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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

June 23, 2005

The Honorable B. Lee Miller
Municipal Court Judge
P. O. Box 40
Greenwood, South Carolina 29648

Dear Judge Miller:

In a letter to this office you questioned whether a magistrate or municipal judge may sentence a defendant to a term of imprisonment of thirty days with no "good time" or "work credit" if the fine is not paid in lieu of jail time. I am interpreting your question as to circumstances where a judge imposes a sentence of thirty days or a fine in the alternative and the defendant refuses to pay the alternative fine and therefore must serve a term of imprisonment.

A prior opinion of this office dated April 30, 1985 recognized that the "the matter of allowing good behavior credits is purely statutory." As to the applicability of "good time" credit to a sentence imposed by a magistrate or municipal judge, S.C. Code Ann. § 24-13-210 (C) (Supp. 2004) appears to be applicable inasmuch as it pertains to imprisonment at a local correctional facility as opposed to the Department of Corrections. It is my understanding that, typically, defendants who receive sentences of a term of imprisonment in a magistrate's or municipal court serve such period of imprisonment in a local correctional facility. Section 24-13-210 (C) states:

(C) A prisoner convicted of an offense against this State and sentenced to a local correctional facility, or upon the public works of any county in this State, whose record of conduct shows that he has faithfully observed all the rules of the institution where he is confined, and has not been subjected to punishment for misbehavior, is entitled to a deduction from the term of his sentence beginning with the day on which the service of his sentence commences to run, computed at the rate of one day for every two days served. When two or more consecutive sentences are to be served, the aggregate of the several sentences is the basis upon which good conduct credits must be computed. (emphasis added).

When interpreting the meaning of a statute, certain basic principles must be observed. The cardinal rule of statutory interpretation is to ascertain and give effect to legislative intent. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Typically, legislative intent is determined by applying

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the words used by the General Assembly in their usual and ordinary significance. Martin v. Nationwide Mutual Insurance Company, 256 S.C. 577, 183 S.E.2d 451 (1971). Resort to subtle or forced construction for the purpose of limiting or expanding the operation of a statute should not be undertaken. Walton v. Walton, 282 S.C. 165, 318 S.E.2d 14 (1984). Courts must apply the clear and unambiguous terms of a statute according to their literal meaning. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991). Statutes should be given a reasonable and practical construction which is consistent with the policy and purpose expressed therein. Jones v. South Carolina State Highway Department, 247 S.C. 132, 146 S.E.2d 166 (1966). As set forth by Section 24-13-210(C), for defendants sentenced to a local correctional facility, "good time" credit is computed at the rate of one day for every two days served. According to such provision, the defendant is "entitled to...(the)...deduction".

A prior opinion of this office dated May 19, 2004 dealt with the situation where a defendant is sentenced to a term of imprisonment or a fine and does not pay the fine. That opinion concluded that:

...the offender would still be entitled to good time credits, regardless of whether the fine is paid or not, and therefore could be released absent some further finding by the court regarding the nonpayment of a fine....

Consistent with such, in my opinion, as to circumstances where a judge imposes a sentence of thirty days or a fine in the alternative and the defendant refuses to pay the alternative fine and therefore must serve a term of imprisonment, that defendant would still be entitled to receive "good time" credits as provided by Section 24-13-210(C).

Sincerely,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General