

Commonwealth of Kentucky
Court of Appeals

NO. 2018-CA-001007-MR

DEMETRIUS BRADLEY

APPELLANT

v. APPEAL FROM FRANKLIN CIRCUIT COURT
HONORABLE PHILLIP J. SHEPHERD, JUDGE
ACTION NO. 2018-CI-00049

COMMONWEALTH OF KENTUCKY JUSTICE
AND PUBLIC SAFETY CABINET; DEPARTMENT
OF CORRECTIONS; AND OFFICE OF LEGAL SERVICES

APPELLEES

OPINION
AFFIRMING

** ** * ** * ** *

BEFORE: COMBS, DIXON, AND K. THOMPSON, JUDGES.

COMBS, JUDGE: This case involves a prisoner's petition for declaration of rights against the Department of Corrections. Demetrius Bradley, *pro se*, appeals the dismissal of his petition, which has been treated as one for declaratory judgment. Bradley contends that the trial court erred by failing to order the Department of

Corrections to award him jail time credit for the time he spent in custody prior to sentencing.

Bradley is a violent offender serving prison sentences for numerous convictions. He was arrested on July 24, 2007, for violation of his shock probation, and he remained in the custody of the Louisville Metro Department of Corrections. He was convicted in October 2009 of several offenses, including robbery, assault, and manslaughter. He was then delivered to the Kentucky Department of Corrections to begin serving his sentence. Bradley's parole eligibility date was slated for July 2022.

On November 21, 2017, Bradley filed for an administrative review of his parole eligibility date. He argued that he was not being properly credited for jail time that had accrued before he began serving his sentence. He believes that the calculation of his parole eligibility date should take into account the two years, three months between July 2007 and October 2009 that he served while in the custody of the Louisville Metro Department of Corrections. Accordingly, it should be set for April 2020. The Department of Corrections denied that it had erred by calculating Bradley's parole eligibility date as July 2022.

On April 3, 2018, Bradley filed his petition with the Franklin Circuit Court. He contended that the provisions of KRS¹ 532.120(3) require that the time

¹ Kentucky Revised Statutes.

he spent in custody prior to the commencement of his sentence be considered as time served in prison for purposes of establishing his parole eligibility date. He argued that the Kentucky Department of Corrections had erred by calculating his parole eligibility date from the date of his conviction rather than from the date of his arrest in July 2007. The Franklin Circuit Court rejected Bradley's argument and dismissed the petition. This appeal followed.

The provisions of KRS 439.3401(3)(a) forbid the release on parole of a violent offender before he has served at least eighty-five percent of the sentence imposed. On October 29, 2009, Bradley was convicted of multiple offenses. On November 2, 2009, he was sentenced to serve concurrent fifteen-year terms for first-degree manslaughter, first-degree robbery, and first-degree assault. Eighty-five percent of that sentence is twelve years, nine months. The Department of Corrections did not err by calculating Bradley's parole eligibility date as July 2022.

Additionally, the provisions of KRS 532.120(3), upon which Bradley relies, permit time spent in custody prior to the commencement of a sentence to be credited toward service of a term of imprisonment **only where** the time spent in custody was related to the charge that resulted in the sentence. The disputed two years, three months spent in the Louisville Metro Department of Corrections related to the violation of Bradley's shock probation and not to the charges that resulted in the fifteen-year sentence underlying this appeal.

Therefore, we affirm the order of the Franklin Circuit Court.

ALL CONCUR.

BRIEF FOR APPELLANT:

Demetrius Bradley
Pro se
Fredonia, Kentucky

BRIEF FOR APPELLEE:

Brenn O. Combs
Department of Corrections
Frankfort, Kentucky