IN THE SUPREME COURT OF FLORIDA

HARRY K. SINGLETARY, JR., Secretary,
Department of Corrections,

Petitioner,

v. **Case No. 88,359**

GENORVAL SLAY,

Respondent.
_____/

PETITIONER'S BRIEF ON THE MERITS

On Certified Question From
The District Court of Appeal
First District of Florida
Case No. 95-2026

SUSAN A. MAHER
DEPUTY GENERAL COUNSEL
Florida Bar No. 0438359

Department of Corrections
2601 Blair Stone Road
Tallahassee, Florida 32399-2500
(904) 488-2326

Counsel for Petitioner

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STATEMENT OF THE CASE AND FACTS

The facts of this case are straightforward. Slay committed crimes occurring prior to October 1, 1989, and was sentenced to a probationary split sentence. Specifically, Slay was convicted of the offenses of Delivery of Cocaine and Robbery With Weapon in Case Nos. 88-3528 and 88-7682 on December 6, 1988 and sentenced to serve five years to be followed by a period of five years of probation in Case No. 88-7682. (Appendix A.)[1] These offenses were committed on April 27, 1988 and August 5, 1988. (Id.) Slay was released for expiration of sentence to begin his probationary period on January 4, 1991. (Id.) In March 1994, Slay was returned to custody with three sentences, one of which was a sentence imposed for violation of probation in Case No. 88-7682. (Id.) The sentencing court imposed a sentence in Case No. 88-7682 of six years less 35 days jail credit and prison time previously served on this case. (Id.) In granting the prison time, the sentencing court checked the special provision for "prison credit" on the sentence form. (Appendix B.) The department applied the credit of 35 days for county jail time served after arrest for violation of probation and applied the actual time served in the custody of the Department of Corrections from the previous incarceration on Case No. 88-7682. (Appendix A.) The department did not apply the original county jail credit from the prior incarceration as it was not directed by the sentencing court.

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[1] Appendices A, B, and C are excerpts from the record on appeal before the First District. Appendix A is R. 24-27, Appendix B is R. 28, 44-48 and Appendix C is R. 57-60.

(Id.) Additionally, the department did not apply any unforfeited gain-time as it was not specifically directed by the sentencing court. (Id.)

Slay challenged the department's refusal to apply original county jail credits and the unforfeited gain-time from the prior incarceration on Case No. 88-7682 by way of a mandamus action in the circuit court in Leon County. Accepting the position of the department, the circuit court denied the petition on the grounds that the sentencing court had not directed this credit and, therefore, the department was not obligated to apply it. The First District reversed this decision taking the position that the special provision for "prison credit" does indeed encompass the award of unforfeited gain-time within its meaning when granting credit for all time previously served. On rehearing en banc, the First District certified the following question:

> WHEN A DEFENDANT IS RESENTENCED AFTER VIOLATING THE PROBATIONARY PORTION OF A SPLIT SENTENCE IMPOSED FOR A CRIME OCCURRING PRIOR TO OCTOBER 1, 1989, IS THE SENTENCING COURT'S AWARD OF "CREDIT FOR ALL TIME SERVED ON THIS COUNT IN THE DEPARTMENT OF CORRECTIONS PRIOR TO RESENTENCING" SUFFICIENT TO EFFECT THE AWARD OF CREDIT FOR TIME ACTUALLY SERVED AS WELL AS UNFORFEITED GAIN-TIME TO WHICH AN ENTITLEMENT EXISTS UNDER STATE V. GREEN, 547 SO. 2D 925 (FLA. 1989)?

The Department of Corrections timely sought to invoke the jurisdiction of the this Court. The Court postponed its decision on jurisdiction on July 2, 1996, and directing briefing on the merits.

SUMMARY OF THE ARGUMENT

The First District has interpreted the 1992 amendment to the sentence form under Florida Rule of Criminal Procedure 3.986 adding a special provision for prison credit which authorizes "credit for all time served . . . in the Department of Corrections prior to resentencing" to include an award of all unforfeited gain-time on sentences imposed for offenses committed prior to October 1, 1989. The Department of Corrections has traditionally interpreted the terms "prison credit" and "credit for all time served" by its plain language to mean only actual physical time served in custody.

