

UNITED STATES COURT OF APPEALS
for the Fifth Circuit

No. 92-8310
Summary Calendar

DONNY JOEL HARVEY,

Petitioner-Appellant,

VERSUS

CARLOS ORTIZ, Warden,

Respondent-Appellee.

Appeal from the United States District Court
for the Western District of Texas
(A 91 CV 735)

(December 2, 1992)

Before JOLLY, DUHÉ, and BARKSDALE, Circuit Judges.

PER CURIAM:¹

Petitioner Harvey seeks habeas relief pursuant to 28 U.S.C. § 2241. He contends that the Bureau of Prisons should give him credit against his federal sentence for time he served on his state sentence. The district court denied relief and we affirm.

Harvey argues that since he was serving an unexpired term for his state conviction when his federal sentence was imposed his federal sentence should have been made concurrent with his state

¹ 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

sentence. This argument lacks merit. The imposition of multiple sentences is governed by 18 U.S.C. § 3584 whether the sentences result from multiple federal convictions or state and federal convictions. See United States v. Brown, 920 F.2d 1212, 1216-17 (5th Cir.), cert. denied, 111 S. Ct. 2034 (1991). Multiple terms of imprisonment imposed at different times, as in this case, run consecutively unless the court orders that they run concurrently. § 3584 (a). Since the district court did not order otherwise, the sentences in Harvey's case run consecutively.

Harvey also contends that the failure to grant the credit he seeks violates his rights against double jeopardy. But his argument overlooks the fact that he violated both state and federal law. See United States v. Moore, 958 F.2d 646, 650 (5th Cir. 1992).

Nor is Harvey entitled to credit under federal law since he received credit for time served against his state sentence. 18 U.S.C. § 3585 (b).

Appellant also challenges in this proceeding the state parole board's revocation of his probation. This contention is inappropriate in a § 2241 proceeding. See § 2254 (b). In any event, whenever a person receives separate punishments for conduct which violates the laws of separate sovereigns double jeopardy may not be claimed. See Moore, 958 F.2d at 650.

AFFIRMED.