IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 15-30257
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 14, 2016

Lyle W. Cayce
Clerk

JOSEPH CORNELL DELAY,

Petitioner-Appellant

v.

T. G. WERLICH, Warden, Federal Correctional Institution Pollock; UNITED STATES OF AMERICA; ENS LEGIS; DOES 1-1000; ROES 1-1000; MOES 1-1000; U.S. VESSELS; THIRD PARTY LIBELLES,,

Respondents-Appellees

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 1:14-CV-3422

Before REAVLEY, SMITH, and HAYNES, Circuit Judges.

PER CURIAM:*

Joseph Cornell Delay, federal prisoner # 32465-034, filed a petition under 28 U.S.C. § 2241 asserting that the Bureau of Prisons abused its discretion in denying him additional credit toward his federal sentence for time spent in state custody. The district court denied the motion because Delay's judgment of conviction explicitly stated that his federal sentence was to run

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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consecutively to his state sentence and because the time Delay sought credit for had already been applied to his state sentence. We review the district court's legal conclusions *de novo* and its factual findings for clear error. *Free v. Miles*, 333 F.3d 550, 552 (5th Cir. 2003).

A defendant is to be given credit toward his term of federal imprisonment for any time he spent in official detention prior to the commencement of his sentence "that has not been credited against another sentence" and that was the result of either his federal offense or any other charge for which the defendant was arrested after the commission of his federal offense. 18 U.S.C. § 3585(b). There was no error in denying Delay prior-custody credit for time spent in state custody when that time had already been credited against his state sentence. *See* § 3585(b).

AFFIRMED.