

October 15, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-40251
Summary Calendar

DAVID GREGORY SURASKY,

Petitioner-Appellant,

versus

JONATHON DOBRE, Warden,

Respondent-Appellee.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:02-CV-126

Before JOLLY, WIENER, and DENNIS, Circuit Judges.

PER CURIAM:*

David Gregory Surasky, federal inmate # 52646-080, appeals the denial of his petition for habeas relief filed pursuant to 28 U.S.C. § 2241. Surasky argues that the district court erred when it determined that he was not entitled to presentence credit toward his federal sentence for time he spent in official detention before the commencement of the sentence for which he is currently incarcerated. Under the provisions of 18 U.S.C.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

§ 3585(b), the Bureau of Prisons (BOP) was not required to give Surasky the credit he sought because he had already received the credit against his state sentence. See United States v. Wilson, 503 U.S. 329. 334 (1992).

Surasky's argument that the most recent decision of the BOP denying him credit toward his federal sentence is barred by the equitable principles of res judicata and collateral estoppel because the issue was decided in the first administrative hearing on his request for credit fails because Surasky presents no final judgment from that hearing. See Vasquez v. Bridgestone/Firestone, Inc., 325 F.3d 665, 675 (5th Cir. 2003). The judgment of the district court denying Surasky relief under 28 U.S.C. § 2241 is AFFIRMED.

Surasky's motion to expedite the instant appeal is DENIED.