

SUPERIOR COURT
OF THE
STATE OF DELAWARE

E. SCOTT BRADLEY
JUDGE

SUSSEX COUNTY COURTHOUSE
1 The Circle, Suite 2
GEORGETOWN, DE 19947

August 23, 2010

James A. Felton
Sussex Correctional Institution
P.O. Box 500
Georgetown, DE 19947

RE: State of Delaware v. James A. Felton
Def. ID No. 0201017660
Letter Opinion

Date Submitted: June 25, 2010

Dear Mr. Felton:

This is my decision on your second Motion for Postconviction Relief. You were convicted of the charge of Unlawful Sexual Intercourse in the First Degree on November 22, 2002. I sentenced you to 20 years at Supervision Level V, suspended after 15 years at Supervision Level V for six months at Supervision Level IV Work Release, followed by four years and six months at Supervision Level III, on January 20, 2003. You were represented at trial by Carole J. Dunn, Esquire. The Supreme Court affirmed your conviction on July 3, 2003.¹ You filed your first Motion for Postconviction Relief on August 9, 2006. I denied it on June 22, 2007. The Supreme Court affirmed my denial of your first Motion for Postconviction Relief on February 1, 2008.² You filed your second Motion for Postconviction Relief on June 25, 2010.

¹ 827 A.2d 30 (Table), 2003 WL 21529302 (Del. July 3, 2003).

² 945 A.2d 594 (Table), 2008 WL 308231 (Del. Feb. 1, 2008).

You allege that Dunn did not tell you that you had the right to seek a reduction of your sentence within 90 days after the imposition of it under Superior Court Criminal Rule 35(b). Your allegation is irrelevant because I have already considered and denied your request to modify your sentence for reasons unrelated to the fact that it was filed more than 90 days after I sentenced you. Your complaint about your sentence involves the Supervision Level IV Work Release portion of it.³ You wrote me a letter, dated May 22, 2010, stating that you could not participate in the work release program because it is not open to sex offenders (See Exhibit "A"). I denied your request, reasoning that (1) it was premature to modify your sentence at this time because you still had a number of years left at Supervision Level V to serve, (2) work release would provide a good transition for you as you moved from incarceration to probation, and (3) the work release rules that will be in effect when you are supposed to go to work release may be less restrictive than they are now. I also told you that I would reconsider your request after you finish the Supervision Level V portion of your sentence (See Exhibit "B"). Obviously, if you are not eligible for work release once you are supposed to go there, then your sentence will have to be modified. Thus, I have already considered your request and denied it for now. You may, as I told you before, renew your request to modify your sentence when you finish the Supervision Level V portion of your sentence and, if you do, I will consider your request even though it will be made more than 90 days after I sentenced you.

CONCLUSION

Your second Motion for Postconviction Relief is DENIED.

³ The Level V portion of your sentence is mandatory and cannot be suspended pursuant to the provisions of 11 Del.C. §§ 775 (a)(4) and 4205 that were in effect at the time.

IT IS SO ORDERED.

Very truly yours,

/S/ E. Scott Bradley

E. Scott Bradley

oc: Prothonotary's Office
cc: Melanie C. Withers, Esquire
Carole J. Dunn, Esquire

(2)

Department of Corrections
of the
State of Delaware

Mr. James A. Felton
SBI# 1A481295
Housing Unit: Medium-Tier-(C)

Sussex Correctional Instit.
P. O. Box 500
Georgetown, De. 19947

Date: May 22, 2018

Judges' Chambers
Superior Court of Delaware
Clk: Judge E. Scott Bradley
Sussex County Courthouse
1 The Circle, Suite #2
Georgetown, De. 19947

Re: Def. ID# 0201017660
Questions on the Work-Release Policy
for TIS - Sex Offenders

FILED PROTHONOTARY OFFICE
2018 MAY 26 AM 10:32


Dear: Judge E. Scott Bradley,

First and foremost, Good morning or afternoon to you. I have two questions for you, and I hope you can answer them. (1) You sentence me to Work-Release (6 months), but I was told by my counselor that with my charge Unlawful Sex Int. (1) or anyone convicted of a sex offence can not go to Work-Release. Is that true? (2) If I pay my court financial obligations which is \$296.50 (Page #3), now, will it cancel or time serve my 6 month Work-Release sentence? Because I believe that is why you sentence me to work-Release because of my financial obligations and thanks again for your time in this matter

Very truly yours

God Bless

EXHIBIT


James A. Felton

WORK RELEASE POLICY (Department of Correction/Bureau of Prisons)

A program permitting an inmate of proper custody status to work in the community at paid employment. The inmate is still assigned to a Halfway House/Work Release Center when not working or participating in extracurricular programs. Inmates meeting the following standards may be given consideration.

