

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

March 19, 2009

Charles R. Fulbruge III  
Clerk

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No. 08-40024  
Summary Calendar

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UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

BRADY SHARROD HARRIS

Defendant-Appellant

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 6:02-CR-35-1

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Before KING, DENNIS, and OWEN, Circuit Judges.

PER CURIAM:\*

Brady Sharrod Harris, federal prisoner # 09604-078, appeals the district court's denial of his "Writ Quo Warranto." He argued in the writ application that the Federal Bureau of Prisons had abused its power in failing to give him credit on his sentence for possession with intent to distribute cocaine base for the time that he served on another state sentence because the sentencing court had ordered that his federal sentence run concurrently with the state sentence.

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

On appeal, Harris argues only that the district court erred in not giving him credit for the time that he served in state custody because the federal judgment of conviction stated that he was “in the custody of the United States Marshal[],” and thus he should have remained in federal custody after his federal conviction, rather than being returned to state custody. Because Harris is raising this theory for relief for the first time on appeal, this court need not consider it. *See Leverette v. Louisville Ladder Co.*, 183 F.3d 339, 342 (5th Cir. 1999). Furthermore, because Harris no longer argues that he should have been given sentencing credit for the time that he served on his state sentence because the district court ordered that his state and federal sentences run concurrently, he has abandoned the only issue on appeal by failing to brief it. *See Yohey v. Collins*, 985 F.2d 222, 225 (5th Cir. 1993).

AFFIRMED.