FILED
United States Court of Appeals
Tenth Circuit

December 28, 2021

Christopher M. Wolpert
Clerk of Court

**UNITED STATES COURT OF APPEALS**

**FOR THE TENTH CIRCUIT**

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ARTURO SOLIS,

Petitioner - Appellant,

v.

M. A. STANCIL,

Respondent - Appellee.

No. 20-1185
(D.C. No. 1:18-CV-02842-DDD)
(D. Colo.)

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**ORDER**

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Before **HOLMES**, **BACHARACH**, and **MORITZ**, Circuit Judges.

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Appellant's petition for rehearing is denied.

The petition for rehearing en banc was transmitted to all of the judges of the court who are in regular active service. As no member of the panel and no judge in regular active service on the court requested that the court be polled, that petition is also denied.

Entered for the Court

CHRISTOPHER M. WOLPERT, Clerk

Att. App- A.

FILED
United States Court of Appeals
Tenth Circuit

May 25, 2021

Christopher M. Wolpert
Clerk of Court

**UNITED STATES COURT OF APPEALS**

**FOR THE TENTH CIRCUIT**

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ARTURO SOLIS,

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**ORDER AND JUDGMENT***

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Before **HOLMES**, **BACHARACH**, and **MORITZ**, Circuit Judges.

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This appeal stems from the administration of Mr. Arturo Solis's convictions and sentences in state and federal courts. Mr. Solis filed a federal habeas petition, claiming that authorities hadn't properly credited time on his federal sentence. The district court denied habeas relief, and we affirm.

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* This order and judgment does not constitute binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel. But the order and judgment may be cited for its persuasive value if otherwise appropriate. Fed. R. App. P. 32.1(a); 10th Cir. R. 32.1(A).

start serving his federal sentence until he finished serving his state sentence. So he didn't start serving his federal sentence until after the seven-month period had expired.

Mr. Solis claims that both the district court and prison authorities erred because the federal sentence should have run concurrently with the state sentence. But Mr. Solis waived these claims by omitting them in his habeas petition. Owens v. Trammell, 792 F.3d 1234, 1246 (10th Cir. 2015).

Even in the absence of waiver, however, these claims would fail for two reasons. First, the sentencing court had discretion to run the sentences consecutively. See 18 U.S.C. § 3584(a). Second, when a federal court has ordered sentences to run consecutively, prison authorities cannot unilaterally change the sentence. United States v. Miller, 594 F.3d 1240, 1242 (10th Cir. 2010). For both reasons, we would have rejected Mr. Solis's two claims even if he had not waived them.

Affirmed.

Entered for the Court

Robert E. Bacharach
Circuit Judge

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF COLORADO**
**Judge Daniel D. Domenico**

Civil Action No. 1:18-cv-02842-DDD

ARTURO SOLIS,

Applicant,

v.

M.A. STANCIL,

Respondent.

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**ORDER DENYING MOTION FOR RECONSIDERATION**

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Before the Court are the Motion for Reconsideration (Doc. 61) and Supplemental Issue for Reconsideration ("Supplement") (Doc. 62) filed by Applicant Arturo Solis. For the reasons below, the Court denies the Motion and Supplement.

**MOTION AND SUPPLEMENT**

Applicant seeks reconsideration of the Order Denying Application for Writ of Habeas Corpus entered on April 6, 2020 (Doc. 59). In that order, the Court denied Mr. Solis's habeas corpus application as to the two claims remaining for adjudication: (1) Claim Nine, in which Applicant alleged wrongful deprivation of good time credits resulting from a disciplinary hearing, and (2) Claim Twelve, in which Applicant alleged wrongful miscalculation of the start date of his federal sentence. The Court found that both claims lack merit.

In his Motion for Reconsideration (Doc. 61), Applicant makes three arguments: (1) under 18 U.S.C. § 3621(a) and (b), the federal Bureau of

P. 59(e). The Court will consider the Motion and Supplement pursuant to Rule 59(e) because they were filed within twenty-eight days of the Order Denying Application for Writ of Habeas Corpus.

A Rule 59(e) motion may be granted "to correct manifest errors of law or to present newly discovered evidence." Phelps v. Hamilton, 122 F.3d 1309, 1324 (10th Cir. 1997) (internal quotation marks omitted). Relief under Rule 59(e) also is appropriate when "the court has misapprehended the facts, a party's position, or the controlling law." Servants of the Paraclete v. Does, 204 F.3d 1005, 1012 (10th Cir. 2000). A Rule 59(e) motion is not a new opportunity to revisit issues already addressed or to advance arguments that could have been raised previously. See id.

## ANALYSIS

Having reviewed the filings and the record, the Court concludes that it has not misapprehended the facts, a party's position, or the controlling law, and that it correctly decided Applicant's claims for the reasons set forth in the Order Denying Application for Writ of Habeas Corpus.

### I. BOP Designation of Place of Confinement

Applicant's reliance on 18 U.S.C. § 3621(a) and (b) is misplaced. (Doc. 61 at 2-4.) As a preliminary matter, Applicant did not cite Section 3621 in his Claim Twelve allegations in the Application. (Doc. 1 at 13.) Applicant did, however, mention this statute in his Reply. (Doc. 58 at 6.) In consideration of Applicant's pro se status, the Court will address this argument.

Section 3621(a) provides that a person sentenced to a term of federal imprisonment "shall be committed to the custody of the Bureau of Prisons . . . ." Applicant was so committed on his release to federal custody on December 14, 2017. (See Doc. 59 at 16-17.)

sentences at issue in this action were not adequately identified in Respondent's pleadings or this Court's orders is unfounded. Applicant was served with the Response to Application for Writ of Habeas Corpus and attachments, which included:

(1) the 1989 state judgment sentencing him to thirty-five years for aggravated robbery, i.e., the state sentence he was serving at the time of his 1996 federal sentencing (Doc. 55-4);

(2) the 1996 federal judgment sentencing him to 137 months for his federal crimes and specifying that the federal sentence "shall not begin until Defendant has completed the State sentence he is now serving" (Doc. 55-3); and

(3) the 2002 state judgment sentencing him to six years for attempted murder of another prisoner and specifying that this six-year sentence "shall begin to run from and after the sentence . . . in Cause #89CR1912 . . . for the offense of AGGRAVATED ROBBERY . . ." (Doc. 55-6).

Each judgment is labeled with its case number. (See Doc. 55-4 (state case number 89CR1912); Doc. 55-3 (federal case number W-95-CR-111); Doc. 55-6 (state case number 14657).)

**III. Federal Detainer**

Regarding Applicant's assertion that the 1995 federal detainer indicates federal custody, as stated in the Order Denying Application for Writ of Habeas Corpus, a "federal detainer[ is] not evidence that Defendant was in federal custody." (Doc. 59 at 15 (quoting Wise v. Chester, 424 F. App'x 726, 729 (10th Cir. 2011).) To the contrary, like an ad prosequendum writ, a detainer indicates that the federal government recognizes the defendant was in state custody. (Id.)