

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date September 25, 1975

To G. S. Mullaney, Warden Dept. Maine State Prison
Attention: Harlan L. Sylvester, Classifications Officer
From Courtland D. Perry, Asst. Att'y General Dept. Mental Health & Corrections

Subject Applicability of jail time credits (15 M.R.S.A. § 1701-A) to "split sentences"

SYLLABUS:

Jail time credits provided for under 15 M.R.S.A. § 1701-A are not applicable to a 30 to 60-day term of confinement ordered by the court incident to the imposition of sentence pursuant to 34 M.R.S.A. § 1631, sub-§ 4.

FACTS:

Frequently inmates of the Maine State Prison are sentenced to a term of imprisonment carrying a minimum and maximum sentence, execution of all but 30 to 60 days of which sentence is suspended by the court and probation is ordered pursuant to 34 M.R.S.A. § 1631, sub-§ 4.

In many of such cases the judgment and order of commitment contains information from the clerk of courts that such inmates have undergone jail detention during the pendency of the criminal proceedings which resulted in the split sentences, so-called, e.g., "The above named defendant has been confined in our county jail for 40 days pending final disposition of his case."

QUESTION:

Under 15 M.R.S.A. § 1701-A, is credit for jail time applicable to and deductible from a 30-60 day period of confinement when sentence is imposed pursuant to 34 M.R.S.A. § 1631, sub-§ 4?

ANSWER: No.

REASONS:

34 M.R.S.A. § 1631, sub-§ 4 provides:

"The court may impose a sentence to the State Prison, suspend execution of a portion of this sentence and order the respondent to serve any number of days provided it shall not be less than 30 days nor more than 60 days of the imposed sentence and place him on probation for a period of 2 years, provided he has not previously served a prison sentence. Such probation shall commence at the time of imposition of sentence"

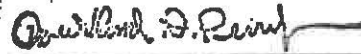
15 M.R.S.A. § 1701-A provides pertinently:

"Any person who is sentenced to the Maine State Prison, Men's Correctional Center, Women's Correctional Center, or to any county jail and is in

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execution thereof, shall be granted credit against the maximum term and minimum term, if applicable, of his sentence during which such person was confined in jail awaiting and during trial prior to the imposition of sentence, pending appeal, and not under any sentence of confinement. The clerk of the court sentencing any such person shall record in the judgment and order of commitment the number of days of such confinement and the credit provided for in this section shall be calculated on the basis of such information. . . ."

Jail time credits authorized under 15 M.R.S.A. § 1701-A are applicable to the minimum and maximum sentence imposed by the court; e.g., of not less than 1 1/2 years and not more than 3 years. It is our opinion that in the event that the inmate were to violate the conditions of the probation imposed under 34 M.R.S.A. § 1631, sub-§ 4, resulting in probation revocation and remand to the Maine State Prison in execution of sentence, the jail time accrued while the inmate awaited disposition of the criminal case would be applicable to reduce by the number of jail detention days, incarceration at the Maine State Prison, applying such credit to the minimum and maximum sentence. The 30 - 60 day period of confinement which inmates in this situation undergo are not the minimum or maximum sentences within the contemplation of 15 M.R.S.A. § 1701-A.



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