

March 7, 2007

Via U.S. Mail and Facsimile: (843) 841-3229

Mr. Larry Cook
Dillon County Sheriff's Office
P. O. Box 627
Dillon, South Carolina 29536

Dear Mr. Cook:

In a letter to this office you questioned whether an individual convicted of failing to register as a sex offender pursuant to S.C. Code Ann. § 23-3-470 may be provided "good time" credits during his imprisonment. I presume you are referencing a first time offender since you are questioning these individual's incarceration at the local correctional facility. Pursuant to S.C. Code Ann. § 24-3-30 "[i]f imprisonment for three months or less is ordered by the court as the punishment, all persons so convicted must be placed in the custody, supervision, and control of the appropriate officials of the county in which the sentence was pronounced, if the county has facilities suitable for confinement."

Section 23-3-470 states that

(A)...[i]f an offender fails to register...as required by this article, he must be punished as provided in subsection (B).

(B)(1) A person convicted for a first offense is guilty of a misdemeanor and must be imprisoned for a mandatory period of ninety days, no part of which may be suspended nor probation granted.

S.C. Code Ann. § 24-13-210(C) states that

[a] prisoner convicted of an offense against this State and sentenced to a local correctional facility...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....

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A prior opinion of this office dated June 23, 2005 stated that “the matter of allowing good behavior credits is purely statutory.” Another opinion dated February 21, 2001 similarly stated that “[a]ny right to good time credits arises out of and is controlled by state statute.” The 2005 opinion recognized that defendants sentenced to a local correctional facility pursuant to Section 24-13-210(C) are entitled to “good time” credits at the rate of one day for every two days served.

Consistent with the above and the plain language of Section 24-13-210, in the opinion of this office, an individual convicted of failing to register as a sex offender and sentenced to a local correctional facility would be entitled to “good time” credits as provided in that statute. It appears that the language stating that “no part...(of the sentence)...may be suspended nor probation granted” is a limitation on the sentencing judge but not on the matter of providing “good time” credits.

If there are any questions, please advise.

Sincerely,

Henry McMaster
Attorney General

By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Assistant Deputy Attorney General