

Convict, Good Time Allowance Of.

Where a prisoner escapes no time allowance for good conduct, or for the period he is out after his escape should be made. He should be compelled to serve the full sentence; and where before completion of service of sentence he is given sentence for the commission of another crime, to begin at the conclusion of his first term, his escape during time of service of first sentence would not affect his right to time allowance for good conduct in the service of his second term.

January 11, 1905.

Hon. Joseph K. Toole, President Board of Prison Commissioners, Helena, Montana.

Sir:—I am in receipt of your communication of the 9th instant, referring to me the letter of Conley & McTague, bearing date January 5, 1905, together with enclosures, wherein request is made that the Board of Prison Commissioners determine when William Mosney should be discharged from the penitentiary, and whether he is entitled to the good time allowance provided for by Section 2969 of the Penal Code.

It appears that Mosney was first received at the state prison on the 13th day of August, 1897, on commitment from Chouteau county, for a

four year term, but that in the spring of 1898 he escaped from prison and was thereafter committed to the penitentiary for a term of six years, said second term to commence from the date of the completion of his first term of imprisonment.

By Section 2970 it is provided that any convict who commits an assault upon his keeper, or any guard, officer, or convict, or otherwise endangers life, or by any flagrant disregard of the rules of the prison, or any misdemeanor whatever, forfeits all deductions of time earned by him for good conduct before the commission of such offense, in accordance with the provisions of Section 2969.

It is, therefore, my opinion that Mosney should serve out his entire first term of four years, with no time allowance for good conduct, or for the period he was out after his escape, and that his second term should commence from the date of the conclusion of his first term in full, and that he should be allowed time-credit for good conduct on said second term in accordance with the provisions of Section 2969.

I return herewith letter of Conley & McTague, with enclosures by you presented, and advise you that I have transmitted copy hereof to Conley & McTague.

Yours respectfully,

ALBERT J. GALEN,

Attorney General.