

MAINE STATE LEGISLATURE

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BCW **STATE OF MAINE** *JS*

Inter-Departmental Memorandum Date 27 April 1971

To Allan L. Robbins, Warden

Dept. Maine State Prison

From Courtland D. Perry, Assistant Atty. Gen'l.

Dept. Mental Health and Corrections

Subject Non-concurrent Execution of Maine State Prison Sentence by Transferee Under New England Interstate Corrections Compact

SYLLABUS:

An inmate at the Maine State Prison in execution of a New Hampshire State Prison sentence, following transfer under the New England Interstate Corrections Compact, can not at the same time serve a Maine State Prison sentence imposed by a Court of this State, such inmate being legally subject to the jurisdiction of the State of New Hampshire, and the concurrent sentence provisions of Title 15, §1702 being applicable only to sentences imposed by Maine Courts.

FACTS:

One, Barry A. Brann, was convicted of the offense of breaking, entering and larceny in the night-time before the Superior Court for Hillsborough County, New Hampshire, and was sentenced to the New Hampshire State Prison for a term of not less than 2 years and for not more than 5 years on June 10, 1970. Said Brann, pursuant to his request for an early disposition of a Maine charge, was transported to the State of Maine for trial and was convicted of the offense of robbery before the Superior Court for Franklin County, Maine, and was sentenced to the Maine State Prison for a term of not less than two years and for not more than 5 years on January 21, 1971, following which said Brann was returned to the New Hampshire State Prison to continue in execution of the first mentioned sentence.

On March 18, 1971 said Brann was transferred to the Maine State Prison pursuant to the provisions of 34 M.R.S.A. 1964, Chapter 73, the New England Interstate Corrections Compact, and contract in force thereunder, to which the States of New Hampshire and Maine are party. Said Brann is currently serving the New Hampshire State Prison sentence at the Maine State Prison under the Compact and Contract.

QUESTION:

In view of said inmate's current confinement at the Maine State Prison, under the New England Interstate Corrections Compact, is he serving concurrently the sentence imposed for the offense of robbery by the Superior Court for Franklin County?

ANSWER:

No.

REASON:

The provisions of Title 15 M.R.S.A. 1964, §1702, as they relate to the serving of concurrent sentences, wherein the Court does not specifically indicate that a sentence is to be served consecutively to another sentence are considered to relate only to sentences imposed by the Courts of this State, and can not be said


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to be applicable in instances wherein sentence is imposed by a Court of this State at the time the Defendant is in execution of sentence imposed by a Court of another State.

While the inmate in question is in execution of the New Hampshire State Prison sentence, within the Maine State Prison, under the New England Interstate Corrections Compact, he is at all times subject to the jurisdiction of the sending state, viz., the State of New Hampshire, and with respect to his confinement at the Maine State Prison, the receiving state, viz., the State of Maine acts solely as the agent for the State of New Hampshire. The inmate may be removed at any time and returned to the State of New Hampshire. See: 34 M.R.S.A. 1964, §1294.

We are, therefore, of the opinion that an inmate at the Maine State Prison, in execution of a New Hampshire State Prison sentence, following transfer under the New England Interstate Corrections Compact, can not at the same time serve a Maine State Prison sentence imposed by a Court of this State, such inmate being legally subject to the jurisdiction of the State of New Hampshire, and the concurrent sentence provisions of Title 15, §1702 being applicable only to sentences imposed by Maine Courts.


Courtland D. Perry
Assistant Attorney General