Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2009-212

NOVEMBER TERM, 2009

Richard E. Davis	}	APPEALED FROM:
	}	
v.	}	Washington Superior Court
	}	
Robert Hofmann	}	DOCKET NO. 29-1-09 Wncv
		Trial Judge: Helen M. Toor

In the above-entitled cause, the Clerk will enter:

Petitioner appeals from the trial court's dismissal of his petition for a writ of habeas corpus. According to petitioner, the Department of Corrections failed to award him the correct reduction of term to which he is entitled, and he has already reached his minimum term of confinement. We affirm.

For acts which occurred in 1993, petitioner was convicted of kidnapping and simple assault, and sentenced to twenty-five years to life. In January 2009, petitioner filed a writ of habeas corpus, arguing that under a recently enacted statute, he was entitled to a reduction in the term of his sentence such that he had already reached his minimum sentence. Petitioner's argument entails the statute that delineates how the Department applies automatic reduction of term (ART) and earned reduction of term (ERT) good-time credit to reduce an inmate's sentence. Because petitioner's offense was committed in 1993, the pre-1994 version of the statute applies to him. Under this version of the statute, a prisoner can accrue up to ten days of ART and up to five days of ERT per month. 28 V.S.A. § 811 (1993). Effective July 1, 2005, the Legislature repealed § 811 and created a new system for awarding good-time credits. 2005, No. 63, §§ 2-3. The repealing statute provided how credit should be retrospectively and prospectively assigned. Thus, an inmate serving a term of incarceration on July 1, 2005, is awarded retrospectively all reductions in term to which the inmate "is entitled as of the end of the day on June 30, 2005," and prospectively all reductions in term to which the inmate would be entitled in the future "under the system that was in place at the time his or her crime was committed." 2005, No. 63, § 2.

Petitioner argued that the law required the Department to retrospectively award him all possible ART and ERT that he could have earned prior to June 30, 2005, and also to award him prospectively ART and ERT on his imposed minimum and maximum sentences. Petitioner assigned his life sentence a term of 999 years, applied a credit of fifteen days per month, and calculated that he was entitled to a reduction "in the neighborhood of over four hundred seventy-seven and one-half (477 ½) years off his minimum and maximum terms of confinement." Because this sum is greater than petitioner's minimum term of twenty-five years, he argued that he had already reached his minimum term.

The Department filed a motion to dismiss, claiming that petitioner was incorrectly applying the law. Under the Department's calculations, petitioner's minimum sentence will expire on March 8, 2010. The trial court dismissed the case, concluding that the statute did not entitle petitioner to past reductions in his term, where he was previously denied the reduction. The court also held that since petitioner's maximum term is life imprisonment—an indefinite period—there could be no reduction to that term. Petitioner now appeals.

A motion to dismiss for failure to state a claim upon which relief can be granted is appropriate when there exist no facts or circumstances that would entitle the plaintiff to relief. Richards v. Town of Norwich, 169 Vt. 44, 48 (1999). In considering such a motion, this Court assumes that all factual allegations in the complaint are true and accepts all reasonable inferences that may be derived from the plaintiff's pleadings. Id. at 48-49.

On appeal, petitioner asserts the trial court erred in (1) not retrospectively awarding him a reduction in his sentence for all ERT and ART that he could have earned prior to July 1, 2005, even if the Department had previously not awarded it, (2) not prospectively crediting him for all possible good-time that he could earn on his maximum and minimum sentences, and (3) denying his claim that the Department's interpretation of the statute violates the Equal Protection Clause of the Fourteenth Amendment. Given the clear intent of the statutory language, we conclude that the trial court properly granted the Department's motion to dismiss.

Petitioner's first argument is essentially that under the statute, the Department was required to retrospectively award him all possible ERT that he could have earned, even if it was not awarded to him as of June 30, 2005. There is no support for this argument in the language of the statute. Under the law, retrospective awards of good-time are limited to reductions that an inmate "is entitled" to as of June 30, 2005. 2005, No. 63, § 2(a). This plain language indicates that the Legislature intended the Department to simply apply the credits presently due to an inmate; however, the language does not require the Department to award time that had not previously been earned. See King v. Hofmann, 2008 VT 18, ¶ 5, 183 Vt. 583 (mem.) (explaining that with Act 63 the Legislature directed the Department to update its booking, not to alter its prior determinations to reductions of term). The Legislature made this clear in a statement of legislative intent issued concurrently to the enactment of the statute, which reiterated that nothing in the law was intended to "alter reduction of term determinations made by the [Department] for months prior to July 1, 2005." We therefore conclude that the Department's awards of credit to petitioner prior to July 1, 2005 remain unchanged.

Second, petitioner claims that the Department incorrectly calculated his prospective award because it failed to credit him for time from his maximum sentence. Petitioner construes the Legislature's direction on prospective awards to allow him to apply the credit for his maximum sentence to his minimum term. Attributing his life sentence to a term of 999 years, he argues he should be credited with more than 477 years of time. With no cited authority, petitioner applies this credit against his minimum sentence of twenty-five years and thus determines that he has reached his minimum term of confinement. The trial court held that petitioner was not entitled to a reduction to his maximum term because a life sentence is an indefinite period of time. The issue is far simpler. We conclude that on its face petitioner's argument cannot stand because it leads to wholly irrational results, and "[w]e will avoid a statutory construction which leads to absurd or irrational results." State v. Rice, 145 Vt. 25, 34 (1984). If an inmate could reduce his minimum term by a credit due to his maximum, then most inmates would effectively have no term at all. The Legislature could not have intended such a result. The reduction to minimum and maximum sentences must be applied to each separately and cannot be mixed. Thus, even if petitioner was due a reduction of 477 years on his maximum

term of confinement, such reduction would only reduce his maximum term and have no bearing on his minimum term. The minimum and maximum sentences imposed are separate and distinct. See St. Gelais v. Walton, 150 Vt. 245, 248 (1988) (explaining that for aggregating sentences, the minimum and maximum terms should be treated separately).

Finally, we reject petitioner's constitutional argument. "Where, as here, no fundamental rights or suspect classes are involved, the legislature is constitutionally permitted to [enact laws pertaining] to specific groups so long as it has a 'rational basis' for its acts, and is not being wholly arbitrary or capricious." N. Rent-A-Car, Inc. v. Conway, 143 Vt. 220, 223-24 (1983). The Legislature has designed different methods for computing good time depending on when a criminal act took place. Because this distinction is rational, we conclude the law does not violate the Equal Protection Clause.

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

Denise R. Johnson, Associate Justice

Marilyn S. Skoglund, Associate Justice