

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2017-CP-00179-COA

**RICHARD MASON A/K/A RICHARD
HARRISON MASON A/K/A THE AMERICAN**

APPELLANT

v.

**MISSISSIPPI DEPARTMENT OF
CORRECTIONS**

APPELLEE

DATE OF JUDGMENT:	01/25/2017
TRIAL JUDGE:	HON. W. ASHLEY HINES
COURT FROM WHICH APPEALED:	SUNFLOWER COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT:	RICHARD HARRISON MASON (PRO SE)
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: DARRELL CLAYTON BAUGHN
NATURE OF THE CASE:	CIVIL - STATE BOARDS AND AGENCIES
DISPOSITION:	AFFIRMED: 10/24/2017
MOTION FOR REHEARING FILED:	
MANDATE ISSUED:	

BEFORE GRIFFIS, P.J., BARNES AND FAIR, JJ.

FAIR, J., FOR THE COURT:

¶1. Richard Mason was convicted of sexual battery in 2005 and was sentenced to serve thirty years in prison. Mason contends that he is eligible for meritorious earned time, a conditional reduction in sentence that operates as an “incentive for offenders to achieve positive and worthwhile accomplishments for their personal benefit or the benefit of others.” Miss. Code Ann. § 47-5-142 (Rev. 2015). The Mississippi Department of Corrections disagreed, and after Mason brought this lawsuit, the circuit court found him ineligible as well. Because Mason is a sex offender and statutorily barred from meritorious earned time, we affirm.

DISCUSSION

¶2. Mason bases his argument on section 47-5-142(1), which states that “any” offender shall be eligible to receive meritorious earned time, “subject to the provisions of this section . . . as distinguished from earned time for good conduct and performance.” He points out that he is an offender and that nothing in section 47-5-142 expressly prohibits him from being eligible.

¶3. However, Mississippi Code Annotated section 47-5-139(1)(d) (Rev. 2015) provides: “An inmate shall not be eligible for the earned time allowance if . . . [t]he inmate was convicted of a sex crime.” This Court has repeatedly held that, notwithstanding the broad language in section 47-5-142, eligibility for meritorious earned time is controlled by section 47-5-139. *See Riley v. State*, 150 So. 3d 138, 140 n.2 (Miss. Ct. App. 2014); *Clark v. Miss. Dep’t of Corr.*, 148 So. 3d 403, 404-05 (¶¶8-9) (Miss. Ct. App. 2014); *Smith v. State*, 75 So. 3d 82, 83-84 (¶5) (Miss. Ct. App. 2011); *Sykes v. Epps*, 963 So. 2d 31, 32-33 (¶7) (Miss. Ct. App. 2007); *Golden v. Epps*, 958 So. 2d 271, 275 (¶8) (Miss. Ct. App. 2007).

¶4. The circuit court correctly dismissed Mason’s complaint because, having been convicted of a sex crime, Mason is not eligible to have his sentence reduced for meritorious earned time.

¶5. **AFFIRMED.**

LEE, C.J., IRVING AND GRIFFIS, P.JJ., BARNES, CARLTON, WILSON, GREENLEE AND WESTBROOKS, JJ., CONCUR. TINDELL, J., NOT PARTICIPATING.