The First District's interpretation is incorrect for several reasons. First, it impermissibly shifts the burden for assuring proper credit under the decisions in State v. Green, 547 So. 2d 925 (Fla. 1989) and Tripp v. State, 622 So. 2d 941 (Fla. 1993) form the judiciary to the executive branch. Second, because the terms "prison credit" and "all time served" will take on new meanings in different contexts, it will be a source of confusion for the sentencing courts, the criminal defendants, and the department, particularly as case law develops which further refines the types and sources of credit which may be encompassed by the decisions in Green and Tripp or as statutory provisions which affect credit related to gain-time or other early release credits are enacted. Third, the First District's position that the 1992 amendment providing for the prison credit provision contemplated giving credit under the Green decision is not supported in any of

the court or Florida Bar records relative to this amendment. Finally, while the provision may more easily be applied in cases involving probationary split sentences under Green, it is more difficult to apply this provision in resentencings governed by Tripp, especially since the department does not receive much of the paperwork which would indicate the sentencing court's intent as to the source and amount of credit to be applied in such cases. Thus, the prison credit provision should be interpreted under its plain language meaning and the burden for assuring proper credit, including credit for any unforfeited gain-time should remain with the sentencing courts.

ARGUMENT

When A Defendant Is Resentenced After Violating Probation Imposed For A Crime Occurring Prior To October 1, 1989, The Sentencing Court's Award of Prison Credit On The Sentence Form Authorizing "Credit For All Time Served On This Count In The Department Of Corrections Prior To Resentencing" Does Not Include The Award of Unforfeited Gain-Time To Which An Entitlement Exists Under State v. Green, 547 So. 2d 925 (Fla. 1989) or Tripp v. State, 622 So. 2d 941 (Fla. 1993).

This case is before the Court on a question certified by the First District Court of Appeal with regard to whether the special provision for prison credit on the sentence form under Florida Rule of Criminal Procedure 3.986, as amended in 1992, can be read to include the award of unforfeited gain-time as part of time served upon resentencing for violation of probation on sentences imposed for offenses committed prior to October 1, 1989. The First District formulated the question as follows:

> WHEN A DEFENDANT IS RESENTENCED AFTER VIOLATING THE PROBATIONARY PORTION OF A SPLIT SENTENCE IMPOSED FOR A CRIME OCCURRING PRIOR TO OCTOBER 1, 1989, IS THE SENTENCING COURT'S AWARD OF "CREDIT FOR ALL TIME SERVED ON THIS COUNT IN THE DEPARTMENT OF CORRECTIONS PRIOR TO RESENTENCING" SUFFICIENT TO EFFECT THE AWARD OF CREDIT FOR TIME ACTUALLY SERVED AS WELL AS UNFORFEITED GAIN-TIME TO WHICH AN ENTITLEMENT EXISTS UNDER STATE V. GREEN, 547 SO. 2D 925 (FLA. 1989)?

However, the department believes that the question cannot be so narrowly framed because the practice of the sentencing courts is to use this special sentencing provision for cases affected by both State v. Green, 547 So. 2d 925 (Fla. 1989) and Tripp v. State, 622 So. 2d 941 (Fla. 1993).

The facts of this case are straightforward. Slay committed crimes occurring prior to October 1, 1989, and was sentenced to a probationary split sentence. Specifically, Slay was convicted of the offenses of Delivery of Cocaine and Robbery With Weapon in Case Nos. 88-3528 and 88-7682 on December 6, 1988 and sentenced to serve five years to be followed by a period of five years of probation in Case No. 88-7682. (Appendix A.) These offenses were committed on April 27, 1988 and August 8, 1988. (Id.) Slay was released for expiration of sentence to begin his probationary period on January 4, 1991. (Id.) In March 1994, Slay was returned to custody with three sentences, one of which was a sentence imposed for violation of probation in Case No. 88-7682. (Id.) The sentencing court imposed a sentence in Case No. 88-7682 of six years less 35 days jail credit and prison time previously served on this case. (Id.) In granting the prison time, the sentencing court checked the special provision for "prison credit" on the sentence form. (Appendix B.) The department applied the credit of 35 days for county jail time served after arrest for violation of probation and applied the actual time served in the custody of the Department of Corrections from the previous incarceration on Case No. 88-7682. (Appendix A.) The department did not apply the original county jail credit from the prior incarceration as it was not directed by the sentencing court. (Id.) Additionally, the department did not apply any unforfeited gain-time as it was not specifically directed by the sentencing court. (Id.)

