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SUPREME COURT OF ARKANSAS

No. 11-123

RAY HOBBS, DIRECTOR OF THE
ARKANSAS DEPARTMENT OF
CORRECTION,

APPELLANT,

VS.

CHANCEY BAIRD,

APPELLEE,

Opinion Delivered June 16, 2011APPEAL FROM THE JEFFERSON
COUNTY CIRCUIT COURT,
NO. CV-2009-966-5,
HON. JODI RAINES DENNIS, JUDGE,AFFIRMED.**PAUL E. DANIELSON, Associate Justice**

Appellant Ray Hobbs, Director of the Arkansas Department of Correction, appeals from an order of the Jefferson County Circuit Court granting declaratory relief to appellee Chancey Baird regarding the interpretation of the deadly-weapon enhancement statute that was applicable at the time of Baird's sentence. Hobbs argues on appeal that the circuit court erred in finding that Baird will be eligible to accrue good-time credits toward a possible parole-eligibility date after the first ten years of his thirty-year sentence. We disagree and affirm the order of the circuit court.

Baird was convicted of attempted first-degree murder, which occurred on February 7, 2001. He was sentenced to thirty years' imprisonment for the conviction pursuant to Ark. Code Ann. § 16-90-121 (1987). That conviction and sentence were upheld by this court in

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Baird v. State, 357 Ark. 508, 182 S.W.3d 136 (2004). He was later that same year convicted of delivery of a controlled substance and sentenced to thirty years' imprisonment to run consecutive to the first thirty-year sentence.

On September 30, 2009, Baird filed a complaint for declaratory relief against the Department of Correction asserting that Ark. Code Ann. § 16-90-121 was erroneously interpreted by the Department to mean that Baird's entire thirty-year sentence for the attempted first-degree murder had to be served without eligibility for good time and, therefore, the department erroneously denied him the opportunity to be eligible for parole. The circuit court agreed and entered an order granting a declaratory judgment in favor of Baird. The circuit court found that, based on the applicable statute, at the conclusion of ten years of his sentence, Baird's sentence could become subject to meritorious good-time credit. It is from that order and finding that Hobbs now appeals on behalf of the Department.

Hobbs argues that the proper interpretation of Ark. Code Ann. § 16-90-121 as it was written at the time of the crime is that it prohibited parole for any sentence, no matter how long, to which it was applied. He asserts that when the statute was written, the inclusion of the words "meritorious good time" did not conflict with the inclusion of the words "without parole" because good time could have actually reduced the overall length of an inmate's sentence; however, Hobbs argues, that language was repealed by implication when the legislature reworked the meritorious good-time statute in 1993. Baird responds that the circuit court was correct in its interpretation of the statute and that Hobbs's interpretation contradicts

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prior interpretations of the statute, the basic rules of statutory interpretation, and the rule of lenity.

We review statutory interpretation de novo, as it is for this court to determine the meaning of a statute. See *Dachs v. Hendrix*, 2009 Ark. 542, ___ S.W.3d ___; *Osborn v. Bryant*, 2009 Ark. 358, 324 S.W.3d 687. Our rules of statutory construction are well settled:

The basic rule of statutory construction is to give effect to the intent of the legislature. Where the language of a statute is plain and unambiguous, we determine legislative intent from the ordinary meaning of the language used. In considering the meaning of a statute, we construe it just as it reads, giving the words their ordinary and usually accepted meaning in common language. We construe the statute so that no word is left void, superfluous or insignificant, and we give meaning and effect to every word in the statute, if possible.

Dachs, 2009 Ark. 542, at 7–8, ___ S.W.3d at ___ (quoting *City of Little Rock v. Rhee*, 375 Ark. 491, 495, 292 S.W.3d 292, 294 (2009)).

