

IN THE COURT OF APPEALS OF IOWA

No. 7-285 / 06-1432
Filed June 27, 2007

SHERRY WILLIAMS,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Polk County, Gregory A. Hulse,
Judge.

Sherry Williams appeals the denial of her application for postconviction
relief. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and James G. Tomka, Assistant
Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, William Hill, Assistant Attorney
General, and John P. Sarcone, County Attorney, for appellee State.

Heard by Huitink, P.J., and Zimmer and Vaitheswaran, JJ.

VAITHESWARAN, J.

A jury found Sherry Williams guilty of first-degree robbery. Iowa Code §§ 711.1 and 711.2 (1997). The district court sentenced Williams to twenty-five years in prison.

Williams filed an application for postconviction relief requesting earned time that she alleged was “being unlawfully withheld by the State of Iowa.” In a joint stipulation of facts, the parties framed Williams’s contention as whether “earned time that is applied to her tentative discharge date (15%) should also be applied to reduce her minimum parole date (70%).” They agreed that the key statutory provisions governing this question are Iowa Code sections 902.12¹ and 903A.2.²

¹ Iowa Code section 902.12 (2005) provides:

A person serving a sentence for conviction of the following felonies, including a person serving a sentence for conviction of the following felonies prior to July 1, 2003, shall be denied parole or work release unless the person has served at least seven-tenths of the maximum term of the person’s sentence:

* * *

5. Robbery in the first or second degree in violation of section 711.2 or 711.3.

A 2004 amendment authorizes retroactive application of this provision to those sentenced prior to July 1, 2003, which includes Williams.

² Iowa Code section 903A.2 (2005) provides:

1. Each inmate committed to the custody of the director of the department of corrections is eligible to earn a reduction of sentence in the manner provided in this section. For purposes of calculating the amount of time by which an inmate’s sentence may be reduced, inmates shall be grouped into the following two sentence categories:

* * *

b. Category “B” sentences are those sentences which are subject to a maximum accumulation of earned time of fifteen percent of the total sentence of confinement under section 902.12. An inmate of an institution under the control of the department of corrections who is serving a category “B” sentence is eligible for a reduction of sentence

The district court thoroughly examined both code provisions and concluded the minimum sentence prescribed by section 902.12 could not be reduced by good conduct time. The Court reasoned as follows:

Section 902.12 addresses minimum sentences and parole while section 903A.2 addresses reduction of sentences and discharge dates. Section 902.12 requires certain felons to serve 70% of the maximum sentence before being eligible for *parole*. In turn, section 903A.2 allows for earned time for each day of good conduct. Earned time normally only affects an inmate's *discharge date*. Section 903A.2(1)(a) allows one and two-tenths of a day of earned time for each day of good conduct and sets no maximum accumulation on earned time. Section 903A.2(1)(b) limits both the rate of accumulation of earned time (to fifteen eighty-fifths per day of good conduct) and the maximum accumulation (to 15% of the total sentence) for persons convicted of the felonies listed in section 902.12. Thus, section 903A.2(1)(b) references section 902.12 solely for the purpose of specifying the crimes to which section 903A.2(1)(b) limitations on earned time apply.

When viewed in this light, each section has independent legal significance and, taken together, the sections produce a harmonious and consistent body of legislation. Section 902.12 requires persons guilty of certain felonies to serve 70% of their maximum sentence before being eligible for parole. Section 903A.2(1)(a) allows all inmates to accumulate earned time for good conduct. Section 903A.2(1)(b) limits the rate and maximum accumulation of earned time for persons guilty of felonies enumerated in section 902.12.

(footnote omitted; emphasis in original).

The district court also considered Iowa Code section 903A.5. That provision lists certain mandatory minimum sentences that may be reduced by earned good time.³ Section 902.12 is absent from this list. The court stated, “[i]f

equal to fifteen eighty-fifths of a day for each day of good conduct by the inmate.

³ Iowa Code Section 903A.5 states in pertinent part: “Earned time accrued and not forfeited shall apply to reduce a mandatory minimum sentence being served pursuant to section 124.406, 124.413, 902.7, 902.8, 902.8A, or 902.11.”

the legislature intended section 903A.2 to reduce the mandatory minimums set forth in section 902.12 it would have referenced section 902.12 in section 903A.5.” The district court ruled that Williams was obligated to “serve a mandatory minimum of 70% of her 25 year sentence before being eligible for parole.” The court denied her application for postconviction relief and this appeal followed.

We discern no error in the district court’s conclusion or analysis. Accordingly, we affirm.

AFFIRMED.