

STATE OF MICHIGAN  
COURT OF APPEALS

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ROBERT LAVERNE PERRY, JR.,

Plaintiff-Appellant,

v

DEPARTMENT OF CORRECTIONS,

Defendant-Appellee.

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UNPUBLISHED

July 30, 1996

No. 179838

LC No. 99070

Before: Hood, P.J., and Griffin and J. F. Foley,\* JJ.

MEMORANDUM.

In this original action, this Court previously denied plaintiff's complaint for mandamus in an order dated February 25, 1994. Thereafter, the Supreme Court in lieu of granting leave to appeal remanded the case for plenary consideration. *Perry v Dep't of Corrections*, 447 Mich 993; 525 NW2d 457 (1994). After thorough review, we again deny plaintiff's complaint for mandamus.

Plaintiff claims that MCL 791.235(7); MSA 28.2305(7) mandates that the time span between parole board interviews may not exceed twelve months. We disagree. MCL 791.235(7); MSA 28.2305(7) pertains exclusively to the preparation of parole eligibility reports, requiring that said reports be prepared "at least 90 days before the expiration of the prisoner's minimum sentence, or the expiration of a 12 month continuance . . . ." Neither MCL 791.235(7); MSA 28.2305(7) nor any other statute clearly requires parole reconsideration at twelve month intervals. Nor does MCL 791.235(7); MSA 28.2305(7) limit the parole board's discretion to determine when it will reconsider a prisoner's eligibility for parole. Therefore, there exists no statutory impediment to the parole board's determination that plaintiff's eligibility for parole would not be reconsidered for two years. See 1988 AACS, R 791.7710(2). Accordingly, we deny plaintiff's complaint for mandamus to compel the parole board to reconsider his parole within one year. See *Radecki v Worker's Compensation Director*, 208 Mich App 19, 22; 526 NW2d 611 (1994); *Keaton v Beverly Hills*, 202 Mich App 681, 683; 509 NW2d 544 (1993).

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\* Circuit judge, sitting on the Court of Appeals by assignment.

Plaintiff's complaint for mandamus is denied.

/s/ Harold Hood

/s/ Richard Allen Griffin

/s/ John F. Foley