

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-60848
Conference Calendar

JAMES ALBERT KING,

Petitioner-Appellant,

versus

CHRISTINE HOUSTON ET AL.,

Respondents-Appellees.

- - - - -
Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 4:93-CV-79-S-0
- - - - -

August 24, 1995

Before KING, JOLLY, and WIENER, Circuit Judges.

PER CURIAM:*

James Albert King, a Mississippi state prisoner, challenges the dismissal of his petition for writ of habeas corpus, 28 U.S.C. § 2254. He argues that his time served on his federal sentence should be credited to his state sentences because the state sentencing court was silent about whether the state

* 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 Pursuant to that Rule, the court has determined that this opinion should not be published.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 would run concurrent with, or consecutive to, the federal sentence.

Federal habeas relief is available to a state prisoner "only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a). Claims arising out of a state sentencing decision are not constitutionally cognizable under § 2254 unless the sentence imposed exceeds the statutory limits or is "wholly unauthorized by law." Haynes v. Butler, 825 F.2d 921, 924 (5th Cir. 1987), cert. denied, 484 U.S. 1014 (1988).

Under applicable Mississippi law, "[a]ny prisoner who commits a felony while at large upon parole and who is convicted and sentenced therefor shall be required by the board to serve such sentence after the original sentence has been completed." Miss. Code Ann. § 47-7-29 (West 1993)(effective March 1986). Furthermore, under Mississippi law, when the judge does not specify whether sentences are to run concurrently or consecutively, they are construed to run consecutively, except in certain circumstances not relevant here. Watts v. Lucas, 394 So.2d 903 (Miss. 1981); see also Miss. Code Ann. §§ 99-19-21 (prison terms to run consecutively unless imposed concurrently). King's sentence was not "unauthorized by law," and thus not subject to federal review.

To the extent that King argues that he should receive credit for time served, this is purely a question of state law which does not implicate any constitutional right. See Moreno v.

Estelle, 717 F.2d 171, 179 (5th Cir. 1983), cert. denied, 466
U.S. 975 (1984).

AFFIRMED.