Administrative Office of the Courts

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Supreme Court orders state prison agency to provide due process procedure for good time appeal

SANTA FE – The New Mexico Corrections Department (NMCD) violated a prisoner's right to procedural due process by prohibiting an appeal when it denied good time credits for the inmate completing a drug rehabilitation program, the state Supreme Court ruled today.

In a unanimous opinion, the Court ordered the department to establish "appropriate procedures to provide prisoners with notice and an opportunity to appeal eligibility determinations" for lump sum awards (LSA) of good time for completion of the agency's rehabilitation programs.

The justices affirmed a district court's decision ordering the department to award 30 days of good time to Donovan Houidobre for completing the Residential Drug Abuse Program (RDAP). He had received good time credits against his sentence for previously participating in a program called Therapeutic Communities (TC).

The department contended the programs were the same and that Houidobre did not qualify for additional good time for the RDAP. Departmental rules precluded the inmate from seeking an agency review of the good time denial.

The justices noted that the department had no rule or policy informing inmates that they could not receive good time for RDAP if they previously received credits for completing the Therapeutic Communities program.

The Court concluded that Houidobre had a constitutionally protected "liberty interest" in eligibility for good time credits upon completing the RDAP. However, the Court rejected the prisoner's arguments that he had a broader liberty interest entitling him to a good time award once he satisfied eligibility conditions by completing the program.

"Being legally qualified for something does not imply that one is also legally entitled to it," the Court wrote in an opinion by Chief Justice David K. Thomson. "Here, *eligible* means fit and proper to receive an LSA — expressing a potential rather than a realization."

State law allows prisoners to receive good time credits against their sentences if they complete vocational, substance abuse and mental health programs recommended for them. A lump sum award of good time is subject to approval of the prison warden, or the department's director of adult institutions if an inmate is housed in a privately operated prison.

“We hold that the Legislature created a liberty interest in LSA *eligibility* upon the successful completion of an approved program. Before depriving Prisoner of his right to consideration of an LSA, the Due Process Clause of the Fourteenth Amendment ‘requires the government to give notice and opportunity to be heard.’ Here Prisoner was deprived of his eligibility, and NMCD rules expressly prohibit appeal, precluding any opportunity to be heard,” the Court wrote. “Because the NMCD’s regulations violated Prisoner’s right to adequate process, restoring Prisoner’s thirty-day LSA was an appropriate equitable remedy ‘tailored to the harm cause by the [NMCD].’”

Houidobre filed a habeas corpus petition with the district court in 2020 challenging the department’s denial of good time credits. He was sentenced to 23 years in prison after pleading guilty to child abuse and abandonment of a child for the death of his two-year-old daughter in 2005.

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To read the decision in *State v. Houidobre*, No. S-1-SC-39473, please visit the New Mexico Compilation Commission's website using the following link:

https://nmonesource.com/nmos/nmsc/en/item/530886/index.do