

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

CRAIG M. ROUNDTREE,)	
)	
Petitioner,)	
)	
v.)	C.A. No. N10M-10-057 CLS
)	
DEPARTMENT OF CORRECTION,)	
)	
Respondent.)	

Date Submitted: September 16, 2011

Date Decided: October 28, 2011

On Petitioner's Petition for a Writ of Mandamus. **DISMISSED.**

On Respondent's Motion to Dismiss. **GRANTED.**

Craig M. Roundtree, SBI #178473, James T. Vaughn Correctional Center,
1181 Paddock Road, Smyrna, Delaware 19977.
Pro Se Petitioner

Ophelia M. Waters, Esq., Deputy Attorney General, State of Delaware,
Department of Justice, 820 French Street, Wilmington, Delaware 19801.
Attorney for Department of Corrections

Scott, J.

Introduction

Craig M. Roundtree, (“Petitioner”) filed a *pro se* Petition for Writ of Mandamus. Petitioner asks this Court to issue a Writ of Mandamus requiring the Department of Corrections, (“Respondent”) to recalculate his sentence to reflect “good time” credits earned. Specifically, Petitioner requests an order compelling the Respondent to grant his earned time credits and issue him a new status sheet that shows his “good time” credited towards his sentence. In response, Respondent filed a Motion to Dismiss for Failure to State a Claim Upon Which Relief Can Be Granted (“Motion to Dismiss”). For the reasons that follow, Petitioner’s Writ is **DISMISSED** and Respondent’s Motion to Dismiss is **GRANTED**.

Background

On or about May 10, 1995, Petitioner was found guilty and sentenced to twenty-four (24) years at supervision Level V. He is currently incarcerated at the James T. Vaughn Correctional Center in Smyrna, Delaware. From 1994 to present, Petitioner participated in work, treatment, and educational programs that earned meritorious “good time” credits. On October 14, 2010, Petitioner filed a Writ asking this Court to compel Respondent to grant his “good time” earned and issue him a new status

sheet. As of March 8, 2010, Petitioner had a Pardons Database Information indicating 870 statutory days and 356 merit “good time” credits.

Respondent filed their Motion to Dismiss on April 18, 2011.

Discussion

In what the Court can discern, Petitioner argues an incorrect calculation of his “good time” credit. Respondent, in its Motion to Dismiss, argues Petitioner failed to establish a clear right to relief and his Offender Status Sheet accurately reflects his reduced release. Respondent argues 11 *Del. C.* § 4381 in opposition of Petitioner’s Writ and in support of its Motion to Dismiss.

A writ of mandamus may be issued to “an inferior court, public official, or agency to compel the performance of a duty to which the petitioner has established a clear legal right.”¹ This Court may issue a writ of mandamus when: (1) the petitioner can show that he has a clear right to the performance of a duty by a State agency; (2) that no other adequate remedy is available; and (3) the State agency has arbitrarily failed or refused to perform its duty.² This Court will not issue a writ of mandamus, decide a matter, or dictate control of its docket where a petitioner fails to clearly

¹ *Snyder v. Andrews*, 708 A.2d 237, 240 (Del. 1998).

² *In re Matter of Bordley’s Petition for Writ of Mandamus*, 545 A.2d 619, 620 (Del. 1988).

show an arbitrary refusal or failure to act.³ Disposition of such writ is appropriate under a motion to dismiss, pursuant to Superior Court Civil Rule 12(b)(6), where the petitioner failed to establish a clear right to requested relief.⁴ Under 12(b)(6), this Court must accept all well-pleaded facts in the writ as true.⁵

“Good time” credits are statutory and divided between behavioral and meritorious credits. Behavioral credits are based on compliance with Respondent’s disciplinary rules and regulations.⁶ Merit credits, however, are awarded pursuant to educational, rehabilitation, or work programs.⁷ Title 11, section 4381(c) of the Delaware Code sets forth the calculation for “good time” credits and when such credits may be earned.⁸ Pursuant to 11 Del. C. § 4381(d), “good time” may be earned by participating in education, rehabilitation, work or other designated programs.⁹ In Delaware, “good time” is an “administrative rehabilitative device” providing inmates early release from their imprisonment terms.¹⁰ Good time is not, however, a

³ *Id.*

⁴ *Id.*

⁵ *In re The Petition of Carl Haskins, Jr.*, 1999 WL 743319, at *1 (Del. Super. Ct. July 20, 1999).