Slay challenged the department's refusal to apply original county jail credits and the unforfeited gain-time from the prior incarceration on Case No. 88-7682 by way of a mandamus action in the circuit court in Leon County. Accepting the position of the department, the circuit court denied the petition on the grounds that the sentencing court had not directed this credit and, therefore, the department was not obligated to apply it. The First District reversed this decision taking the position that the special provision for "prison credit" does indeed encompass the award of unforfeited gain-time[2] within its meaning when granting credit for all time previously served.[3]

The department believes the position of the First District to be incorrect as it impermissibly shifts the burden of assuring that proper credit be awarded at sentencing from the judicial branch to department staff in the executive branch. Additionally, because the terms "prison credit" and "all time served" will take on new meanings in different contexts, it will be a source of confusion for the sentencing courts, the criminal defendant, and the department, particularly as case law develops

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[2] Although inmate Slay also sought credit for the original county jail time served on Case No. 88-7682, the First District was silent as to whether the special provision for prison credit also encompassed original jail credit from time served in the county jail.

[3] The First District also took this position in Williams v. State, 673 So. 2d 873 (Fla. 1st DCA 1996) and has been joined by the Fourth District in Smith v. State, 21 Fla. L. Weekly D851 (Fla. 4th DCA, April 10, 1996) and Smith v. State, 659 So. 2d 1222 (Fla. 4th DCA 1995). The decision of the Fourth District in Tyler Smith v. State rendered on April 10, 1996, is pending rehearing/rehearing en banc by motion filed by the Department of Corrections.

which defines the types and sources of credit which may be encompassed by the decisions in Green and Tripp.

The department's concerns are multiple. First, since the promulgation of the special provision for prison credit, the department has never interpreted that provision to include anything except the time actually served in the department's custody. A memorandum outlining the department's interpretation of the sentencing form provisions as they relate to cases under Green and Tripp was issued in April 1993 and submitted to all circuit court judges, public defenders, states attorneys, and court clerks. (Appendix C.) In this memorandum, the department clearly articulated its position that "prison credit" meant only the actual time served in the department's custody. The department suggested simple additional language of directing credit for "all time served and unforfeited gain-time" which would trigger the appropriate credit if the sentencing court desired to award all of this credit for pre-10/1/89 offenses. The department's interpretation of this language is based upon the plain language of the provision and the absence of any committee notes or other commentary related to the adoption of this special provision in 1992 which would indicate a contrary interpretation.

Consistency in interpretation of the terms "prison credit" and "all time served" is important to assure that proper credit is always given and to avoid repetitive requests to the sentencing courts by both the criminal defendants and the department for clarification. If "prison credit" and "all time

served" is interpreted in some instances to include gain-time and in other instances, not to include gain-time, when the terms appear in the sentence form, there is nothing to prevent these terms from taking on different meanings when they appear in separate sentencing orders. This shifts the burden from the sentencing courts to be explicit in the award of credit to department lay staff who structure sentences and who apply subsequent court orders to know and apply the current case law which governs the award of credit in certain sentencing scenarios. Suffice it to say that the language used by the various sentencing courts throughout the state in giving effect to the cases affected by Green and Tripp is diverse. However, rather than simplifying the award of credit, the First District's holding will cause additional confusion and will prompt the department to seek even greater clarification from the sentencing courts.

In rejecting the department's position that the prison credit provision was not drafted with the intent of addressing credit for unforfeited gain-time, the First District indicated its belief that the special provision for prison credit incorporated into the sentence form in 1992 contemplated the effect of Green because it was adopted nearly three years after the Court's decision in Green. While the department concedes that since Green was rendered in 1989 the Sentencing Disposition Forms Committee[4]

[4] The department notes that the 1992 amendments to the sentence form were submitted in large part by this committee, which was a special committee of the Criminal Section of the Florida conference of Circuit Judges.

could have considered this in adopting the provision, there are no committee notes or other commentary that counsel has been able to locate to support that the First District's interpretation is a preferred one over the department's interpretation.[5] An equally plausible explanation is that the provision was not intended to include unforfeited gain-time as the legislature had enacted forfeiture provisions for gain-time upon revocation of probation in both section 944.28(1) and in section 948.06(6), effective October 1, 1989, and, therefore, for future purposes, unforfeited gain-time would not be an issue.

