1997-98 SESSION COMMITTEE HEARING RECORDS

Committee Name:

Joint Committee for Review of Administrative Rules (JCR-AR)

Sample:

- Record of Comm. Proceedings
- 97hrAC-EdR_RCP_pt01a
- 97hrAC-EdR_RCP_pt01b
- 97hrAC-EdR_RCP_pt02

- *Appointments ... Appt*
-
- *Clearinghouse Rules ... CRule*
-
- *Committee Hearings ... CH*
-
- *Committee Reports ... CR*
-
- *Executive Sessions ... ES*
-
- *Hearing Records ... HR*
-
- *Miscellaneous ... Misc*
- *97hr_JCR-AR_Misc_pt30a_SofC*
- *Record of Comm. Proceedings ... RCP*
-

JCRAR
1998 Service of
lawsuits

STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY

STATE OF WISCONSIN, ex rel.
MARK D. LARSEN,

Petitioner,

-v-

STATE OF WISCONSIN-DEPARTMENT OF HEALTH AND SOCIAL SERVICES/DIVISION OF CORRECTIONS/DEPARTMENT OF CORRECTIONS,
-AND-
THE SUPERINTENDENT AT:
JOHN C. BURKE CORRECTIONAL CENTER,

Respondent(s).

CIVIL ACTION

File No. (30706) 98CV0070

COPY

AFFIDAVIT IN SUPPORT OF
EVIDENCE ATTACHED HERETO

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Mark D. Larsen, being first duly sworn on oath, deposes and states:

1. Your affiant is the petitioner in the above-entitled action.

2. All Exhibits attached hereto are correct and true as proported to be.

The respondents in the above-entitled action at all times relevant to this action have the right to challenge the authenticity of any evidence presented by the petitioner herein.

Dated this 5th day of January, 1998.

Mark Larsen

PETITIONER IN PROPRIA PERSONA

Mr. Mark D. Larsen, PIN# 149464-A
900 South Madison Street
P.O. Box 900/(JCBCC)
Waupun, WI 53963-0900

SUBSCRIBED AND SWORN TO BEFORE ME
THIS 5 DAY OF JAN, 1998

NOTARY PUBLIC STATE OF WISCONSIN

MY COMMISSION EXPIRES: 14 JUNE 98

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
Division of Corrections
DOC-14 (Rev. 3/82)

STATE OF WISCONSIN
Wisconsin Statutes
Section 972.13

CIRCUIT COURT
APR 30 3 PM '85
DANE COUNTY WI

JUDGMENT OF CONVICTION
SENTENCE TO WISCONSIN STATE PRISONS

STATE OF WISCONSIN, Plaintiff
v.
MARK D. LARSEN Defendant

STATE OF WISCONSIN, Circuit Court Branch 4

5/25/62 Defendant Date of Birth

County Dane

Court Case No. 84CF610

The defendant entered his/~~her~~ plea(s) of ☐ guilty ☒ not guilty ☐ no contest;

The ☐ Court ☒ Jury found the defendant guilty of:

Crime(s)	Wis. Statute(s) Violated	Felony or Misdemeanor (F or M)	Date(s) Committed
Count #1: Robbery	943.32(1)(b)(2)	F	2/12/83
Count #2: Injury by conduct regardless of life Penalties; use of a dangerous weapon.	940.23 939.63(1)(a)2	F	2/12/83
Count #3: Injury by conduct regardless of life Penalties; use of a dangerous weapon	940.23 939.63(1)(a)2	F	2/12/83

committed in this County, and

On April 30, 1985, the Court inquired of the defendant why sentence should not be pronounced, and no sufficient grounds to the contrary being shown or appearing to the Court, the Court having accorded the district attorney, defense counsel, and the defendant an opportunity to address the Court regarding sentence; and upon all the evidence, records and proceedings, the Court pronounced Judgment as follows:

IT IS ADJUDGED that the defendant is convicted as found guilty, and is sentenced to the Wisconsin State Prisons for an indeterminate term of not more than Count #1: 6 years, consecutive commencing 4/30/85.
Count #2: 12 years, consecutive
Count #3: 12 years, consecutive

IT IS ADJUDGED that 299 days sentence credit are due pursuant to Sec. 973.155, Wis. Stats.

IT IS ORDERED that the Clerk deliver a duplicate original of this Judgment to the Sheriff, and that the Sheriff shall forthwith deliver the ~~defendant~~ and a copy of this Judgment to the Dodge Correctional Institution (Reception Center) located in the City of Waupun.

(affix seal)

BY ORDER OF THE COURT, Signature of Judge, Deputy or Clerk of Court
Cynthia Fokakis, Clerk of Circuit Court
by: [signature], Deputy Clerk

Name of Judge	Date Signed
William Eich	April 30, 1985
Name of Defense Attorney	Name of District Attorney
William Schmaal	John Burr

EXHIBIT (A)

DOC 844

NEW ADMISSION COMPUTATION

NAME LARSEN, MARK D ✓ NUMBER [redacted] ✓

DATE SENTENCED 4-30-85 ✓

DATE RECEIVED 5-3-85 ✓

CRIME ROBBERY; INJURY by CONDUCT REGARDLESS OF LIFE (USE DANGEROUS WEAPON) 2CNTS ✓

STATUE 943.32(1)(b)(2), 940.23 & 939.62(1)(a) 2 ✓

SENTENCE 6YRS & 2TRMS 12YRS CS & CS (LESS ✓ 299 DAYS CJT) (TOTAL 30 YRS)

85-4-30 ✓	SENT TO DCI	PAROLE ELIGIBILITY
9-27 ✓	(-) LESS CJT CREDIT	SE 84-5-3
84-7-03 ✓	SENTENCE BEGAN	+ 1-6-0 ✓
30-0-0 ✓	(+) SENTENCE	PED 85-11-3
2014-7-3 ✓	MAXIMUM	
13-9-0 ✓	(-) SGT (53.11)	REC'D
2000-10-3 ✓	BASE MR	+
2-2-13 ✓	(-) EGT (53.12)	EARLIEST
CR 1998-7-20 ✓	PROJECTED MR DATE	

2000-10-3 ✓

1985-5-4

15-4-29

14-0-0

1-4-29

1-2

2-29

2-2-1

EXHIBIT (B)

DEPARTMENT OF HEALTH AND SO .L SERVICES

STATE OF WISCONSIN

Division of Corrections

DOC-192 (Rev. 7-79)

NOTIFICATION OF SENTENCE DATA

Instructions: The Mandatory Release Date indicated below is a projected date on which you will be eligible for release from this Institution.

Inmate Name	Number	Institution	Date
LARSEN, Mark D.	149464-A	DCI/LC	May 8, 1985

Part 1 - Complete for initial determination only

Mandatory Release Date	Maximum Discharge Date	Parole Eligibility Date
July 30, 1998	July 3, 2014	November 3, 1985

Part 2 - Complete for date changes only

Revised Mandatory Release Date	Revised Maximum Discharge Date	Revised Parole Eligibility Date

Reason For Change

- [XX] Started Earning Extra Good Time : May 4, 1985
- [ ] Stopped Earning Extra Good Time
- [ ] Extra Good Time Not Recommended For The Month Of _____
- [ ] Good Time Forfeited
- [ ] Other-Specify:

Distribution: Original-Inmate; Copy-Social Services; Copy-Security; Copy-Record Office; Copy-Central Records Unit

EXHIBIT (C)

Correction

ADMISSION COMPUTATION

Name Larsen, Mark No. 149464

Sentence 4-30-85 Received 5-3-85 Term (s) 4, 15 y 0 d 1/2 y 0 d

Sec 3 99 day

Total 30 yrs.

CJT credit (if any) _____

16

Beginning date 4-30-85

CJT credit 9-29

7-01-84

Statutory MR date 10-01-2000

EGT begins 5-4-1985

4-27-15

2 15

2-27

Adjusted Term (MR time) 3 16

10-01-2000

atutory MR Less EGT 2-13 2

Proj. MR date 7-18-1998.

26mo 13

7-01-84

Sentence begins

Term (maximum) 30

Maximum Disch. date 7-01-2014

1984

30

2014

Parole Eligibility date 1-1-86

7-1-84

6

1-1-86

EXHIBIT (D)

Mark Larsen

RCI

Racine Corr. Inst.
Box 900 - I
Sturtevant, WI 53177-0900

George Krasny/Registra, RCI
Box 900
2019 Wisconsin Street
Sturtevant, WI 53177

July 12, 1993

Dear Mr. Krasny,

I have recently computed my "Mandatory Release" (MR) according to the 1983 Wisconsin Statutes s. 53.11(1) and s. 53.12(1), the year in which my sentence relates to, and I have found that my MR has been miscalculated considerably.

Enclosed please find cppies of the facts from which I rely on in reaching the calculations according to the Wisconsin Law s. 53.11(1) and s. 53.12(1).

As of this date, neither credit for good conduct nor credit for diligence has been taken away from me nor forfeited by me.

Will you please re-compute my sentence credit to reflect the true "Mandatory Release".

If I do not receive a re-computed sentence credit to reflect the true (MR) by July 30, 1993, I will simply petition the Government for a redress of my grievance under Amendment I of the U.S. Constitution, Article I sec. 4 and Article I sec. 9 of the Wisconsin Constitution.

Sincerely,
Mark D. Larsen
Mark D. Larsen #149464

cc; Martha Askins/Attorney
John Husz/Parole Commissioner
Ken Sondalla/Director of Adult Corr.
Patrick J. Fiedler/Secretary of Department
File

Encl.

EXHIBIT (E.1)

OF HEALTH AND SOCIAL SERVICES — STATE OF WISCONSIN

Corrections
(Rev. 7-79)

NOTIFICATION OF SENTENCE DATA

Instructions: The Mandatory Release Date indicated below is a projected date on which you will be eligible for release from this Institution.

Inmate Name	Number	Institution	Date
SEN, Mark D.	149464-A	DCI/LC	May 8, 1985

Part 1 - Complete for initial determination only

Mandatory Release Date	Maximum Discharge Date	Parole Eligibility Date
y 30, 1998	July 3, 2014	November 3, 1985

Part 2 - Complete for date changes only

Revised Mandatory Release Date	Revised Maximum Discharge Date	Revised Parole Eligibility Date

Reason For Change

- [x] Started Earning Extra Good Time : May 4, 1985
- [ ] Stopped Earning Extra Good Time
- [ ] Extra Good Time Not Recommended For The Month Of _____
- [ ] Good Time Forfeited
- [ ] Other-Specify:

Distribution: Original-Inmate; Copy-Social Services; Copy-Security; Copy-Record Office; Copy-Central Records Unit

DEPARTMENT OF HEALTH AND SOCIAL SERVICES — STATE OF WISCONSIN

Division of Corrections
DOC-192 (Rev. 7-79)

41

NOTIFICATION OF SENTENCE DATA

Instructions: The Mandatory Release Date indicated below is a projected date on which you will be eligible for release from this Institution.

