

RENDERED: JUNE 6, 2008; 2:00 P.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2007-CA-000470-MR

JOHN L. DANIELS

APPELLANT

v.

APPEAL FROM OLDHAM CIRCUIT COURT
HONORABLE KAREN CONRAD, JUDGE
ACTION NO. 05-CI-00869

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * ** * ** *

BEFORE: CLAYTON, VANMETER, JUDGES; KNOPF,¹ SENIOR JUDGE.

¹ Senior Judge William L. Knopf presiding as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

KNOPF, SENIOR JUDGE: John L. Daniels appeals an order of the Oldham Circuit Court dismissing his petition for a declaratory judgment. Daniels alleges that the Department of Corrections (DOC) erred in calculating his sentences, resulting in Daniels serving the same sentence more than once. We disagree and affirm the order of the Oldham Circuit Court.

Between 1981 and 1982, Daniels was convicted of multiple burglary charges and sentenced to a total term of thirty-one years imprisonment. In 1991, Daniels was paroled from this aggregate sentence. That same year, Daniels was convicted of second-degree escape and received a three-year prison sentence. However, Daniels was charged, convicted, and sentenced under the alias James Larry Davis. The DOC did not know the true identity of Daniels when he served this sentence.

Daniels, or Davis as he was known to the DOC, was paroled in December 1992. By 1994, he was convicted of second-degree robbery and being a second-degree persistent felony offender and received a total sentence of ten years in prison. However, Daniels used the alias David Wilson Williams, and was recognized by the DOC as such.

In 2003, Daniels was convicted and sentenced to three years in prison for second-degree escape. At that time, the DOC realized that James Larry Daniels, David Wilson Williams, and John L. Daniels were all the same person. Daniels was re-classified and his sentences and time served were recalculated. The

DOC found Daniels' sentences to total forty-seven years. The DOC also found that Daniels had served twenty-two years of that time.

Now, Daniels claims that the DOC miscalculated the sentences.

Daniels claims that he is currently serving sentences that he has already served under different names. He further claims that the Oldham Circuit Court, by denying his petition for declaration of rights, allowed DOC to violate his right to be free from double jeopardy. We disagree with Daniels' assessment of these facts and conclusions of law.

KRS 532.120 establishes the basic method by which the DOC calculates prison sentences. The statute provides, in part, that "when a person is under more than one indeterminate sentence, the sentences shall be calculated as follows: . . . (b) If the sentences run consecutively, the maximum terms are added to arrive at an aggregate maximum term equal to the sum of all the maximum terms."

Further, KRS 533.060 (2) states: "when a person has been convicted of a felony and is committed to a correctional detention facility and released on parole . . . and is convicted or enters a plea of guilty to a felony committed while on parole . . . the period of confinement for that felony shall not run concurrently with any other sentence."

Daniels' original term of imprisonment was thirty-one years. The additional sentences that he received while on parole must run consecutively to the thirty-one year original sentence.

The aggregate number of Daniels' multiple sentences total forty-seven-years. Although Daniels claims that number should be less because he served two sentences in full, the DOC took those years into account when it determined that he already served twenty-two of his forty-seven years.

After careful review of the DOC sentencing records, as well as the governing statutes, we find no error in the DOC calculation of Daniels' sentences and its credit for his time served. Consequently, Daniels' double jeopardy claim has no merit.

Accordingly, we affirm the order of the Oldham Circuit Court dismissing Daniels' petition for declaratory judgment.

ALL CONCUR.

BRIEFS FOR APPELLANT:

Edward L. Gafford
Department of Public Advocacy
LaGrange, Kentucky

BRIEF FOR APPELLEE:

Jack Conway
Attorney General

Wesley W. Duke
Assistant Attorney General
Frankfort, Kentucky