

Commonwealth of Kentucky

Court of Appeals

NO. 2012-CA-001434-MR

JACQUES WILLIAMS

APPELLANT

v. APPEAL FROM FRANKLIN CIRCUIT COURT
HONORABLE THOMAS D. WINGATE, JUDGE
ACTION NO. 12-CI-00293

LADONNA H. THOMPSON,
COMMISSIONER, DEPARTMENT
OF CORRECTIONS

APPELLEE

OPINION
AFFIRMING

** ** * * * * *

BEFORE: ACREE, CHIEF JUDGE, JONES AND MOORE, JUDGES.

MOORE, JUDGE: Appellant, Jacques Williams, appeals from an order denying his petition for a declaratory judgment. Williams argues that the trial court erred by concluding that he was not entitled to work-time credit against his sentence for first-degree robbery. We affirm.

Williams is currently serving a thirty-five year sentence for first-degree robbery. In January 2012, Williams requested that he receive work-time credit against his sentence. The request was denied because inmates convicted of first-degree robbery are ineligible to receive work-time credit. Subsequently, Williams filed a petition for declaratory judgment in Franklin Circuit Court. The trial court denied the petition in an order entered on August 2, 2012. This appeal followed.

Williams argues that the trial court erred by concluding that he was not entitled to receive work-time credit because he was exempted by statute from the status of violent offender. We disagree.

Kentucky Revised Statutes (KRS) 197.047 states in pertinent part:

(5) ...any prisoner who works on a governmental services program shall receive an amount equal to one-half (1/2) of the established compensation for such work and *shall be eligible* to receive a sentence credit as set forth below.

(6) The sentence credit provisions of this section shall not apply to a prisoner who is serving a:...

(b) Sentence for a violent offense as defined in KRS 439.3401.

(7) The department *may* grant sentence credits to inmates confined in a detention facility for labor performed in a governmental services program or within a detention facility for the maintenance of the facility or for the operation of facility services such as food service.

(Emphasis added). KRS 439.3401(1) states that persons convicted of first-degree robbery are “violent offenders.” KRS 439.3401(1) states that persons convicted of

first-degree robbery prior to July 15, 2002, shall be exempt from the violent offender provisions.

KRS 197.047(7) vests the Department of Corrections (DOC) with discretion to award work-time credits to eligible inmates. KRS 197.047(6)(b) states that inmates convicted of violent offenses as defined by KRS 439.3401 shall not be eligible for work-time credit. KRS 439.3401 “lists twelve offenses that are considered to be violent offenses.” *Commonwealth v. Merriman*, 265 S.W.3d 196, 199 (Ky. 2008). By its plain language, KRS 197.047(6)(b) refers to the nature of the offense and not whether the inmate was actually classified for parole purposes as a violent offender. First-degree robbery is a violent offense. Therefore, the DOC did not abuse its discretion by denying Williams the work-time credit.

Accordingly, the order of the Franklin Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

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BRIEF FOR APPELLEE:

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