

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

KEAVNEY L. WATSON,	:	
	:	
Petitioner,	:	
	:	
v.	:	Civil Action No. 00-619-JJF
	:	
RICK KEARNEY, Warden, and	:	
ATTORNEY GENERAL OF THE	:	
STATE OF DELAWARE,	:	
	:	
Respondents.	:	

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Keavney L. Watson, Georgetown, Delaware.  
Pro Se Petitioner.

Loren C. Meyers, Esquire, Chief of Appeals Division, DELAWARE DEPARTMENT OF JUSTICE,  
Wilmington, Delaware.  
Attorney for Respondents.

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**MEMORANDUM OPINION**

March 30, 2001

Wilmington, Delaware

**FARNAN, District Judge.**

Presently before the Court is a Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (D.I. 2) (the “Petition”), filed by Keavney L. Watson (“Petitioner”).

Pursuant to Rule 5 of the Rules Governing Section 2254 Actions, Respondents have filed an Answer to the Petition. (D.I. 10). For the reasons set forth below, the Court will dismiss the Petition and deny Petitioner’s request for a Writ of Habeas Corpus.

**BACKGROUND**

On February 8, 1999, Petitioner pled guilty in New Castle County Superior Court to possession of heroin with intent to distribute, driving under the influence (“DUI”), and driving with a revoked license. The court sentenced Petitioner to three and one-half years imprisonment suspended after six months for three years probation on the drug charge and six months imprisonment suspended for six months probation on the DUI charge. The court also ordered Petitioner to pay a fifty dollar fine for driving with a revoked license.

On September 28, 1999, while on probation, Petitioner was arrested in Sussex County and imprisoned on charges of possession of a controlled substance and drug paraphernalia. (C.A. No. 00-565-JJF D.I. 13). At a hearing on February 29, 2000, the New Castle Superior Court found that Petitioner violated the terms of his earlier probation, revoked Petitioner’s probation, and sentenced Petitioner to one year imprisonment effective September 28, 1999. (C.A. No. 00-565-JJF D.I. 4, Client Status Sheet; Sentencing Worksheet).

On April 20, 2000, the Sussex County Superior Court reduced Petitioner's bond on the Sussex County drug charges to unsecured status and ordered Petitioner's release when he posted the requisite bond. (C.A. No. 00-565-JJF D.I. 4, Super. Ct. Docket). However, Petitioner remained incarcerated during this time, as a result of the New Castle County Superior Court's probation revocation.

Petitioner subsequently filed a Petition for Writ of Habeas Corpus in the New Castle County Superior Court, seeking release from prison because he posted bond on the Sussex County drug charges. On May 11, 2000, the court denied Petitioner's request for release, finding that Petitioner was being held in accordance with the court's February 29, 2000 sentencing order.

(C.A. No. 00-565-JJF D.I. 4, Super. Ct. Order). Thereafter, Petitioner filed a second Petition for Writ of Habeas Corpus, which the New Castle County Superior Court denied on June 22, 2000.

On August 11, 2000, the Sussex County Superior Court sentenced Petitioner to three years imprisonment, suspended after completion of a drug treatment program, on the Sussex County drug charges. Petitioner has appealed this sentence. (C.A. No. 00-565-JJF D.I. 13, Super. Ct. Docket).

In his federal habeas Petition filed June 29, 2000, Petitioner contends that his incarceration is unlawful, because he was released on Sussex County drug charges by the Sussex County Superior Court's April 20, 2000 Order.

## **DISCUSSION**

Effective April 24, 1996, the Antiterrorism and Effective Death Penalty Act ("AEDPA") amended 28 U.S.C. § 2254. Thus, the AEDPA applies to all petitions for writ of habeas corpus filed after April 24, 1996. Because the Petition in this case was filed subsequent to the effective date of the

AEDPA, the AEDPA applies to the Petition.

Under the AEDPA, a petitioner must exhaust all available state remedies prior to filing a federal petition for habeas relief. 28 U.S.C. § 2254(b)(1). Respondents contend that Petitioner has not exhausted his state remedies, because Petitioner did not appeal the superior court's denial of his Petition for Writ of Habeas Corpus. However, pursuant to 28 U.S.C. § 2254(b)(3), Respondents have waived the exhaustion requirement. Accordingly, the Court will turn to the merits of the Petition.

In reviewing a petition for habeas relief under Section 2254, findings of fact made by a state court are presumed to be correct, unless the petitioner rebuts the presumption with clear and convincing evidence. 28 U.S.C. § 2254(e)(1). In its May 11, 2000 Order, the superior court concluded that Petitioner was properly incarcerated, because the court found that it had “sentenced . . . [P]etitioner to one year of incarceration with an effective date of September 28, 1999.” This determination was made by the same judge that had originally imposed Petitioner's sentence on February 29, 2000. (C.A. No. 00-565-JJF D.I. 4, Super. Ct. Order, Client Status Sheet). A state trial court's interpretation of a sentence it has previously imposed is a finding of fact entitled to the presumption of correctness under 28 U.S.C. 2254(e)(1). See, e.g., Ervin v. Beyer, 716 F. Supp. 163, 164 (D.N.J. 1989) (applying presumption of correctness to court's interpretation of its sentencing order and recognizing that “[t]he trial court which in fact imposed the original sentence is clearly the most knowledgeable [sic] and appropriate body to determine and recognize the intent of the original sentence”). Accordingly, Petitioner must present clear and convincing evidence to rebut the presumption of correctness that applies to the superior court's finding regarding the duration of Petitioner's sentence.

In this case, Petitioner contends that he was to be released from incarceration on April 20, 2000. However, Petitioner has misunderstood the effect of the April 20, 2000 Sussex County Superior Court's Order releasing Petitioner upon Petitioner's posting of the requisite bond. (C.A. No. 00-565-JJF D.I. 4, Super. Ct. Docket). The superior court's Order was only related to Petitioner's drug charges in Sussex County. The superior court Order, however, did not affect Petitioner's one-year sentence stemming from Petitioner's probation violation in New Castle County. (C.A. No. 00-565-JJF D.I. 4, Client Status Sheet; Sentencing Worksheet). Indeed, the evidence offered by Petitioner in the form of his client status sheet and a sentencing worksheet supports the superior court's finding that Petitioner was sentenced to one year of incarceration with an effective date of September 28, 1999. Because Petitioner has not offered sufficient evidence to rebut the presumption of correctness afforded to the findings rendered by the superior court in its May 11, 2000 Order regarding the duration of Petitioner's sentence, the Court will dismiss the Petition.

### **CONCLUSION**

For the reasons discussed, the Court concludes that the Petition must be dismissed and the Writ of Habeas Corpus denied.

An appropriate Order will be entered.

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ATTORNEY GENERAL OF THE	:	
STATE OF DELAWARE,	:	
	:	
Respondents.	:	

**ORDER**

At Wilmington, this 30th day of March, 2001, for the reasons set forth in the Memorandum Opinion issued this date;

IT IS HEREBY ORDERED that:

1. The Petition Under 28 U.S.C. § 2254 For Writ of Habeas Corpus (D.I. 2) filed by Petitioner Keavney L. Watson is **DISMISSED**, and the relief requested is **DENIED**.
2. Because the Court finds that Petitioner has failed to make “a substantial showing of the denial of a constitutional right” under 28 U.S.C. § 2253(c)(2), a certificate of appealability is **DENIED**.

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UNITED STATES DISTRICT JUDGE