Inmate Name	Number	Institution	Date
LARSEN, MARK D.	149464-A	DCI	6-29-85

Part 1 - Complete for initial determination only

Mandatory Release Date	Maximum Discharge Date	Parole Eligibility Date

Part 2 - Complete for date changes only

Revised Mandatory Release Date	Revised Maximum Discharge Date	Revised Parole Eligibility Date
7-18-1998	7-1-2014	1-1-96

Reason For Change

- [ ] Started Earning Extra Good Time
- [ ] Stopped Earning Extra Good Time
- [ ] Extra Good Time Not Recommended For The Month Of _____
- [ ] Good Time Forfeited
- [ ] Other-Specify:

Correcting computation

Distribution: Original-Inmate; Copy-Social Services; Copy-Security; Copy-Record Office; Copy-Central Records Unit

EXHIBIT (E.2)

Pursuant to s. 53.11(1) Wis. Stat.

Year		Credit for Good Conduct
First yr.	=	1 mth credit
Second yr.	=	2 mths credit
Third yr.	=	3 mths credit
Fourth yr.	=	4 mths credit
Fifth yr.	=	5 mths credit

Total of first Five yrs. = 15 mths credit

Every yr. after the first (Five yrs) = 6 mths credit

In addition to the credit for good conduct prescribed in s. 53.11(1), credit for diligence prescribed in s. 53.12(1) shall also be entitled to a person serving a sentence.

Pursuant to s. 53.12(1) Wis. Stat.

Days				Credit for Diligence
6 days		=		1 day credit
360 days	= 1yr.	=		60 days credit
720 days	= 2 yrs.	=		120 days credit

Pursuant to s. 53.11(1) Wis. Stats. 1983 ; (Good Conduct) Credit for the first five yrs. of a 30 yr. sentence is as follows :

$$\begin{array}{r} 30 \text{ yrs.} \\ -\ 5 \text{ yrs.} \\ \hline 25 \text{ yrs.} \end{array} = \underline{15 \text{ mths.}} \text{ credit for good conduct}$$

Credit for the remainder of the sentence is as follows:

25 yrs. x 6 mths = 150 mths. credit for good conduct

A Sub total of **165** mths. credit for good conduct

Pursuant to s. 53.12(1) Wis. Stats. 1983 ; (Diligence) Credit for every 6 days is one day, which comes to 2 mths credit for each yr. of a 30 yr. sentence as follows:

30 yrs. x 2 mths. = 60 mths. credit for diligence

A Subtotal of **60** mths. additional credit for diligence

A Total credit of 225 mths. = 18.75 yrs.

If 18.75 yrs. are credit given by Wisconsin State Law on a 30 yr. sentence then the true Mandatory Release is 11.25 yrs. and not 14 yrs. as miscalculated by the department.

EXHIBIT (E.4)

53.10 Solitary confinement. For violation of the rules of the prison an inmate may be confined to a solitary cell, under the care and advice of the physician.

53.11 Credit for good conduct; forfeiture for bad; parole. (1) The warden or superintendent shall keep a record of the conduct of each inmate, specifying each infraction of the rules. Each inmate who shall conduct himself in a proper manner and perform all the duties required of him shall be entitled to good time or diminution of sentence according to the following table, prorated for any part of a year: First year, one month; second year, 2 months; third year, 3 months; fourth year, 4 months; fifth year, 5 months; every year thereafter, 6 months.

(2) Any inmate who violates any regulation of the prison or refuses or neglects to perform the duties required of him shall be subject to forfeiture of any good time previously granted or earned under this chapter, 5 days for the first offense, 10 days for the second offense and 20 days for the third or each subsequent offense. Good time so forfeited shall not be restored. In addition, the department, or the warden or the superintendent, with the approval of the department, may cancel all or part of such good time.

(2a) A parolee, other than a parolee eligible for release under sub. (7) (a), is eligible to earn good time at the rate prescribed in this section and in s. 53.12 (1). The department may upon proper notice and hearing forfeit all or part of the good time previously earned under this chapter, for violation of the conditions of parole, whether or not the parole is revoked for such misconduct.

(3) (a) For the purpose of computing good time earned or forfeited under this section, separate consecutive sentences shall be construed as one continuous sentence, regardless of when the convictions occurred and when the sentences were imposed, if the crimes for which those sentences were imposed occurred before the person was committed under any of the sentences. Each separate consecutive sentence imposed for a crime which is committed while the person is serving a sentence or is on parole shall be deemed a first sentence for purposes of computing good time. No more good time may be granted for any one year than is specified in sub. (1) as modified by s. 53.12 (1).

(b) If this section has not been applied to any person who is in custody or to any person who is on parole, the person may petition the department to have good time credit computed under this section. Upon proper verification of the facts alleged in the petition, this section shall be applied retrospectively to the person.

(4) An inmate may waive his good time.

(5) The time during which an inmate who escaped is at large shall not be computed as time served.

(6) Allowances for good conduct earned in any institution shall be allowed in the institution to which an inmate may be transferred.

(7) (a) An inmate or parolee having served the term for which he or she has been sentenced for a crime committed after May 27, 1951, less good time earned under this chapter and not forfeited as provided in this section, shall be released on parole or continued on parole, subject to all provisions of law and department regulations relating to paroled prisoners, until the expiration of the maximum term for which he or she was sentenced without deduction of such good time, or until discharged from parole by the department, whichever is sooner. An inmate or parolee shall be given credit for time served prior to sentencing under s. 973.155, including good time under s. 973.155 (4). Before a person is released on parole under this subsection, the department shall so notify the municipal police department and the county sheriff for the area where the person will be residing. The notification requirement does not apply if a municipal department or county sheriff submits to the department a written statement waiving the right to be notified.

(b) Any person on parole under this subsection may be returned to prison as provided in s. 57.06 (3) to serve the remainder of a sentence. The person may earn good time on the balance of the sentence while so in prison, subject to forfeiture thereof for misconduct as provided in this section. Subject to the approval of the department, the person may again be released on parole thereafter under either this section or s. 57.06, whichever is applicable. The remainder of the sentence shall be deemed to be the amount by which the original sentence was reduced by good time.

(8) Releases from the prisons, except those under ch. 57, shall be on the Tuesday or the Wednesday preceding the release date.

History: 1977 c. 266, 353; 1979 c. 221; 1981 c. 266.

The department cannot delegate to a review board the authority to forfeit good time; it cannot affirm the decision of such a board. State ex rel. Farrell v. Schubert, 52 W (2d) 351, 190 NW (2d) 529.

Due process requirements in a disciplinary proceeding listed. Steele v. Gray, 64 W (2d) 422, 219 NW (2d) 312. Rehearing.

A defendant convicted of a sex crime and committed to the department of health and social services for a mandatory examination not to exceed 60 days to determine whether he is in need of specialized treatment is not entitled to credit therefor against a maximum sentence thereafter imposed. Mitchell v. State, 69 W (2d) 695, 230 NW (2d) 884.

Subsequent to the revocation of parole, a mandatory release parolee—or a discretionary parolee whose mandatory release has occurred during his parole—is entitled at the discretionary determination as to how much of his good time will be forfeited to at least those due process procedures presently

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(2d) 51, 261

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A prisoner
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Schmidt, 352 I

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786.

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Parker v. Per
App. 1981)

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available to a discretionary parole violator in the same situation. Putnam v. McCauley, 70 W (2d) 256, 234 NW (2d) 75.

Both (2a) and (7) (b) require department to exercise discretion on a case by case basis in granting or forfeiting good time, whether "street time" or "non-street time". See note to Art. I, sec. 1, citing State ex rel. Hauser v. Carballo, 82 W (2d) 51, 261 NW (2d) 133.

Inmate's procedural rights in disciplinary proceeding discussed. State ex rel. Meeks v. Gagnon, 95 W (2d) 115, 289 NW (2d) 357 (Ct. App. 1980).

Due process in disciplinary hearing requires record sufficient for judicial review. Major change in condition of confinement gives rise to minimum due process requirements under Wolff v. McDonald, 418 US 539. State ex rel. Irby v Israel, 95 W (2d) 697, 291 NW (2d) 643 (Ct. App. 1980)

The department is not at this time required by law to restore forfeited good time allowances or immediately to release anyone committed under the sex crimes act whose maximum term of commitment including forfeited good time has not expired. 61 Atty. Gen. 77.

A prisoner released on parole is not entitled to an absolute discharge because this was granted other prisoners, in the absence of a showing of an abuse of discretion by the department. Hansen v. Schmidt, 329 F Supp. 141.

A prisoner is not entitled to counsel at a hearing at which his good time is forfeited for parole violation. Sanchez v. Schmidt, 352 F Supp. 628.

See note to 973.15, citing Monsour v. Gray, 375 F Supp. 786.

Prisoner whose parole was revoked on or about May 27, 1970 was entitled to a hearing prior to revocation of his good time credits under (2a). Sillman v. Schmidt, 394 F Supp. 1370.

53.12 Credit for diligence; earnings; reward of merit. (1) In addition to the credit for good conduct prescribed in s. 53.11, every inmate whose diligence in labor or study surpasses the general average is entitled to a diminution of time at the rate of one day for each 6 days during which he shows such diligence. The diminution shall be made under the rules of the department.

(2) The department may provide by rule for the payment of wages to inmates. The rate of such wages may vary for different prisoners in accordance with the pecuniary value of the work performed, willingness, and good behavior. The payment of wages to inmates working in the prison industries shall be governed by s. 56.01 (4).

(3) If by continued good conduct, diligence or otherwise, an inmate surpasses the general average, the department may provide by rules to compensate him therefor by the allowance of money.

(4) Money accruing under this section remains under the control of the department, to be used for the benefit of the inmate or his family or dependents, under rules prescribed by the department as to time, manner and amount of disbursements.

History: 1975 c. 396.

Denying industrial good time to inmates sentenced to life imprisonment does not violate equal protection clause. Parker v. Percy, 105 W (2d) 486, 314 NW (2d) 166 (Ct. App. 1981).

53.13 Property of inmates; donations and transportation on discharge. The money and effects (except clothes) in possession of an inmate when admitted to the prison shall be preserved and shall be restored to him when discharged. When released on discharge or parole he shall be given adequate clothing and an amount of cash determined by department rules in addition to transportation or the means to procure transportation from the prison to any place in this state. If released on parole this amount shall be given under rules promulgated by the department.

History: 1973 c. 90.

53.14 Property of deceased inmates, parolees or probationers, disposition. When an inmate of a prison or a parolee of an institution or a person on probation to the department of health and social services dies leaving an estate of $150 or less in the trust of the warden, the superintendent or the secretary, such warden, superintendent or secretary shall make effort to determine whether or not such estate is to be probated. If probate proceedings are not commenced within 90 days, the warden, the superintendent or the secretary is authorized and directed to turn over the money or securities in his hands to the nearest of kin as evidenced by the records of the institution and the department.

53.15 Activities off grounds. The wardens and superintendents of the state prisons, and all wardens and superintendents of county prisons, jails, camps and houses of correction enumerated in ch. 56, may take inmates away from the institution grounds for rehabilitative and educational activities approved by the department and under such supervision as the superintendent or warden deems necessary. While away from the institution grounds an inmate is deemed to be under the care and control of the institution in which he is an inmate and subject to its rules and discipline.

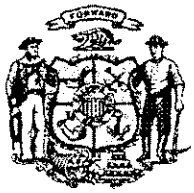
History: 1971 c. 54.

