

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date May 17, 1966 yes

To Andrew W. Basinas, Director

Dept. Bureau of Corrections

From Courtland D. Perry, Assistant Attorney Gen'l. Dept. Mental Health and Corrections

Subject Outside Programming and Employment of MSP Prisoners

FACTS:

It appears desirable for certain prisoners confined at the Maine State Prison to be permitted to participate outside the prison in specialized schooling, religious activities and available federal training programs. It further appears desirable to permit employment of prisoners outside the prison wall in work situations other than on public works projects for the purpose of obtaining on the job training.

QUESTION 1.

May prisoners of the Maine State Prison be granted permission to participate outside the walls of the prison in specialized schooling, religious activities and available federal training programs?

ANSWER 1.

No.

QUESTION 2.

Would it be legal to send prisoners out to work other than on public projects in order that they may receive on the job training?

ANSWER 2.

Yes, within limiting statutory provisions.

OPINION:

T., 34, M.R.S.A., 1964, §751 provides in part as follows:

"The State Prison at Thomaston, in the County of Knox, shall continue to be maintained as the prison and penitentiary of the State, in which convicts, lawfully committed thereto, shall be confined, employed and governed as provided by law.

"Inmates of the State Prison may be transferred at the discretion of the Warden to the State Prison Farm at South Warren, which shall be considered a part of the State Prison. The warden may employ inmates on prison farms conducted on leased land in towns within the County of Knox and detain and house the prisoners in the barracks located on the Prison Farm

at South Warren. Inmates so transferred or so employed shall be deemed to be serving their sentences and subject to the same rules and regulations as inmates confined within the walls of the prison at Thomaston

T., 34, M.R.S.A., 1964, §5 provides in part as follows:

".....The department may further authorize the use of such prisoners or inmates to provide assistance in the improvement of property owned by charitable organizations as may be approved by the department, provided such charitable organizations pay for the transportation of such prisoners or inmates and for the transportation and per diem compensation for any guards who accompany such prisoners or inmates. Any prisoner or inmate who escapes from any assignments described in this section, or any other assignment beyond the walls of the State Prison or off the grounds of the Reformatory for Men shall be guilty of escape under this Title or Title 17, section 1405."

T., 34, M.R.S.A., 1964, §555 reads as follows:

"All sales of articles from the prison, and the letting to hire of such of the convicts as the department deems expedient, and all other contracts on account of the prison, except those made by the State Purchasing Agent, shall be made with the warden in the manner prescribed by the department. No such contract shall be accepted by the warden, unless the contractor gives satisfactory security for its performance, and no officer of the prison shall be directly or indirectly interested therein."

The cited sections and the additional provision relating to use of prisoners on public works projects and civilian disasters circumscribe the limits within which prisoners may be employed or programmed outside the prison walls. It is our opinion that the statutes do not permit prisoners to participate outside the prison walls in specialized schooling, religious activities and available federal training programs.

Under the language of the quoted sections prisoners may be employed on other than public works projects and in civilian disasters, and may assist in improvement of property owned by charitable organizations, and may be employed on the prison farm or on leased farm land.

The underlined portion of §555, in our opinion, does not permit the warden to let prisoners to hire outside the prison walls since this section must be read together with §751, the underlined portion of which, restricts prisoner employment to em-

ployment within the prison walls, except in instances specifically provided for, which instances indicated as above under existing statutes are limited to public works projects, civilian disasters, improvement of property of charitable organizations, employment at the prison farm and on leased farm land.

In the event that legislation is considered to be desirable in order to make possible, programming and further employment of certain prisoners outside prison walls, we would suggest amending §751 to include specific outside programming and employment.

Courtland D. Perry
Assistant Attorney General

Ref.to: Opin. A.G. April 30, 1943

Opin. A.G. January 14, 1966