

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2007-CA-002437-MR

RONALD A. HENSLEY

APPELLANT

v. APPEAL FROM CAMPBELL CIRCUIT COURT  
HONORABLE FRED STINE, V, JUDGE  
ACTION NOS. 92-CR-00449, 93-CR-00017  
AND 93-CR-00018

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: CAPERTON AND VANMETER, JUDGES; GUIDUGLI,<sup>1</sup> SENIOR JUDGE.

GUIDUGLI, SENIOR JUDGE: On March 1, 1993, Ronald A. Hensley was convicted of three counts of robbery in the first degree and sentenced to serve 14 years for each charge. The sentences were then ordered to run concurrently for a

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<sup>1</sup> Senior Judge Daniel T. Guidugli sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

total of 14 years. He was first paroled on December 1, 1995, but that was revoked for a violation and he was returned to prison on September 12, 1996. He was again paroled on July 10, 1998, but again violated the terms of his parole and was returned to prison on September 29, 1999. While on parole, he was indicted in Kenton County and was sentenced to serve 3 years for a firearms related charge. Pursuant to Kentucky Revised Statutes (KRS) 533.060(2) that sentence must run consecutively with the initial 14-year sentence in Campbell County.

Hensley ultimately filed a motion pursuant to Kentucky Rules of Civil Procedure (CR) 60.02 seeking what was termed a “satisfaction of judgment.” His motion presented the argument that he was entitled to ten days of statutory good time credit for each month he had served in prison. In essence, his argument was that by applying the ten-day credit pursuant to KRS 197.045(1), the original sentence of 14 years had expired and he was entitled to have that judgment recorded as being satisfied so he could then commence serving the new three-year sentence and ultimately be released. The trial court denied the motion and this appeal followed. After a review of the record, we affirm the judgment of the Campbell Circuit Court.

“Any person convicted and sentenced to a state penal institution may receive a credit to his sentence not exceeding ten (10) days for each month served, except as provided in this section, to be determined by the department from the conduct of the prisoner.” KRS 197.045(1). The ten-day credit is not a right and

the Department of Corrections has “the right to determine whether he was entitled to receive such benefit.” *Fowler v. Black*, 364 S.W.2d 164, 165 (Ky. 1963). The trial court correctly determined that the application of the ten-day per month credit against Hensley’s sentence is discretionary with the Department of Corrections. The Department has elected to not credit those days to Hensley. Therefore, his sentence has not yet reached its expiration point and will not do so for some time. Generally, a prisoner is not entitled to a hearing on the denial of forfeiture of so called good time credits. *McGuffin v. Cowan*, 505 S.W.2d 773 (Ky. 1974). The motion pursuant to CR 60.02 was founded on the incorrect assumption the ten-day per month credit was a mandatory right and was appropriately denied.

The judgment of the Campbell Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Ronald A. Hensley, *pro se*  
LaGrange, Kentucky

BRIEF FOR APPELLEE:

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