

April 24, 2024

Chadwick S. Dotson, Director  
Virginia Department of Corrections  
P.O. Box 26963  
Richmond, VA 23261

Re: Earned Sentence Credit Program

Dear Director Dotson:

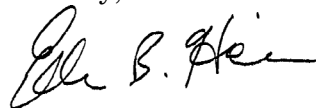
In its recent decision in *Garcia Vasquez v. Dotson et al.* (April 18, 2024), the Supreme Court of Virginia held that convictions for conspiracy to commit murder are eligible for enhanced earned sentence credits. The Court rejected the Department's argument that inchoate offenses are not distinct from completed offenses and that the phrase "any violation" encompasses both completed and inchoate offenses. Because the Court's reasoning applies not just to the offense of conspiracy to commit murder, but all inchoate offenses not explicitly enumerated in Virginia Code § 53.1-202.3(A), all such offenses are eligible to earn expanded sentence credits under Virginia Code § 53.1-202.3(B). The Virginia Department of Corrections' policy of withholding expanded earned sentence credits from such individuals is, therefore, unlawful.

Pursuant to the decision in *Garcia Vasquez*, we hereby demand that the Virginia Department of Corrections recalculate the sentences of all eligible individuals in its custody with convictions for inchoate versions of the offenses enumerated in Virginia Code § 53.1-202.3(A). Such sentences must be designated as Earned Sentence Credit-2 (ESC-2) sentences and calculated using the classification system outlined in Virginia Code § 53.1-202.3(B).

Please provide a response to this letter by May 1, 2024, including copies of any policy changes, instructions, or guidance that VDOC issues as a result of the *Garcia Vasquez* decision. Should the Department decline to apply the decision to all similarly situated individuals in VDOC custody, we intend to explore all available remedies, including, but not limited to, additional legal proceedings.

We hope to resolve this matter as soon as possible and would be happy to meet to discuss any questions or concerns you might have.

Sincerely,



Eden Heilman  
Legal Director  
eheilman@acluva.org

Cc: Jason Miyares, Attorney General



P.O. Box 26464  
Richmond, VA 23261  
(804) 644-8022  
acluva.org