53.17 Register of inmates. When any inmate is received into any state penal institution the department shall register the date of admission, the name, age, nativity and nationality and such other facts as may be obtained as to parentage, education and previous history and environments of such inmate. Entries shall be made on the register of the progress made by each inmate and his parole and his condition at the time of parole and the progress made by him while on parole

53.18 Transfers of inmates. (1) Inmates of a prison may be transferred and retransferred to another prison by the department

Tommy G. Thompson
Governor

Patrick J. Fiedler
Secretary



Mailing Address
149 East Wilson Street
Post Office Box 7925
Madison, WI 53707-7925
Telephone (608) 266-2471

State of Wisconsin
Department of Corrections

August 11, 1993

Mr. Mark D. Larson
P. O. Box 900
Sturtevant, WI 53177-0900

Dear Mr. Larson:

Your letter to Mr. Fiedler of July 15 expressing concerns about the calculation of your Mandatory Release date was referred to my office for review.

I have reviewed the materials you attached and have asked the Registrar's Office at the Racine Correctional Institution to examine the calculations to determine their accuracy and correct any errors. That office currently has a backlog of similar requests but has assured me that the re-examination of your MR will be accomplished no later than August 13.

Sincerely,

Kenneth J. Sondalle, Administrator
Division of Adult Institutions

KJS:tlr
DAI\8-9-3

cc: Racine Correctional Institution
CRU #149464-A

EXHIBIT (F.1)

Division of Adult Institutions
Racine Correctional Institution

Mailing Address
Post Office Box 900
Sturtevant, WI 53177-0900
Telephone (414) 886-3214

State of Wisconsin
Department of Corrections

MEMO

Date: August 23, 1993

To: MARK D. LARSON #149464

From: Gene Dobberstein, Unit Manager, RCI

Re: MR Date Computation

This is in response to your concern that your MR date was improperly computed.

Staff at both DCI and RCI have rechecked the computation and find it to be correct. The explanation is as follows:

> You do not get EGT on the 30 year sentence, but rather on the amount of time you would do in prison if there was no EGT. 10-01-2000 would be your MR if there was no EGT, so, from 05-04-85 (the day after admission, when you began earning EGT) to 10-01-2000 is 15 years, 4 months, 27 days, which you would have to do in prison is there was no EGT. EGT on 15 years, 4 months, 27 days is 2 years, 2 months, 13 days.

Thus, your projected MR of 07-18-98 is correct.

I trust this responds adequately to your concerns.

cc: Mr. Buchler
Social Services File

EXHIBIT (F.2)

NAME Larsen Mark D NUMBER 149464-A

DATE SENTENCED

DATE RECEIVED

CRIME

STATUTE

SENTENCE

Post-it™ brand fax transmittal memo 7671 | # of pages ▸

To RG R.O.	From CRose
Co.	Co. DC R.O
Dept.	Phone #
Fax # 414-886-3514	Fax #

85. 4.30	SENT TO DCI	PAROLE ELIGIBILITY
0. 9. 29	(-) LESS CJT CREDIT 299	SB
19 84. 7-1	SENTENCE BEGAN	PED
30-0-0	(+) SENTENCE	
2014-7-1	MAXIMUM SGT on 30 years	REC'D
13. 9.0	(-) SGT (53.11)	EARLIEST
2000-10-1	BASE MR	
2. 2.13	(-)EGT (53.12)	
98-7-18	PROJECTED MR DATE	

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2-27

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COMPUTATION IS CORRECT...note the comp to the right.....

Inmate does not get EGT on the 30 year sentence...he gets EGT on the amount of time he would do in prison if there was no EGT...10-1-2000 would be his MR if there was no EGT so from 5-4-85 (when he begins earning EGT-the day after admission) to 10-1-2000 is 15 years 4 months 27 days which he would have to do in prison if there was no EGT...EGT on 15 years 4 months 27 days is 2 years 2 months 13 days.

The computation is correct! Cheri Rose, DCI R.O. 7-30-93

EXHIBIT (F.3)

DEPARTMENT OF CORRECTIONS
Division of Adult Institutions
DOC-192 (Rev. 3/96)

N TIFICATION OF SENTENCE ATA

WISCONSIN

INSTRUCTIONS: The Mandatory Release Data indicated below is a projected date on which you will be eligible for release from the institution.

OFFENDER NAME	DOC NUMBER	INSTITUTION	DATE COMPLETED
LARSEN, MARK D.	149464-A	OCC	1/22/97

MANDATORY RELEASE DATE	MAXIMUM DISCHARGE DATE	PAROLE ELIGIBILITY DATE *
7/24/98	N/C	N/C

REASON FOR CHANGE

- [ ] DIS Sentence 1/4 Confinement Time:
- [ ] Adjusted/End ATR Status:
- [ ] Sentence/Also Sentence: County: Case No.: Governs Y/N

Term: Credit:

- [ ] Revocation: Amount of Time Forfeited/Reincarceration Ordered:

- [X] MR Extension:
  - Disciplinary entension (302.11(2)(a)): 5 DAYS
  - Seg Days Served: 12/26/96 to 12/29/96
  - # of days MR Extended (302.11(2)(b)): 1 DAY
  - Conduct/Violation Report # 750704

- [ ] Other - **Specify:** AGENT 10113

RECEIVED
NOV 6 1997
OBSCURED

*** In no case may parole consideration occur less than 60 days following reception or return to the institution. DOC 330.04**

DISTRIBUTION: Original - Record Office; Copy - Social Service; Copy - Security; Copy - Offender; Copy - Central Records Unit

EXHIBIT (G.1)

Mark D. Larsen 149464
900 S. Madison Street
Waupun, WI 53963

October 1, 1997

WCCS-Records Registrar
906 Ann Street
Madison, WI 53713

Subject: Incoorect Extention of Mandatory Release Date

DeaerRegistrar,

As of November 1996, my mandatory release (MR) date was July 18, 1998.

As the result of a disciplinary hearing December 26, 1996, I was given 5 days loss of good time and 3 days adjustment segregation time.

Since then, my MR date was adjusted to read July 24, 1998. This date is incorrect because adding 5 extra days to July 18, 1998 ends up to be July 23, 1998.

My sentence is under ss. 53.11, 53.12 Wis. Stats. (1981-82), prior to 1983 Wis. Act 528, and therefore, the MR date should not have been extended due to the days I spent in segregation.

Please readjust this error and send me a copy of the correct reading.

I would also like to know the name of the registrar there so that I may question them on another issue.

Thank you!

Mark D. Larsen

Mark D. Larsen

cc: File

EXHIBIT (G.2)

DEPARTMENT OF CORRECTIONS
Division of Adult Institutions
DOC-192 (Rev. 3/96)

NOTIFICATION OF SENTENCE DATA

WISCONSIN

INSTRUCTIONS: The Mandatory Release Data Indicated below is a projected date on which you will be eligible for release from the institution.

OFFENDER NAME	DOC NUMBER	INSTITUTION	DATE COMPLETED
LARSEN, Mark D.	149464-A	DCC-WCCS-JBCC/jph	12/4/97

MANDATORY RELEASE DATE	MAXIMUM DISCHARGE DATE	PAROLE ELIGIBILITY DATE *
7/23/98	N/C	N/C

REASON FOR CHANGE

- [ ] DIS Sentence 1/4 Confinement Time:
- [ ] Adjusted/End ATR Status:
- [ ] Sentence/Also Sentence: County: Case No.: Governs Y/N

Term: Credit:

- [ ] Revocation: Amount of Time Forfeited/Reincarceration Ordered:
- [ ] MR Extension: Disciplinary extension (302.11(2)(a)):

Seg Days Served:

# of days MR Extended (302.11(2)(b)):

Conduct/Violation Report #

- [X] Other - Specify: *ERROR CORRECTION:* INMATE'S SENTENCE COMPUTATIONS FALL UNDER OLD LAW REQUIREMENTS. MR DATE SHOULD NOT HAVE BEEN EXTENDED 1 DAY FOR SEGREGATION FROM 12/26/96 to 12/29/96 ON CONDUCT REPORT #750704. MR DATE CORRECTED ACCORDINGLY. AGENT #10113.

RECEIVED
5 1997
JCI/CC-WCCS

* In no case may parole consideration occur less than 60 days following reception or return to the institution. DOC 330.04

DISTRIBUTION: Original - Record Office; Copy - Social Service; Copy - Security; Copy - Offender; Copy - Central Records Unit

EXHIBIT (G.3)

Mark D. Larsen 149464
900 s. Madison Street
Waupun, WI 53963

October 7, 1997

Jeffrey Hrudka, Registrar
WCCS-Records
906 Ann Street
Madison, WI 53713

Subject: Miscalulated Amount of Extra Credit prescribed in s. 53.12(1) Wis. Stats. (1981-82)

Dear Registrar,

After carefully reading Wis. Admin. Code DOC 302.31(6), and applying its schedule to my sentence for "extra good time" credit, I came up with a different amount than that which was given to me. It appears that I have been shorted 4 months and 12 days extra credit.

The schedule in DOC 302.31(6) shows 5 days "extra good time" credit for each 30 day period. This is in perfect harmony with s. 53.12(1) which prescribes "one day for each 6 days during which he shows such diligence."

My sentence is under ss. 53.11, 53.12 Wis. Stats. (1981-82) prior to 1983 Wis. Act 528. I have applied both credit earning statutes towards my sentence and came up with the following:

Since s. 53.11(1) Wis. Stats. (1981-82) deals with months then all #'s in years should be converted into months as well. From the "calculation schedule" prescribed in s. 53.11, I receive a total of 165 months (which equals 13 years and 9 months) credit towards my 30 year sentence for "good conduct." Applied to the sentence is as follows:

	YEAR	MONTH	DAY
Sentence Began	1984	7	1
Plus Total Sentence	30	0	0
Maximum Discharge	2014	7	1
Less s. 53.11(1) Credit	13	9	0
* MR from s. 53.11(1)	2000	10	1

The "extra good time" credit reduces the mandatory release (MR) date as shown on the next page:

EXHIBIT (H.1)

Since s. 53.12(1) Wis. Stats. (1981-82) deals with days then all #'s in years and months should be converted into days as well. Thus, from the "calculation schedule" prescribed in s. 53.12(1), I receive a total of 924.5 days (which equals 2 years, 6 months, and 25 days) extra credit. Applied to the previous MR from s. 53.11(1) is as follows:

	YEAR	MONTH	DAY
* MR from s. 53.11(1)	2000	10	1
Less s.53.12(1) Ex. Cr.	2	6	25
Projected MR from Both	1998	3	6

March 6, 1998 should be my mandatory release (MR) date when applying both ss. 53.11(1), 53.12(1) Wis. Stats. (1981-82) to my 30 year sentence. This computation would be prior to any forfeiture of good time credits.

To show how I arrived at my calculations, I put together a (5) page Illustration numbered 1.1 through 1.5.

Illustration 1.1 shows the first part of good time credit prescribed under s. 53.11(1).

Illustration 1.2 through 1.5 shows the second part of good time credit prescribed under s. 53.12(1).

Illustration 1.5 describes in detail where the 2 years 4 months 25 days came from.

Please readjust my MR date to reflect the correct calculation. I also have one incident with 5 days loss of good time which would move the MR date to March 11, 1998.

I thought I should ask you to correct this first to avoid any court action. Please respond to this issue as soon as possible so that I may appeal any adverse decision before the correct mandatory release date arrives.

Thank you.

