

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

STATE OF MAINE

Inter-Departmental Memorandum Date February 3, 1967

To John J. Shea, Director, Probation & Parole Dept. Mental Health and Corrections

From Courtland D. Perry, Assistant/Atty. Gen'l. Dept. Same

Subject Donald Christianson, M.S.P. #10442, Entitlement to Discharge

FACTS:

Donald Christianson was sentenced to a 4-14 year term of imprisonment at the Maine State Prison for breaking, entering and larceny on July 2, 1958. He commenced execution of this sentence on October 28, 1958.

On August 17, 1961, the State Probation and Parole Board conducted a parole hearing with respect to this prisoner and granted his parole effective October 30, 1961, which date was the earliest date upon which Christianson could be paroled, taking into consideration deductions from his minimum sentence of good time and extra earned good time.

On November 11, 1966, Christianson violated his parole which was revoked by the State Probation and Parole Board on November 30, 1966.

Christianson now continues in execution of his 4-14 year sentence at the Maine State Prison and has requested his release, claiming that since the State Probation and Parole Board held a hearing with respect to his parole on August 17, 1961, he was entitled to be discharged from his sentence on October 30, 1965, a 4 year limitation on parole being then the law. The 4 year limitation on parole was repealed by P.L. 1961, chapter 292, §1, effective September 16, 1961, and from that date parole could be continued until the expiration of the maximum sentence in any case.

QUESTION:

Was Donald Christianson by reason of the parole hearing on August 17, 1961 entitled to discharge from his 4-14 year sentence on October 30, 1965, 4 years from the date upon which he was paroled from the Maine State Prison?

ANSWER:

No.

OPINION:

Statutes pertinent to the resolution of this question are as follows:

R.S., 1954, c. 27 A, §11 as amended by P.L. 1961, c. 292, §1

"The board may grant a parole from any state penal or correctional institution when a prisoner or inmate becomes eligible for a hearing by the state probation and parole board"

P.L. 1961, c. 292, §1

- I. "When the board grants a parole, upon release, the parolee shall serve the unexpired portion of his sentence, less deductions for good behavior, unless otherwise discharged therefrom by the board ~~but no period of parole shall exceed 4 years except in the case of those persons serving a sentence of life imprisonment.~~ "

R.S. 1954, c. 27 A, §12 as amended by P.L. 1959, c. 312, §6

"A prisoner becomes eligible for a hearing by the board as follows:

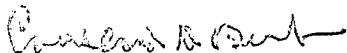
- I. "After the expiration of his minimum term of imprisonment less the deduction for good behavior, when the law provides for a minimum-maximum sentence."

Donald Christianson under the laws above cited became eligible for a parole hearing on October 30, 1961, i.e., at the end of his minimum sentence of 4 years, less the deductions of 7 days per month good time and in addition 1 day per month earned while engaged in work involving trust and responsibility.

The parole board granted parole in this case effective October 30, 1961. The effective date was in conformity to R.S. 1954, c. 27 A, §11. Release on parole in this case could not and did not take place until after the effective date of P.L. 1961, c. 292, §1, September 16, 1961; and thus, in our opinion, Mr. Christianson came within the purview of R.S. 1954, c. 27 A, §11, subsection I, as amended by P.L. 1961, c. 292, §1, and coming within such purview could legally be kept on parole for the unexpired portion of his sentence, less deductions for good behavior. Mr. Christianson violated his parole while properly on parole 5 years from the date he was released, was properly returned to the Maine State Prison, and is properly and legally now in execution of his 4-14 year sentence.

The fact that the State Probation and Parole Board hearing was held with respect to the parole of this prisoner on August 17, 1961, does not in our opinion bring Mr. Christianson within the 4 year parole limitation, effective up to September 16, 1961.

The board was powerless to release this prisoner until October 30, 1961; the prisoner was not entitled under the law to a parole hearing until October 30, 1961, although, in his interest his case was heard prior thereto, and as above indicated, the parole release authorized by the board was acted upon and became effective prospectively on that controlling date.



Courtland D. Perry
Assistant Attorney General

Ref: Opin. A.G. October 13, 1961.