

Commonwealth Of Kentucky

Court of Appeals

NO. 2003-CA-000498-MR

STEVE PARRIS

APPELLANT

v.

APPEAL FROM FRANKLIN CIRCUIT COURT
HONORABLE WILLIAM L. GRAHAM, JUDGE
ACTION NO. 02-CI-01504

VERTNER TAYLOR,
COMMISSIONER OF CORRECTIONS;
WILLIAM SEABOLD, WARDEN;
JOHN COY; DEBBIE KAYS; AND
ANNA E. RANKIN

APPELLEES

OPINION

AFFIRMING

** ** * * *

BEFORE: GUIDUGLI, McANULTY AND MINTON, JUDGES.

GUIDUGLI, JUDGE. Steve Parris ("Parris") appeals from a summary judgment of the Franklin Circuit Court dismissing his action against Vertner Taylor ("Taylor"), Commissioner of Corrections; William Seabold ("Seabold"), Warden, Kentucky State Reformatory; John Coy ("Coy"), Chairman, Parole Board; Debbie Kays, Offender Information Branch; and, Anna E. Rankin ("Rankin"), Offender Records Supervisor (collectively referred to as "the

appellees"). Parris sought a declaration of rights in his action claiming that the appellees improperly calculated his parole eligibility date. For the reasons addressed herein, we must affirm the summary judgment.

In 1997, Parris was convicted in the Meade Circuit Court of receiving stolen property over three hundred dollars, and in the Jefferson Circuit Court of theft by unlawful taking over three hundred dollars and receiving stolen property over three hundred dollars. As a result of the sentences imposed, he would have been eligible for parole in January, 1998.

In September, 1997, Parris escaped from custody. He was apprehended and returned to custody in May, 1999, and later convicted in Bullitt Circuit Court and Jefferson Circuit Court on crimes committed during the period of escape including first-degree wanton endangerment, first-degree fleeing or evading the police, first-degree criminal mischief, and first-degree persistent felony offender. The indictment on the crime of escape was dismissed. On April 21, 2001, the Bullitt Circuit Court sentenced Parris to fifteen (15) years in prison, and on December 4, 2001, the Jefferson Circuit Court sentenced him to an additional fifteen (15) year sentence.

On November 14, 2002, Parris filed the instant action in Franklin Circuit Court alleging that the appellees improperly calculated the date upon which he would be eligible for parole.

He claimed that the two fifteen year sentences he received for the crimes committed during his period of escape were to be served concurrently, and that the appellees improperly treated the concurrent sentences as consecutive sentences for purposes of calculating parole eligibility. Stated differently, Parris maintains that he should have been eligible for parole after twenty percent (20%) of the fifteen-year-concurrent sentences (for the crimes committed during the period of escape) rather than after twenty percent (20%) of thirty (30) years (representing two fifteen-year-consecutive sentences). As part of this claim, he maintained that he had a liberty interest in being considered for parole, and the violation of that interest ran afoul of the Fifth and Fourteenth Amendments to the United States Constitution and Sections 1, 2 and 3 of the Kentucky Constitution.

On February 10, 2003, the Franklin Circuit Court rendered a summary judgment dismissing Parris's claim. It opined that the appellees correctly relied upon 501 KAR 1:030, Sections 3(i) and 3(g), in calculating Parris's parole eligibility, and it determined that no genuine issue of material fact existed upon which Parris could prevail. This appeal followed.

Parris now argues that the circuit court erred in dismissing his claim. He maintains that the appellees should

have calculated his parole eligibility date based on 20% of fifteen years rather than twenty percent (20%) of thirty years. He also argues that he possesses a liberty interest in the opportunity to receive parole eligibility, and that the lower court failed to so rule. He requests an order vacating the summary judgment and remanding the matter for application of the proper parole regulation.

We have closely studied Parris's argument and find no error in the Franklin Circuit Court's entry of summary judgment. The dispositive authority as it then existed was 501 KAR 1:030 3(g). It provided the guidelines for calculating parole eligibility for inmates who committed a crime while on escape, and stated in clear and unambiguous language that parole eligibility shall be calculated by adding the following, regardless of whether the sentences are ordered to run concurrently or consecutively: 1- the amount of time to be served for parole eligibility on the original sentence; 2- the amount of time to be served for parole eligibility on the additional sentence for the escape; and, 3 - the amount of time to be served for parole eligibility on the time to be served for the crime committed while on escape.

In the matter at bar, Parris was eligible for parole consideration on the original convictions in January, 1998. After his return from escape in May, 1999, he received a 24

month deferment which moved the eligibility to May, 2001. Twenty percent (20%) of the April 23, 2001, Bullitt County sentence [twenty percent (20%) of 15 years equaling three (3) years] moved the eligibility date to May, 2004. And finally, twenty percent (20%) of the December 4, 2001, Jefferson County sentence [again, twenty percent (20%) of fifteen (15) years equaling three (3) years], moved the date to April, 2007. The appellees properly determined that Parris was eligible for parole consideration in April, 2007, and the Franklin Circuit Court properly so found. Summary judgment was an appropriate disposition of his petition. See generally, CR 56.03; Steelvest, Inc. v. Scansteel Serv. Ctr., Inc., Ky., 807 S.W.2d 476, 480 (1991); Scifres v. Kraft, Ky. App., 916 S.W.2d 779, 781 (1996).

We are not persuaded by Parris's argument that he possessed a liberty interest in parole eligibility. An inmate has no right to parole. Land v. Commonwealth, Ky., 986 S.W.2d 440 (1999) (stating that parole is "simply a privilege and the denial of such has no constitutional implications."). More important, the issue is moot given our conclusion that the lower court properly disposed of Parris's underlying claim.

For the foregoing reasons, we affirm the summary judgment of the Franklin Circuit Court.

ALL CONCUR.

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