Moreover, the First District's interpretation of this provision, while a less complex matter when considering only cases involving probationary split sentences under Green, becomes a morass when attempting to sort out what credit may be due on a particular sentence and from what source in a sentencing for violation of probation governed by Tripp v. State, 622 So. 2d 941 (Fla. 1993). Clearly, this provision could not have been developed in contemplation of the Tripp decision as it had not yet been rendered by this Court. Yet the sentencing courts regularly utilize this provision to address cases governed by Tripp. To require department staff to determine what credit is due and from which case simply upon the basis of checking the prison credit

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[5] Counsel contacted the Florida Bar to see if there were any comments that could be located in the files of the Florida Criminal Procedure Rules Committee. No comments as to this provision were found. Additionally, counsel reviewed the Court's file in Case No. 76,676 to see if any commentary appeared in the file leading to the adoption of the amended sentence form. No commentary was found in this file either.

provision impermissibly shifts the judicial function to the executive.[6]

Furthermore, it is imprudent to interpret sentencing language in significantly different ways. For example, some jurisdictions have modified the judgment and sentence forms to include a separate category under "Other Provisions" for probationary split sentence cases under Green. Where the forms have been so modified, it provides a source of confusion to department staff as to how the "prison credit" provision should be interpreted in that jurisdiction. Additionally, even in the same jurisdiction, various judges employ different ways of addressing the application of credit. Under the First District's interpretation of the "Prison Credit" provision, the department would be required to apply time served and unforfeited gaintime if this box was checked, even though the sentencing court may not have intended such for the pre-10/1/89 offender pursuant to a plea agreement. Another example of confusion and a source of duplication of awards would be in the case where the trial court has specified a number of days in conjunction with time served -- that is, "credit for 1000 days and all time served on the previous

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[6] Sorting out credit in cases governed by Tripp can be particularly thorny, especially if the defendant has been resentenced on more than one occasion. The department often does not receive all sentencing scoresheets, a document that is crucial in determining what credit may be due under Tripp. Moreover, the language of the provision speaks to credit for time served on the same count, but Tripp speaks to credit for time served and unforfeited gain-time not from the same count or even the same case, but from cases related by virtue of the guidelines in one sentencing transaction.

incarceration". In this example, the trial court indeed could have obtained the exact number of days of gaintime to be awarded and reflected that as a specified number of days but directed the department to calculate and apply as credit the actual number of days physically served. If "all time previously served" is now to be read by the department to include gaintime, it would in the example just given provide the defendant with an undeserved windfall. Moreover, the First District's interpretation of the prison credit provision, when applied to sentences for offenses committed after 10/1/89 would require the department to apply unforfeited gain-time in the absence of a sentencing court's specific affirmative direction to forfeit the gain-time pursuant to its authority under section 948.06(6). Thus, the department could be applying credit contrary to the intent of the sentencing court.

Finally, the First District's interpretation requires that the department interpret the provision differently based upon date of offense. This interpretation is tantamount to checking a provision labelled "whatever". Under the First District's theory of the prison credit provision, the department would be required to apply "whatever" credit may be required under the law on the date it receives the sentence or order. It is the function of the judiciary and not the department to make this determination. See Thomas v. State, 612 So. 2d 684 (Fla. 5th DCA 1993) (sentencing is the obligation of the court, not the department of corrections; so any reliance upon the jailers to compute properly the time served is an improper relinquishment of authority and duty of the

judiciary to the executive). Moreover, a dilemma is presented as case law emerges and develops. For example, the Fourth District and, even more recently, the Fifth District have rendered decisions which would indicate that early release credits (such as administrative gain-time and provisional credits) should be included as part of "all time served" upon revocation of probation for offenses occurring prior to certain dates. See Lancaster v. State, 656 So. 2d 533 (Fla. 4th DCA 1995); State ex rel. Department of Corrections v. Stevenson, 21 Fla. L. Weekly D1944 (Fla. 5th DCA, August 30, 1996).[7] Under the First District's interpretation of the prison credit provision, it is possible that these decisions authorizing credit for administrative gain-time and provisional credits could be interpreted to come within the purview of the prison credit provision. Thus, department staff would be faced with the dilemma on whether to apply such credit pending review and whether to apply credit only to cases within the specific jurisdictions of the district court or to all cases statewide. Moreover, if the prison credit provision is contemplated to include credit for unforfeited gain-time, and, ultimately, any other credit which may be subsequently determined to be the "functional equivalent of time served", a further dilemma is presented if the department must revisit such cases as case law changes.

