

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR SUSSEX COUNTY

FORREST L. CANNON, : C.A. No. S09M-10-010 THG
Petitioner, :
v. :
MICHAEL DELOY, WARDEN (SCI) :
Respondent. :

O R D E R

1) Petitioner Forrest L. Cannon (“petitioner”) filed a petition seeking a writ of mandamus, wherein he seeks an order instructing Sussex Correctional Institution to apply good time credits to a mandatory portion of his sentence entered in the case of *State v. Cannon*, Def. ID# 0710026944;

2) Petitioner was instructed to pay filing fees in this matter or submit a motion to proceed *in forma pauperis* by November 13, 2009;

3) Although petitioner filed the motion to proceed *in forma pauperis* on November 12, 2009, the motion did not come to the attention of the Court;

4) This Court entered an order dated December 4, 2009, dismissing the matter because it was unaware of the filing of the motion to proceed *in forma pauperis*;

5) Because petitioner filed the appropriate motion, the December 4, 2009, order is **VACATED**;

6) The Court now reviews the motion to proceed *in forma pauperis* and the petition seeking a writ of mandamus.

7) The motion to proceed *in forma pauperis* is **GRANTED**.

8) I turn to the petition seeking a writ of mandamus. Petitioner was sentenced, on Criminal Action No. S07-10-0837 (possession with intent to deliver cocaine), to a three year mandatory period of incarceration. This mandatory time was entered pursuant to 16 *Del. C.* §

4763. The mandatory period of incarceration commenced on February 11, 2008, and ends on February 10, 2011. Petitioner maintains he is entitled to an award of good time credits against this sentence. Petitioner's request has no legal support. Good time credits only may be applied to reduce the non-mandatory portions of a term of incarceration; they may not be applied against a mandatory sentence. *Young v. State*, 981 A.2d 1174, 2009 WL 3286026 (Del. Oct. 13, 2009). Thus, the petition seeking a writ of mandamus is **DENIED**.

Dated: 12/30/09

/s/ T. Henley Graves

JUDGE

cc: Prothonotary's Office

Forrest L. Cannon, SBI# 00213485

State v. Cannon, Def. ID# 0710026944

Ophelia Waters, DAG

Aaron Goldstein, DAG