

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DARRYL A. MAYO,

Plaintiff,

v.

UNITED STATES PAROLE COMMISSION,

Defendant.

Civil No. 05-0860 (ESH)

MEMORANDUM OPINION AND ORDER

Petitioner has filed a writ of habeas corpus in which he challenges the computation of institutional good time (“IGT”) credits^{1/} under the D.C. Good Time Credit Act of 1986, D.C. Code § 24-201.29. According to petitioner, he has been unlawfully denied credit for good time earned during previous periods of imprisonment on his sentence, and thus, he claims that he should be released because he has served his sentence through his time in custody and through the accumulation of IGT credits. The Court cannot agree.

As explained in the government’s opposition, petitioner was sentenced in Superior Court on November 14, 1991, to a prison term of two to six years for second-degree burglary, and on January 29, 1992, to a concurrent term of 40 to 120 months for robbery. While on parole, petitioner was the subject of at least five parole violator warrants -- one issued in 1997, 1999, 2000, 2003, and the latest in 2005. Several of the earlier warrants were executed upon but no

^{1/} Petitioner is an inmate at D.C. Jail so the proper respondent is his warden, Steven A. Smith, and not the U.S. Parole Commission. *See Blair-Bey v. Quick*, 151 F.3d 1036, 1039 (D.C. Cir. 1998). The Court will therefore substitute Warden Smith for the U.S. Parole Commission.

finding on the charge was made and petitioner was reinstated on supervision. The third parole warrant was executed and a parole hearing was held at which time his parole was revoked. Similarly, the fourth parole violator warrant was executed, a hearing was held and parole was revoked based on administrative charges. Finally, the fifth parole violator warrant remains outstanding even though petitioner has pled guilty to drug felony charges occurring in 2005.

Contrary to petitioner's argument, he has not been deprived of IGT credits, since good time credits do not reduce the full-term date of the sentence, but only set the mandatory release date if the prisoner has not been previously paroled. But here, where petitioner has been previously paroled and parole is revoked, he is required to serve the balance of the original sentence less any good time credit "which may be earned by him *after* his return to custody." *See* D.C. Code § 24-406(a) (formerly § 24-206) (emphasis added).^{2/} Thus, petitioner is not entitled to any good time credit earned prior to his last release on parole, since the good time credits that had previously been earned were forfeited upon his prior parole revocations.

Not only is this result dictated by statute, but it is consistent with the law in this Circuit and elsewhere. *See, e.g., Jones v. Clemmer*, 163 F.2d 852, 853 (D.C. Cir. 1947) ("any right to commutation" which petitioner had previously earned "was forfeited by his violation of parole"); *Bates v. Rivers*, 323 F.2d 311, 312 (D.C. Cir. 1963); *Hall v. Welch*, 185 F.2d 525, 526 (4th Cir.

^{2/} Section 24-406 dictates that a prisoner whose parole has been revoked must (unless subsequently re-paroled):

serve the remainder of the sentence originally imposed less any commutation for good conduct which may be earned by him *after his return to custody*. For the purpose of computing commutation for good conduct, the remainder of the sentence originally imposed shall be considered as a new sentence. (Emphasis added.)

1950). *See also U.S. Parole Comm'n v. Noble*, 693 A.2d 1084, 1091-92 & n.12 (D.C. 1997); *Teachey v. Carver*, 736 A.2d 998, 1006 n.12 (D.C. 1999).^{3/}

Based on the above authority, the Court concludes that petitioner forfeited previously earned good time credits during periods of imprisonment prior to his last release on parole, and therefore, his petition for habeas corpus is **DENIED**.

s/

ELLEN SEGAL HUVELLE
United States District Judge

Date: July 22, 2005

^{3/} As the government correctly argues, the analogous federal statutes (18 U.S.C. § 4161 and § 4165) have also been interpreted consistently by circuit courts to deny IGT for good time earned prior to release on parole where the petitioner's parole has been revoked. (*See* Def.'s Opp'n at 9 and cases cited therein.)