

STATE OF MICHIGAN  
IN THE SUPREME COURT

PEOPLE OF THE STATE OF MICHIGAN  
Plaintiff-Appellee,

Supreme Court No. 137486  
Court of Appeals No. 286100  
Circuit Court No. 06-018371-FC

v

GREGORY LEWIS HOLDER,  
Defendant-Appellant,

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**BRIEF OF MICHIGAN DEPARTMENT OF CORRECTIONS**

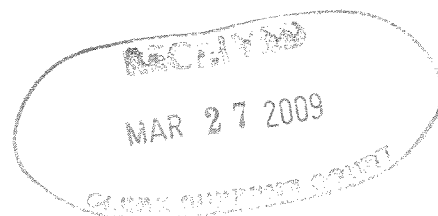
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**QUESTION PRESENTED FOR REVIEW**

- I. Under what authority may the Department of Corrections proceed ex parte to seek the amendment of an otherwise final order pertaining to a judgment of sentence?**

## JURISDICTIONAL STATEMENT

This Court invited the Michigan Department of Corrections to file a brief in its February 6, 2009, Order, which stated:

We invite the Attorney General to respond on behalf of the Michigan Department of Corrections to explain under what authority, if any, the Department may proceed *ex parte* to seek the amendment of an otherwise final order.

It is pursuant to that invitation that this brief is submitted.

## INTRODUCTION

The Michigan Department of Corrections routinely informs sentencing courts and the parties of errors it discovers in its role of processing and implementing the judgments of sentence imposed by the courts. This role is provided by law, and is a service to both the courts enabling them to correct administrative errors and to the parties allowing them to challenge invalid sentences. This occurs in hundreds of cases each year. This procedure is also consistent with the Michigan Auditor General's report that the Department had an obligation to perform this role.

The Department also oversees the supervision of prisoners, their release on parole, and their ultimate discharge from parole. A defendant may only be discharged from parole upon completing the conditions of parole, which include the obligation to commit no additional crimes. The Michigan courts have previously recognized the legal duty of the Department to only discharge parolees if they have successfully completed parole, and that if the Department discharges a parolee even though that parolee has committed a new crime, the Department would be subject to a mandamus action. The corollary principle, one that is necessarily implied in the parole statute, is that the Department as an administrative agency has the authority to cancel an improper grant of discharge.

In the absence of this authority to cancel a defendant's parole after a discharge if the defendant committed a crime while on parole, the Department would be caught in a catch-22 in which it would be subject to mandamus for wrongfully discharging a defendant but would be without authority to recall the discharge.

That was the action taken here. Defendant committed new crimes while on parole and should not have been discharged from parole. His discharge was based on the false premise that he had committed no new crimes. Consequently, the Department cancelled his parole. The question whether this affected Defendant's sentence was a matter for the court and parties to resolve.

## **STATEMENT OF FACTS**

The parties to this case have provided an adequate statement of facts. MDOC will refer to any additional facts as necessary in the argument set forth below.

## ARGUMENT

**I. The Department of Corrections has an obligation to advise a sentencing court of an error in the computation of a prisoner's sentence, and thus may seek the amendment of a judgment of sentence by contacting the sentencing court, and advising that court of the error.**

**A. Standard of Review**

Questions of law are reviewed *de novo*.<sup>1</sup>

**B. Argument**

While this Court has expressly invited an answer regarding the MDOC's authority to contact a court regarding the amendment of a prisoner's sentence, before answering that question it is necessary to first explain the basis for MDOC's initiation of contact with the sentencing court in this case.

**1. The parole board has necessarily implied authority to cancel or revoke an unlawfully granted discharge of parole.**

This Court aptly observed in *Jones v Dep't of Corrections* that "[t]he granting, rescission, and revocation of parole in Michigan is overseen by the Bureau of Pardons and Paroles pursuant to MCL 791.231 *et seq.* This statutory scheme makes clear that, with limited exception, matters of parole lie solely within the broad discretion of the parole board, and that the freedom enjoyed by a paroled prisoner is a limited freedom."<sup>2</sup> The Court continued, noting that the release of a prisoner on parole "shall be granted solely upon the initiative of the parole board," MCL 791.235(1), and a paroled prisoner remains in the legal custody and under the control of the Department of Corrections, MCL 791.238(1)."<sup>3</sup>

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<sup>1</sup> See *Cardinal Mooney High School v Michigan High School Athletic Association*, 437 Mich 75, 80; 467 NW2d 21 (1991).

