Mr. Robert P. Heyne
Commissioner
Department of Corrections
804 State Office Building
Indianapolis, Indiana 46204

Dear Mr. Heyne:

You have asked me for my opinion concerning the United States Supreme Court decision in the case of Williams v. State (1970) — U. S. —, 38LW 4607, as to its application in Indiana.

ANALYSIS

In the case of Williams v. State, plaintiff Williams was convicted of petty theft in the State of Illinois and received a maximum one-year jail sentence plus a $500 fine and $5.00 in court costs assessed against him. He was indigent and did not pay the fine or the court costs. The State of Illinois attempted to keep him in jail at the end of the one-year sentence to work off his fine and court costs at the rate of $5.00 per day by virtue of an Illinois statute. The United States Supreme Court reversed this, holding that such a sentence based on working out the fine which exceeded the maximum punishment for the crime, namely, in this case, the one-year in jail, violated the equal protection clause of the Fourteenth Amendment to the Constitution of the United States. In other words, the Supreme Court held that a prisoner cannot be held in prison or jail beyond the maximum time allowed by the statute just because he was indigent and could not pay the additional fine or court costs.

A pertinent quotation from the Supreme Court case reads as follows:

"Once the state has defined the outer limits of incarceration necessary to satisfy its penological interests and policies, it may not then subject a certain class of convicted defendants to a period of imprison-
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ment beyond the statutory maximum solely by reason of their indigency.

"We hold that the equal protection clause of the Fourteenth Amendment requires that the statutory ceiling placed on imprisonment for any substantive offense be the same for all defendants irrespective of their economic status." (My emphasis)

It should be pointed out quite emphatically, however, what the case of Williams v. State does not hold.

This case does not affect the State's right to do the following:

1. Imprisonment for willful refusal to pay the fine or court costs, as distinguished from pauperism, which prevents one from paying such fine or court costs.

2. Imprisonment for failure to pay a fine when given in the alternative to a jail sentence. That is, "30 days or $30.00," so long as the imprisonment is not longer than the maximum jail sentence could have been under the law.

3. Imprisonment for failure, that is financial inability to pay fine and costs when the sentence is for less than the maximum statutory sentence. For example, if a defendant is sentenced to five years in jail, plus $1,000 fine for a crime that is punishable under the law by imprisonment for not less than two nor more than ten years, and the criminal defendant cannot pay the fine, he may be legally held in prison to work off that fine at the expiration of the five year period, but not to exceed the ten year maximum because that particular law in that particular case provided for a ten year maximum.

The Supreme Court in the Williams opinion did not deal with the subject of "good time" statutes, so I would like to make some reference to that. In Indiana, the days that a prisoner would be required to serve to satisfy unpaid fines or costs should be added to the time sentence, and then "good time" privileges allowed upon the entire period of imprisonment thus computed. But, of course, following the Williams case, it should be noted that the whole incarceration together
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cannot exceed the maximum punishment required under the law for the particular offense.

CONCLUSION

It is my opinion, therefore, that the case of Williams v. State as it affects Indiana, means that in Indiana a person convicted of a crime cannot serve past the maximum time sentence allowed under the particular criminal statute under which he was convicted. So, for that reason, if there is a fine either instead of a period of time, or if there are a fine and costs, and the individual criminal defendant is unable to pay same because he is a pauper, he may work that out in jail or in prison at a stipulated rate (so much a day), but in no case can he serve beyond the maximum sentence for which he was convicted at the time of his trial.

Of course, when you add it all together, you then can deduct from this maximum sentence any "good time" as applicable by the appropriate statute and which the individual has earned. But, it should be remembered, "good time" reductions in incarceration are a privilege which is granted by the Warden or the Superintendent of the institution in each case based upon individual good behavior.