

SUPREME COURT OF DELAWARE

Farrow v. State

996 A.2d 793 (Del. 2010) · No. No. 143, 2010 · Decided June 2, 2010

SUMMARY

The Delaware Supreme Court affirmed the denial of James M. Farrow’s motion for credit against his Delaware sentence. The court held that, under the Interstate Agreement on Detainers, Farrow’s Delaware sentence did not begin until he completed his Maryland sentence and that time credited against the Maryland sentence was not also creditable against the Delaware sentence.

CASE DETAILS

COURT	Supreme Court of Delaware
WRITING FOR THE COURT	Henry DuPont Ridgely; Steele, Chief Justice; Jacobs, Justice; Ridgely, Justice
JURISDICTION	Delaware
DECIDED	June 2, 2010
DOCKET	No. 143, 2010
DISPOSITION	affirmed
PROCEDURAL POSTURE	Farrow appealed the Superior Court's denial of his motion for credit time under Superior Court Criminal Rule 35. The State moved to affirm under Delaware Supreme Court Rule 25(a).
STANDARD OF REVIEW	The Supreme Court considered whether the appeal was manifestly without merit on the face of the opening brief under Supreme Court Rule 25(a); to the extent judicial discretion was implicated, it reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published Delaware Supreme Court opinion/order
PARTIES	James M. Farrow v. State of Delaware

TOPICS

- appellate procedure
- sentencing
- criminal procedure
- post-conviction relief

PRACTICE AREAS

- criminal procedure
- sentencing
- appellate procedure
- post-conviction relief

QUESTIONS PRESENTED

1. Whether Farrow's Delaware sentence began to run while he was temporarily in Delaware under the Interstate Agreement on Detainers before completing his Maryland sentence.
2. Whether Farrow was entitled to additional credit against his Delaware sentence for time spent in Delaware answering the Delaware charges when that time had already been credited against his Maryland sentence.
3. Whether the appeal was manifestly without merit under Supreme Court Rule 25(a).

HOLDINGS

1. Farrow's Delaware sentence did not begin to run until he completed his Maryland sentence because, while temporarily in Delaware under the Interstate Agreement on Detainers, he remained in the custody of and subject to the jurisdiction of Maryland.
2. Farrow was not entitled to additional credit against his Delaware sentence for the time spent in Delaware answering the charges because that time had already been credited against his Maryland sentence.
3. The appeal was manifestly without merit on the face of the opening brief because the issues were controlled by settled Delaware law, and the Superior Court's judgment was affirmed.

KEY QUOTATIONS

“As such, Farrow's Delaware sentence did not begin to run until he had completed his Maryland sentence. In addition, because the time spent in Delaware answering to charges in this state was credited against Farrow's Maryland sentence, he was not entitled to any additional credit against his Delaware sentence.” (para. 6)

“It is manifest on the face of the opening brief that this 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.” (para. 7)

FACTUAL BACKGROUND

Farrow was serving a Maryland sentence when he was returned to Delaware under the Interstate Agreement on Detainers to face Delaware robbery, assault, and unlawful-imprisonment charges. He pleaded guilty to first-degree robbery and received a five-year Delaware sentence, including a two-year minimum mandatory term, with the sentencing order specifying that pre-plea Delaware prison time would be credited against his Maryland sentence. After completing his Maryland sentence, he returned to Delaware and sought additional credit against his Delaware sentence.

PROCEDURAL HISTORY

Farrow was convicted by guilty plea in the Superior Court of Delaware and sentenced on June 10, 2005, after being returned from Maryland under the Interstate Agreement on Detainers. He later moved for credit against his Delaware sentence, arguing that he had not received appropriate Level V credit and that the Delaware sentence began before completion of his Maryland sentence. The Superior Court denied the motion on March 4, 2010, and the Supreme Court of Delaware affirmed under Rule 25(a).

DISPOSITION

affirmed

CASES CITED

- Frady v. State, Del. Supr., No. 269, 2008, Berger, J. (Sept. 16, 2008)

OPINION

PER CURIAM.

JAMES M. FARROW, Defendant Below-Appellant, v. STATE OF DELAWARE, Plaintiff Below-Appellee. No. 143, 2010. Supreme Court of Delaware. Submitted: April 22, 2010. Decided: June 2, 2010. Before STEELE, Chief Justice, JACOBS and RIDGELY, Justices. ORDER HENRY DuPONT RIDGELY, Justice. This 2nd day of June 2010, 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 defendant-appellant, James M. Farrow, filed an appeal from the Superior Court's March 4, 2010 order denying his motion for credit time pursuant to Superior Court Criminal Rule 35.

The plaintiff-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.[1] We agree and affirm.

(2) The record reflects that, on July 15, 2002, Farrow was indicted on charges of Robbery in the First Degree, Assault of a Senior, and Unlawful Imprisonment in the Second Degree. At that time, Farrow was serving a sentence in Maryland.

On March 14, 2005, pursuant to the Interstate Agreement on Detainers,[2] Farrow was returned to Delaware from Maryland to face his Delaware charges. (3) On June 10, 2005, he pleaded guilty to Robbery in the First Degree and was sentenced to 5 years at Level V, to be suspended following completion of his 2-year minimum mandatory sentence for 18 months of Level III probation.[3] The sentencing order reflects an effective date of June 10, 2005.

The sentencing order also reflects that the time spent by Farrow in a Delaware prison prior to the entry of his guilty plea is to be credited against his Maryland sentence. (4) Farrow was returned to Maryland on June 23, 2005 to serve out the remainder of his Maryland sentence.

On September 8, 2009, after completing his Maryland sentence, Farrow was returned to Delaware to begin serving his 2-year sentence for Robbery in the First Degree. (5) In his appeal, Farrow claims that he has not been given appropriate Level V credit against his Delaware sentence and that the Superior Court incorrectly decided that his Delaware sentence did not begin to run until he had finished serving his Maryland sentence.

(6) The Interstate Agreement on Detainers provides that, while a prisoner serving a sentence in another state is temporarily in Delaware answering to charges in this state, the time being served on the sending state's sentence continues to run.[4] Moreover, during such time, the prisoner is deemed to remain in the custody of and subject to the jurisdiction of the sending state.[5] As such, Farrow's Delaware sentence did not begin to run until he had completed his Maryland sentence.

In addition, because the time spent in Delaware answering to charges in this state was credited against Farrow's Maryland sentence, he was not entitled to any additional credit against his Delaware sentence.[6] Thus, the Superior Court correctly denied Farrow's motion for credit time and the Superior Court's judgment must be affirmed.[7] (7) It is manifest on the face of the opening brief that this 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.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED. NOTES [1] Supr. Ct. R. 25(a). [2] Del. Code Ann. tit. 11, §2544. [3] Del. Code Ann. tit. 11, §832(a)(1).

[4] Del. Code Ann. tit. 11, §2544(f). [5] Del. Code Ann. tit. 11, §2544(g). [6] Frady v. State, Del. Supr., No. 269, 2008, Berger, J. (Sept. 16, 2008). [7] To the extent that Farrow seeks to raise a claim of ineffective assistance of counsel in connection with the entry of his guilty plea, any such claim must be raised within the context of a Rule 61 motion for postconviction relief.