Mark D. Larsen

Mark D. Larsen 149464

cc File

Inclosures

(Illustration 1.1)

PURSUANT TO s. 53.11(1) Wis. Stats.
"Calculation Table"

Years		Credit for Good Conduct
First year	=	1 month credit
Second year	=	2 months credit
Third year	=	3 months credit
Fourth year	=	4 months credit
Fifth year	=	5 months credit
Total Credit months	=	15 months credit
Every year after first Five years	=	6 months credit

Credit from a 30 year sentence, under s. 53.11(1) Wis. Stats. (1981-82) is as follows:

The first Five years of credit for "good conduct" = 15 months.

Since the first Five years are used, they get subtracted from the total sentence:

30 years
- 5 years
25 years

Since every year after the first Five years receive 6 months credit, the remaining 25 years are multiplied by 6 months:

25 years
x 6 years

"good conduct" from remaining 25 yrs. = 150 months.

Total "good conduct" credit from the 30 year sentence = 165 months.

165 months equals 13 years 9 months:

```
    13yrs. 9mths.
12/ 165
    12
     45
     36
      9
```

(Illustration 1.2)

PURSUANT TO s. 53.12(1) Wis. Stats.
"1 day for each 6 days during...diligence"

Each day of credit for Diligence		Consecutive days by 6	
1		6	
2		12	
3		18	
4		24	
5	= 5 days credit	30	= 1 month
6		36	
7		42	
8		48	
9		54	
10		60	= 2 mths.
11		66	
12		72	
13		78	
14		84	
15		90	= 3 mths.
16		96	
17		102	
18		108	
19		114	
20		120	= 4 mths.
21		126	
22		132	
23		138	
24		144	
25		150	= 5 mths.
26		156	
27		162	
28		168	
29		174	
30	= 1 month credit	180	= 6 months

EXHIBIT (H.4)

(Illustration 1.3)

s. 53.12(1) Wis. Stats. (1981-82)
"1 day for each 6 days during...diligence" continued

Each day of credit for Diligence		Consecutive days by 6	
31		186	
32		192	
33		198	
34		204	
35		210	= 7 mths.
36		216	
37		222	
38		228	
39		234	
40		240	= 8 mths.
41		246	
42		252	
43		258	
44		264	
45		270	= 9 mths.
46		276	
47		282	
48		288	
49		294	
50		300	= 10 mths.
51		306	
52		312	
53		318	
54		324	
55		330	= 11 mths.
56		336	
57		342	
58		348	
59		354	
60	= 2 months credit	360	= 1 year

EXHIBIT (H.5)

(Illustration 1.4)

s. 53.12(1) Wis. Stats. (1981-82)
"1 day for each 6 days during...diligence" continued

Each day of credit for Diligence	Consecutive days by 6
61	366
62	372
63	378
64	384
65	390 = 1 yr. 1 mth.
***** THE FOLLOWING #'s WILL BE EVERY 60 DAYS CREDIT TO EACH CONSECUTIVE YEAR *****	
120	720 = 2 years
180	1080 = 3 years
240	1440 = 4 years
300	1800 = 5 years
360	2160 = 6 years
420	2520 = 7 years
480	2880 = 8 years
540	3240 = 9 years
600	3600 = 10 years
660	3960 = 11 years
720	4320 = 12 years
780	4680 = 13 years
840	5040 = 14 years
900	5400 = 15 years
***** THE FOLLOWING #'s WILL RESUME TO "ONE DAY FOR EACH 6 DAYS " *****	
901	5406
902	5412
903	5418
904	5424
905	5430 = 15 yrs. 1 mth.
906	5436
907	5442
908	5448
909	5454
910	5460 = 15 yrs. 2 mths.
911	5466
912	5472

EXHIBIT (H.6)

(Illustration 1.5)

s. 53.12(1) Wis. Stats. (1981-82)
"1 day for each 6 days during...diligence" continued

Each day of credit for Diligence	Consecutive days by 6
913	5478
914	5484
915	5490 = 15 yrs. 3 mths.
916	5496
917	5502
918	5508
919	5514
920	5520 = 15 yrs. 4 mths.
921	5526
922	5532
923	5538
924	5544
924.5	5547 = 15y. 4m. 27d.

To determine "extra credit" from a 30 year sentence under s. 53.12(1) is as follows:

The MR date arrived at from s. 53.11(1) must be subtracted by the date of arrival to the institution.

This will leave the amount of yrs./mths./dys. eligible to be applied by the formula under s. 53.12(1).

MR date from 53.11(1)	=	2000	10	1
Arrival Date to Institution	=	1985	5	4
Time remaining to do in prison	=	15	4	27

15yrs. 4mths. 27dys. converted into days = 5547 days which are available to apply the "extra credit" formula to under s. 53.12(1).

Since only "one day for each 6" of these days are allowed then 5547 days must be divided by 6 to arrive at the amount of "extra credit" days:

$$6/\overline{5547} = 924.5\text{dys.}$$

54
14
12
27
24
3

924.5 days = $30/\overline{924.5}$ = 30mths. 24.5dys. = 2yrs. 6mths. 25 dys.

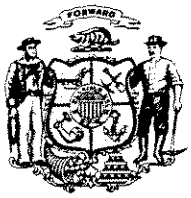
900
24.5

DOC 302.31(6)(a) allows for any fraction of a day to be credited as a whole day.

EXHIBIT (H.7)

Tommy G. Thompson
Governor

Michael J. Sullivan
Secretary



Mailing Address

Department of Corrections
Division of Community Corrections
906 Ann Street
Madison, WI 53713

State of Wisconsin
Department of Corrections

December 4, 1997

Mark D. Larsen, #149464-A
John C. Burke Correctional Center
900 South Madison Street
P.O. Box 900
Waupun, WI 53963-0900

Dear Mr. Larsen:

Upon review of your complete sentence structure and computations, I conclude they are correct as previously stated. The mandatory release date (MR) was computed properly as mandated by the Wisconsin Statutes.

It appears this issue has been addressed previously. It was determined the sentence computation was completed properly at that time and I agree once again that the sentence computations are correct.

Your examples of sentence computations and calculations are very creative and beneficial to your cause, but that is not how the Wisconsin Department of Corrections completes sentence computations.

I have enclosed a copy of the sentence computations for your review and explanation how they were arrived at previously.

I hope this letter addresses your concerns.

Jeffrey P. Hrudka
Institution Records Supervisor
DCC Records Office - WCCS

cc: Legal File
SS File

EXHIBIT (I.1)

NAME Larsen, Mark D NUMBER 149464-A

DATE SENTENCED

DATE RECEIVED

CRIME

STATUTE

SENTENCE

Post-it™ brand fax transmittal memo 7671 | # of pages ▸

To RG R.O.	From CRose
Co.	Co. DCI R.O
Dept.	Phone #
Fax # 414-886-3514	Fax #

85. 4. 30	SENT TO DCI	PAROLE ELIGIBILITY
0. 9. 29	(-) LESS CJT CREDIT 299	SB
		+
19 84. 7. 1	SENTENCE BEGAN	PED
30. 0. 0	(+) SENTENCE	
2014. 7. 1	MAXIMUM SGT on 30 years	REC'D
		+
13. 9. 0	(-) SGT (53.11)	EARLIEST
2000. 10. 1	BASE MR	
2. 2. 13	(-)EGT (53.12)	
98. 7. 18	PROJECTED MR DATE	

2000-10-1
- 85. 5. 4
15. 4. 27
14. 0. 0
1. 4. 27
1. 2. 0
2. 2. 13

2. 0. 0
0. 2. 0
13
2. 2. 13

COMPUTATION IS CORRECT...note the comp to the right.....

Inmate does not get EGT on the 30 year sentence...he gets EGT on the amount of time he would do in prison if there was no EGT...10-1-2000 would be his MR if there was no EGT so from 5-4-85 (when he begins earning EGT-the day after admission) to 10-1-2000 is 15 years 4 months 27 days which he would have to do in prison if there was no EGT...EGT on 15 years 4 months 27 days is 2 years 2 months 13 days.

The computation is correct! Cheri Rose, DCI R.O. 7-30-93

EXHIBIT (I.2)

JAN 15 1998

Mark D. Larsen
900 South Madison Street
Waupun, WI 53963-0900

January 10, 1998

Richard Grobschmidt, Senator
Joint Committee for Review of
ADMINISTRATIVE RULES - Room 404
100 N. Hamilton St.
Madison, WI 53703

Re: Larsen v. DOC
Case No. 98CV0070

Dear Committee Members,

Please find enclosed, a petition for a writ of habeas corpus which involves certain Wisconsin Administrative Code Rules and State Statutes.

Out of curtesy and pursuant to ss. 227.40(2)(d) and 227.40(5), Wis. Stats., by this letter, I am serving you with a copy of said petition. However, you are not a party of the action and will not be made a party. This service is simply informational.

Mark D. Larsen
MARK D. LARSEN

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that he is the petitioner, In propria persona, within the above-referenced action and is a person of such age and discretion to be competent to effectuate service by mail.

That on the 12th day of January, 1998, he served one copy of the enclosed petition for writ of habeas corpus to the above-referenced Joint Committee, at the address stated above, which is the last known address of said Joint Committee.

Mark D. Larsen
MARK D. LARSEN

Encl.

cc: File

STATE OF WISCONSIN | CIRCUIT COURT | DANE COUNTY

STATE OF WISCONSIN, ex rel.
MARK D. LARSEN,

Petitioner,

-v-

STATE OF WISCONSIN-DEPARTMENT OF HEALTH AND SOCIAL SERVICES/DIVISION OF CORRECTIONS/DEPARTMENT OF CORRECTIONS,
-AND-
THE SUPERINTENDENT AT:
JOHN C. BURKE CORRECTIONAL CENTER,

Respondent(s).

CIVIL ACTION 98CV0070

File No. _____

WRIT OF:
HABEAS CORPUS 30706

THE STATE OF WISCONSIN

TO: THOMAS G. GORGEN, SUPERINTENDENT
JOHN C. BURKE CORRECTIONAL CENTER
900 South Madison Street
Waupun, Wisconsin 53963-0900

YOU ARE HEREBY COMMANDED:

TO MAKE RETURN TO THIS WRIT FORTHWITH: IMMEDIATELY; WITHOUT DELAY; AND DIRECTLY TO THE FIRST OPPORTUNITY OFFERED OR AT A DAY CERTAIN, AS THE COURT SETS TO BE ON Jan 14, 1998, PURSUANT TO s. 782.14 WIS. STATS. WHEREFORE IT IS FURTHER COMMANDED THAT YOU HAVE MARK D. LARSEN, BY YOU IMPRISONED AND DETAINED, AS IT IS SAID, TOGETHER WITH THE TIME AND CAUSE OF SUCH IMPRISONMENT, BY WHATEVER NAME THE SAID MARK D. LARSEN, SHALL BE CALLED OR CHARGED, BEFORE THE HONORABLE Patrick J. Fiedler IN BRANCH NO. 8, DANE COUNTY CIRCUIT COURT AT, 11 O'CLOCK M., ON Jan 14, 1998, TO DO AND RECEIVE WHAT SHALL, THEN AND THERE BE CONSIDERED CONCERNING THE SAID MARK D. LARSEN.

Witness my hand and the Seal of said Court this 9 day of January, 1998.

BY THE COURT:

Paul B. Higginbotham

HONORABLE JUDGE, DANE COUNTY

for Patrick J. Fiedler, Judge

STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY

STATE OF WISCONSIN, ex rel.
MARK D. LARSEN,

-v- Petitioner,

STATE OF WISCONSIN-DEPARTMENT OF HEALTH AND SOCIAL SERVICES/DIVISION OF CORRECTIONS/DEPARTMENT OF CORRECTIONS,
-AND-
THE SUPERINTENDENT AT:
JOHN C. BURKE CORRECTIONAL CENTER,

Respondent(s).