Turning to the merits, this court has held that a sentence must be in accordance with the statutes in effect on the date of the crime. See *State v. Burnett*, 368 Ark. 625, 249 S.W.3d 141 (2007). On the date of the crime, Ark. Code Ann. § 16-90-121 stated:

Any person who is found guilty of or pleads guilty to a felony involving the use of a deadly weapon, whether or not an element of the crime, shall be sentenced to serve a minimum of ten (10) years in the state prison without parole but subject to reduction by meritorious good-time credit.

Ark. Code Ann. § 16-90-121 (1987).

When Ark. Code Ann. § 16-90-121 was originally enacted, meritorious good time allowed for a reduction from an inmate's maximum prison sentence and parole-eligibility date. See Ark. Code Ann. § 12-29-201 (1987). Therefore, the legislature intended that a reduction

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in sentence be possible. However, on the date of Baird's offense, Ark. Code Ann. § 12-29-201 had been changed to no longer permit meritorious good time to actually reduce the length of a sentence; instead, meritorious good-time credit applied to an inmate's transfer-eligibility date. *See* Ark. Code Ann. § 12-29-201 (Repl. 1995). Hobbs asserts that the language in Ark. Code Ann. § 16-90-121 was repealed by implication by the changes made to Ark. Code Ann. § 12-29-201.

It is well settled that statutes relating to the same subject should be read in a harmonious manner if possible. *See Thomas v. State*, 349 Ark. 447, 79 S.W.3d 347 (2002). All legislative acts relating to the same subject are said to be *in pari materia* and must be construed together and made to stand if they are capable of being reconciled. *See id.* Repeals by implication are strongly disfavored by the law, and a statute will only be impliedly repealed in Arkansas when two enactments cannot stand together. *See Cox v. State*, 365 Ark. 358, 229 S.W.3d 883 (2006). Repeal by implication is only recognized in two situations: (1) where the statutes are in irreconcilable conflict, and (2) where the legislature takes up the whole subject anew, covering the entire subject matter of the earlier statute and adding provisions clearly showing that it was intended as a substitute for the former provision. *See Thomas, supra.* We will not find a repeal by implication if there is a way to interpret the statutes harmoniously. *See Cox, supra.*

We hold that simply because Ark. Code Ann. § 12-29-201 changed how meritorious good-time credit is applied, it did not repeal the language in Ark. Code Ann. § 16-90-121.

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Because Ark. Code Ann. § 12-29-201 instructs that good-time credit be applied to an inmate's transfer-eligibility date, that time shall be applied to decrease the time an inmate is required to be imprisoned before he becomes eligible for parole. Therefore, the language in Ark. Code Ann. § 16-90-121 instructing that the sentence would be "subject to reduction by meritorious good-time credit" applies in those cases where an inmate is sentenced to more than ten years. In such cases, the inmate is required to serve a minimum ten-year sentence, with no eligibility for parole during that period of time. However, good-time credit can then be applied to the parole-eligibility date after the inmate has served the ten years.

In the instant case, Baird was sentenced to thirty years' imprisonment pursuant to Ark. Code Ann. § 16-90-121 for the attempted first-degree murder conviction. Therefore, after he serves ten years of his sentence without eligibility for parole, his sentence could be subject to a reduction by meritorious good-time credit.

Hobbs's interpretation, that the statute prohibits parole for any sentence, no matter how long, obliterates the end of the sentence included in Ark. Code Ann. § 16-90-121, which reads, "but subject to reduction by meritorious good-time credit." As previously noted, we will interpret a statute so that no word is left void, superfluous or insignificant. *See Dachs, supra.*

While Hobbs argues that the circuit court should not have applied the rule of lenity in its analysis, we need not address that argument because we uphold the circuit court's order based on our interpretation of the statute's plain language—not because there are any doubts to be resolved in favor of the defendant.

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For these reasons, we affirm the circuit court's order granting a declaratory judgment in favor of Baird and finding that, at the conclusion of the first ten years of Baird's sentence, his sentence then may become subject to reduction by meritorious good-time credit.

Affirmed.