

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

RICHARD D. TAYLOR,)	
Plaintiff,)	
)	
v.)	C.A. No.: 10M-08-106 FSS
)	
CARL DANBERG, Commissioner,)	
Delaware Department of Correction;)	
PERRY PHELPS, Warden, JTVCC;)	
and ANTHONY RENDINA,)	
Classification Administration,)	
DOC/BOP,)	
Defendants.)	

Submitted: November 14, 2011
Decided: February 15, 2012

FINAL ORDER

**Upon Plaintiff’s Motion to Alter or Amend a Judgment, or, in the Alternative,
for Relief from a Judgment or Order – DENIED.**

1. On February 18, 2011, the court denied Plaintiff’s petition for writ of mandamus.¹ On February 28, 2011, Plaintiff filed this motion to alter or amend judgment, pursuant to Superior Court Civil Rule 59(e), or, in the alternative, for relief from the judgment, pursuant to Superior Court Civil Rule 60(b).

¹ *Taylor v. Danberg*, C.A. 10M-08-106, at *2 (Del. Super. Feb. 18, 2011) (Silverman, J.) (“Because Plaintiff has not demonstrated that he has an unconditional right to relief, and it appears that the relief he seeks is a matter of discretion, Plaintiff is not entitled to mandamus.”)

2. It appears Plaintiff intended to file a motion to alter or amend the judgment pursuant to Rule 59(d), not Rule 59(e). Otherwise, the motion would have been untimely.²

3. Before the court could decide Plaintiff's motion, he appealed the court's February 18, 2011 mandamus denial. On October 27, 2011, the Supreme Court affirmed.³ Plaintiff's case was closed on November 14, 2011.

4. Assuming Plaintiff's motion did not merge with his appeal, which it probably did, it still fails as a matter of law because Plaintiff has no reason why the court should alter or amend its February 18, 2011 judgment. Nor has he shown a mistake⁴ or an extraordinary circumstance⁵ justifying relief.

5. Plaintiff claims the Parole Board is applying the wrong good time credit rule and his accrued good time warrants his immediate release. To the extent the court accepts Plaintiff's arguments, it does not change the outcome. Good time credits only accelerate the parole eligibility date for parole-eligible life sentences

² Super. Ct. Civ. R. 59(e) ("A motion for reargument shall be served and filed within 5 days after the filing of the Court's opinion or decision."); *See also* Super. Ct. Civ. R. 59(d) ("A motion to alter or amend the judgment shall be served and filed not later than 10 days after entry of the judgment.").

³ *Taylor v. Danberg*, 31 A.3d 77 (Del. 2011) (TABLE).

⁴ Super Ct. Civ. R. 60(b)(1).

⁵ *Id.* 60(b)(6). *See also Jewell v. Division of Social Services*, 401 A.2d 88, 90 (Del. 1979) ("We adopt as the standard for a Rule 60(b)(6) motion the 'extraordinary circumstances' test.").

imposed before Truth-in-Sentencing.⁶ Good time credits do not reduce the sentence's overall length or apply to conditional release.⁷

6. As stated in the February 18, 2011 decision, Plaintiff was sentenced in 1971 to two concurrent life terms.⁸ Plaintiff's "good time" accelerated his parole eligibility date to 1986. Because Plaintiff was sentenced before Truth-in-Sentencing, parole is the only way he may be released from prison, in this context. His good time credits do not warrant immediate release.

For the foregoing reasons, Plaintiff's motion to alter or amend judgment, pursuant to Rule 59(d), or in the alternative, for relief from the Judgment or Order, pursuant to Superior Civil Court Rule 60(b) is **DENIED**.

IT IS SO ORDERED.

/s/ Fred S. Silverman

Judge

cc: Prothonotary (Civil Division)
pc: Ryan P. Connell, Deputy Attorney General
Richard D. Taylor, *pro se*

⁶ See, e.g., *Shockley v. Danberg*, 979 A.2d 1111, 2009 WL 2882870, at *1 (Del. 2009) (TABLE) (citing *Evans v. State*, 872 A.2d 539, 558 (Del. 2005) (“[10 Del. C. § 4348 does] not apply to any life sentence with the possibility of parole that was imposed before the effective date of Truth-in-Sentencing.”)).

⁷ *Id.*

⁸ *Taylor*, C.A. 10M-08-106, at *1.