

CJA News Blog

Federal criminal defense practice under the [Criminal Justice Act](#). All information on this CJA blog is open to the public.

Calculating Federal Good Time Credit: How the BOP Turns 54 Days into 47

Posted on [December 29, 2010](#) by [Rob Ruth](#)

Every [federal criminal lawyer](#) needs to know how to calculate good time credit, since the issue is likely to come up at some point in virtually every federal criminal case. Most of us know that the federal statute gives 54 days per year of good time credit. You might logically conclude from this that on a 10 year sentence an inmate would receive 540 days of credit (54 days x 10 = 540 days). On a 10 year sentence, however, the BOP only gives 470 days of credit. The Supreme Court addressed the issue in *Barber v. Thomas*, 130 S.Ct. 2499 (2010). The Court had a chance, even if it had to use the rule of lenity, to nullify the BOP's unnecessarily complicated interpretation of the statute in favor of an interpretation that the average person can understand and readily [apply](#). Unfortunately, the Court passed on that opportunity, opting instead to uphold the BOP's method of calculating good time.

Title 18, U.S.C. § 3624(b) provides as follows:

[A] prisoner who is serving a term of imprisonment of more than 1 year ... may receive credit toward the service of the prisoner's sentence, beyond the time served, of up to 54 days at the end of each year of the prisoner's term of imprisonment, beginning at the end of the first year of the term [C]redit for the last year or portion of a year of the term of imprisonment shall be prorated and credited within the last six weeks of the sentence.

The petitioners in *Barber* proposed that an inmate who receives the full good time credit on a 10 year sentence should get 540 days of credit, thus his sentence should be 540 days shorter than 10 years (365 days x 10 years = 3650 days – 540 days = 3110 days). The BOP, however, only gives 470 days of credit on a 10 year sentence. The *Barber* Court explains the BOP calculation like this:

Thus, at the end of the first year (Year 1) that prisoner would earn the statute's maximum credit of 54 days. The relevant official (whom we shall call the "good time calculator") would note that fact and, in effect, preliminarily put the 54 days to the side. At the end of Year 2 the prisoner would earn an additional 54 days of good time credit. The good time calculator would add this 54 days to the first 54 days, note the provisional total of 108 days, and again put the 108 days' credit to the side. By the end of Year 8, the prisoner would have earned a total of 432 days of good time credit (8 years times 54 days). At that time, the good time calculator would note that the difference between the time remaining in the sentence (2 years, or 730 days) and the amount of accumulated good time credit (432 days) is less than 1 year (730 minus 432 equals 298 days, which is less than 365). The 432 days of good time credit that the prisoner has earned by the end of Year 8 are sufficient to wipe out all of the last year of the 10-year prison term and to shorten the prisoner's 9th year of imprisonment by 67 days.

Year 9 of the sentence will consequently become the prisoner's last year of imprisonment. Further, because the prisoner has already earned 67 days of credit against that year (432 days already earned minus 365 days applied to Year 10 leaves 67 days to apply to Year 9), the prisoner will have no more than 298 days left to serve in Year 9. Now the good time calculator will have to work out just how much good time the prisoner can earn, and credit against, these remaining 298 days.

As we said, the statute provides that "good time" for this "last year or portion" thereof shall be "prorated." Thus, the good time calculator must divide the 298 days into two parts: (1) days that the prisoner will have to serve in prison, and (2) credit for good behavior the prisoner will earn during the days served in Year 9. In other words, the number of days to be served in Year 9 plus the number of good time credit days earned will be equal to the number of days left in the sentence, namely, 298. And to keep the award of credit in the last year proportional to awards in other years, the ratio of these two parts of Year 9 (i.e., the number of good time days divided by the number of days served) must be 54/365, the same ratio that the BOP applies to full years served.

...

The result is that if the prisoner serves 260 days, he can earn an additional 38 days of credit for good behavior. That is to say, of the 298 days remaining in his sentence, the prisoner will have to serve 260 days in confinement, after which point, his sentence will be fully accounted for (given the additional 38 days' credit earned), and he will be released. In sum, a prisoner subject to a 10-year (3,650-day) sentence who earns the maximum number of days the statute permits will serve 3,180 days in confinement and receive 470 days of "good time" credit, about 15% of the prison time actually served.

There you have. Fifty-four days per year actually means 47 days per year. In case you still do not understand, the Court provides the following additional explanation in an appendix:

The defendant is sentenced to 10 years' imprisonment. As a prisoner he exhibits exemplary behavior and is awarded the maximum credit of 54 days at the end of each year served in prison. At the end of Year 8, the prisoner has 2 years remaining in his sentence and has accumulated 432 days of good time credit. Because the difference between the time remaining in his sentence and the amount of accumulated credit (i.e., 730-432) is less than a year (298 days), Year 9 is the last year he will spend in prison. (Year 10 has been completely offset by 365 of the 432 days of accumulated credit.) Further, Year 9 will be a partial year of 298 days (the other 67 days of the year being offset by the remainder of the accumulated credit).

Here is where the elementary algebra comes in. We know that x , the good time, plus y , the remaining time served, must add up to 298. This gives us our first equation: $x + y = 298$.

We also know that the ratio of good time earned in the portion of the final year to the amount of time served in that year must equal the ratio of a full year's good time credit to the amount of time served in a full year. The latter ratio is 54/365 or .148. Thus, we know that $x/y = .148$, or to put it another way, $x = .148y$. Because we know the value of x in terms of y , we can make a substitution

in our first equation to get $.148y + y = 298$. We then add the two y terms together ($1.148y = 298$), and we solve for y , which gives us $y = 260$. Now we can plug that value into our first equation to solve for x (the good time credit). If we subtract 260 from 298, we find that $x = 38$.

The offender will have to serve 260 days in prison in Year 9, and he will receive 38 days additional good time credit for that time served. The prisoner's total good time is 470 days ($432 + 38 = 470$). His total time served is 3180 days.

As a final matter, while we have described the foregoing as the method to calculate credit for the portion of the last year to more transparently track the relevant statutory language, we note that the mathematical formula can be used to calculate the amount of maximum available credit for an entire sentence. Using the equations supplied above, if we divide the total number of days in a sentence by 1.148, we get the minimum number of days that a defendant must serve in that sentence. If we then subtract the number of days served from the total number of days in the sentence, we arrive at the maximum number of good time credit days the prisoner can earn. The statute, however, awards them on a yearly basis (but for the "last year or portion" thereof).

**About Rob Ruth**

Rob Ruth is a CJA attorney and the CJA Panel Representative for the Western District of Wisconsin

[View all posts by Rob Ruth →](#)

This entry was posted in [BOP](#). Bookmark the [permalink](#).

CJA News Blog

Proudly powered by WordPress.