

imprisoned a longer time under the cumulative sentences imposed by the court than under a judgment which would have provided that the sentences be served concurrently.

The same result occurs when the good-time statutes are applied to sentences that are to be served cumulatively and those that are to be served concurrently. The provision of section 2166 quoted in your letter was construed by me in the Opinions of the Attorney General for 1930, at page 1924. The syllabus reads as follows:

“Where one is convicted of two or more separate felonies and the court orders said sentences to be served cumulatively, by the terms of Section 2166 of the General Code, the prisoner shall be held to be serving one continuous term and will not be eligible to parole until he has served the aggregate of the minimum terms.”

Thus, a prisoner serving successive or cumulative sentences is not eligible for parole until he has served the aggregate of the minimum terms of his separate sentences, which is not the case when a prisoner is serving several sentences concurrently.

Incidentally, I call your attention to the statement of Kinkade, J., in his opinion in the case of *Anderson vs. Brown*, *supra*, decided in 1927, where he said, at page 397, that:

“There is no statute in Ohio directing whether sentences shall be cumulative or concurrent,” etc.

It is not necessary to decide in this opinion whether the provision of section 2166 quoted in your letter authorizes cumulative sentences, inasmuch as the Supreme Court has repeatedly held that such authority exists without legislative enactment. See *Henderson vs. James*, 52 O. S. 242, at page 254.

I am therefore of the opinion that a court in a criminal case has the power to sentence a person convicted of four separate felonies to serve four separate indeterminate sentences and to require that the sentences be served consecutively. Indeterminate sentences that are to be served cumulatively are not void for being indefinite or uncertain when the judgment of the court imposing such sentences provides that one sentence is to commence when another terminates.

Respectfully,

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APPROVAL, BONDS OF CITY OF GIRARD, TRUMBULL COUNTY, OHIO
—\$4,630.00.

COLUMBUS, OHIO, August 2, 1932.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.