

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date 10 February 1972

To William A. Kimball, Acting Secretary

Dept. Probation and Parole

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

Dept. Mental Health and Corrections

Subject Application of Forfeiture of Good Time Provision of 34 M.R.S.A. 1964, §1675,
subsec. 1.

SYLLABUS:

The forfeiture provision of Title 34, M.R.S.A. §1675, subsec. 1, relating to earned good time is applicable only to good time earned while the inmate is on parole. When the inmate spends part of a month in the institution and the remainder of that month on parole and has earned good time for the month, and is subsequently found in violation of parole, he forfeits a pro rata portion of the earned good time based upon the computation of the number of days of that month actually spent on parole. When an inmate is on parole at the beginning of a month, violates his parole and spends the remainder of that month at the institution, the administration in determining earned good time for that month may consider only time spent at the institution. Applying the intent of Title 34, M.R.S.A. 1964, §1675, subsec. 1, the parole violator thus situated, earns no good time for the portion of that month spent on parole.

FACTS:

It has been the practice at the Maine State Prison in connection with parolees returned to the institution and found by the State Parole Board to be in violation of parole to withdraw earned good time in the amount of 7 days for each month, or portion thereof, during which the inmate was on parole; meaning that, an inmate declared in violation of parole would lose all earned good time for a month, only a portion of which was spent on parole.

QUESTION:

Does an inmate whose parole has been revoked forfeit all earned good time

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for a month, only a portion of which was spent on parole?

ANSWER:

No.

REASON:

Applicable statutes are set forth in pertinent part below:

Title 34, M.R.S.A. 1964, §705

"Each convict, whose record of conduct shows that he has faithfully observed all the rules and requirements of the State Prison, shall be entitled to a deduction of 7 days a month from the minimum term of his sentence, commencing on the first day of his arrival at the State Prison..."

Title 34, M.R.S.A. 1964, §1675, subsec. 1.

"1. Forfeit deductions. Upon revocation of parole by the board the prisoner forfeits any deductions for good behavior earned while on parole."

Earned good time is computed on a monthly basis from the date of arrival at the Maine State Prison. It is obvious that the determination that an inmate has earned the monthly good time deduction must be based upon a review of the inmate's conduct during each preceding month. When an inmate is in execution of his sentence, for a portion of a month within the institution, and for the remainder of that month on parole, a determination may be made that the inmate earned 7 days good time.

At the time of revocation of parole when Title 34, M.R.S.A. 1964, §1675, subsec. 1, becomes operative, causing forfeiture of good time earned while on parole, the determination must be made as to the amount of good time lost by the inmate. Forfeiture relates only to good time earned while on parole and

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not to good time which may have been earned in the institution prior to parole. It is considered an inappropriate application of §1675, subsec. 1 to declare a forfeiture of any earned good time other than that applicable to time spent on parole in the month in question.

It appears that the only practical, but necessary, solution to a determination of the amount of good time forfeited is to prorate the earned good time for the month, by computing the number of days in that month actually spent on parole.

The foregoing method for determining the amount of good time forfeited is workable when institutional confinement precedes time on parole in a month. The same result is achieved but the reasoning is technically different when an inmate is found in violation of parole, having been on parole for a portion of a month and the remainder of that month is spent at the institution.. Technically, an inmate can not forfeit unearned good time; however, in determining earned good time for the month, the beginning of which was spent on parole, and the remainder of which was spent at the institution, the administration may not grant the inmate any good time for that portion of the month spent on parole but may only consider whether the inmate earned good time during the remainder of the month spent at the institution. We reach this conclusion by applying the intent of Title 34, M.R.S.A. 1964, §1675, subsec. 1, that a parole violator loses all good time for the period spent on parole.

In summary we are of the opinion that the forfeiture provision of Title 34, M.R.S.A. §1675, subsec. 1, relating to earned good time is applicable only to good time earned while the inmate is on parole; and that when an inmate spends part of a month in the institution and the remainder of that month on parole, and has earned good time for the month and is subsequently found in violation of parole, he forfeits a pro rata portion of the earned good time based upon the computation

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of the number of days of that month actually spent on parole; and that when an inmate is on parole at the beginning of a month, violates his parole and spends the remainder of that month at the institution, the administration in determining earned good time for that month may consider only time spent at the institution. Applying the intent of Title 34, M.R.S.A. 1964, §1675, subsec. 1, the parole violator thus situated, earns no good time for the portion of that month spent on parole.



Courtland D. Perry
Assistant Attorney General