Inmates within 36 months to short-time release date and 9 months to parole eligibility. (Non- TIS offenders only.)

Inmates convicted of a violent crime against person(s) and served more than a year at Level V must have a mental evaluation prior to being considered for the program.

MDT must review and recommend placement.

Inmates with minor open charges can be approved and will be expected to clear the charges; i.e., motor vehicle offenses.

Inmates serving a sentence for a third DUI offense occurring within 5 years from a prior offense are not eligible for work release during the first 3 months of the sentence imposed.

Inmates serving a sentence for a fourth or subsequent offense occurring any time after 3 prior offenses are not eligible for work release during the first 6 months of the original sentence imposed.

Truth In Sentencing Inmates

1. Sentenced to one year or more under Truth in Sentencing if they are in the last 180 days of their sentence.
2. Truth in Sentencing inmates sentenced to less than 1 year provided, however, the first 5 days be served at Level V, may be classified to work release, unless the court states otherwise.

Inmates serving a Level V sentence with a Level IV sentence to follow.

Inmates must not have had any Class I or major conduct offenses within the last 6 months prior to consideration.

* Inmates in the following categories **will not** be given consideration in this program due to either statutory or departmental/bureau policy.

1. Class A Felons, those committed as a Habitual Criminal or those previously convicted of two or more offenses listed herein on page 8 or 9 until within six months of the date of release from custody.
2. Any offender convicted of a sex offense, including but not limited to offenders convicted of any of the following offenses: Unlawful sexual contact in the First or Second Degree, Unlawful sexual penetration in the First, Second, or Third Degree, Unlawful sexual intercourse in the First, Second, or Third Degree, Sexual Extortion, Continuous sexual abuse of a child, Dangerous crimes against a child, Sexual exploitation of a child, Unlawfully dealing in material depicting a child in a prohibited sexual act, or Subsequent convictions of Sec. 1108 or Sec. 1109.
3. Inmates with detainer, unless the detaining authority has given specific written approval for work release.
4. Inmates serving a sentence under 4204K, unless the sentencing judge specifies that work release is allowed.
5. Inmates convicted of escape after conviction or escape 2nd and are never eligible for work release.

EXHIBIT A

FINANCIAL SUMMARY

STATE OF DELAWARE
VS.
JAMES A FELTON
DOB: 10/12/1965
SBI: 00481295

CASE NUMBER:
0201017660

SENTENCE CONTINUED:

TOTAL DRUG DIVERSION FEE ORDERED	
TOTAL CIVIL PENALTY ORDERED	
TOTAL DRUG REHAB. TREAT. ED. ORDERED	
TOTAL EXTRADITION ORDERED	
TOTAL FINE AMOUNT ORDERED	
FORENSIC FINE ORDERED	100.00
RESTITUTION ORDERED	.00
SHERIFF, NCCO ORDERED	
SHERIFF, KENT ORDERED	
SHERIFF, SUSSEX ORDERED	45.00
PUBLIC DEF, FEE ORDERED	50.00
PROSECUTION FEE ORDERED	100.00
VICTIM'S COM ORDERED	
VIDEOPHONE FEE ORDERED	1.00
<hr/> TOTAL	296.00

EXHIBIT A

APPROVED ORDER

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January 10, 2003 12:01

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SUPERIOR COURT
OF THE
STATE OF DELAWARE

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E. SCOTT BRADLEY
JUDGE

SUSSEX COUNTY COURTHOUSE
1 THE CIRCLE, SUITE 2
GEORGETOWN, DELAWARE 19947
TELEPHONE (302) 856-5256

June 1, 2010

James A. Felton
SBI# 00481295
Sussex Correctional Institution
P.O. Box 500
Georgetown, DE 19947

Re: Def. ID# 0201017660
Letter filed May 26, 2010

Dear Mr. Felton:

You were sentenced January 10, 2003 to 20 years at level V, suspended after serving 15 years at level V, for 6 months at level IV work release, followed by 4 years, 6 months at level III. You still have a substantial amount of level V time to serve. The Court will not consider modifying the level IV work release portion until you have completed the level V sentence.

To the extent you are seeking a modification of sentence, it is denied. IT IS SO ORDERED.

Very truly yours,



E. Scott Bradley

ESB:tl

cc: Prothonotary's Office
Department of Justice

EXHIBIT B

FILED PROTHONOTARY OFFICE
2010 JUN -2 AM 8:57