

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date 1 August 1969

To Allan L. Robbins, Warden Dept. Maine State Prison

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

Subject Parole Eligibility of Inmate Serving Two Life Sentences for Murder

SYLLABUS:

One convicted on two separate charges of murder and sentenced therefor cannot become eligible for a parole hearing, due to the proviso contained in 34 M.R.S.A. 1964, §1672, subsection 3, as amended by P.L. 1969, Chapter 280 -- such sentences having been imposed by the same Court on the same day, notwithstanding.

FACTS:

One, Douglas P. Adams, on 8 September 1953 was found guilty of, and sentenced to the Maine State Prison for, two separate and distinct charges of murder, viz., on 7 June 1953, said Adams took the lives of Caroline and Charlotte Adams. Separate indictments obtained with respect to Douglas P. Adams and separate warrants of commitment were received with Adams at the time of delivery to the Maine State Prison on 9 September 1953, one relating to the conviction for murder in the case of Charlotte Adams and one relating to the conviction for murder in the case of Caroline Adams.

QUESTION:

Under P.L. 1969, Chapter 280, will said Adams be eligible for a parole hearing following its effective date, 90 days after adjournment of the Legislature?

ANSWER:

No.

REASON:

P.L. 1969, Chapter 280 provides in pertinent part as follows:

" §3. Expiration of 15-year term in life imprisonment cases. Prior to the expiration of a 15-year term of imprisonment, less deduction for good behavior, when the prisoner has been convicted of an offense punishable only by life imprisonment, provided the prisoner has never been convicted of another offense punishable only by life imprisonment;" [Emphasis supplied]

Under the facts above set forth it is clearly seen that Mr. Adams is serving two separate and distinct life sentences for murder, an offense, the only punishment for which, is a life sentence. The issue as to whether these sentences can be considered concurrent sentences is irrelevant. It is true, that at the time of sentence, the Court did not provide for concurrent or consecutive sentences with respect to Mr. Adams, and it was not until 1961 by virtue of the enactment of P.L. 1961, Chapter 242, that


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R.S. 1954, Chapter 149, §1 was amended to include provision with respect to sentences running concurrently wherein the Court has made no provision for consecutive sentences. Even if we were to say that Mr. Adams is entitled to the benefit of the 1961 enactment and that such statute might be applied retroactively to the two life sentences, such retroactive application would, as to Mr. Adams, be to no avail.

The proviso contained in 34 M.R.S.A. §1672, subsection 3, which reads, "provided the prisoner has never been convicted of another offense punishable only by life imprisonment" is controlling. The fact that Mr. Adams has been convicted of murder twice militates against his eligibility for a parole hearing at any time, applying this proviso. An evaluation of Mr. Adams' situation within the context of the statute, can only produce the above result--non-eligibility for parole hearing.

At the time of commission of the two offenses for which Mr. Adams was convicted and sentenced, i.e., 7 June 1953, no person convicted of an offense, the only punishment for which, prescribed by law was life imprisonment, was eligible for parole. By P.L. 1953, Chapter 382, effective 8 August 1953, persons convicted of an offense, the only punishment for which, prescribed by law was life imprisonment, became entitled to parole after serving 30-years, subject to the provision that, "such person has never been convicted of any other capital crime." This provision was carried forward into the statutes of 1954 and appeared as R.S. 1954, Chapter 149, §12, until its repeal in 1957 by P.L. 1957, Chapter 387, §20. In substance, however, and by re-enactment in the same Public Law, P.L. 1957, Chapter 387, §1, the proviso was carried forward and appeared as R.S. 1954, Chapter 27-A, §12, subsection 3, which provision now appears as 34 M.R.S.A. §1672, subsection 3, amended by P.L. 1969, Chapter 280, above quoted, and yet to become effective. This chronology with respect to the proviso in question is set forth merely to indicate that the law with respect to persons situated as is Mr. Adams has not changed in substance, and has remained in effect at all times pertinent to his case.


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