



How Do You Measure a Month?

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In *State v. Bowden*, 193 N.C. App. 597 (2008), *disc. rev. improvidently allowed*, 363 N.C. 621 (2009), and *Jones v. Keller*, 364 N.C. 249 (2010), our appellate courts considered the sentence length and sentence credits applicable to a group of inmates with offense dates from the 1970s. They committed their crimes at a time when G.S. 14-2 read that a “sentence of life imprisonment shall be considered as a sentence of imprisonment for a term of 80 years in the State’s prison.” The inmates successfully argued in *Bowden* that, under the plain language of that statute, their “life” sentences should be considered 80-year sentences for all purposes—not just for things like determining parole eligibility. In *Jones*, however, a subset of the inmates (those convicted of first-degree murder) were unable to convince the supreme court that they were entitled to be released now based on their accumulated sentence reduction credits. Cases involving other inmates from the *Bowden* cohort (those sentenced to life for crimes other than first-degree murder) are still working their way through the system.

Bowden and *Jones* were big cases (I wrote about them [here](#) and [here](#), respectively). They involved important questions about when “life” means life and how the Department of Correction administers sentences. At the end of the day, though, the cases affected a relatively small number of inmates sentenced under a law that was only on the books from April 8, 1974, to June 30, 1978. A separate sentence-length matter that affects many more inmates may be on its way to the appellate courts soon. The issue is not what “life” means, but rather what our sentencing laws mean by a “month.”

Under [G.S. 15A-1340.17](#), all felony sentences under Structured Sentencing are stated in months. For sentences of less than 12 months, DOC counts each month as 30 days. When a sentence exceeds 12 months, though, the Department converts each 12-month period into a 365-day year, and then values the remainder months at 30 days apiece. To provide some examples, a 4–6 month sentence will actually be treated as a 120–180 day sentence, regardless of which calendar months it includes. (So nobody gets a break by serving a sentence in February.) For a 13–16 month sentence, DOC will convert the first 12 months of the minimum and maximum into a 365-day year and then add one 30-day month to the minimum to achieve a total of 13 months and four 30-day months to the maximum to get to 16 months. The ultimate effect, mathematically, is a minimum of 395 days [that’s $(1 \times 365) + (1 \times 30)$] and a maximum of 485 days [$(1 \times 365) + (4 \times 30)$]. A 31–38 month sentence would be 940 days [that’s $(2 \times 365) + (7 \times 30)$] to 1155 days [$(3 \times 365) + (2 \times 30)$]. You get the idea.

A group of inmates sought declaratory relief, arguing that the Department’s method of sentence calculation is improper. They maintain that 12-month increments should not be repackaged into 365-day blocks. Rather, every month in a sentence should be worth 30 days, such that every “year” would count as 360 days (12 months x 30 days), not 365. In other words, under the inmate’s formulation, every Structured Sentencing sentence is 5 days too long for every 12 month period of imprisonment.

The inmates based their argument on a provision in Chapter 12 of the General Statutes—the chapter that governs statutory construction. Under [G.S. 12-3\(12\)](#), the words “‘imprisonment for one month,’ wherever used in any of the statutes, shall be construed to mean ‘imprisonment for thirty days.’” DOC countered that under G.S. 12-3(3)—a separate provision in the same statutory section—the “word ‘month’ shall be construed to mean a calendar month, unless otherwise expressed; and the word ‘year,’ a calendar year, unless otherwise expressed.” The superior court

judge hearing the matter agreed with DOC. You can read that order [here](#).

If the case goes on to the appellate division it could affect thousands of inmates—albeit in relatively small increments for each of them. It might not be as heady as the meaning of “life,” but it adds up.