

SUPREME COURT OF FLORIDA

No. 90,694

ANTONIO DURRELL PRESSLEY, Petitioner,

vs.

HARRY K. SINGLETARY, etc., et al., Respondents.

[June 4, 1998]

OPINION: ORDER ON REHEARING

The Parole Commission seeks rehearing on the Court's order of Decided December 30, 1997 In *Parole Commission v. Cooper*, 701 So. 2d 543 (Fla. 1997), the Court held that the State could only place an inmate on Conditional Release supervision for a period of time determined by the Conditional Release eligible sentence, and that upon revocation of Conditional Release, only the gain time for the Conditional Release eligible sentence could be forfeited.

In its order of December 30, 1997, this Court directed Respondents to comply with *Cooper* as concerns Pressley's case. The Commission has filed a motion for rehearing, arguing that Pressley's case is distinguishable because, in contrast to *Cooper*, Pressley did accrue some gain time on his Conditional Release sentence.

Pressley has filed a motion to strike the Commission's affidavit concerning actual gain time awarded. The motion to strike is denied.

While this Court did mention that *Cooper* had satisfied his entire robbery sentence without any gain time, the essential holding of *Cooper* was that the Commission may not transfer the Conditional Release supervision from an expired Conditional Release sentence to the end of the inmate's overall sentence and determine the length of that supervision by the gain time awarded and the length of the sentence(s) in the non-Conditional Release eligible case(s). 701 So. 2d at 545. The Commission may only transfer the supervision to the end of the overall sentence for

offenses committed after the 1997 amendment to the Conditional Release statute. See § 947.1405(2), Fla. Stat. (1997). The fact that Pressley may have received some gain time which helped him satisfy his robbery sentence is irrelevant to the main issue. The Court finds that Pressley's case is controlled by Cooper. Accordingly, this Court denies the Commission's motion for rehearing. Pressley's notice of exigent circumstances and motion for emergency relief are also denied.

KOGAN, C.J., OVERTON, SHAW, HARDING, WELLS and ANSTEAD, JJ., and GRIMES, Senior Justice, concur.