

# MAINE STATE LEGISLATURE

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# STATE OF MAINE

Inter-Departmental Memorandum Date March 5, 1976

To Ward E. Murphy, Director

Dept. Bureau of Corrections

From Courtland D. Perry, Asst. Att'y General

Dept. Mental Health & Corrections

Subject Good time credits on split sentences

## SYLLABUS:

A Person ordered imprisoned for 30 to 60 days as part of a sentence imposed under Title 34 § 1631, sub-§ 4, may earn good time in connection with such days of confinement; however, such good time deductions may only be applied in the event that the person is required, due to probation revocation, to serve the remaining portion of the sentence imposed.

## FACTS:

The Director of the Bureau of Corrections has requested the opinion of this office relative to the applicability of deductions for good time authorized by 34 M.R.S.A. § 705 to the split sentence, so-called, of 30 to 60 days imposed pursuant to 34 M.R.S.A. § 1631, sub-section 4.

QUESTION: Is a person ordered to serve a 30 to 60 day portion of a sentence imposed under 34 M.R.S.A. § 1631, sub-§ 4, entitled to application of earned good time permitting release from incarceration earlier than the 30 to 60 days ordered by the court to be served?

ANSWER: No. (See Reason re time of application).

## REASON:

34 M.R.S.A. § 1631, sub-§ 4, reads:

"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

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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."

34 M.R.S.A. § 705 reads in pertinent part:

"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."

The number of days (30 to 60) ordered to be served by the court under sub-section 4 of section 1631 of Title 34 is a fixed period of time which must be served in confinement; such 30 to 60 day period forms a part of the sentence imposed by the court. Under Title 34, § 705, the prisoner is entitled to earn deductions for good behavior beginning on the first day of incarceration, application of which deductions, however, is to the minimum sentence. In the case of the person who is sentenced to a split sentence, it is our opinion that the deductions for good behavior may be earned during the 30 to 60 day period but that they may only be applied in the event that the person so sentenced, who is a probationer under the referenced statute, violates his probation resulting in revocation of probation and remand to the institution in execution of the remaining portion of the split sentence. E.g., the prisoner ordered to serve 60 days as part of a split sentence may earn 14 days good time under Title 34 § 705. However, the deduction does not shorten the 60 day period of confinement but may be applied to shorten the sentence imposed if he is ultimately required to serve it.

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Courtland D. Perry  
Assistant Attorney General

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