<sup>2</sup> *Jones v Dep't of Corrections*, 468 Mich 646, 652; 664 NW2d 717 (2003) (footnotes omitted).

<sup>3</sup> *Jones*, 468 Mich at 652.

After the parole board determines that a prisoner may be paroled, that prisoner is released subject to the conditions imposed in his order of parole.<sup>4</sup> For prisoners who are unable to conform their conduct and comply with the conditions of their parole or who commit other crimes while on parole, the parole board may rescind or revoke such prisoners' parole.<sup>5</sup> For those prisoners, however, who abide by the conditions of their parole, and successfully complete their period of supervision, such prisoners become eligible for a discharge under MCL 791.242:

If a paroled prisoner has faithfully performed all of the conditions and obligations of parole for the period of time fixed in the order of parole, and has obeyed all of the rules and regulations adopted by the parole board, the prisoner has served the full sentence required. The parole board shall enter a final order of discharge and issue the paroled prisoner a certificate of discharge.<sup>6</sup>

The language of § 42 unambiguously conditions the discharge of a sentence upon a prisoner faithfully performing all the conditions and obligations of his parole. The parole board, therefore, has a duty or obligation under this statute to ensure that only prisoners meeting those requirements are discharged. Or, stated differently, the board only has statutory authority to discharge a prisoner from parole if the prisoner "faithfully performed all the conditions and obligations of parole." Thus, a discharge granted in violation of § 42 – because the parolee did not in fact faithfully perform the conditions of his parole – is unlawful. The Michigan Court of Appeals concluded as much in *People v Young*.<sup>7</sup>

In *Young*, the Court of Appeals held that a prosecutor could challenge the parole board's erroneous issuance of a discharge from parole via a complaint for mandamus filed in the circuit

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<sup>4</sup> MCL 791.233; MCL 791.236; R 791.7730.

<sup>5</sup> See MCL 791.240a; MCL 791.241.

<sup>6</sup> Generally, an absolute discharge discharges any unserved time on the maximum sentence if a prisoner successfully completes parole. *Wayne County Prosecutor v Department of Corrections*, 242 Mich App 148, 155; 617 NW2d 921 (2000), citing *In re Dawsett*, 311 Mich 588, 592-593; 19 NW2d 110 (1945); *In re Eddinger*, 236 Mich 668, 670; 211 NW 54 (1926); and *People v Raihala*, 199 Mich App 577, 579; 502 NW2d 755 (1993).

<sup>7</sup> *People v Young (On Remand)*, 220 Mich App 420; 559 NW2d 670 (1996).

court. Looking at the plain language of § 42, the Court of Appeals observed that the "decision to discharge a prisoner from parole will not [normally] be subject to an exercise of discretion" because "[e]ither the prisoner complied with the conditions and obligations [of] parole, or he did not."<sup>8</sup> Because it was undisputed that the prisoner in that case had not faithfully performed all the conditions of his parole since he committed two felony offenses while on that status, and the parole board, although aware of the offenses, had "mistakenly discharged" the prisoner from parole, the Court of Appeals concluded that the wrongful discharge was subject to challenge.<sup>9</sup> In distinguishing a prior decision by this Court, *In re Eddinger*,<sup>10</sup> the Court of Appeals further observed that the Legislature contemplated that prisoners who commit crimes while on parole would be subject to having that parole revoked:

This case involves the power to parole, which is a statutory power subject to limitations by the Legislature. We seriously doubt that the Legislature could have intended, when it created the statutory scheme concerning parole, that the Department of Corrections would be immune from issuing illegal parole discharges. Moreover, we also doubt that the Legislature could have intended that prisoners . . . who commit a felony offense while on parole, could suffer no consequences for committing a crime where the Department of Corrections issues an illegal discharge from parole.<sup>11</sup>

The Court of Appeals continued that "a parole may not be discharged unless the terms of MCL 791.242 [ ] have been met," and concluded that *Eddinger* did not "absolutely bar the recall of a discharge from parole," and that "judicial review of an allegedly improper discharge is permissible":

Here, the discharge from parole was illegal because it violated the terms of MCL 791.242 [ ], that is, [the prisoner] did not faithfully perform all the conditions and obligations of his parole for the period fixed in the parole order [ ] because he committed two felony offenses while on parole. Judicial review in this case, of an

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<sup>8</sup> *Young (On Remand)*, 220 Mich App at 427.

