

SUPREME COURT OF THE STATE OF DELAWARE

Gordon v. Metzger

No. 426, 2018 · No. No. 426, 2018 · Decided January 10, 2019

SUMMARY

The Delaware Supreme Court affirmed the Superior Court’s denial of Anthony Gordon’s petition for a writ of habeas corpus. The court held that habeas relief was unavailable because Gordon did not show that the sentencing court lacked jurisdiction or that his commitment order was invalid, and he could not use habeas corpus to raise an indictment-defect claim not previously presented on direct appeal or in postconviction proceedings.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Collins J. Seitz, Jr.; Vaughn, Justice; Seitz, Justice; Traynor, Justice
JURISDICTION	Delaware
DECIDED	January 10, 2019
DOCKET	No. 426, 2018
DISPOSITION	affirmed
PROCEDURAL POSTURE	Anthony Gordon appealed the Superior Court's denial of his petition for a writ of habeas corpus. The State moved to affirm under Delaware's summary-affirmance procedure, and the Supreme Court granted the motion and affirmed.
STANDARD OF REVIEW	The appeal was resolved by summary affirmance because it was manifest on the face of Gordon's opening brief that the appeal was without merit. Habeas relief was reviewed under Delaware's limited jurisdictional standard.
PRECEDENTIAL VALUE	Published Delaware Supreme Court per curiam order
PARTIES	Anthony Gordon v. Dana Metzger

TOPICS

- habeas corpus
- post-conviction relief
- criminal procedure
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Delaware habeas corpus relief was available to challenge an allegedly defective indictment after the petitioner had not raised the claim on direct appeal or in postconviction proceedings.
2. Whether the petitioner showed that the Superior Court lacked jurisdiction to sentence him or that his order of commitment was facially invalid.

HOLDINGS

1. Delaware habeas corpus provides relief only to obtain judicial review of the jurisdiction of the court ordering the commitment; when the commitment is regular on its face and the court clearly had subject-matter jurisdiction, habeas relief is unavailable.
2. A petitioner may not use a habeas corpus petition as a substitute for a timely appeal or as a means to seek postconviction relief.

KEY QUOTATIONS

“Habeas corpus provides an opportunity for one illegally confined or incarcerated to obtain judicial review of the jurisdiction of the court ordering the commitment.” (at 2)

“Gordon may not use a petition for a writ of habeas corpus as a substitute for a timely-filed appeal or to seek postconviction relief.” (at 3)

FACTUAL BACKGROUND

Gordon was indicted in 2011 on three counts of second-degree rape, one count of fourth-degree rape, and one count of second-degree unlawful sexual contact. After a two-day trial in 2013, he was convicted of two counts of second-degree rape and one count of fourth-degree rape and received a total sentence of thirty-five years of Level V incarceration, suspended after twenty-one years for decreasing levels of supervision. After losing his direct appeal and a postconviction proceeding, he filed a habeas petition alleging that the indictment was defective.

PROCEDURAL HISTORY

Gordon was convicted after a 2013 trial and sentenced to thirty-five years of Level V incarceration, suspended after twenty-one years for decreasing levels of supervision. The Supreme Court affirmed his convictions on direct appeal and later affirmed the denial of his motion for postconviction relief. Gordon then filed a habeas petition alleging that his indictment was defective; the Superior Court denied relief, concluding that he was legally detained, and the Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Hall v. Carr, 692 A.2d 888, 891 (Del. 1997)
- Curran v. Wooley, 104 A.2d 771, 773 (Del. 1954)
- State v. Gordon, Del. Super., Cr. ID No. 1109011777 (N)
- Gordon v. State, 2013 WL 6569705 (Del. Dec. 11, 2013)
- Gordon v. State, 2017 WL 4857111 (Del. Oct. 25, 2017)
- Johnson v. State, 2013 WL 6044393, at *2 (Del. Nov. 13, 2013)
- In re Barbee, 693 A.2d 317, 319 (Del. 1997)
- Short v. State, 2014 WL 2159049 (Del. May 20, 2014)

OPINION

PER CURIAM.

IN THE SUPREME COURT OF THE STATE OF DELAWARE ANTHONY GORDON, § § No. 426, 2018 Petitioner Below, § Appellant, § Court Below: Superior Court § of the State of Delaware v. § § C.A. No. N18M-07-085 DANA METZGER, § § Respondent Below, § Appellee. § Submitted: October 26, 2018 Decided: January 10, 2019 Before VAUGHN, SEITZ, and TRAYNOR, Justices. ORDER (1) The appellant, Anthony Gordon, filed this appeal from the Superior Court’s order dated July 16, 2018, denying his petition for a writ of habeas corpus.

On appeal, Gordon argues, as he did below, that he is entitled to habeas corpus relief because he was convicted of crimes charged in a defective indictment. The appellee, State of Delaware, has moved to affirm the Superior Court’s judgment on the ground that it is manifest on the face of Gordon’s opening brief that the appeal is without merit.

We agree and affirm. (2) The writ of habeas corpus under Delaware law provides relief on a very limited basis.¹ “Habeas corpus provides an opportunity for one illegally confined or incarcerated to obtain judicial review of the jurisdiction of the court ordering the commitment.”² Where 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.³ (3) In this case, Gordon was indicted in 2011 for three counts of rape second degree, one count of rape fourth degree, and one count of unlawful sexual contact second degree.⁴ After a two-day trial in 2013, Gordon was convicted of two counts of rape second degree and one count of rape fourth degree and was sentenced to a total of thirty-five years of Level V incarceration, suspended after twenty-one years for decreasing levels of supervision.

On direct appeal, we affirmed the judgment of convictions,⁵ and in 2017 we affirmed the Superior Court’s denial of Gordon’s motion for postconviction relief.⁶ (4) Gordon filed his petition for a writ of habeas corpus on July 12, 2018.

The Superior Court denied the petition after determining that Gordon was being 1 Hall v. Carr, 692 A.2d 888, 891 (Del. 1997). 2 Id. 3 Curran v. Wooley, 104 A.2d 771, 773 (Del. 1954). 4 State v. Gordon, Del. Super., Cr. ID No. 1109011777 (N). 5 Gordon v. State, 2013 WL 6569705 (Del. Dec. 11, 2013). 6 Gordon v. State, 2017 WL 4857111 (Del. Oct. 25, 2017). 2 legally detained.

On appeal, Gordon has failed to show that the Superior Court lacked jurisdiction to sentence him for his criminal convictions or that the order of commitment is invalid. (5) To the extent Gordon contends that his indictment was defective, it does not appear that he raised such a claim on direct appeal or in his postconviction proceedings. Gordon may not use a petition for a writ of habeas corpus as a substitute for a timely-filed appeal⁷ or to seek postconviction relief.⁸ 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/ Collins J. Seitz, Jr. Justice 7 Johnson v. State, 2013 WL 6044393, at *2 (Del. Nov. 13, 2013) (citing In re Barbee, 693 A.2d 317, 319 (Del. 1997)). 8 Short v. State, 2014 WL 2159049 (Del. May 20, 2014) (citing Del. Super. Ct. Crim. R. 61(2)). 3