

SUPERIOR COURT
OF THE
STATE OF DELAWARE

T. Henley Graves
Resident Judge

SUSSEX COUNTY COURTHOUSE
THE CIRCLE
P.O. BOX 746
GEORGETOWN, DE 19947
(302) 856-5257

November 5, 2003

Clarence Johnson
Sussex Correctional Institution
P.O. Box 500
Georgetown, DE 19947

RE: Johnson v. State, C.A. No. 03M-09-015

DATE SUBMITTED: October 16, 2003

Dear Mr. Johnson:

Pending before the Court are a petition which Clarence Johnson ("petitioner") filed seeking a writ of mandamus ("petition") and a motion to proceed in forma pauperis. A consideration of the motion to proceed in forma pauperis requires a consideration of the petition. 10 Del. C. § 8803(b). A review of the petition in this matter shows it is factually and legally frivolous, and accordingly, the Court dismisses it with prejudice.

In the case of State v. Johnson, Def. ID# 9709010280, petitioner was sentenced on convictions of possession of a deadly weapon during the commission of a felony ("PDWCF") and manslaughter. Petitioner was arrested in the criminal matter on September 14, 1997. He has been incarcerated since that date.

On January 22, 1999, he was sentenced on the PDWCF conviction to seven (7) years at Level 5, with credit for time served. On the manslaughter conviction, he was sentenced to ten

(10) years at Level 5, consecutive to the PDWCF sentence, and after serving five (5) years at Level 5, the balance is suspended for probation. In other words, petitioner must serve twelve (12) years at Level 5, and the sentence, by giving credit for time served, practically commenced as of September 14, 1997.

Petitioner's full term release date is September 12, 2009, and his good time credit release date is July 19, 2008.

In his petition, petitioner argues Department of Correction ("DOC") has not given him credit for time served from September 14, 1997, until January 22, 1999. He has attached his inmate status sheet to his petition. The status sheet shows that petitioner's sentence is running from September 14, 1997. DOC has awarded petitioner credit for time served. Petitioner's petition is legally and factually frivolous.

I note that this Court previously dealt with this matter in the criminal case. State v. Johnson, Def. ID# 9709010280, Graves, J. (June 4, 2001). If petitioner raises this issue again, the Court will order that he lose good time credit. 10 Del. C. § 8805(a).

For the foregoing reasons, the pending petition is dismissed with prejudice as factually and legally frivolous.

IT IS SO ORDERED.

Very truly yours,

T. Henley Graves

cc: Prothonotary's Office
State v. Johnson, Def. ID# 9709010280
SCI Records