<sup>9</sup> *Young (On Remand)*, 220 Mich App at 427-428.

<sup>10</sup> *In re Eddinger*, 236 Mich 668.

<sup>11</sup> *Young (On Remand)*, 220 Mich App at 429, 430 (citations omitted).

allegedly improper discharge from parole, *may be had by way of a complaint for mandamus brought by the prosecutor.*<sup>12</sup>

In other words, the Department would be subject to a mandamus action where it wrongfully discharged a prisoner from parole.

The import of the *Young* Court's decision is clear – a parole discharge issued with respect to a prisoner who has not faithfully complied with the conditions of his parole is unlawful because it violates the plain language of § 42, and the parole board may be sued and held accountable for the unlawful discharge.<sup>13</sup> There is nothing unique with respect to this conclusion since state agencies are routinely subject to mandamus or other actions challenging an agency's failure to carry out its statutory duties in a lawful manner. And in the context of those situations, our courts have indicated that agencies should have an opportunity to correct errors before liability attaches. Indeed, "it is presumed that an administrative agency will correct its errors if given a chance to do so."<sup>14</sup> Moreover, this Court has stated that "[e]very tribunal, judicial or

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<sup>12</sup> *Young (On Remand)*, 220 Mich App at 433 (emphasis added). The Court of Appeals cited several other opinions in support of its conclusion. See *People v Gregorczyk*, 178 Mich App 1; 443 NW2d 816 (1989); *Michigan ex rel Oakland County Prosecutor v Dep't of Corrections*, 199 Mich App 681; 503 NW2d 465 (1993); *People v Lamb (On Remand)*, 201 Mich App 178; 506 NW2d 7 (1993); and *Harper v Dep't of Corrections*, 215 Mich App 648; 546 NW2d 718 (1996).

<sup>13</sup> See also *Morales v Michigan Parole Board*, 260 Mich App 29, 38; 676 NW2d 221 (2003) ("We do not disagree that the Parole Board, as an entity within the Department of Corrections possessing exclusive discretion to grant or deny parole, is charged with making decisions in accordance with the law"); *Hopkins v Michigan Parole Bd*, 237 Mich App 629, 633-637; 676 NW2d 221 (1999).

<sup>14</sup> *Papas v Gaming Control Bd*, 257 Mich App 647, 664; 669 NW2d 326 (2003). This is why courts impose an exhaustion requirement with respect to challenging agency determinations because "it enables the agency to apply its expertise and correct its own errors, and to promote judicial economy by preventing unnecessary resort to the courts." *Michigan State AFL-CIO v Secretary of State*, 230 Mich App 1, 40; 583 NW2d 701 (1998), citing *Compton Sand & Gravel Co v Dryden Twp*, 125 Mich App 383, 397; 336 NW2d 810 (1983), citing 2 Am Jur 2d, Administrative Law, § 595, p 428; *Abbott Laboratories v Gardner*, 387 US 136, 149-152; 87 S Ct 1507; 18 L Ed 2d 681 (1967); *Toilet Goods Ass'n, Inc v Gardner*, 387 US 158, 165-166; 87 S Ct 1520; 18 L Ed 2d 697 (1967).

administrative, has some power to correct its own errors or otherwise appropriately to modify its judgment, decree, or order."<sup>15</sup>

This is exactly what the parole board, acting through the MDOC, sought to do in the instant case. The board's discharge of Defendant Holder's parole was erroneous and thus unlawful because defendant indisputably failed to comply with the conditions of his parole when he committed crimes while still on parole, and was therefore not entitled to a discharge.<sup>16</sup> The board did not learn of Defendant's conviction of a crime committed during the parole period, until the author of the Pre-Sentence Investigation Report (PSIR) prepared for the new convictions talked to the former parole agent, more than a year after Defendant's parole sentence was erroneously discharged. (Appendix A, Certified Record, PSIR, p 22.) Subsequently, the parole board cancelled Defendant's discharge on May 16, 2007. (Appendix A, p 7.)

The MDOC and the board acknowledge that there is no express statutory provision authorizing the cancellation of a discharge from parole, as there is with respect to an order granting parole. However, these agencies submit that such authority is necessarily implied.<sup>17</sup> This Court expressly observed in *Public Health Dep't v Rivergate Manor* with respect to whether an agency had the authority to take a particular action that the "absence of an explicit grant of

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<sup>15</sup> *Public Health Dep't v Rivergate Manor*, 452 Mich 495, 504; 550 NW2d 515 (1996), quoting 2 Davis, *Administrative Law*, § 18.09, p 606.

<sup>16</sup> Indeed, absent the discharge, defendant Holder's parole was subject to an automatic revocation because his new crimes were drug offenses. See MCL 791.240a, which states:

If a prisoner convicted of violating or conspiring to violate section 7401(2)(a)(i) or (ii) or 7403(2)(a)(i) or (ii) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is released on parole and violates or conspires to violate article 7 of the public health code, 1978 PA 368, MCL 333.7101 to 333.7545, and that violation or conspiracy to violate is punishable by imprisonment for 4 or more years, or commits a violent felony during his or her release on parole, parole shall be revoked.

<sup>17</sup> An agency has no "inherent power," and "[a]ny authority it may have is vested by the Legislature, in statutes, or by the Constitution." *Deleeuw v Bd of State Canvassers*, 263 Mich App 497, 500; 688 NW2d 847 (2004).

authority is not dispositive," because the "powers [of administrative boards] are limited by the statutes creating them to those conferred expressly *or by necessary or fair implication*."<sup>18</sup> In that case, this Court concluded that the Certificate of Need board within the former Department of Public Health "by necessary and fair implication, had the power to modify a certificate of need that it had previously granted," although it did not have the express authority to do so.<sup>19</sup>

Here, the parole board, by necessary and fair implication, has the power to cancel an erroneously issued discharge of parole. This power is "necessary to a full effectuation of authority expressly granted" the board and MDOC.<sup>20</sup> In other words, implying this power to revoke is necessary to give effect to the board's authority to grant discharges to a prisoner who has "faithfully performed all of the conditions and obligations of parole."<sup>21</sup> This conclusion is consistent with the powers and duties expressly accorded the parole board and the MDOC with respect to parole, and it makes practical sense and good policy. The fact is that no matter how stringently the board and the MDOC exercise their duties with respect to granting parole discharges, mistakes will inevitably occur. Other jurisdictions have reached similar results.<sup>22</sup> Moreover, the notion that a prisoner, who has again demonstrated his inability to conform his

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<sup>18</sup> *Public Health Dep't*, 452 Mich at 503, quoting *Coffman v State Bd of Examiners in Optometry*, 331 Mich 582, 590; 50 NW2d 322 (1951), quoting 42 Am Jur, § 26, pp 316 (emphasis added). See also *Pharm Research & Mfrs of Am v Dep't of Cmty Health*, 254 Mich App 397, 404; 657 NW2d 162 (2002), citing *In re Quality of Service Standards for Regulated Telecommunication Services*, 204 Mich App 607, 613; 516 NW2d 142 (1994); *Hanselman v Killeen*, 419 Mich 168, 187; 351 NW2d 544 (1984).

<sup>19</sup> *Public Health Dep't*, 452 Mich at 503.

<sup>20</sup> *Pharm Research & Mfrs of Am*, 254 Mich App at 404.

<sup>21</sup> MCL 791.242(1).

<sup>22</sup> See, e.g., *In re Quackenbush*, 142 Wn 2d 928; 16 P3d 638 (Wash 2001) (Washington Supreme Court upheld that State's Indeterminate Sentence Review Board's rescission of a final discharge where it was later learned that the prisoner had committed new crimes in California). See also *King v New York State Division of Parole*, 260 Fed Appx 375 (CA 2, 2008)(Finding no due process violation where state parole board revoked prisoner's erroneously granted discharge from supervised parole).

conduct to that which a civilized society demands, should receive the benefit of essentially a fraudulently obtained discharge is untenable.<sup>23</sup>

This principle is analogous to MCR 2.612, which provides courts the authority to rectify clerical errors "at any time."<sup>24</sup> The ability of the MDOC to correct any errors in discharge and other errors in sentencing works in tandem with the authority of the courts to remedy errors in sentencing under MCR 6.429 and MCR 6.435.

Absent such a conclusion, the MDOC and the parole board would be left in a contradictory position. These agencies would be subject to a mandamus action but without authority to correct any administrative or other error. The necessary corollary principle to subjecting these agencies to mandamus is that they have the authority to rescind an illegal grant of discharge from parole.

