

**Parole—Prisoners—Convicts—State Board of Prison Commissioners.**

A prisoner who has been paroled and returned to prison for violation of his parole is entitled to credit for the time he was on parole unless otherwise ordered by the state board of prison commissioners.

A. B. Middleton, Esq.,  
Warden, Montana State Prison,  
Deer Lodge, Montana.

April 20, 1925.

My dear Mr. Middleton:

You have requested an opinion whether a prisoner who has been granted parole and is later returned to prison because of the violation of such parole is entitled to credit on his original sentence for the time he was released on parole.

This question was construed by this office in an opinion reported in Vol. 4, page 468, opinions of attorney general, and the conclusion reached that the prisoner was entitled to credit for the time that he was on parole unless an order was made by the state board of prison commissioners depriving him of a part or all of his good time earned up to the time that he violated his parole.

I agree with the above conclusion.

Section 12265, R. C. M. 1921, provides that convicts while on parole "shall remain in the legal custody and under the control of the state board of prison commissioners."

Section 12457 provides that any convict who is guilty of any flagrant disregard of the rules of the prison or of any misdemeanor whatever forfeits all deductions of time earned by him for good conduct before the commission of such offense. This section further provides that "such forfeiture must only be made by the board after due proof of the offense and notice to the offender."

It is my opinion from the foregoing sections, that a prisoner who violates his parole does not automatically forfeit his good time earned but such forfeiture may be imposed by the board of prison commissioners after due proof of the offense and notice to the offender.

Very truly yours,

L. A. FOOT,  
Attorney General.