

OFFICE OF THE ATTORNEY GENERAL



CHARLES A. GRADDICK
ATTORNEY GENERAL
STATE OF ALABAMA

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JAMES R. SOLOMON, JR.
DEPUTY ATTORNEY GENERAL
WILLIAM M. BEKURS, JR.
EXECUTIVE ASSISTANT
WALTER S. TURNER
CHIEF ASSISTANT ATTORNEY GENERAL
JANIE NOBLES
ADMINISTRATIVE ASSISTANT

ADMINISTRATIVE BUILDING
64 NORTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (205) 834-5150

Honorable Fred Smith
Commissioner
Alabama Department of Corrections
Montgomery, Alabama 36130

Department of Corrections -
Prison and Prisoners - Escapes

Alabama Department of Corrections
(ADOC) should continue to award
jail credit to escapees who have
been recaptured and incarcerated
in jails within Alabama and not
award jail credit to escapees
who have been recaptured and
incarcerated in other states
prior to their transfer to the
ADOC.

Dear Commissioner Smith:

We have received your request for an opinion from the
Attorney General. Your letter, in pertinent part, reads as
follows:

"Absent any specific language in § 15-18-6,
Code of Alabama, 1975, does the Department
of Corrections continue to award jail credit
to escapees who have been recaptured and
incarcerated in jails within Alabama and
not award jail credit to escapees who have
been recaptured and incarcerated in other
states prior to their transfer to the De-
partment of Corrections?"

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Code of Alabama, 1975, § 15-18-6 reads in its entirety:

"An escapee from a state penal institution who is recaptured and returned to custody shall be credited with all of his actual time spent incarcerated within the state of Alabama prior to his transfer and return to the custody of board of corrections (penal system). The actual time spent incarcerated pending return to custody of the board of corrections (penal system) shall be certified by the sheriff on forms to be prescribed by the board of corrections." [Emphasis added]

As seen from the preceding Code section, the statute specifically requires crediting an Alabama escapee with only the actual time that escapee spent "... incarcerated within the state of Alabama ..." (be it a city or county jail) before that escapee is returned to the Alabama Department of Corrections' (ADOC) custody.

In the above-cited Code section, no mention is made of, nor is any reference made to, any other statute granting permission to credit an Alabama escapee with the time that escapee has spent incarcerated in the custody of any jurisdiction outside Alabama. The omitting of said permission by the Alabama Legislature was deliberate, intended, and by clear design.

Traditionally, where statutory construction is concerned, the fundamental position is that in the absence of specific language which could easily and readily have been made (e.g., the absence of specific language similar to "or within any other state" following the present specific language "incarcerated within the state of Alabama"), such specific language is ordinarily not applicable. This position is supported by a former opinion of this office reported in Quarterly Report of Attorney General, Volume 174, page 40.

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We hope this sufficiently answers your question.
Please advise if we may be of further assistance.

Sincerely,

CHARLES A. GRADDICK
Attorney General

By -

A handwritten signature in cursive script, appearing to read "Milton E. Belcher".

MILTON E. BELCHER
Assistant Attorney General

MEB:mj