

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

CLARENCE E. GIBBS, : C.A. No. S23M-12-002 RHR
Petitioner, :
v. :
BRIAN EMIG, WARDEN, H.R.Y.C., :
Respondent. :

ORDER DENYING PETITION SEEKING
WRIT OF HABEAS CORPUS

1) Clarence E. Gibbs (“petitioner”) has filed a petition seeking the issuance of a writ of habeas corpus.

2) Petitioner is incarcerated on the case of *State v. Gibbs*, Def. ID# 2107007172. He is serving a Level 5 sentence for a violation of probation on a felony driving under the influence conviction.

3) Petitioner asserts that the bond amount set on his administrative warrant for violating his probation constituted cruel and unusual punishment. This assertion does not give him a right to a writ of habeas corpus.

4) As the Supreme Court has explained:

Under Delaware law, the writ of habeas corpus provides relief on a very limited basis. Specifically, it provides a prisoner with a means of challenging an allegedly unlawful detention on the basis of a lack of jurisdiction of the court ordering the commitment. When the commitment is regular on its face and the court clearly had jurisdiction over the subject matter, habeas corpus does not afford a remedy to the petitioner.¹

¹*Smith v. Akinbayo*, 263 A.3d 1014, 2021 WL 4839315, *1 (Del. Oct. 15, 2021) (Footnotes and citations omitted) (TABLE).

Furthermore, “[u]nder Section 6902 of Title 10 of the Delaware Code, habeas corpus relief is not available to a petitioner who is ‘committed or detained on a charge of treason or felony, the species whereof is plainly and fully set forth in the commitment.’”²

5) The Level 5 commitment in this case is regular on its face and Superior Court has jurisdiction over the subject matter. Petitioner is not being illegally detained and he fails to state a claim upon which a writ of habeas corpus may be issued.

NOW, THEREFORE, THIS _____ DAY OF DECEMBER, 2023, IT IS HEREBY ORDERED AS FOLLOWS:

- 1) Petitioner is not being illegally detained;
- 2) Petitioner fails to state a claim for a writ of habeas corpus; and
- 3) The petition seeking a writ of habeas corpus is denied.

/s/ Robert H. Robinson, Jr.
JUDGE

cc: Prothonotary’s Office

Clarence E. Gibbs, SBI# 00155591, H.R.Y.C.I., 1301 East 12th St., Wilmington, DE 19801

²*Walls v. Phelps*, 192 A.3d 554, 2018 WL 3689309, *1 (Del. Aug. 1, 2018), *rearg. den.* (Aug. 21, 2018) (TABLE).