NONPRECEDENTIAL DISPOSITION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 April 5, 2023*
Decided April 6, 2023

Before

DAVID F. HAMILTON, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 22-2999

LA'RON MATLOCK,
Petitioner-Appellant,

v.

DANIEL SPROUL, Warden,
Respondent-Appellee.

Appeal from the United States District Court for the Southern District of Illinois.

No. 21-cv-1264-DWD

David W. Dugan,
Judge.

O R D E R

La'Ron Matlock appeals the denial of his petition for a writ of habeas corpus under 28 U.S.C. § 2241. Matlock was already serving a 10-year state prison sentence when a federal judge imposed a concurrent 15-year term for a new, unrelated offense. Matlock's habeas challenge to his projected release date rests on a misimpression: that

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

when the federal sentencing judge labeled the newer sentence "concurrent," his intent was to treat it as though it had begun nearly two years earlier, "concurrently" with the start of the state sentence. But as the habeas court explained, the sentencing judge's use of the word "concurrent" suggests not a retroactive starting date for the federal sentence, but only an immediate one: the federal sentence could begin without awaiting the end of the state sentence. We affirm.

Looming over Matlock in August 2012 was a suspended 10-year prison term for possessing a gun as a felon and using a gun with intent to commit a felony in violation of TENN. CODE ANN. §§ 39-17-1307, 39-17-1324. Then he was arrested on new Tennessee charges (the details of which are not relevant here). Later that month, while still in state custody, he was indicted on federal sex-trafficking charges in the Western District of Tennessee. *See* 18 U.S.C. §§ 1591(a), 1594(a). And the next month (September 2012), Tennessee petitioned to revoke the suspension of the 10-year prison term.

A state judge granted the revocation petition months later on March 8, 2013. That is the date Matlock started serving his 10-year state term, although from there he sometimes was in the physical custody of federal officials to litigate the federal charges.

Later, in the Western District of Tennessee, Matlock pleaded guilty to the actual and attempted sex trafficking of a child. In a written plea agreement, the government promised "not to oppose the sentence in this case running concurrently with any other undischarged term of imprisonment in Tennessee State Court." And on February 12, 2015, the judge orally imposed a 180-month (15-year) federal sentence, to be served "together" with, "as opposed to being added onto" his state sentence. The written judgment form confirmed that this federal term would run "concurrent to the undischarged term" of the 10-year state sentence. (The 10-year term ended up being Matlock's only state sentence because the charges that underlay his August 2012 arrest were dismissed in June 2017.)

Now that Matlock's state sentence has run, he seeks to have his federal sentence treated as though it had started on the day the state sentence began (March 8, 2013), rather than on the day the federal sentence was imposed (about two years later, on February 12, 2015). He contends that this is what the federal sentencing judge meant by "concurrent" imprisonment. But the Bureau of Prisons denied Matlock's request for credits reflecting this understanding. Matlock then sought habeas relief in the United States District Court for the Southern District of Illinois (the judicial district in which his current prison, USP Marion, is located). That court, however, denied the petition.

On appeal, Matlock renews his contention that when a district judge orders a federal sentence to run "concurrent to" a partially served state sentence, that means the sentences should be treated as though their starting dates had been concurrent. But that is not the conventional understanding. A sentence does not begin before it is imposed, and we are aware of no statute authorizing a judge to set retroactive starting dates. And nothing in the sentencing record here suggests that the district judge in Tennessee intended to depart from that conventional understanding—even if such a departure were somehow allowed. *Cf.* 18 U.S.C. § 3585(b) (barring prison officials' application of credit against federal sentence for time that has already been credited against another sentence); *United States v. Wilson*, 503 U.S. 329, 335–36 (1992) (holding that sentencing judge cannot order award of § 3585 credit for pre-sentencing detention); *United States v. McNeil*, 573 F.3d 479, 484 (7th Cir. 2009) (noting absence of evidence that district court intended to give McNeil credit for time in state custody). The habeas court was right to reject Matlock's theory.

Matlock argues that U.S.S.G. § 5G1.3(b) supports his reading of the word "concurrent." But he is mistaken. The guideline permits a downward adjustment when a state and federal sentence arise from the same "relevant conduct." Even if we thought that Matlock's firearm and sex-trafficking offenses were related, the sentencing record offers no hint that the judge invoked § 5G1.3(b) or was asked to do so. Outside of § 5G1.3(b), of course, a district judge selecting the number of months of imprisonment under the advisory Guidelines still may consider an offset for prior time in state custody. *United States v. Campbell*, 617 F.3d 958, 960–62 (7th Cir. 2010). But no offset was announced here. And what these options illustrate is that sentencing judges account for prior state custody by adjusting the number of months of imprisonment, not by making federal sentences run retroactively from an earlier starting date.

Finally, Matlock asserts that his plea agreement promised a retroactive starting date (though this does not strike us as a plausible reading); if he was not entitled to one, he insists, then his plea was invalid. But even if that theory had merit, a habeas petition under § 2241 is not the vehicle to pursue it. Instead, as the habeas judge recognized, a constitutional challenge to the voluntariness or knowingness of a plea must be raised on direct appeal or in a motion under 28 U.S.C. § 2255 in the sentencing court. *See* 28 U.S.C. § 2255(e); *see also Chazen v. Marske*, 938 F.3d 851, 856 (7th Cir. 2019) (describing limits of habeas review for federal prisoners). Matlock omitted this theory about the plea agreement from his unsuccessful § 2255 motion, *see Matlock v. United States*, No. 2:16-cv-02793 (W.D. Tenn. Mar. 23, 2020), but that omission does not entitle him to review here.

AFFIRMED