CIVIL ACTION

File No. 98CV0070

PETITION FOR:

WRIT OF HABEAS CORPUS 30706
(ad subjiciendum)

JURISDICTION

IN THE MATTER OF THE PETITION OF MR. MARK D. LARSEN, FOR A WRIT OF HABEAS CORPUS, PURSUANT TO ARTICLE I SECTION 9, CLAUSE 2, UNITED STATES CONSTITUTION

VENUE

This Action is conferred upon the Dane County Circuit Court Pursuant to §§801.02(5) and 801.50(4)(a) of the Wisconsin Rules of Civil Procedure as, the County of which the Petitioner was last convicted.

PETITION

The Petition of Mark D. Larsen, Shall respectfully show the court that: he is being Unconstitutionally held in the Unlawful custody of the Wisconsin Department of Corrections (previously known as the Department of Health and Social Services-Division of Corrections), hereinafter "the department", or "DOC". Petitioner is in the physical restraint of the Superintendent of the John C. Burke Correctional Center located at 900 South Madison Street, Waupun, Wisconsin, 53963. The petition will further show that his present custody or restraint is not by virtue of any lawfully enforced judgment, order, or execution, having been entered by any Court of Record of this State. The petitioner will futher show that he is being Unlawfully restrained of his Personal Liberty, against his Will, and without any legal Ground being shown therefore, unless it be a certain Judgment of Conviction issued by the Honorable William Eich, of the Dane County, Wisconsin Circuit Court, whom indeed, Sentenced petitioner to an AGGREGATED Consecutive Term(s) of Imprisonment totalling thirty (30) years in Case No. 84-CF-610, on April 30, 1985, as shown by the Judgment of Conviction Annexed Hereto as Exhibit (A). And the petition shall further show that he

is Entitled to an ABSOLUTE-DISCHARGE because of the respondent's Wilful, Wanton, and Reckless Disregard for petitioner's State and Federal Constitutional Rights, Privileges, or Immunities.

STATEMENT OF THE CASE

COMES NOW, the Petitioner Mark D. Larsen, In Propria Persona; and upon all the Files, Records, and Proceedings, heretofore, respectfully requests that Pursuant to Section 782.03 of Wisconsin Statutes, this Honorable Court ISSUE A WRIT OF HABEAS CORPUS AD SUBJICIENDUM and challenge the Unconstitutional Method in which the State of Wisconsin's Department of Health and Social Services/Division of Corrections/Department of Corrections, hereinafter (DOC), initially Calculated his (Projected) Mandatory Release PAROLE-DISCHARGE Date, upon which the DOC Failed and Refuses to AWARD him the Entire "Industrial" Extra Good Time DIMINUTION, which had been Statutorily Mandated to petitioner under the Constitutional Construction of REPEALED Sections §§53.11(1) and (3a) as those Sections had been modified by §53.12(1) Wis. Stats. Annotated (1981-1982) of which directly relates to petitioner's sentence.

Said Unconstitutional Action has Deprived petitioner of Life, Liberty, and Property without Due Process of Law; and has Inflicted Double Jeopardy upon him in Violation of the First, Fifth, Sixth, Eighth, Ninth, Tenth, and Fourteenth, Amendments to the Constitution for the United States; and has Caused him to be Restrained of his Personal Liberty for [over two (2) years] beyond his ACTUAL Mandatory Release DISCHARGE Date.

WEREAS, AND FOR ADDITIONAL, SEPARATE, BUT AFFIRMATIVE GROUNDS FOR THE PETITION: petitioner heretofore, respectfully submits that:

On May 3, 1985, petitioner was transferred from the Dane County Jail, to the Correctional Reception Treatment Center, at Dodge Correctional Inst. Whereupon, as shown by Exhibit (B), the Registrar for DOC prepared a "New Admissions Computation" of his Sentence, computing his (Projected) Mandatory Release Date as July 20, 1998.

However, on May 8, 1985, when petitioner received his "Notification of Sentence Data" Sheet from said Registrar, his Mandatory Release Date had shown a different dateof July 30, 1998 (possibly an inadvertent blunder but nevertheless, an error). see Exhibit (C).

Whereas And For, on or about, June 28 1985, petitioner was transferred to the Green Bay Correctional Institution. And as a result of petitioner's

Refusal to "Opt-In" to the "New Law" and have his Good Time DIMINUTION re- calculated according to 1983 Wis. Act 528, the Registrar for the Green Bay Correctional Inst. adjusted petitioner's Mandatory Release Date to be July 18, 1998 (possibly the previous July 20, 1998 MR date was an inadvertent blunder but nevertheless, another error). see Exhibit (D).

Whereas And For, on July 12, 1993, as shown by Exhibits (E.1), (E.2), (E.3), (E.4), (E.5), (E.6), and (E.7), petitioner petitioned the Secretary for the DOC - among others, and DEMANDED that his Mandatory Release Parole Date Be Constitutionally Re-Calculated according to the Plain Meaning of the Language of REPEALED Sections 53.11(1) and, 53.12(1) of the (1880-1982) ANNOTATIONS of the Wisconsin Statutes.

And, in response thereto, on or about August 11, 1993, the Secretary for the DOC via., an Administrative Assitant, as shown by Exhibits (F.1), (F.2), and (F.3), Affirmatively denied this request to correct petitioner's Mandatory Release Date.

Whereas And For, petitioner's Mandatory Release Parole Date remained July 18, 1998, up until December 26, 1996 when the Disciplinary Review Committee for the Oregon Correctional Center, Forfeited Five (5) days of the petitioner's Good Time DIMINUTION which resulted in his Mandatory Release Date being Extended to July 23, 1998. (However, following the hearing forfeiture, the Registrar for the DOC had extended petitioner's MR date to be July 24, 1998, which possibly was an inadvertent blunder but nevertheless, petitioner had to petition the DOC to have yet another error corrected). see Exhibits (G.1), (G.2), and (G.3).

Whereas And For, on October 7, 1997, as Exhibits (H.1), (H.2), (H.3), (H.4), (H.5), (H.6), and (H.7), respectfully shows the Court that petitioner once again attempted, Administratively, to have the respondents Constitutionally re-calculate his Mandatory Release Date.

And, as shown by Exhibits (I.1) and (I.2), said respondents again, refused to AWARD petitioner the Entire "Industrial" Extra Good Time DIMINUTION, which had been Statutorily Granted to him under the Constitutional Construction of §§ 53.11(1) and (3a) and § 53.12(1) Wis. Stats. Annotated.

GROUNDS FOR THE PETITION

On August 14, 1948, the Attorney General for the State of Wisconsin issued an OPINION interpreting Section 56.08 Wis. Stats. Annotated, which had remained the same until REPEALED and Re-created as, Section 303.08 Wis. Stats., wherein, said Attorney General had Defined a clear interpretation of the Constitutional Context of the word "DIMINUTION" in relationship to "Laws of this kind..." referring to Prisoners, Prisons, and Prison Labor within the State of Wisconsin. Said Attorney General concluded that:

> "...Under the former law it was clear that to obtain a diminution of time the prisoner had to be employed under the Huber law. If the statute as repealed and recreated in 1947 were merely a revision of the former law it would be subject to the rule "revisions of statutes do not change the meaning of the statutes revised, unless the intent to change their meaning necessarily and irresistibly follows from the changed language." State v. Maas, (1944) 246 Wis. 159, 164 and cases. However, the "committee comments" appended to that part of the bill which changed sec. 56.08 in 1947 (quoting in the 1947 Stat. p. 834) shows that the "revision" was intended to change the law in several respects (not specified in the comment) "to bring it up to date." Subsec. (5) does not in terms require that the prisoner be employed to obtain a diminution of his sentence, as the former law did. Laws of this kind are to be construed most strongly in favor of liberty. We conclude that the prisoner is entitled to the credit for good behavior whether employed or not, if authorized by the court. [Ibid. at, 37 Op. Att. Gen. p.456 (Aug. 14,1948).] (Emphasis Added).

The Legislative language of §53.12(1), had been Amended a number of times from the time of its first beginning in Sec. 4928a Wis. Stats. (1917). However, the intent remained the same.

The intent of the Legislature in providing for a "Diminution of Sentence" in s. 53.11 and s. 53.12, was to entice/incite an incentive/award for a Prisoner's coscientious attempt toward showing Dilligence in labor and/or Study for the "Betterment" of themselves.

Petitioner Respectfully presents that the "DIMINUTION" statute was first created by L. 1917 c. 148 s. 1. "There is added to the statutes a new section to read:"

> Section 4928a. Every inmate who is now or may be hereafter confined in the Wisconsin state prison or house of correction and who shall be place out on construction or other work outside of the prison walls on the honor system and shall conduct himself in a peaceful and obedient manner and shall faithfully perform all the duties required of him shall be entitled to a diminution of time of five days for each month of thirty days that he is so employed outside of the prison walls, in addition to the credit for good conduct prescribed by section 4928 of the statutes.

This DIMINUTION Statute was first amended by L. 1919 c. 348 when it was Re-numbered Section 53.12(1), and at that time it read as follows:

> Every convict employed on construction or other work outside of the prison walls, on the honor system who shall conduct himself in a peaceful and obedient manner and shall faithfully perform all the duties required of them shall be entitled to a diminution of time of five days for each month of thirty days while he is so employed in addition to the credit for good conduct prescribed by section 53.11. (Emphasis Added).

The 1943 Statutes of Section 53.12(1) had the following insertions appearing within the previous language and read as:

> Every convict employed on construction or other work outside of the prison walls on the honor system, who shall conduct himself in a peaceful and obedient manner, and shall faithfully perform all the duties required of [him] shall be entitled to a diminution of time [on the ratio] of five days for each month of thirty days [or fraction thereof,] while he is so employed, in addition to the credit for good conduct prescribed by section 53.11.

The insertions above were not found within L.1943 c. 93 which is the indicated amendment. Thereafter, Section 53.12(1) was again amended by L. 1945 c. 182 to read as:

> In addition to the credit for good time prescibed by section 53.11, every convict, who by diligence in labor or study shall surpass the general average of convicts, shall be entitled to a diminution of time on the ratio of 5 days for each month of 30 days or fraction thereof, during which he shows such diligence. Such diminution of time shall be made under rules and regulations established by the state department of public welfare. (Emphasis Added).

The final Amendment to Section 53.12(1) was by L. 1947 c. 519 sec. 1, which read as:

> In addition to the credit for good conduct prescribed in section 53.11, every inmate whose diligence in labor or study surpasses the general average is entitled to a diminution of time at the rate of one day for each 6 days during which he shows such diligence. The diminution shall be made under the rules of the department. (Emphasis Added).

Note: The change of the word from "ratio" to "rate", and the fraction from "5/30" to "1/6". The first fraction reduces to the latter, making them both Mathematically Equal.

> And, that the word "month" was prescribed to mean a "month of thirty or (30) days". Whereas, this coincides exactly with the Wisconsin Court of Appeals' (1985) decision in, Martinez v. Gudmanson, 125 Wis.2d 92, 370 N.W.2d at, 814.

