Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2008-043

JUNE TERM, 2008

Bryan E. Lafayette	}	APPEALED FROM:
	}	
	}	
v.	}	Addison Superior Court
	}	
Robert Hofmann, Commissioner, Department of Corrections	}	DOCKET NO. 45-2-07 Ancv
		Trial Judge: Helen M. Toor

In the above-entitled cause, the Clerk will enter:

Brian Lafayette, an inmate committed to the custody of the Department of Corrections (DOC), appeals pro se from a superior court judgment rejecting his claim that the Department incorrectly calculated the amount of good-time and earned credit to which he is entitled against his sentence. We affirm.

Lafayette was sentenced to a term of twenty-five years to life for a crime committed in October 1999. His complaint raises essentially the same argument that this Court recently rejected in King v. Hofmann, 2008 VT 18, ¶ 3 (mem.), to wit, that the "plain language of [28 V.S.A.] § 811, as it existed at the time of [Lafayett's] incarceration and as later amended, entitles [him] to receive good-time credit based on [his] maximum and minimum sentences imposed by the trial court rather than on [his] actual time of confinement."[1] Although writing before King,

---

[1] The DOC credits an inmate with automatic reduction of term based on good behaviour and earned reduction of term based on an inmate's participation in programming or employment. The pertinent provisions of § 811 in force at the time of Lafayette's offense provided:

> (a) Each inmate sentenced to imprisonment and committed to the custody of the commissioner for a fixed term or terms shall earn a reduction of five days in the minimum and maximum terms of confinement for each month during which the inmate has faithfully observed all the rules and regulations of the institution to which the inmate is committed.
>
> (b) A reduction of up to ten additional days in the minimum and maximum terms of confinement for each month may be made if the inmate participates in treatment, educational or vocational training programs or work identified by the department to address the inmate's needs.

the trial court here, relying on several superior court decisions and a three-justice decision of this Court, rejected the claim. The trial court's ruling was sound. As we explained in King, "§ 811 unambiguously provides that an inmate cannot 'earn,' and thus be given credit for, good behavior until he has completed a thirty-day period of incarceration in which he 'has faithfully observed all the rules and regulations.' " Id. (quoting § 811(a)) (internal quotation omitted). Moreover, contrary to Lafayette's assertion here, we also ruled that "nothing in the language of the 2005 amendment to § 811 [Act 63] suggests that the Legislature intended a contrary interpretation of the statute." Id. at ¶ 4.[2] "Simply put," we explained, "the legislative changes that Act 63 made effective as of July 2005 do not alter the methodology for the determination of good-time credit applicable to sentences imposed for offenses committed prior to 2005." Id. at ¶ 5. Finally, King rejected the claim, also raised by Lafayette here, that 28 V.S.A. § 701(c), which provides that any reference to "sentencing or confinement" shall be construed to mean sentencing or confinement to the custody of the commissioner rather than any particular facility, supports the claim. As we explained, "[w]e perceive no logical connection between § 701(c) and plaintiffs' claims." Id. at ¶ 6.

Although King did not address earned reduction of term, the same conclusion applies. Just as an inmate cannot earn, and thus be given credit for, good behavior until he or she has completed the requisite thirty-day period of incarceration, so an inmate cannot be credited for participating in programming or employment until after it has occurred. Furthermore, as we held in King, nothing in the 2005 amendment effected a change in the Department's methodology for calculating sentencing credits under § 811. Accordingly, we discern no basis to disturb the judgment.[3]

Affirmed.

BY THE COURT:

____
John A. Dooley, Associate Justice

____
Denise R. Johnson, Associate Justice

____
Brian L. Burgess, Associate Justice

---

[2] Act 63, which repealed the provisions of § 811 applicable at the time of Lafayette's offense, provided that an inmate serving a term of incarceration on July 1, 2005, shall be awarded retrospectively all reductions in term to which the inmate is entitled "as of the end of the day on June 30, 2005, consistent with those provisions of 28 V.S.A. § 811 that were in force when the inmate's crime was committed," and prospectively all reductions in term to which the inmate would be entitled in the future "under the system that was in place at the time his or her crime was committed." 2005, No. 63, § 2.

[3] Although Lafayette claims the trial court here issued a "bare bones" decision that failed to address "all" of his constitutional and statutory claims, he does not identify those claims which the court allegedly failed to resolve or cite to the record where they were raised. Accordingly, any claim in this regard is waived. See King v. Gorczyk, 2003 VT 34, ¶ 21 n.5, 175 Vt. 220 (claims inadequately briefed and argued will not be addressed on appeal).