While it appears that the First District's decision is an

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[7] Respondent notes that neither of these decisions is final. Lancaster is presently pending review before this Court and the mandate in that case has been stayed. Stevenson is presently pending a motion for rehearing filed by the department on September 15, 1996.

attempt to simplify the difficult task of awarding credit for unforfeited gaintime under Green and Tripp, it will render the task yet more difficult, and it will shift the obligation of the sentencing courts to comply with Green and Tripp from persons in the criminal sentencing forums who have the expertise and responsibility for monitoring and interpreting decisional law to non-lawyer department staff who structure and audit sentences. Department staff do not receive many court documents, such as transcripts of hearings and plea agreements, which describe the type of credit intended and which would now become necessary in order to assure that the department fulfilled the sentencing court's intentions. In some cases, the sentencing court and offender may have reached an agreement that would not include credit for unforfeited gaintime, which would then be overridden by the department if it is now required to include all unforfeited gaintime as credit for "prison time" or "time served" simply on the basis of decisional law. Additionally, if it must always interpret the prison credit to include unforfeited gain-time, the department could inadvertently give duplicate windfall credit in a case where the sentencing court has included gain-time credit in the jail credit section as a specified number of days or if the court utilizes a separate provision to provide for additional credit which includes the unforfeited gain-time. This makes it exceptionally important that terms of art on sentencing documents retain consistent interpretations.

Respondent notes that this Court soundly rejected the

position that it was the department's responsibility to award gain-time in cases upon revocation of probation. (Compare dissent with majority opinion in State v. Green, 547 So. 2d 925 (Fla. 1989)). Continuing that line, a number of district courts have recognized the responsibility of the sentencing courts to direct credit for unforfeited gain-time and do so with some specificity. See Byers v. State, 632 So. 2d 1221 (Fla. 2d DCA 1993) (an order directing "Department of Corrections' credit for the time [defendant] spent in prison" does not indicate whether the defendant is to receive both real time and gain time credit for the time he spent in prison), citing Branton v. State, 646 So. 2d 791 (Fla. 2d DCA 1994) (it is the function of the sentencing court to assure compliance with Tripp); Bacon v. State, 647 So.2d 332 (Fla. 5th DCA 1994) ("any DOC time previously served" does not specifically cover any gain time which appellant may be entitled to receive); see also, Yourn v. State, 652 So.2d 1228 (Fla. 2d DCA 1995)(the trial court must ensure that any unforfeited gain time accumulated on his previous sentence is given). The First District gives little weight to these decisions, in part, it appears, because it is of the opinion that these decisions did not specifically address the prison credit provision. What the First District overlooks is that these decisions nevertheless recognize that it is the responsibility of the sentencing court to award the unforfeited gain-time as credit and to do so with some specificity. More importantly, what becomes abundantly clear from these decisions is that neither the Second District nor the Fifth District and

obviously none of the sentencing courts believed that the 1992 prison credit provision was created specifically for the purpose of addressing split sentence credit awards.

Equally compelling is the line of case law which indicates that the Department of Corrections is unable to correct an illegal sentence. See Stevenson v. State, 614 So. 2d 10 (Fla. 5th DCA 1993); Thomas v. State, 612 So. 2d 684 (Fla. 5th DCA 1993); Wilson v. State, 603 So. 2d 93 (Fla. 5th DCA 1992) (the Department of Corrections cannot correct an illegal sentence or render illegality harmless; the trial court is required to accomplish the task). The First District presumes that by virtue of its interpretation of the prison credit provisions that the sentences are not illegal. However, the First District's position is not based on anything which would clearly indicate that the sentencing court intended to include unforfeited gain-time as part of the credit when it checked off the prison credit provision but merely an after-the-fact interpretation by the department which would tend to render an illegal sentence legal.[8] This is precisely the action by the department which the Fifth District indicated could not

[8] The department notes that while earlier case law would tend to indicate that failure to receive appropriate credit on a sentence renders it illegal, see Sanders v. State, 579 So. 2d 326 (Fla. 5th DCA 1991), Moorer v. State, 556 So. 2d 778 (Fla. 1st DCA 1990), citing Baranko v. State, 516 So. 2d 332 (Fla. 1st DCA 1987), this Court's more recent decision in Davis v. State, 661 So. 2d 1193 (Fla. 1995) would tend to indicate that only sentences that exceed the statutory maximum are illegal sentences. Thus, unless failure to provide the credit causes the sentence to exceed the statutory maximum, there would be no basis for relief under the Rules of Criminal Procedure. This decision may be serving as an additional impetus for shifting the burden to the department for correcting crediting errors.

