

Commonwealth Of Kentucky

Court Of Appeals

NO. 2001-CA-002200-MR

JOHNNY ROBINSON

APPELLANT

v. APPEAL FROM OLDHAM CIRCUIT COURT
HONORABLE KAREN A. CONRAD, JUDGE
ACTION NO. 01-CI-00079

TOM CAMPBELL, COMMISSIONER
AND WILLIAM C. SEABOLD

APPELLEES

OPINION
AFFIRMING
** **

BEFORE: KNOPF, McANULTY, AND SCHRODER, JUDGES.

SCHRODER, JUDGE: Johnny Robinson appeals from an order of the Oldham Circuit Court dismissing his petition for declaratory judgment. Having reviewed the record and applicable law, we affirm.

Robinson is currently an inmate at the Kentucky State Reformatory. On March 6, 1998, Robinson was sentenced to an eight-year prison term. Upon admission to the penitentiary, per KRS 197.045(1), Robinson was credited prospectively with two years good time, referred to as "statutory good time," an amount equal to 1/4 of his total sentence. On February 5, 2001,

Robinson filed a petition for declaratory judgment alleging that he had not been awarded all of the good time that he was entitled to under KRS 197.045. On August 6, 2001, the Oldham Circuit Court entered an order dismissing Robinson's petition, finding that Robinson had been awarded all of the "statutory good time" that he was entitled to under KRS 197.045(1). Additionally, the court found that Robinson had failed to provide any evidence that he was entitled to "meritorious good time" per KRS 197.045(3). Robinson's motion to alter, amend or vacate was denied on September 6, 2001. This appeal followed.

On appeal, Robinson argues that the court erred in dismissing his petition for declaratory judgment, contending that he has not received all of the "statutory good time" that he is entitled to under KRS 197.045(1). Robinson does not contend on appeal that he has been wrongfully denied "meritorious good time" per KRS 197.045(3).

KRS 197.045(1) provides that "Any person convicted and sentenced to a state penal institution may receive a credit on his sentence of not exceeding ten (10) days for each month served . . . to be determined by the department from the conduct of the prisoner." Robinson contends that because there are 30 days in a month, KRS 197.045(1) therefore entitles him to a good-time credit equal to one-third of his total sentence, rather than one-fourth thereof as calculated by Corrections. Thus, Robinson contends that, per KRS 197.045(1), he is entitled to a good-time credit of two years and eight months, rather than two years. We disagree.

Under KRS 197.045(1), a person may receive up to 10 days credit, "statutory good time," after having served a month, i.e. 30 days. Thus he would receive a total of 40 days credit for each 30 days served. One-fourth of the credit is for good time, i.e. 10 days divided by 40 days equals one-fourth. Thus, an eight-year sentence could be reduced by one-fourth (two years) to six years (as long as the inmate has no disciplinary actions which result in the loss of good time.) The trial court reviewed Robinson's "Kentucky Corrections Resident Record Card" and found that he had received all of the "statutory good time" he was entitled to, i.e. two years.¹ For the aforementioned reasons, we agree with the conclusion of the trial court.

With regard to Robinson's argument that Polsgrove v. Kentucky Bureau of Corrections, Ky. App., 549 S.W.2d 834, 837 (1977), prohibits the Department of Corrections from crediting statutory good time at the beginning of the sentence rather than requiring an inmate to "earn" it, we note that this case was reversed by Polsgrove v. Kentucky Bureau of Corrections, Ky., 559 S.W.2d 736 (1977). In Polsgrove, 559 S.W.2d at 737, the Kentucky Supreme Court appeared to indicate that it was not improper for Corrections to credit good time at the beginning of the sentence, stating that "[t]he Bureau of Corrections is charged with the

¹ We note that the trial court incorrectly stated Robinson's minimum and maximum sentence expiration dates as January 12, 2003 and January 12, 2005, respectively. The resident record card shows the correct dates to be December 12, 2003 and December 12, 2005. This error does not, however, affect the correctness of the trial court's finding that Robinson received the proper "statutory good time" credit of two years.

duty of determining the conduct of a prisoner prior to the commencement of his sentence. [citation omitted.]”

For the aforementioned reasons, the orders of the Oldham Circuit Court dismissing Robinson’s petition for declaratory judgment, and denying his motion to alter, amend or vacate, are affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Johnny Robinson, pro se
LaGrange, Kentucky

BRIEF FOR APPELLEE:

Jennifer Hatcher
Frankfort, Kentucky