

# Commonwealth of Kentucky

## Court of Appeals

NO. 2005-CA-000968-MR

STEVEN TAYLOR

APPELLANT

v. APPEAL FROM FRANKLIN CIRCUIT COURT  
HONORABLE ROGER L. CRITTENDEN, JUDGE  
ACTION NO. 05-CI-00180

KENTUCKY DEPARTMENT OF CORRECTIONS

APPELLEE

OPINION  
AFFIRMING

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BEFORE: THOMPSON AND VANMETER, JUDGES; PAISLEY,<sup>1</sup> SENIOR JUDGE.

PAISLEY, SENIOR JUDGE: Taylor brings this appeal from the denial of his Petition for a Writ of Mandamus asking that the Department of Corrections be ordered to change his parole eligibility date. After our review of the record, we find that the Department correctly calculated his parole eligibility and affirm the ruling of the circuit court.

The designated record in this case is sparse and the Department of Corrections elected to not file a brief in this matter. A statement of the facts is appropriate. Taylor

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<sup>1</sup> Senior Judge Lewis G. Paisley, sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

was ordered to serve a life sentence arising from a case in Kenton County, Kentucky, and was initially incarcerated on October 3, 1984. He was then paroled on July 19, 2000. On January 30, 2002, he was returned to custody for violating the terms of his parole. On March 20, 2002, Taylor was given a four-year deferment establishing his next parole eligibility date as March of 2006.

On March 14, 2002 the Campbell Circuit Court sentenced Taylor to serve ten years for possession of a handgun by a convicted felon, enhanced to ten years by a conviction as a first degree persistent felony offender. The new ten-year sentence was ordered to run concurrently with the existing life sentence. His parole eligibility date was then recalculated and set as January 30, 2012, ten years from the date of his return to prison because of the parole violation.

On April 6, 2004, the Campbell County case was reversed and remanded. Because the persistent felony offender status was no longer valid, Taylor's parole eligibility date reverted back to March 20, 2006. However, on June 2, 2004, he was once again sentenced by the Campbell Circuit Court to ten years for possession of a handgun by a convicted felon, enhanced to ten years by virtue of his status as a persistent felon. That sentence was ordered to run concurrently with the life sentence from the Kenton County conviction. At that time, the department of corrections applied the requirements of KRS 532.080(7) and calculated a new parole eligibility date of January 30, 2012.

KRS 532.080(7) requires that a person such as Taylor, who was convicted of a class C felony and who is a persistent felony offender in the first degree, "shall not be

eligible for parole until the person has served a minimum term of incarceration of not less than ten (10) years[.]” The Department of Corrections applied this statutorily required ten-year term in order to arrive at the new parole eligibility date of January 30, 2012.

Taylor's argument in essence is that the concurrent sentence commenced with the original date of incarceration for the life sentence. He had served fifteen years and ten months prior to being paroled.

Taylor's calculations would yield the result that once on parole, he was free to commit any crime and would suffer no additional penalty provided his sentence ran concurrent to the life sentence and did not exceed fifteen years and ten months. In effect, he considers the time he spent in prison a deposit of time for future violations. The Department of Corrections and the circuit court both correctly noted that the concurrent ten-year sentence commenced on January 30, 2002. The Department correctly calculated Taylor's parole eligibility based on his sentences and the statute.

The order of the Franklin Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Steven Taylor, *pro se*  
Eddyville, Kentucky

BRIEF FOR APPELLEE:

None filed