

**NONPRECEDENTIAL DISPOSITION**

To be cited only in accordance with FED. R. APP. P. 32.1

**United States Court of Appeals**

**For the Seventh Circuit  
Chicago, Illinois 60604**

Submitted May 4, 2023\*

Decided May 5, 2023

**Before**

ILANA DIAMOND ROVNER, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 22-1995

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

*v.*

DONTE MOORE,  
*Defendant-Appellant.*

Appeal from the United States District  
Court for the Western District of  
Wisconsin.

No. 19-cr-160-jdp

James D. Peterson,  
*Chief Judge.*

**ORDER**

Donte Moore, a federal prisoner, challenges the denial of his motion to credit time spent in state custody to his federal sentence. Because the court had no basis to modify his sentence, we affirm.

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\* The appellee is not participating in this appeal. After examining the appellant's brief and the record, we have concluded that the case is appropriate for summary disposition. *See* FED. R. APP. P. 34(a)(2).

In 2020, Moore was convicted of possessing cocaine, *see* 21 U.S.C. § 841(a)(1), and sentenced to 11 years in prison. At the time of sentencing, Moore had spent a year in state custody on state charges. The district court structured Moore’s federal sentence to begin on the date of federal sentencing and run concurrently with the remainder of his state sentence.

About a year and a half later, Moore moved the district court to reduce his federal sentence by one year to account for the time that he had spent in state custody before federal sentencing. Moore provided no basis for the court to modify his sentence; he cited a statute and guidelines provision that inform the court’s decision between imposing concurrent or consecutive prison terms at sentencing. *See* 18 U.S.C. § 3584; U.S.S.G. § 5G1.3. The court denied the motion, explaining that it had authority to modify his sentence “only in limited circumstances,” and none applied to Moore’s case.

On appeal, Moore argues that the court had power to “reassess” his sentence and give him credit for the time he spent in state custody. But “[o]nce a district judge has sentenced a defendant, the judge may ‘modify a term of imprisonment’ only to the extent allowed by retroactive legislation, retroactive changes in the Sentencing Guidelines, a motion for compassionate release, or motion under Criminal Rule 35 or 36.” *United States v. Hible*, 13 F.4th 647, 649–50 (7th Cir. 2021) (quoting 18 U.S.C. § 3582(c)(1)(B)). None of these bases for modification exists here.

AFFIRMED