This Legislative intent remained unchanged until REPEALED by 1983 Wis. Act 66. Thus, the department thereby, upon attempting to establish Administrative Criteria under the Constitutional construction of §53.12(1), could not

arbitrarily nor capriciously chose to only utilize a specific portion of petitioner's sentence to calculate "Industrial" Good Time DIMINUTION under a particular Policy, Practice, or Procedure. If only a portion of petitioner's sentence is used in the calculation, then this would unconstitutionally prohibit petitioner from being awarded a certain part of the "Industrial" Good Time DIMINUTION of his sentence - ultimately preventing petitioner a Constitutionally correct calculation of his Mandatory Release Parole DISCHARGE DATE.

Therefore, the department may not Adopt, Promulgate, nor Ratify an Administrative Rule which Subscribes to the following:

> "...The resident does not receive extra good time for the period by which his or her sentence is reduced by state good time. [Ibid. at, the Apendix p. 27, Register, August, 1979, No. 284 under the Wisconsin Administrative Code Rule HSS 302.21 (Corrections)].

Petitioner Respectfully presents that the Wisconsin Supreme Court Ruled in Irby v Macht, 184 Wis.2d 831, 522 N.W.2d 9 (Wis. 1994), that:

> [5] ...The Due Process Clause does not prevent states from depriving persons of their life, liberty, or property. Rather, the Clause protects only against those deprivations which occur "without due process of law" (Ibid.at,522 N.W.2d 13)

Therefore, Secs. §§53.11(2) and (2a), were the only sections which prescribed the manner in which the Petitioner's Good Time DIMINUTION may be Constitutionally Forfeited prior to his Mandatory Release Parole DISCHARGE Date. And then after Release as said Statutes Mandate:

> "...The department may upon proper notice and hearing forfeit all or part of the good time previously earned under this chapter, for violation of the conditions of parole, whether or not parole is revoked for such misconduct."

Former Section 53.12(1), was unambiguous in that any reasonable well-informed person, could not disagree as to its meaning, nor become confused about the fact that the Good Time DIMINUTION of the above-referenced "one day for each 6 days" (Additional Credit) was to be removed in its Entirety upon petitioner's Admission into the Wisconsin State Prison System. And, thereafter upon "proper notice and hearing" the department was allowed to Proportionately Revoke any part thereof for failure to abide by the Rules of the Prison or Conditions of Parole.

Thus, the problems which arise with the Constitutional Interpretation, of Former Section 53.12(1), as to DIMINUTION, has not been with what the Statute says, rather it has always been a question of, "how much good time" said

Statute Awarded in addition to that of §53.11(1).

In the Case before this Court, petitioner Violated no Administrative Rule, nor Institutional Policy of Procedure (upon entering the prison system), which had allowed said respondents to Constitutionally Revoke any portion of his Good Time DIMINUTION. Therefore, said respondents could not Arbitrarily nor Capriciously Deprive petitioner of any portion therof, without Due Process of Law.

And, at a minimum, said respondents' Scienter, must have provided the petitioner with a Full Due Process Administrative Hearing, to Determine whether any of his, §53.12(1) Good Time DIMINUTION was to be removed or withheld from the Constitutional Computation of his then, Projected Mandatory Release Parole Date.

And, as the following three (3) pages of Sentence Computation Tables will Affirmative demonstrate; that upon Constitutionally Diminishing the Entire amounts of both "Statutory" and "Industrial" Good Time DIMINUTIONS under §§53.11(1) and (3a) which itself indicates the additional modification by §53.12(1), from the Entire thirty (30) year Consecutive AGGREGATED term(s) of Imprisonment which the Courts had sentenced him to; absent any Constitutional Forfeiture, due to petitioner's misconduct occuring during that time, he is Constitutionally Entitled to a Projected Mandatory Release Date upon SUCCESSFULLY serving "11 years and 3 months".

SENTENCE COMPUTATION TABLES

ON FOLLOWING PAGES

LENGTH OF SENTENCE	STATUTORY GOOD TIME (EARNED) YEARS	MONTHS	DAYS	TIME LEFT TO SERVE (TO BASE M.R. DATE) YEAR	MONTHS	DAYS
01	00	01	00	00	11	00
02	00	03	00	01	09	00
03	00	06	00	02	06	00
04	00	10	00	03	02	00
05	01	03	00	03	09	00
06	01	09	00	04	03	00
07	02	03	00	04	09	00
08	02	09	00	05	03	00
09	03	03	00	05	09	00
10	03	09	00	06	03	00
11	04	03	00	06	09	00
12	04	09	00	07	03	00
13	05	03	00	07	09	00
14	05	09	00	08	03	00
15	06	03	00	08	09	00
16	06	09	00	09	03	00
17	07	03	00	09	09	00
18	07	09	00	10	03	00
19	08	03	00	10	09	00
20	08	09	00	11	03	00
21	09	03	00	11	09	00
22	09	09	00	12	03	00
23	10	03	00	12	09	00
24	10	09	00	13	03	00
25	11	03	00	13	09	00
26	11	09	00	14	03	00
27	12	03	00	14	09	00
28	12	09	00	15	03	00
29	13	03	00	15	09	00
30	13	09	00	16	03	00

TIME SERVED (in-Days)	"INDUSTRIAL" Extra Good-time (EARNED-IN DAYS)	TIME SERVED (IN-YEARS)	"INDUSTRIAL" Extra Good Time-(Earned) YEARS	MONTHS	DAYS
01	00	02	00	04	00
02	00				
03	00	03	00	06	00
04	00	04	00	08	00
05	00				
*06	*01	05	00	10	00
07	00	06	01	00	00
08	00				
09	00	07	01	02	00
10	00	08	01	04	00
11	00				
*12	*02	09	01	06	00
13	00	10	01	08	00
14	00				
15	00	11	01	10	00
16	00	12	02	00	00
17	00				
*18	*03	13	02	02	00
19	00	14	02	04	00
20	00				
21	00	15	02	06	00
22	00	16	02	08	00
23	00				
*24	*04	17	02	10	00
25	00	18	03	00	00
26	00				
27	00	19	03	02	00
28	00	20	03	04	00
29	00				
*30	*05	21	03	06	00
60	10	22	03	08	00
90	15				
120	20	23	03	10	00
150	25	24	04	00	00
180	30				
210	35	25	04	02	00
240	40	26	04	04	00
270	45				
300	50	27	04	06	00
330	55	28	04	08	00
360	60				
		29	04	10	00
		30	05	00	00

Whereas, And For, according to the above-referenced Tables, petitioner Respectfully Submits that pursuant to page 8, he is entitled to a DIMINUTION of sentence totalling "13 years 9 months"; and pursuant to page 9, an Entitlement to a DIMINUTION of time totaling "5 years".

Thus, Constitutionally, upon the correct Computation of those two (2) Good Time DIMINUTIONS, petitioner's Precise Mandatory Release Parole DISCHARGE Date would be Calculated as:

YEAR	MONTHS	DAYS	
1985	4	30	Date Sentence
- 00	9	29	§973.155 Stats. (Sentence Credit)
1984	7	1	Date Sentence Began
+ 30	0	0	AGGRAGATE Consecutive Sentence Term(s)
2014	7	1	Maximum Discharge Date
- 13	9	0	§53.11(1) "Statutory" Good Time DIMINUTION
2000	10	1	Projected Mandatory Release DISCARGE Date
- 5	0	0	§53.12(1) "Industrial" Extra Good Time DIMINUTION
1995	10	1	(Revised) Projected Mandatory Release DISCHARGE Date
+ 00	0	5	(Extended MR) for Conduct Report Number 750707
1995	10	6	(Revised) Projected Mandatory Release DISCHARGE Date

And, Thus, petitioner has Unconstitutionally Served "13 years 2 months and some odd number of days" in prison, after repeatedly requesting that the above-said respondents, Administratively comply with the Law and Release him from Confinement.

The United States District Court for the Southern District of Texas, made a Ruling in United States v. Wilton Wallace, 673 F.Supp. 205, 208 (1986) that:

> [4] The notion that a prison guard can deprive an inmate of his liberty interest and not violate any constitutional guarantees [sic even] if there is a due process system to redress the wrong presupposes a fair hearing. Inherent in procedural due process is the right to a fair trial. It is the opportunity to be heard in a meaningful way and in a meaningful manner. The requirement of due process is not satisfied by mere notice and hearing if the State presents its case by evidence received from officers acting under color of state law when such evidence was secured by deliberate deception of the court and jury by the presentation of testimony known to be perjured.

Thus, the Constitutionality of the Good Time DIMINUTION granted by 53.12(1), is incorporated into the Statutory Construction of §53.11(1), as that Section is Modified by §§53.11(2), (2a) and (3a), Wis. Stats. Annotated, which had imposed specific Procedural (albeit Conditional) Due Process Limitations, and Equal Protection guaranties upon the respondents' Constitutional Authority and/or Discretion to Deprive petitioner of a Portion of his 53.12(1), "Industrial" Extra Good Time DIMINUTION.

No State may Deprive any person of Life, Liberty, or Property (nor an entire interest: see Blacks Law Dictionary) absent Due Process of Law. A Liberty Interest protected by the Fourteenth Amendment may arise from two (2) sources: the Due Process Clause; and the Laws of the State. And, if such State-created Liberty Interest affects Fundamental Rights, then it should be given the most exacting scrutiny. (gf. Roth v. UW Board of Regents, Citation omitted-Emphasis not in the Original.)

WISCONSIN STATUTES ANNOTATED, SECTION 53.11, prescribed in pertinent portion that:

> (1) The warden or superintendent shall keep a record of the conduct of each inmate, specifying each infraction of the rules. Each inmate who shall conduct himself in a proper manner and perform all the duties required of him shall be entitled to good time or diminution of sentence according to the following table, prorated for any part of a year: First year, one month; second year, 2 months; third year, 3 months; fourth year, 4 months; fifth year, 5 months; every year thereafter, 6 months.
>
> (3a) For purposes of computing good time earned or forfeited under this section, ...[n]o more good time may be granted for any one year than is specified in sub. (1) as modified by s. 53.12(1). (Emphasis Added).

It is very well established that the use of the word "shall" creates a presumption that a Statutory intent is Mandatory. That presumption is strengthened where the Legislative use of the word "shall" is in the same or related Section(s). This demonstrates that the Legislature was aware of the different denotations and intended the words to have their precise Meaning.

WISCONSIN STATUTES SECTION 990.04, prescribes in pertinent portion that:

> The repeal of a statute hereafter shall not remit, defeat or impair any civil or criminal liability for offenses committed, penalties or forfeitures incurred or rights of action accrued under such statute before the repeal thereof, whether or not in course of prosecution or action at the time of such repeal; but all such offenses, penalties, forfeitures and rights of action created by or founded on such statute, liability wherefore shall have been incurred before the time of such repeal thereof, shall be preserved and remain in force notwithstanding such repeal, unless specially and expressly remaitted, abrogated or done away with by the repealing statute. And criminal prosecutions and actions at law or in equity founded upon such repealed statute, whether instituted before or after the repeal thereof, shall not be defeated or impaired by such repeal but shall, notwithstanding such repeal, proceed to judgment in the same manner and to the like purpose and effect as if the repealed statute continued in full force to the time of final judgment thereon, unless the offenses, penalties, forfeitures or rights of action on which such prosecutions or actions shall be founded shall be specially and expressly remitted, abrogated or done away with by such repealing statute. (Emphasis Added).

