IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-8294
(Summary Calendar)

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

URIEL CARAVEO-NUNEZ,
a/k/a Miguel Angel Herrera,

Defendant-Appellant.

Appeal from the United States District Court
For the Western District of Texas

(EP-91-CR-389B)

(April 21, 1993)

Before KING, DAVIS and WIENER, Circuit Judges.

PER CURIAM:[*]

Defendant-Appellant Uriel Caraveo-Nunez, a/k/a/ Miguel Angel Herrera (hereafter, Caraveo), was convicted on a plea of guilty to

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[*]Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

a charge of illegal re-entry after deportation, in violation of 8 U.S.C. § 1326. In sentencing, the district court refused to credit Caraveo with time served in state incarceration, and Caraveo appealed. Finding no reversible error by the district court in refusing such credit, we affirm.

I

FACTS AND PROCEEDINGS

Caraveo was charged with illegal re-entry into the United States after being deported previously for committing a criminal offense. He pleaded guilty to the charge on March 23, 1992. Based on a total offense level of 10 and a criminal history category of VI, the district court adopted the PSR (to which there were no objections), sentenced Caraveo to serve 24 months' incarceration, imposed a one-year term of non-reporting supervised release, and assessed a $50 fine.

During the sentencing hearing, Caraveo requested that the district court allow him credit for time served on an unrelated state charge. The court ruled that the state offense had nothing to do with the pending federal offense and that credit could not be given to Caraveo for time that had not been served in federal custody. Caraveo timely appealed.

II

ANALYSIS

Without citing any authority, Caraveo argues that his sentence should have been lower because he had been in state custody prior to being indicted by the United States for the instant offense of

illegal re-entry.

Section 3585(b) of Title 18 provides: "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," if such time "has not been credited against another sentence." But § 3585(b) does not authorize a district court to compute the credit at sentencing. United States v. Wilson, _____ U.S. _____, 112 S.Ct. 1351, 1354, 117 L.Ed.2d 593 (1992). This statute replaced 18 U.S.C. § 3568, which stated: "The Attorney General shall give any such person credit toward service of his sentence for any days spent in custody in connection with the offense or acts for which sentence was imposed. . . ." (emphasis added.) Section 3568 was repealed by the Sentencing Reform Act of 1984; section 3585 applies in this case because Caraveo's offense was committed after November 1, 1987. United States v. Lucas, 898 F.2d 1554, 1555, n.1 (11th Cir. 1990).

In Wilson, the Supreme Court addressed the issue presented by this case: whether at the time of sentencing a district court is permitted to calculate credit for time spent in official detention, or whether the Attorney General computes such credit after the defendant begins to serve his sentence. Wilson, 112 S.Ct. 1351. The Court concluded that a district court cannot apply § 3585(b) at sentencing because the statute indicates that computation of credit must occur after the defendant has begun to serve his sentence. Id. at 1354. Moreover, the credit received is determined by the amount of time a defendant has spent in custody prior to beginning

his federal sentence. Id. The Court further noted that although § 3585(b) no longer mentions the Attorney General (implying that such omission was possibly an oversight), the Attorney General, through the Bureau of Prisons, is responsible for administering the sentence and making the determination of jail-time credit when imprisoning a defendant. Id. at 1355.

Finally, the Supreme Court explained in Wilson that Congress had made three changes to § 3585(b): 1) the term "custody" was replaced with the term "official detention"; 2) a defendant shall not receive double credit for his detention time; and 3) a defendant may now receive credit for his time served in official detention in connection with "any other charge for which the defendant was arrested after the commission of the offense for which the sentence was imposed." Id. at 1355-56.

We review a district court's interpretation of statutes and guidelines de novo. United States v. Headrick, 963 F.2d 777, 779 (5th Cir. 1992). When we do so in this case we conclude, in accordance with Wilson, that the district court was without authority to award the defendant credit for time served, and thus correctly refused Caraveo's entreaty to do so. Wilson, 112 S.Ct. at 1356.

AFFIRMED.