serve as a substitute for the proper action of the sentencing court. The department notes that the Fifth District cases did address situations which preceded the 1992 amendment of the sentencing form. However, the principle stated by the Fifth District is no less valid simply because the form has a new provision for utilization. The question is really whether the sentencing court directed the proper credit and knew it was doing so -- not whether the Department of Corrections may construe the proper credit to make the sentence a legal rather than an illegal one. Sentencing court errors are made every day with regard to credit due on a sentence. Even if the department is aware of such errors, it is not within the department's authority to correct those errors. The department sees no difference in a sentencing court's directing credit for actual time served in prison through an exact number of days and directing prison credit for all time previously served. Neither includes an award of unforfeited gain-time. There is no reason to treat differently those offenders whose sentencing courts direct credit through a specified number of days and those which direct credit for actual physical time served to be calculated by the department. Under the First District's interpretation of the sentencing form, an order directing specified credit for time served could not ever garner an award of unforfeited gain-time from the department even though the offender may so be entitled. Only if the sentencing court used the special provision could an offender hope to receive an award of unforfeited gain-time. It is not a question of entitlement or whether the

entitlement is recognized by the Department of Corrections, but rather whose responsibility it is to assure that credit is afforded. In both the sentencing scenarios set forth above, it is the responsibility of the sentencing court to assure the credit and to do so with specificity.

The inadequacy of the sentencing form for cases involving Green and Tripp has been recognized by the Fifth District on Cosgrave v. State, 656 So. 2d 281, 282 (Fla. 5th DCA 1995):

> This is yet another case involving the lack of detail on the form for sentencing found in Florida Rule of Criminal Procedure 3.986(d). For persons whose crimes were committed before October 1, 1989, and who were given a split sentence, there can be an entitlement to gain time credit previously earned upon resentencing after violation of the probationary portion of the split sentence. Tripp v. State, 622 So. 2d 941, 942 n.2 (Fla. 1993); State v. Green, 547 So. 2d 925 (Fla. 1989); Bacon v. State, 647 So. 2d 332 (Fla. 5th DCA 1994); Green v. State, 636 So. 2d 830 (Fla. 5th DCA 1994). Although we have not been provided with a copy of the pertinent page of appellant's sentence, it is undisputed that the document did not specifically authorize either credit for gain time or credit for time served. This omission can be raised by a Rule 3.800 motion; upon remand, appellant is entitled to a specification, on the sentencing document, that gain time to which he is entitled be credited to his sentence.

Notably, the Fifth District's decision in Cosgrave came down in 1995, well after the 1992 amendments to the sentencing form. Thus, it is clear that the 1992 amendments have not resolved the problem of affording appropriate credit. The First District's interpretation of the prison credit provision will not solve the problem regarding credit under Green and Tripp. It will only serve to complicate it.

CONCLUSION

For the foregoing reasons, the department respectfully requests the Court to answer the certified question in the negative and to issue sufficient clarifying directives to assure that sentencing courts will provide appropriate credit under Green and Tripp in the future.[9]

Respectfully submitted,

SUSAN A. MAHER
DEPUTY GENERAL COUNSEL
Florida Bar No. 0438359
Department of Corrections
2601 Blair Stone Road
Tallahassee, Florida 32399-2500
(904) 488-2326

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **PETITIONER'S BRIEF ON THE MERITS** has been furnished by U.S. Mail to **GENORVAL SLAY**, c/o Annie Johnson, 1030 Columbia Street, Orlando, Florida, on this 30th day of September, 1996.

SUSAN A. MAHER

[9] The department suggests that an opinion which specifically directs the sentencing courts to include the term "unforfeited gain-time" in its sentences forms or orders if it intends to order such will provide a temporary remedy for the present inadequacies of the form. However, the department urges the Court to consider promulgating amendments to the sentence form along the lines suggested by the department in its supplemental response in Forbes v. Singletary, Case No. 87,358 to rectify the continuing problems created by the various statutory provisions and decisional law which now govern sentencings upon revocation of probation under Green and Tripp.

IN THE SUPREME COURT OF FLORIDA

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Respondent.
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APPENDIX

Appendix A	-	Affidavit of Bobbie Glover
Appendix B	-	Judgment and Sentence Papers Upon Resentencing For Violation of Probation In Case No. 88-7682
Appendix C	-	Memorandum of April 23, 1993, From Bobbie Glover