Consequently, the parole board and the MDOC have acted to cancel or revoke parole discharges, as they did in this case, where subsequent information reveals that a discharge was erroneously granted. When the parole board revokes a discharge under these circumstances, it is then incumbent upon the MDOC to provide that information and any ramifications to the relevant persons, entities, or authorities.

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<sup>23</sup> Certainly in this case Defendant Holder knew he was not entitled to a discharge of his parole where he knowingly violated the conditions of parole by trafficking in narcotics and thus committing new crimes. Moreover, the cancellation of the discharge did not violate Defendant's due process rights. The United States Supreme Court has recognized that in parole actions taken in response to a criminal conviction, the parolee receives his due process in the criminal proceedings. See *Morrissey v Brewer*, 408 US 471, 499; 33 L Ed 2d 484; 92 S Ct 2593 (1972).

<sup>24</sup> MCR 2.612(A)(1) provides in full:

(A) Clerical Mistakes.

(1) Clerical mistakes in judgments, orders, or other parts of the record and errors arising from oversight or omission may be corrected by the court at any time on its own initiative or on motion of a party and after notice, if the court orders it.

2. **Where the parole board has cancelled an unlawfully granted discharge from parole, it is the duty or obligation of MDOC to communicate that information to relevant persons, including a sentencing court, where the revocation has additional ramifications relating to that prisoner.**

MDOC routinely contacts sentencing courts to advise of errors in judgments of sentence relating to the computation of a defendant's sentence. The MDOC sent more than 1,000 such letters in 2008. In fact, in February 2009 alone, the MDOC sent more than 100 such letters with the top five errors as follows: (1) 70 letters for a failure to designate concurrent or consecutive sentence; (2) 46 letters for a failure to correctly state the statutory maximum; (3) 17 letters regarding an incorrect statement of habitual status; (4) 12 letters about the incorrect charge designation; and (5) 7 letters about improper calculation of jail credit. (See Appendix C, p. 4.) This gate-keeping function is consistent with the court rules and may run to the benefit of the prosecution or to the defendant. Under MCR 6.435(A), the trial courts may "correct clerical mistakes in judgments, orders, or other parts of the record and errors arising from oversight or omission . . . at any time on its own initiative or on motion of a party, and after notice if the court orders it."<sup>25</sup> Similarly, under MCR 6.429, the sentencing court may also modify an invalid sentence when there is a motion by one of the parties.<sup>26</sup> It is also consistent with the MDOC's responsibility in implementing the judgment of sentence received from the sentencing court under MCL 791.234.

The responsibility of MDOC in regards to judgments of sentence received from the courts is addressed in MCL 791.264:

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<sup>25</sup> MCR 6.435(A).

<sup>26</sup> MCL 769.34(10); *People v Miles*, 454 Mich 90, 96-98; 559 NW2d 299 (1997). See also *People v Peck*, 481 Mich 863; 748 NW2d 235 (2008)(Corrigan, J., concurring; Kelly, J., dissenting; Markman, J., dissenting; all discussing the interplay between errors under MCR 6.429 and MCR 6.435).

(2) Each classification committee shall obtain and file complete information with regard to each prisoner when the prisoner is received in a correctional facility. ... When all such existing available records have been assembled, each classification committee shall determine whether any further investigation is necessary, and, if so, shall make that investigation. ...

(3) The length of a prisoner's sentence shall be computed by the record office of the correctional facility, for use by the classification committee, based upon the certified copy of the judgment of sentence delivered with the prisoner. ...

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(5) If a sentence that did not specify whether it was to be served concurrently or consecutively is computed under subsection (3) ... *the department shall notify the sentencing judge, the prosecuting attorney, and the affected prisoner of the computation not later than 7 days after the sentence is computed.*

(6) If, at any time after receiving the original judgment of sentence, the department receives an amended judgment of sentence specifying that the sentence should be computed in a different manner, the sentence shall be recomputed accordingly. [Emphasis added.]

This responsibility to inform the court when MDOC concludes there may have been a mistake in the judgment of sentence is taken very seriously in light of a situation that arose with respect to a particular parolee, Daniel Franklin.

