

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE
PETITION OF GARY L.
TALBERT FOR A WRIT OF
HABEAS CORPUS.

No. 187, 2000

Submitted: May 1, 2000
Decided: May 16, 2000

Before **HOLLAND, HARTNETT** and **BERGER**, Justices.

O R D E R

This 16th day of May 2000, upon consideration of the petition for a writ of habeas corpus filed by Gary L. Talbert and the answer and motion to dismiss filed by the State of Delaware, it appears to the Court that:

(1) In February 1997, Talbert pleaded guilty in the Superior Court to Trafficking in Cocaine. Talbert was sentenced, effective December 11, 1996, to six years imprisonment, suspended after three years, for three years at Level IV work release, suspended after six months, for two years and six months at Level III. The sentencing order directed that Talbert be held at Level V pending available space at Level IV. At the present time, Talbert is being held at the Sussex Violation of Probation Unit, awaiting placement at Level IV.

(2) On April 24, 2000, Talbert filed a petition for a writ of habeas corpus in this Court.¹ Talbert complains that his current placement at the Sussex Violation of Probation Unit is in violation of the Superior Court's February 1997 sentencing order.

(3) Under Article IV, § 11(6) of the Delaware Constitution and Supreme Court Rule 43, this Court has limited jurisdiction to issue extraordinary writs. The Court has no original jurisdiction to issue a writ of habeas corpus.²

NOW, THEREFORE IT IS ORDERED that the State's motion to dismiss is GRANTED. Talbert's petition for a writ of habeas corpus is DISMISSED.

BY THE COURT:

/s/Maurice A. Hartnett, III

Justice

¹ It appears from the Superior Court docket that Talbert filed a petition for a writ of habeas corpus in the Superior Court on March 17, 2000. The Superior Court denied Talbert's petition. *In re Talbert*, Del. Super., C.A.No. 00M-03-005, Gebelein, J. (March 22, 2000) (ORDER); *State v. Talbert*, Del. Super., Cr.A.No. IN96-12-1277. Talbert did not file an appeal from the denial of habeas corpus relief, as he had a right to do. *In re Dean*, Del. Supr., 251 A.2d 347 (1969); 10 *Del. C.* § 148 (30-day period in which to file appeal in civil action).

² *Rocker v. State*, Del. Supr., 240 A.2d 141, 142 (1968).