Therefore, since petitioner Absolutely Refused to "Opt-In" to the Wisconsin Legislature's "New Law" Sanction, the subsequent Repeal of Sections 53.11 and 53.12 of (1880-1982) Wis. Stats. Annotated, does not affect any Right, Privilege or Immunity, which accrued to petitoner before said Statutes were removed.

Petitioner Respectfully presents that in the Black's Law Dictionary, the word "Entire" is defined as: "Whole; without division, separation or diminution". And the word "Entitlement" is defined as: "Right to benefits, income, or property which may not be abridged without due process." Therefore, in State ex rel., Hauser v. Carballo, 82 Wis.2d 51, 261 N.W.2d 133, when the Wisconsin Supreme Court questioned the department's Method in which Good Time DIMINUTION was intended to be Awarded under Sections 53.11(1) and 53.12(1), the Court then Concluded that:

> "...Pursuant to these statutory entitlements, the Department assigns each entering prisoner a projected mandatory release date, calculated by subtracting from the maximum term to which the prisoner was sentenced the entire credit under secs. 53.11(1) and 53.12(1), Stats. for which he is eligible. Since the projected mandatory release date assumes that all "state" and "industrial" good time is earned, the mandatory release date must be recalculated when "state" good time is forfeited or "industrial" good time is disapproved..." (Emphasis Added).

Thereafter the Hauser Case, within the (1979 Register No. 284) Appendix for Wis. Admin. Code Rule HSS 302.21, at page 27, the then Secretary for the department (DOC), Affirmatively Misrepresents the above-referenced Supreme Court Decision, by Alleging therein that:

> "The projected mandatory release date is reached by crediting the resident with state good time in the amount of one month for the first year, 2 for the second and so on to a maximum of 6 months for the sixth year and every year thereafter; and by crediting extra good time at the rate of one day for every 6 of satisfactory work or study. A resident receives state good time but not extra good time for county time. The resident does not receive extra good time for the period by which his or her sentence is reduced by state good time. ss. 53.11 and 53.12, Stats. State ex. rel. Hauser V. Carballo, 82 Wis.2d 51, 261 N.W.2d 133(1978)." (Emphasis Added).

Petitioner respectfully presents that this Method of Computing Good Time produces an Unconstitutional Formula. This Formula allows the department to Extend petitioner's Mandatory Release Date beyond that which is prescribed by Law. As a result, the Remainder of the Sentence, after Mandatory Release occurs , is Automatically exposed to forfeiture, and the Good Time DIMINUTION which was never deducted is then Unconstitutionally considered for forfeiture. If Good Time Credit which was never deducted, is ultimately forfeited, then petitioner would be Unconstitutionally Forced to serve that amount of forfeited credit inside of the prison in addition to being forced to serve that portion of his Sentence which never received any §53.12(1) "Industrial" Extra Good Time DIMINUTION from the start, in order to compute his Actual Mandatory Release Date. Also, if petitioner's sentence was diminished in the manner in which the Legislature had intended , then any Good Time which could be exposed for forfeiture would be, in effect, Constitutionally elligible, and the sentence would then, not be extended beyond that which would violate his rights against Double Jeopardy under Article I, Section 8 Wisconsin Constitution and the Fifth Amendment United States Constitution.

Former Section 53.11(7)(b), prescribed in pertinent portion that:

> Any person on parole under this subsection may be returned to prison as provided in 57.06(3) to serve the remainder of a sentence...The remainder of the sentence shall be deemed to be the amount by which the original sentence was reduced by good time. (Emphasis Added).

Therefore, upon the department embracing the notion that petitioner is entitled to receive §53.12(1) "Industrial" Extra Good Time DIMINUTION Only on that portion

of his Sentence he was "Expected to Serve" inside of the prison, as the Rational behind forfeiting that Credit immediately upon his entry into the Wisconsin State Prison System [IS] an Unconstituitional Interpretation of the Constitutional Safeguards Imposed upon the department's strict adherence to the Constitutional Construction of the above-referenced Sections of Wisconsin Statutes Annotated during the process of Promulgating its Administrative Policies, Practices, and Procedures.

Moreover, The Wisconsin Supreme Court Ruled, in its Decision of State ex rel., Hauser v. Carballo, 261 N.W.2d 137, that:

> [1]...Because the mandatory release parole violator was released on parole when he had only good time left to serve, he cannot be returned to prison unless the department can "take back" some or all of that good time. The period of time the mandatory release parole violator can be required to serve in prison...is therefore directly dependent upon the number of his good time credits which can be forfeited. If all or a sufficiently large portion of his good time credits are forfeited, the mandatory release parole violator can be, in effect, denied sentence credit for the portion of his time successfully served on parole and thus required to serve beyond the final discharge date originally pronounced by the court. (Emphasis in original).

And, as the Wisconsin Supreme Court Ruled in Irby v. Macht, 184 Wis.2d 831, 522 N.W.2d 9, 12 (Wis.1994):

> [3]...However, when states create the right to good-time, and then further condition its loss only upon proof of major misconduct, prisoners acquire a protected liberty interest. Thus, with respect to the Nebraska Statutes at issue in Wolf, the Court concluded:
>
> > Since prisoners in Nebraska can only lose good-time credits if they are guilty of serious misconduct, the determination of whether such behavior has occurred becomes critical, and the minimum requirements of procedural due process appropriate for the circumstannces must be observed.
>
> Id. at 558, 94 S.Ct. at 2975. (Emphasis Added).

The entire amount of petitioner's "Industrial" Good Time DIMINUTION had been intended by the Legislature to be Awarded to him as an Incentive toward his Anticipated Good Behavior and Work Performance while he is incarcerated. Thus, allowing him to Benefit from the reduction in time he was subsequently to earn upon reaching his Projected Mandatory Release Date, without having forfeited it.

Therefore, said respondents' Deprivation of that DIMINUTION without Due Process of the Law, has Arbitrarily and Capriciously caused petitioner to serve "2 years 2 months and some odd days" past his Statutorily Mandated Release Date; and such additional Incarceration is illegal and in violation of the Equal

Protection Clauses in Article 1, Section 1 Wisconsin Constitution and the Fourteenth Amendment to the United States Constitution.

In Payton v. Rowe, 391 U.S. 53, 88 S.Ct. 1549 (1968), the United States Supreme Court analyzed the purposes underlying the Federal Writ of Habeas Corpus Statutes, and at Note 15, p. 1553, the Court stated that:

> 15. Because Mcnally was imprisoned by federal authorites, his application for habeas corpus could have rested on the clause of Rev.Stat. § 753 (1874) which authorized federal courts to entertain petitions from state prisoners in the custody of the United States. However, the Court's interpretation of the custody requirement in McNally was equally applicable to state prisoners claiming their incarceration violated the Constitution. E.g., Darr v. Burford, 339 U.S. 200, 203, 70 S.Ct. 587, 94 L.Ed. 761(1950).

The Rowe Court, went further to hold that:

> [5,6] The foregoing analysis demonstrates that McNally is inconsistent with the purposes underlying the federal writ of habeas corpus. Moreover, in arriving at its decision, the Court in McNally relied in part upon an unnecessarily narrow interpretation of the habeas courpus statute. Standing alone, the limitation of §2241(c)(3)--that "[t]he writ of habeas corpus shall not extend to a prisoner unless * * * [h]e is in custody in violation of the Constitution"--is not free of ambibuity. However, in common understanding "custody" comprehends respondents' status for the entire duration of their imprisonment. Practically speaking, Rowe is in custody for 50 years, or for the aggregate of his 30- and 20-year sentences. (Emphasis Added in addition to the Emphasis in original).

Thus, for the purposes of parole Eligibility under Wisconsin Law, petitioner in the Case at Bar, [is] incarcerated "in custody" under the aggregate of the Consecutive Sentences imposed upon him on April 30, 1985 of 30 years in prison.

And, the Maximum term he was Expected to serve in prison is the amount of time imposed upon petitioner by the Sentencing Court. Thus, because §973.01(2) Wis. Stats Annotated (1981-82), takes into consideration the fact that petitioner may earn his early release from Confinement, by earning his Good Time DIMINUTION and not having had it forfeited, it is further implied that the Wisconsin Legislature intended for the Entire amount of (both) Good Time DIMINUTION to be Awarded to petitioner upon entry into the prison's Reception Center, and to Proportionately Remove it only upon inadequate Work performance, or poor Institutional Adjustment.

Petitioner heretofore, respectfully submits that (both) §§53.11(1) and 53.12(1) Guaranteed he would receive an Award of Good Time DIMINUTION in its entirety to

be Credited toward the actual Term Ordered by the court. Thus, Entitling him to a DISCHARGE from custody once he had served "...the minimum term for punishment prescribed by law for the offense for which he was sentenced..."[Ibid. at §973.01(2) Wis. Stats. Annotated (1981-82).

And, said "...minimum term for punishment..." [is] petitioner's Mandatory Release DISCHARGE Date, as prescribed by the Legislature under 53.11(7)(a) Wis. Stats. Annotated (1981-82). And, the Wisconsin Supreme Court concurrs with this conclusion by Ruling in State ex. rel., Hauser v. Carballo, 82 Wis.2d 51, 261 N.W.2d 133, 135 and 136 that:

> When a prisoner has served his sentence less his good time credit, he is entitled to release as a matter of right. The Department has no discretion to deny a sec. 53.11(7)(a) release. [Ibid. at p.135]
>
> As has been noted, a prisoner's right to mandatory release is dependent upon his good time credits. Good time credit is described in secs. 53.11(1), 53.11(2a) and 53.12(1), Stats. [Ibid. at p.136]

In State ex rel., Parker v. Sullivan, 517 Wis.2d 449 (Wis.1994), the Wisconsin Supreme Court finally took on the task of Constitutionally putting an end to the out-right Disobedience the DOC inherited from its predecessor, with regard to Good Time DIMINUTION Granted under REPEALED Sections 53.11 and 53.12 Wis. Stats. Annotated (1880-1982). In its Decision, the Court Ruled that:

> In interpreting statutes, we weigh many considerations. The needs of the public and common sense always rank high among them. However, though to many it may appear that public safety and common sense will be served by keeping Turner in prison, the law dictates otherwise in this case. This case illustrates the hard fact that judges sometimes reach decisions that they do not like. We make these decisions "because they are right, right in the sense that the law...compell[s] the result." (Citations Omitted) [Ibid at p. 450]
>
> This is not an easy case for judges. We are also parents and grandparents. We live alongside the other citizens of this state. But in this country judges cannot tailor their interpretation of the law to fit a particular individual, no matter how heinous his crimes. The integrity of our criminal justice system and of the law itself depends on the courts' consistent application of the same rules to everyone. These principles of the rule of law must guide the decision in this case, as they do all others. [Ibid. at p.451]

Therefore, when construing the Construction of a Statute, which "...Relates to to the Maximum term of imprisonment..." the Wisconsin Supreme Court Ruled in State of Wisconsin v. Denia Harris, 350 N.W.2d 633 (1984), that such interpretation may not:

> "...Attribute a specific portion of a sentence to a particular sentencing criterion." [Ibid. at p.636]

Therefore, the department could not, in the exercise of its Quasi Legislative/

Administrative Discretion adopt an Administrative Rule which provides an ambiguous interpretation of the Good Time DIMINUTION granted by 53.12(1), thus, providing a computation formula which is significantly less than the "one day for each 6 days" DIMINUTION prescribed by the Legislature to be afforded petitioner.

