

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

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WILLIAM D. GRANT,

Petitioner,

MEMORANDUM and ORDER

v.

07-C-105-S

RICARDO MARTINEZ,

Respondent.

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Petitioner filed the above entitled petition for a writ of habeas corpus under 28 U.S.C. § 2241 claiming that he was denied credit for time served in state custody towards his federal sentence. Respondent responded on March 22, 2007. Petitioner's traverse was filed on April 2, 2007.

FACTS

Petitioner William D. Grant is currently incarcerated at the Federal Correctional Institution, Oxford, Wisconsin. On December 29, 1996 petitioner was arrested by Wayne County, Michigan authorities and charged with carrying concealed weapons while he was on probation. On February 28, 1997 petitioner received a six month prison term on this probation violation.

On March 27, 1997 a federal arrest warrant was issued for petitioner based on a June 14, 1996 violation of 18 U.S.C. § 922(g)(1), Felon in Possession of A Firearm. On April 14, 1997 Berrien County, Michigan authorities issued an arrest warrant charging petitioner with manslaughter.

On April 17, 1997 petitioner was transferred to federal authorities pursuant to a writ for the March 27, 1997 arrest warrant. He remained in the custody of the U.S. Marshals Service until he was returned to the custody of the State of Michigan for prosecution of the manslaughter charge.

Petitioner was convicted of the state manslaughter charge on July 21, 1997. On August 22, 1997 the state judge sentenced petitioner to a 4-15 year term of imprisonment with 86 days of jail credit from May 29 to August 22, 1997. The state judge also stated that the manslaughter term should run concurrently with any federal sentence he received.

He received credit for the time he was in custody from December 29, 1996 to April 29, 1997 on his Wayne County probation violation sentence.

On August 18, 1997 petitioner pled guilty to the federal firearms charge. On October 23, 1997 petitioner was again transferred to federal custody for sentencing. On November 18, 1997 he was sentenced by the United States District Court for the Western District of Michigan to 120 months. The Court ordered the sentence to run consecutive to petitioner's state sentence.

Petitioner was returned to state custody and a federal detainer was lodged against him. On April 9, 2003 petitioner was paroled from his state manslaughter sentence and transferred to federal custody pursuant to the detainer.

On May 15, 2003 petitioner arrived at the United States Penitentiary, Leavenworth. The staff computed petitioner's federal sentence as beginning April 9, 2003 with no prior custody credit. When petitioner was transferred to FCI-Oxford on April 7, 2005, the staff recomputed petitioner's sentence and awarded him credit from April 30, 1997 to May 28, 1997.

Petitioner has exhausted his administrative remedies.

#### MEMORANDUM

Petitioner claims that he is entitled to credit on his federal sentence for the 2,196 days he spent in state custody.

The Bureau of Prisons controls the calculation of federal terms of imprisonment pursuant to 18 U.S.C. § 3585. Prior custody credit may be awarded in certain circumstances set forth at 18 U.S.C. § 3585(b) as follows:

Credit for prior custody. A defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences-

1. As a result of the offense for which the sentence was imposed; or

2. As a result of any other charge for which the defendant was arrested after the commission of the offense for which the sentence was imposed;

**that has not been credited against another sentence.**

Petitioner received credit towards his state probation violation sentence for the time he was in custody from December 29,

1996 to April 29, 1997. He received credit for the period from April 30, 1997 to May 28, 1997 on his federal sentence. He received credit on his state manslaughter sentence for time he was in custody from May 29, 1997 to August 22, 1997 when he was sentenced. He served his state sentence in state custody from August 23, 1997 to April 9, 2003 when he was paroled to his federal sentence. Petitioner received the credit he spent in custody prior to the commencement of his sentence which was not credited to another sentence. Petitioner's sentence was correctly calculated.

Petitioner contends that he should receive credit for the time he served on his state manslaughter sentence because the state court ordered the state sentence to run concurrent to any federal sentence imposed. The state court judge's order was improper because there was no federal sentence in place at the time. See Romandine v. United States, 206 F.3d 731, 737-738 (7<sup>th</sup> Cir. 2000). The federal sentence was properly imposed consecutively to the state sentence. Id.

Petitioner's federal sentence has been properly credited with the time he served in custody which was not credited towards another sentence. 18 U.S.C. § 3585(b). Petitioner's petition for a writ of habeas corpus will be dismissed.

Petitioner is advised that in any future proceedings in this matter he must offer argument not cumulative of that already provided to undermine this Court's conclusion that his petition

must be dismissed. See Newlin v. Helman, 123 F.3d 429, 433 (7<sup>th</sup> Cir. 1997).

ORDER

IT IS ORDERED that petitioner's petition for a writ of habeas corpus is DISMISSED with prejudice.

Entered this 3<sup>rd</sup> day of April, 2007.

BY THE COURT:

S/

JOHN C. SHABAZ  
District Judge