



“When are persons convicted of a felony able to exercise their right to register and vote legally, without penalty?”

609.165 RESTORATION OF CIVIL RIGHTS; POSSESSION OF FIREARMS AND AMMUNITION.

§ Subdivision 1. Restoration.

When a person has been deprived of civil rights by reason of conviction of a crime and **is thereafter discharged, such discharge shall restore the person to all civil rights** and to full citizenship, **with full right to vote and hold office**, the same as if such conviction had not taken place, and the order of discharge shall so provide.

609B.610 FELONY OR TREASON; INELIGIBLE TO VOTE.

An individual convicted of treason or any felony whose civil rights have not been restored is not eligible to vote under section [201.014](#).

- Discharge occurs under certain circumstances, in statute:

609.12, subdivision 1. Authority; conditions.

A person sentenced to the commissioner of corrections for imprisonment for a period less than life **may be paroled or discharged at any time without regard to length of the term of imprisonment which the sentence imposes when in the judgment of the commissioner of corrections, and under the conditions the commissioner imposes**, the granting of parole or discharge would be most conducive to rehabilitation and would be in the public interest.

609.12, Subdivision 2. Discharge.

The **discharge may be:**

- (1) by order of the court following stay of sentence or stay of execution of sentence; or
- (2) **upon expiration of sentence.**

- Discharge also occurs by affirmative action of the court under 609.3751, which I am not copying here.

609.165, subd. 2, clause (2) is the sticking point. All the other discharge provisions require a positive, affirmative act of an official or a court. But the vast majority of felons wondering whether they can vote have had no such affirmative action – they receive their civil rights back by *expiration of sentence*.

What does “expiration of sentence” mean? There is no clear, statutory definition of that phrase, and it is only used four times in Minnesota Statutes and Rules: Minnesota Statutes, sections 241.69, 590.10, and 609.165; and part 2940.3800 of Minnesota Rules

Then there is the phrase itself – “expiration of sentence.” This generally has a time-oriented definition. Merriam- Webster online puts it as:

Definition of *expiration*

...

2: the fact of coming to an end or the point at which something ends: TERMINATION

Clearly a time-oriented usage.

There are seven cases that have touched in any way on the phrase, two of which are unpublished. The list of these cases is attached.

Of these cases, one, *Sames v. State*, only speaks in a footnote to an unrelated situation. Another, *MVA v. Simon*, recites the statute in the context of challenges in the polling place. A third, *Morrissey v. State* simply notes that a former felon whose sentence was discharged from expiration of his sentence is entitled to a hearing on expungement of a wrongful conviction. *State v. Moon* only discusses expiration in the context of the firearms post-expiration prohibition contained in 609.165, subdivision 1a. An unpublished case, *State v. Niemi*, also only references expiration in relation to the post-expiration prohibition. So did *Kolk v. State*.

However, *State. V. Hannam*, 792 N.W. 2d 862 at 864-5, provides more fertile ground. In an opinion of the Court of Appeals, Judge Randolph Peterson wrote:

In Minnesota, an “ ‘executed sentence’ means the total period of time for which an inmate is committed to the custody of the commissioner of corrections.” *Minn.Stat. § 244.01, subd. 9* (2008). For inmates whose crimes were committed after 1993, the term of imprisonment generally equals two-thirds of the executed sentence, with the remaining one-third of the sentence to be served on supervised release. *Minn.Stat. § 244.101, subd. 1* (2008).

Once an inmate completes the terms of imprisonment and supervised release, the inmate's sentence **expires**. *See State ex rel. Peterson v. Fabian*, 784 N.W.2d 843, 846 (Minn.App.2010) (noting that sentence **expires** after completion of term of imprisonment and supervised release); *see also Larson v. United States*, 995 F.Supp. 969, 972 (D.Minn.1997) (noting that Minnesota's civil-rights restoration statute, *Minn.Stat. § 609.165*, is “both plenary and automatic,” effective upon **expiration** of sentence). In this case, respondent served his terms of imprisonment and supervised release in prison, and his entire 27-month sentence **expired** on December 19, 2009.

This is as close as the courts in Minnesota have gotten, but this is actually fairly authoritative in defining expiration.

Other statutes.

There are also references to time-based measures of sentences, in Minnesota Statutes, chapter 244, a chapter that relates to criminal sentences and release therefrom.

For example 244.30, clause (a), speaks to expiration of the sentence, an almost identical phrase, as a lower limit (90 days being the upper limit) of a reimprisonment for first time revocation of supervised release. Obviously, this language could not possibly refer to fines or fees. Similarly, expiration is referenced in similar time-oriented usage in 244.0513; 244.15; 244.17; and 244.172.

The language of 201.071, subd. 1, clause (7) muddies the waters here:

(7) have the right to vote because, if I have been convicted of a felony, my felony sentence has expired (been completed) or I have been discharged from my sentence; and

Emphasis added.

This language has been in statute since 2005, see:

<https://www.revisor.mn.gov/laws/?id=156&year=2005&type=0>

The use of the word “completed”, probably meant to explain “expired,” would imply (at least more strongly than expired) that any fines and fees included directly in the sentence would need to be paid before the sentence had been “completed.”

However, the preponderance of the uses of expiration of sentence, expiration, expire and similar words relate solely to time, as do the policies followed by important administrators of the phrase.

Conclusion:

Once the time-connected phases of a sentence, whether incarceration or other supervision upon release from or alternative to incarceration, are over, civil rights are restored, including the right to register and vote. When asked, you can say with confidence, based on the foregoing, that financial aspects of a court-imposed sentence do not delay the restoration of voting rights.

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