Such an Unconstitutional interpretation of the Plain Meaning of those words actually renders the meaning intended by the Legislature, insufficient. The department had been allowed to Recklessly adopt and/or Ratify Administrative Rules which Awarded petitioner and all other prisoners similarly situated, with "Industrial" Good Time DIMINUTION of sentences, granted by §53.12(1), which [is] grossly disproportionate and significantly less than that amount prescribed by the words of said statute as, "...one day for each 6 days..."

The United States Court for the Seventh Judicial Circuit, addressed the significance of an Administrative Rule's effect upon the (Conditional Due Process) Liberty Interest which the Wisconsin Legislature created upon enacting these Statutes, and in its Decision within Russ v. Young, 895 F.2d 1149 at, 1152, the Court Ruled that:

> "...State procedural guidelines in themselves do not give rise to a liberty interest..." (Emphasis Added).

Therefore, upon petitioner's admission, he was Constitutionally Entitled to have (both) DIMINUTIONS under Sections 53.11 and 53.12, removed in their entirety from his Term of Imprisonment. This would Constitutionally Establish petitioner's Mandatory Release Parole DISCHARGE Date, in the manner prescribed not only by the Plain Meaning of the words in §53.11(1) as modified by sub. (3a), but also those words in §53.12(1). Whereas, each of these Statutes prescribed that said petitioner shall be entitled to "a diminution of" his Maximum Term (although by different proportions). Nonetheless, they must be Diminished in the same manner, in their entirety, in order to reflect an accurate Interpretation of the Legislative intent of REPEALED Section 53.12(1) Wis. Stats. Annotated (1880-1982).

The Wisconsin Supreme Court in State ex rel., Parker, supra., further Ruled that:

> ...good time credit is granted at the commencment of the prisoner's sentence and the mandatory release date is "calculated by subtrating from the maximum term to which the prisoner was sentenced the entire credit under sec. 53.11(1) and 53.12(1), Stats. for which he is eligible." (Emphasis Added).

WISCONSIN STATUTES ANNOTATED, SECTION 53.11(3a), prescribed in pertinent portion that:

> "...No more good time may be granted for any one year than is specified in sub. (1) as modified by s.53.12(1)." (Emphasis Added).

Therefore, if, "...any one year..." of §53.11(1), receives a Good Time DIMINUTION, then each "...one year..." shall receive a Good Time DIMINUTION from §53.12(1), "...in the same or related statute..." because of the Legislature's use of the words "in addition to the credit for good conduct prescribed in s. 53.11". Therfore, each of the (one-year) segments on the total sentence are prescribed by §53.11(3a), to receive the Good Time DIMINUTIONS "in the same manner" as the Legislature prescribed in (both) §§53.11(1) and 53.12(1). This should have been the Method under the Rules of the department.

The Wisconsin Supreme Court in Stat ex rel., Parker, supra. further Ruled that:

> [7] A court does not, however, give deference to any agency's interpretation of a statute when the court concludes that the agency's interpretation directly contravenes the words of the statute, is clearly contrary to the legislative intent or is otherwise unreasonable or without rational bases. [citing Lisney v. LIRC, 171 Wis.2d 499, 506, 493 N.W.2d 14 (1992)].
>
> The Department's interpretation of sec. 53.11 has existed for more than 70 years, and...has been widely disseminated. Judges prosecutors, defense counsel, and thousands of prisoners have long been familiar with the Department's computations. According to the court of appeals, the Department has been in error for decades but no one has noticed util now... (Emphasis Added).

Thus, petitioner contends that §53.11 has been the focus of previous debate and not §53.12(1). Even the Wisconsin Supreme Court in State ex rel., Parker, has concluded that:

> Although neither this court nor the court of appeals has previously considered a challenge to the Department's computation of good time, the Department's method of computing good time has been relied upon by this court. (Ibid. at p.462, Emphasis Added).

Petitioner heretofore, respectfully presents that the only method prescribed by the Legislature for the Constitutional forfeiture of any of his Good Time DIMINUTION, prior to reaching his Mandatory Release Date [is] prescribed under the provisions of §53.11(2), Stats. Therefore, any other method used, but not prescribed by the Legislature [is] an Unconstitutional Infringement upon petitioner's First, Fourth, Fifth, Sixth, Seventh, Ninth, Tenth, and his Fourteenth Amendments, Rights, Privileges, or Immunities, which have been Guarantied to him under Color of the Laws, and United States Constitution.

And, before the State of Wisconsin, through its Department of Corrections, may Deprive petitioner of any of his Good Time DIMINUTION which is provided under the Law, DOC must provide him a Full Due Process hearing. And, without the hearing, none of petitioner's DIMINUTION may be forfeited at any time after his Admission Date, and prior to reaching his Mandatory Release Date, (except) in accordance with subsections (2) or (2a) of Section 53.11, Stats.

Petitioner further presents that if a Good Time DIMINUTION under 53.11(1), necessarily results in petitioner's sentence being diminished by a total amount of Good Time, then upon his entry into the State's prison system, the Good Time DIMINUTION authorized under 53.12(1), necessarily must also be reduced in the same manner, "...in its entirety..." in order to be Constitutionally exposed, "Equally" to the forfeiture provisions under subsections (2) or (2a) of 53.11, if necessary for petitioner's failure to perform Work or Study requirements, or for any Disciplinary Rule Infractions occuring during that Interim.

Petitioner respectfully submits that neither has occurred except that during the thirteen (13) years of his incarceration, five (5) days had been extended on his Projected Mandatory Release Date, which was the result of a Disciplinary action previously mentioned with reference to Exhibits (G.1), (G.2) and (G.3).

And, under the above-referenced Constitutional Interpretation of "Statutory" DIMINUTION awarded to petitioner by §§53.11(1) and (3a), and the "Industrial" Extra DIMINUTION he is Entitled to under §§53.11(3a) and 53.12(1), petitioner is Affirmatively granted a Projected Mandatory Release DISCHARGE Effective as of, on, or before, the Tuesday or Wednesday preceeding October 6, 1995.

And, said Interpretation MANDATES that petitioner's sentence be Computed in accordance with the Constitutionally correct Sentence Computation presented previously on PAGE 10 supra.

The Wisconsin Appeallate Courts have previously been inclined to Embrace the conclusions that, "...Although it has been stated generally that a statute providing for an allowance of good time to prisoners who faithfully perform the duties assigned to them does not form a part of the sentence,[15] ordinarily, the provisions of such a statute become an inherent part of the part of the sentence and punishment assessed,[16] and to the extent that a prisoner has served time on good behavior, he or she is entitled to credit for statutory good time applicable to the time served.[17] [Ibid. 72 C.J.S., PRISONS §144 at p.584].

Therefore, "Assuming Arguendo", petitioner heretofore, respectfully presents that there is no way to "reduce something from something without having that reduction affect the whole." The same is true with the Computation of Mandatory Dicharge, and Final Discharge Dates.

If there is granted only a portion of the Good Time DIMINUTION available, then only a portion of the Mandatory Release Date can be conceived. Under Wisconsin Law, the Base Mandatory Release (MR), and Projected MR Dates are dates certain in time, which must be calculated Precisely to determine petitioner's Actual Release Date. Thus, petitioner may not be Deprived of his Full amount of Good Time DIMINUTION, and then upon his entry into the State's Prison System, assume that that date certain in the future, has been computed accurately, when a significant portion of that Good Time DIMINUTION has been excluded from such Computation without having been Constitutionally forfeited due to any of the following: a) disciplinary rule infractions; b) inadequate work or study; or c) upon voluntary waiver of such Good Time DIMINUTION.

Therefore, in Conclusion, petitioner respectfully submits that:

> As has been noted, a prisoner's right to mandatory release is dependent upon his good time credits. Good time credit is described in secs 53.11(1) 53.11(2a) and 53.12(1), Stats. [Ibid. at,261 N.W.2d 136 (Emphasis Added].
>
> When a prisoner has served his sentence less his good time credit, he is entitled to release as a matter of right. The Department has no discretion to deny a sec. 53.11(7)(a) release. [Ibid. at p. 135 (Emphasis Added].

Thus, a person within the purview of such a statute is entitled to his discharge at the expiration of the time for which his sentence runs, less the time for which he is entitled to credit as, good time earned,[18] and the courts and administrative bodies are bound by the terms of the statutes.[19] [Id. at 72 C.J.S. §144 at p.584; (Citing: State ex rel., Beisler v. Percy, 295 N.W.2d 195, 97 Wis.2d 702)].

And, in State ex rel., Parker, supra., the Wisconsin Supreme Court Ruled that:

> Section 53.11(1) is open to at least two possible interpretations... Both interpretations fulfill the legislature's objective of protecting the safety of correctional officers and inmates by encourtaging prisoners to behave... [Id. at p. 453, Emphasis Added].

Therefore, in reference thereto, petitioner respectfully presents that the Supreme Court for the United States has consistently upheld the deference that,

"...the language of the Statute must be followed in determining how the term of the sentence and the deduction of good time, work, or other similar credits are to be Computed. Where the statute is capable of two constructions, that construction should be adopted which would entitle the prisoner to his discharge at the earliest time. (See, U.S ex rel., Clayton v. Estelle, 97 S.Ct. 2184, 413 U.S. 918, 53 L.Ed. 230; Story v. Rives, 59 S.Ct. 71, 305 U.S. 595, 83 L.Ed. 377; and Brown v. Mayo, 66 S.Ct. 815, 327 U.S. 768, 90 L.Ed. 998. [72 C.J.S., PRISONS §150, at p.555].

WEREFORE, because of the foregoing, under the respondents' interpretation of Wisconsin's (former) Good Time DIMINUTION Statutes, petitioner is "in custody in violation of the Due Process, Equal Protection, and Double Jeopardy Clauses of the United States Constitution.

Therefore, the remainder of petitioner's sentence has been Imposed as the result of a Deprivation of his Constitutional Rights to Life, Liberty, or Property. And, said respondents' unlawful Infringement thereupon, in the absence of securing for petitioner, the Due Process of the Law which had been Guaranteed to him under Color of the Constitution. That being the Case, petitioner respectfully requests that inlieu thereof, the Court Grant petitioner the following relief and remedy:

A) A Writ of Habeas Corpus, to review the Legality of his present Incarceration and Detention;

B) Upon consideration of the Facts and the Law, ORDER that petitioner be Absolutely Discharged FORTHWITH, from the unlawful custody and restraint of the respondents;

C) A jury trial on all issues triable before a Jury; and

D) Any other relief or costs the court may deem just and equitable in the prompt adjudication of these matters before the Court.

I, MARK D. LARSEN, HEREBY DELARE UNDER THE PENALTY OF PERJURY THAT THE FOREGOING INFORMARTION AND STATMENT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND, RESPECTFULLY REQUEST FOR THE COURT TO ENTER A JUDGMENT IN MY FAVOR, AND AGAINST THE ABOVE-NAMED RESPONDENTS:

Respectfully Submitted this 5th day of January, 1998.

Mark Larsen
PETITIONER IN PROPRIA PERSONA

Mr. Mark D. Larsen, PIN# 149464-A
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P.O. Box 900/(JCBCC)
Waupun, WI 53963-0900

SUBSCRIBED AND SWORN TO BEFORE ME

THIS 5 DAY OF JAN, 1998

NOTARY PUBLIC STATE OF WISCONSIN

MY COMMISSION EXPIRES: 6/4/98.