

Sentence, When Expires. Cumulative and Concurrent Sentence. Convict, Time Of How Reckoned.

Where a person has been sentenced for one offense before conviction for a second offense, and judgment entered in both cases, such judgments are concurrent, unless specially stated in the second judgment that it shall be cumulative to the former judgment.

May 27, 1912.

Hon. Frank Conley,
Warden, State Prison,
Deer Lodge, Montana.

Dear Sir:

I acknowledge receipt of your letter of the 22nd inst., making inquiry as to the expiration of the term of sentence of one, John Conlon.

It appears from the commitments inclosed with your letter, and which I return herewith, that Mr. Conlon on January 31, 1910, plead guilty to a charge of burglary and was sentenced to one year imprisonment on that date. That on February 3, 1910, he entered a plea of guilty to a charge of entering a public jail and on February 5th following was sentenced to a term of three years in the State Prison. The latter commitment is silent as to whether the sentence imposed shall be concurrent or cumulative as to the former sentence. Sec. 8900, Revised Codes, provides that where a person has been convicted of two or more crimes before sentence has been pronounced the imprisonment upon the last conviction must commence at the termination of the first term. In such cases the sentences become cumulative by operation of law, but in this case the defendant had been sentenced on the first charge before he was convicted of the second charge, hence this statute will not apply and as the judgment is silent, the time named in the sentence commences to run upon the actual delivery of the defendant at the place of imprisonment.

Section 8901, Revised Codes.

Mr. Conlon's term of imprisonment, therefore, in this case commences at the time he was delivered to the Prison and continue for a period of three years, less good time allowed.

Yours very truly,

ALBERT J. GALEN,

Attorney General.