

NO. 2012-CR-0000

STATE OF TEXAS)	IN THE DISTRICT COURT
VS.)	186TH JUDICIAL DISTRICT
JOHN SMITH)	BEXAR COUNTY, TEXAS

**MOTION FOR TIME CREDIT
FOR DEFENDANT SERVING STATE JAIL FELONY**

TO THE HONORABLE JUDGE OF SAID COURT:

John Smith requests that this Court order a time credit against the 180 day sentence imposed on March 8, 2012, as provided by TEX. CODE CRIM. PROC. art. 42.12, § 15(h)(6), and for good cause shows the following:

I.

Mr. Smith pleaded nolo contendere on March 8, 2012 to two counts of Improper Photography by invasion of privacy and was sentenced to 180 days in the State Jail Facility. He was taken into custody then and has remained continuously in custody since that date, first at the Bexar County Adult Detention Center, and, since March 29, 2012, at the Dominguez State Jail.

II.

Our law requires that "not later than the 30th day before the date on which the defendant will have served 80 percent of the defendant's sentence, the Texas Department of Criminal Justice shall report to the sentencing court the number of days during which the

defendant diligently participated in any educational, vocational, treatment, or work program.¹ Those reports have been sent and reflect that Mr. Smith has been enrolled in the "Inner Peace" program, that he has worked at the Commissary, and that he has had "no disciplinaries" while at Dominguez. His discharge date is listed as September 1, 2012.²

III.

Our law authorizes this Court to "credit against any time a defendant is required to serve in a state jail felony facility additional time for each day the defendant actually served in the facility while diligently participating in an educational, vocational, treatment, or work program . . . [provided that such] time credit . . . may not exceed one-fifth of the amount of time the defendant is originally required to serve in the facility."³

¹ "For a defendant who has participated in an educational, vocational, treatment, or work program while confined in a state jail felony facility, not later than the 30th day before the date on which the defendant will have served 80 percent of the defendant's sentence, the Texas Department of Criminal Justice shall report to the sentencing court the number of days during which the defendant diligently participated in any educational, vocational, treatment, or work program. The contents of a report submitted under this subdivision are not subject to challenge by a defendant." TEX. CODE CRIM. PROC. art. 42.12 §15(h)(5). A copy of article 42.12 § 15 is attached as Exhibit A.

² [State Jail Progress Report (Exhibit B) and Letter from TDCJ (Exhibit C), attached]

³ A judge, based on the report received under Subdivision (5), may credit against any time a defendant is required to serve in a state jail felony facility additional time for each day the defendant actually served in the facility while diligently participating in an educational, vocational, treatment, or work program. A time credit under this subdivision may not exceed one-fifth of the amount of time the defendant is originally required to serve in the facility. A defendant may not be awarded a credit under this subdivision for any period during which the defendant is subject to disciplinary action. A time credit under this subdivision is a privilege and not a right." TEX. CODE CRIM. PROC. art. 42.12 §15(h)(6). A copy of article 42.12 § 15 is attached as Exhibit A.

IV.

John Smith is 37 years old. He has a bachelor' degree from Texas A&M University. He has worked all his adult life, and plans to go into business with his father whenever he is released from prison. Before the instant offenses, Mr. Smith had never before been arrested for anything, and after almost five months incarceration in the Dominguez State Jail, he is certain that he will never commit another offense. Neither Mr. Smith nor society will benefit from his further incarceration. As his complete lack of criminal record demonstrates, he is not a dangerous person.

Mr. Smith will completely discharge this six-month sentence on or about September 1, 2012. Counsel respectfully submits that Mr. Smith's diligent participation in the Inner Peace Program, his diligent work in the Commissary, and his spotless record while incarcerated, amply prove that he is an excellent candidate for the time credit authorized by article 42.12 § 15(h)(6) of the Texas Code of Criminal Procedure.

V.

As the attached State Jail Progress Report shows, Mr. Smith is scheduled for discharge on September 1, 2012. Twenty per-cent of his sentence of 180 days is 36 days. If the Court credits this amount against his sentence, he can be released on Friday, July 29, 2012. Mr. Smith respectfully requests that this Court give him the 36 days authorized by statute, so that he may be released on that date.

Respectfully submitted:

MARK STEVENS
State Bar No. 19184200
310 S. St. Mary's Street, Ste 1920
San Antonio, TX 78205
(210) 226-1433

Attorney for Defendant

CERTIFICATE OF SERVICE

I certify that a copy of defendant's Motion For Time Credit For Defendant Serving State Jail Felony has been emailed to assistant district attorney James Jones, and delivered to the District Attorney's Office, Bexar County Justice Center, 300 Dolorosa, San Antonio, Texas, on this the 26th day of July, 2012.

MARK STEVENS

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ORDER

On this the _____ day of _____, 2012, came to be considered Defendant's Motion For Time Credit For Defendant Serving State Jail Felony and said motion is hereby

(GRANTED) (DENIED)

It is ordered that Defendant receive _____ days credit against his sentence of 180days in this case.

JUDGE PRESIDING