

IN THE SUPREME COURT OF THE STATE OF DELAWARE

STEPHON SAMPLE,	§
	§ No. 75, 2013
Petitioner Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Kent County
STATE OF DELAWARE,	§ C.A. No. K13M-01-016
	§ Cr. ID No. 0405022601
Respondent Below-	§
Appellee.	§

Submitted: April 23, 2013

Decided: May 2, 2013

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

**ORDER**

This 2<sup>nd</sup> day of May 2013, 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, Stephon Sample, filed an appeal from the Superior Court’s January 28, 2013 order dismissing his petition for a writ of habeas corpus. The respondent-appellee, the State of Delaware, has 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.<sup>1</sup>

We agree and affirm.

(2) The record before us reflects that, in March 2005, Sample entered a plea of guilty in the Superior Court to Trafficking in Cocaine. He was sentenced to 25 years of Level V incarceration, to be suspended after 10 years for 1 year of Level III probation.<sup>2</sup> In November 2012, after earning over one year of good time credit, Sample was transferred to the Sussex Community Correction Center (“SCCC”) to serve the remaining portion of his Level V sentence at Level IV Work Release.

(3) When it was discovered that Sample had accumulated 105 hours of unaccountable time while on job passes, an administrative warrant was issued and a hearing was scheduled. Sample was found to have violated the conditions of his Level IV Work Release and 90 days of good time credit were deducted from his sentence, resulting in an adjustment to his release date.

(4) In this appeal from the Superior Court’s dismissal of his petition for a writ of habeas corpus, Sample claims that the Superior Court’s order is incorrect because SCCC has failed to turn over certain documents

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<sup>1</sup> Supr. Ct. R. 25(a).

<sup>2</sup> A corrected sentencing order later was issued to change his fine from \$50,000 to \$400,000.

related to the loss of his good time credits. He also appears to argue that, because his violation was not detected earlier, he should not have lost 90 days of credit time.

(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 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 set forth in the commitment.”<sup>5</sup>

(6) Sample has presented no evidence that he was not sentenced by a court of competent jurisdiction or that the commitment was not regular on its face. Moreover, Sample’s claim is moot because he has already served the additional 90 days of Level V time of which he complains.<sup>6</sup> We, therefore, conclude that the Superior Court properly dismissed Sample’s petition for a writ of habeas corpus.

(7) It is manifest on the face of the opening brief that this appeal is without merit because the issues presented are controlled by settled

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

<sup>4</sup> *Id.*

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

<sup>6</sup> *Gural v. State*, 251 A.2d 344, 344-45 (Del. 1969) (in the absence of any evidence of a collateral legal disability, completion of a sentence renders any claims regarding the sentence moot).

Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

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  
Chief Justice