered him to serve the balance of his sentence. Woods remained incarcerated until September 2002, at which time he was again released on parole. In August 2004, Woods was arrested on new charges and the Board again revoked his parole and good time credits and ordered him to serve the balance of his sentence.

(4) In August 2005, Woods filed a petition for a writ of mandamus in the Superior Court claiming that the Board lacked jurisdiction to revoke his good time credits because they had "vested" after the completion of the

¹ Supr. Ct. R. 25(a).

sentence imposed for each individual offense. Woods also claimed that Williams and the Department of Correction (“DOC”) improperly aggregated his 1981 and 1982 sentences for purposes of calculating his good time credits. Following discovery, Woods’ petition was scheduled for a one-day jury trial in the Superior Court. Prior to trial, the Superior Court granted the respondents’ motion for summary judgment.

(5) In this appeal, Woods claims that the Superior Court erred and abused its discretion by granting the motion for summary judgment and denying his motions for the appointment of counsel and an injunction. He argues that he is entitled to a writ of mandamus and requests reversal of the Board’s decision, an evidentiary hearing to determine the good time credits to which he is entitled, appointment of counsel, and suspension of all sentences affected by the Board’s violation of his rights.

(6) Woods was sentenced prior to the enactment of the Truth-in-Sentencing Act, rendering him eligible for parole consideration.² Under Delaware law, when an inmate is paroled, he remains on parole until the maximum expiration date of his sentence.³ If the inmate violates the

² Del. Code Ann. tit. 11, § 4354; *Crosby v. State*, 824 A.2d 894, 899 (Del. 2003).

³ Del. Code Ann. tit. 11, § 4347(i); *Hall v. Carr*, 692 A.2d 888, 892 (Del. 1997).

conditions of his parole, the Board has the authority to revoke his parole, revoke his good time credits and re-impose his sentences.⁴

(7) A writ of mandamus is an extraordinary remedy issued by a court to compel a lower tribunal, public official or agency to perform a non-discretionary duty to which the petitioner has a clear legal right.⁵ It is well-settled that the decisions of the Board of Parole are discretionary and, therefore, not subject to mandamus relief.⁶

(8) We review a trial court's grant of summary judgment de novo.⁷ We will affirm the trial court's grant of summary judgment when, viewing the facts and the inferences therefrom in the light most favorable to the non-moving party, there are no issues of material fact in dispute and the moving party is entitled to judgment as a matter of law.⁸

(9) Woods' argument that the Board lacked jurisdiction to revoke his parole, revoke his good time credits and re-impose his Level V sentences upon finding that he had violated his parole is without merit. His good time credits did not "vest" after the completion of the sentence imposed for each individual offense.⁹ Moreover, Williams and DOC had the authority to

⁴ Del. Code Ann. tit. 11, § 4352(d); *Snyder v. Andrews*, 708 A.2d 237, 245 (Del. 1998).

⁵ *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

⁶ *Semick v. Dept. of Correction*, 477 A.2d 707, 708 (Del. 1984).

⁷ *Merrill v. Crothall-American, Inc.*, 606 A.2d 96, 99 (Del. 1992).

⁸ *Burkhart v. Davies*, 602 A.2d 56, 59 (Del. 1991).

⁹ *Snyder v. Andrews*, 708 A.2d at 245.

aggregate Woods' sentences for purposes of calculating his good time credits.¹⁰

(10) Woods' petition for a writ of mandamus directed to the Board fails in light of the Board's discretionary decision-making power. Moreover, because Woods has not demonstrated any failure to perform a duty to which he had a clear legal right, his mandamus petition also fails as it pertains to Williams and DOC. Viewing the undisputed material facts in the light most favorable to the respondents-appellees, the Superior Court properly granted their motion for summary judgment.¹¹

(11) It is manifest on the face of the opening brief that Woods' appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

¹⁰ *Snyder v. Andrews*, 708 A.2d at 239.

¹¹ We also find no error or abuse of discretion on the part of the Superior Court in denying Woods' motions for appointment of counsel and for an injunction.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 25(a), that respondents-appellees' motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.¹²

BY THE COURT:

/s/ Randy J. Holland
Justice

¹² We have reviewed Woods' "motion to amend the reply motion to states motion to affirm," which was filed on February 26, 2007. Because the motion merely restates arguments already contained in Woods' opening brief, it is hereby denied.