

SUPERIOR COURT
OF THE
STATE OF DELAWARE

JEROME O. HERLIHY
JUDGE

DANIEL L. HERRMANN
COURT HOUSE
WILMINGTON, DE 19801-3353

April 4, 2002

Mr. James B. Argoe
#439683
Gander Hill
1301 East Twelfth Street
Wilmington, DE 19802

RE: *State v. James B. Argoe*
C.R.A.Nos. IN-01-07-0880 and 0882
ID No. 0106011226

Dear Mr. Argoe:

You have asked me to modify or clarify your sentence for possession of a firearm during the commission of a felony.¹ According to your motion, you claim the Department of Correction is not awarding you good time.² This is happening because your sentence order notes that the three-year minimum is "mandatory."

The date of your offense was November 2, 2000. At that time, §1447A required the Court to impose, at least, a minimum sentence of three years. The Court, in other words, was not permitted to suspend any part of the three-year sentence. Effective July 9, 2001, a new subsection (d) was added to §1447A which specifically prohibited the Department of Correction from awarding good time.³

That change, of course, was enacted seven months after your offense. You were sentenced on December 31, 2001. The sentence date, however, is not controlling. The offense and enactment dates are. As such, your sentence and the award of good time are controlled by *State v. Conner*.⁴

¹11 *Del.C.* §1447A.

²11 *Del.C.* §4381.

³73 *Del. Laws* Ch. 107.

⁴ID.Nos. 9902015257, 9908012187, 9909009903, Silverman, J. (March 23,
(continued...))

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The Department of Correction must award you good time. The prohibition on awarding it is inapplicable since that prohibition became effective after the date of your crime. That award must be calculated from December 5, 2001, the effective date of your incarceration (with the addition of 14 days credit time).

CONCLUSION

Your motion to require the Department of Correction to award you good time for your sentence under 11 *Del.C.* §1447A is **GRANTED**.

IT IS SO ORDERED.

Sincerely,

JOH/bsb
cc Gander Hill Records Department
Prothonotary