⁶ *Id.*

⁷ *Id.*

⁸ 11 *Del. C.* § 4381(c).

⁹ 11 *Del. C.* § 4381(d).

¹⁰ *Snyder*, 708 A.2d at 242.

constitutional right.¹¹ As such, an inmate has no greater right in “good time” than the statute authorizes.¹² While Delaware permits “good time” credit to reduce an inmate’s incarceration period, it cannot be used to reduce a mandatory time an inmate must serve.¹³ The credit can be applied to reduce non-mandatory time.¹⁴

A petitioner must demonstrate that not only was he provided “good time” credit, but also that Respondent failed to comply with the statutory provisions upon which credits are granted or calculated.¹⁵ Petitioner has failed to do so. It is undisputed that Petitioner earned meritorious “good time” credit during his incarceration. The Respondent provided records that log Petitioner’s monthly meritorious “good time” credit. Petitioner uses the amount stated in Respondent’s Motion to Dismiss as his calculation for meritorious credit awarded. In fact, Petitioner’s meritorious “good time” credit is constantly changing, as he is active in work, educational, and other programs. As of September 16, 2011, the Respondent indicated in their Reply in Support of Dismissal that Petitioner was awarded 501 meritorious “good time” days earned.¹⁶ The Respondent credited Petitioner with his

¹¹ *Id.*

¹² *Id.*

¹³ *Murray v. Messick*, 1995 WL 109006, at *3 (Del. Super. Ct. Feb. 23, 1995).

¹⁴ *Id.*

¹⁵ *See Murray*, 1995 WL 109006, at *3.

¹⁶ Resp’t. Reply in Support of Dismissal, ¶ 2; *Id.*, at Ex. A-1.

meritorious credit. Petitioner's initial release date was May 5, 2018, but, in applying good time credit earned, his anticipated release date is now August 5, 2014. This date will continue to change as Petitioner earns meritorious credit for work, education, and other various programs.

While Petitioner alleges a flaw in the method used to calculate his meritorious "good time," he provides no support for his contention. Petitioner argues that the law requires him to only serve 75% of his 24-year sentence. He then subtracts the statutory and meritorious credits from 18 years arguing his released date is actually May 12, 2012. Petitioner is incorrect, as his calculations result in double "good time" credits.

Petitioner failed to establish a clear right to requested relief. Respondent provided Petitioner with a copy of his Offender Status Sheet.¹⁷ The record clearly indicates Petitioner received 870 statutory and 501 meritorious "good time" credits.¹⁸ There is no set of facts which Petitioner would be entitled to meritorious credits contrary to the statutory scheme. Therefore, Petitioner's claim must be dismissed.

¹⁷ The Offender Status Sheet, dated April 14, 2011 was attached as exhibit A to Respondent's Motion to Dismiss. 870 statutory "good time" days are reflected on the status sheet. The sheet indicates that the document must be updated to show total credit earned through education, programming & work.

¹⁸ At the time Respondent filed its reply on September 16, 2011, Petitioner was awarded 501 meritorious credits. Aff. of Toby Davis, Information Resource Manager of the Central Offender Records.

Conclusion

Based on the foregoing, Petitioner's Writ of Mandamus is
DISMISSED and Respondent's Motion to Dismiss is **GRANTED**.

IT IS SO ORDERED.

/S/CALVIN L. SCOTT
Judge Calvin L. Scott, Jr.