Franklin was an inmate who committed a felony while he was out on parole. Both the court and MDOC erred by missing the fact that Franklin was on parole when he committed the crime and, therefore, that he should have received a consecutive sentence. As a consequence, Franklin was released from prison much sooner than he would have been if his second sentence had properly been made consecutive. Within a few days after his release from prison, Franklin murdered his ex-wife and her two children. (Appendix B, Affidavit of Sandra A. Grant, ¶ 8.) In a subsequent investigation by the Michigan Auditor General, the MDOC was criticized for not having in place procedures to ensure that inmates were properly sentenced by the courts.

The Auditor General found that MDOC "did not verify the completeness and accuracy of sentencing information received from the courts and make necessary corrections as approved by

the courts." (Appendix B, ¶ 6, and Exhibit D, p 17.) Specifically, the Auditor General criticized the MDOC because it "did not always contact the courts for clarification of incomplete or incorrect sentencing information on the JOS." (Appendix B, ¶ 7, and Exhibit D, p 18.)

Additionally, the Auditor General found that this failure of MDOC to verify with the sentencing court the completeness and accuracy of sentencing information "could result in DOC releasing prisoners before or after the correct release date." (Appendix B, ¶ 8, and Exhibit D, p 18.) Consequently, the Auditor General recommended that the MDOC "[Verify] the completeness and accuracy of sentencing information received from the court and make necessary corrections as approved by the courts." (Appendix B, ¶ 9, and Exhibit D, p 18.)

As a consequence of the audit by the Michigan Auditor General, MDOC agreed to create a "Specialist Intake Processing Audit Unit," which would be "responsible for reviewing all sentencing documentation upon receipt from the courts to ensure completeness and accuracy and to ensure that the courts have complied with statutory requirements." (Appendix B, ¶ 10, Exhibit D, p 19.) MDOC further agreed that, "the Unit would conduct follow-up with the courts as necessary." (Appendix B, ¶ 11, Exhibit D, p 19.)

Turning to this Court's specific question regarding the MDOC's authority to contact the trial court in this case, the MDOC would first note that the Department did not communicate *ex parte* with the court since the January 17, 2008, letter to the trial court was also sent to the prosecutor and Defendant Holder. (Appendix A, p 6.) The Department is also not a party to the litigation.

In this case, the MDOC cancelled Defendant's discharge because of the new convictions for the drug crimes committed while on parole. This action would ordinarily affect Defendant's sentencing for the new sentencing offense. Under MCL 768.7a(2) of the Criminal Code of Procedure, the new sentence will run consecutive to any sentence from the previous offense:

If a person is convicted and sentenced to a term of imprisonment for a felony committed while the person was on parole from a sentence for a previous offense, the term of imprisonment imposed for the later offense shall begin to run at the expiration of the remaining portion of the term of imprisonment imposed for the previous offense.

Because Defendant committed his new drug offenses while he was on parole, he would have been subject to the consecutive sentencing requirement in MCL 768.7a(2) but for the parole board's erroneously granted discharge. Once parole is rescinded, Defendant would be subject to consecutive sentencing. Consistent with the Auditor General's Report, after the judgment of sentence was forwarded to MDOC in this case, staff in the Central Time Computation Unit advised the sentencing court through the January 17, 2008, letter of the change in Defendant's status. (Appendix A, p 6). Regarding what action to take in light of this change in status was a decision for the sentencing court in this case – not the Time Computation Unit's.

Nevertheless, on the central point, the contact with the court was proper. When it came to the attention of MDOC that Defendant had committed his most recent crime while on parole, and the parole board then rescinded the discharge of parole – thereby implicating the consecutive sentence requirement in MCL 768.7a(2) – MDOC informed the sentencing court of that fact. (Appendix A, p 6.) The action then taken by the sentencing court was a matter for the court and for the parties.

## CONCLUSION

Our legal system allows for the correction of errors by administrative agencies. This should be especially true where protecting the health, safety, and welfare of the citizens of the State of Michigan – from criminals who have not been rehabilitated and continue to commit crimes while on parole – is at stake. The statutory law provides that no prisoner may be discharged from parole if he fails to faithfully fulfill the conditions and obligations of his parole. Defendant committed new crimes while on parole, and thus indisputably violated the conditions of his parole making him ineligible for a discharge. Consequently, MCL 791.242 and case law supported the cancellation of the erroneous and thus unlawful discharge of Defendant's sentence. It was thereafter appropriate for MDOC to advise the sentencing court that the parole discharge was cancelled, and that a consecutive sentence was required under MCL 768.7a.

Respectfully submitted,

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