

MAINE STATE LEGISLATURE

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DEPARTMENT OF THE ATTORNEY GENERAL



Memo From

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 ASSISTANT ATTORNEY GENERAL
 COUNSEL, MENTAL HEALTH & CORRECTIONS

Date: June 21, 1976

To: Harlan L. Sylvester, Classifications Dept: Maine State Prison
 Officer

Subject: Applicability of 17-A M.R.S.A. § 1253, sub-§§ 3 and 4, to persons serving terms
 of six months or less

You have asked whether, under 17-A M.R.S.A. § 1253, subsections 3 and 4, an inmate sentenced to the Maine State Prison for a term of imprisonment of six months or less may earn two days per month extra good time.

Your request calls for response by this informal memorandum.

I answer your question in the negative; a person sentenced to the Maine State Prison for a term of imprisonment of six months or less can not earn so-called extra good time under 17-A M.R.S.A. § 1253, sub-§ 4. Under § 1253, sub-§ 3, it is clear beyond necessity for interpretation that a person serving a sentence of six months or less has no entitlement to earn the ten days of good time per month provided for therein; indeed, you state in your request that you have no question on this point. The issue arises under subsection 4.

The pertinent statutes are:

"Each person sentenced to imprisonment for more than 6 months whose record of conduct shows that he has observed all the rules and requirements of the institution in which he has been imprisoned shall be entitled to a deduction of 10 days a month from his sentence, commencing, in the case of all convicted persons, on the first day of his delivery into the custody of the department."

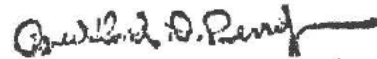
17-A M.R.S.A. § 1253, sub-§ 3.

"An additional 2 days a month may be deducted in the case of those who are assigned duties outside the institution or who are assigned to work within the institution which is deemed to be of sufficient importance and responsibility to warrant such deduction."

17-A M.R.S.A. § 1253, sub-§ 4.

The language which is dispositive of your question is the phrase, "an additional", which begins subsection 4 of § 1253. This phrase assumes the existence of good time which may be added to. It is clear that the good time is the 10 days per month earned good time provided for under sub-section 3. The only persons who can receive the 10 days per month good time under subsection 3 are those inmates who are serving sentences of more than 6 months. I am of the opinion that only inmates serving such sentences of more than six months can also earn the "additional"

time provided for under subsection 4. Had the legislature intended that all inmates of the Maine State Prison be entitled to earn two days of good time per month due to placement in positions of trust, regardless of duration of sentence, I believe that the phrase, "an additional," would not have been employed, and subsection 4 would have operated independently. The phrase, "an additional," inextricably ties the operation of subsection 4 to the language of subsection 3, and the class to which each type of good time applies is the class of inmates serving sentences of more than 6 months.



Courtland D. Perry
Assistant Attorney General

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