

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

RONALD MCCARTHY,

Defendant.

ORDER

01-CR-103-C

Defendant Ronald McCarthy has filed a motion to amend the amended judgment and commitment entered in his case on April 16, 2002. Defendant contends that the judgment should be amended to provide that his federal sentence should begin as of October 15, 2001. The motion will be denied.

As defendant notes in his motion, he was arrested initially on September 26, 2001, in Marathon County, Wisconsin, on charges unrelated to the federal prosecution. While he was awaiting resolution of the Marathon County charges, the United States Marshal's Service brought him to Madison for the federal proceedings. Shortly thereafter, Marathon

County notified defendant that the initial matter pending in that jurisdiction had been resolved. Subsequently, defendant pleaded guilty to the federal charges and, on March 20, 2002, was sentenced to a term of 92 months. He is now housed at the United States Penitentiary at Florence, Colorado, serving a sentence that the Bureau of Prisons has calculated to begin no earlier than March 12, 2002.

The court records show that Marathon County revoked defendant's probationary term on March 13, 2002. Until then, defendant remained under probation supervision in Marathon County. In other words, he was serving a sentence in that jurisdiction and was not eligible to begin his federal sentence.

Even if I had the authority to change defendant's judgment and commitment order at this time, I would decline to do so. It does not appear that the Bureau of Prisons has made any error in calculating the running of defendant's federal sentence. Although defendant believes he is entitled to credit for the days he served between September 26, 2001 and March 20, 2002, he is wrong. He received credit for that time in Marathon County. Having received credit in one jurisdiction, he is not eligible for credit from another jurisdiction.

ORDER

IT IS ORDERED that defendant Ronald McCarthy's motion to amend the judgment and commitment entered herein on March 20, 2002, and amended on April 16, 2002, is DENIED.

Entered this 27th day of March, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge