	FILEDLODGEDRECEIVEDCOPY
Brian William Aderhold 1276508: Name and Prisoner Number/Alien Registration Number Federal Correctional Institution Piace of Confinement P.O. Box 9000 Mailing Address	OCT 8 2007
Safford, Arizona state 85548	
(Failure to notify the Court of your change of address may re	sult in dismissal of this action.)
Brian William Aderhold	TES DISTRICT COURT UCT OF ARIZONA
(Full Name of Petitioner) Petitioner,	CASE NO. W 07-531-TUC-JMR
Vs.	(To be supplied by the Clerk)
United States of America (Name of Warden, Jailor or authorized person having custody of Petitioner) Respondent.	PETITION UNDER 28 U.S.C. § 2241 FOR A WRIT OF HABEAS CORPUS BY A PERSON IN FEDERAL CUSTODY)
PETI	TION
 What are you challenging in this petition? ☐ Immigration detention ☐ Bureau of Prisons sentence calculation or loss ☐ Probation, parole or supervised release ☐ Other (explain): 	of good-time credits
2. (a) Name and location - 5 it	
(b) Case or opinion number: 2:05-CR-00544	-001PGC
(c) Decision made by the agency or court: Courtingarceration to be followed by	imposed a sentence of 46 months 60 months of supervised release
Revised 3/9/07	530

	(d) Date of the decision: January 30+h, 2006
3.	Did you appeal the decision to a higher agency or court? Yes D NOXIX
	If yes, answer the following:
	(a) First appeal:
	(1) Name of the agency or court: N/A
	(2) Date you filed: N/A
	(3) Opinion or case number: N/A
	(4) Result: N/A
	(5) Date of result: N/A
	(6) Issues raised: N/A
	Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.
	(b) Second appeal:
	(1) Name of the agency or court: N/A
	(2) Date you filed: N/A
	(3) Opinion or case number: N/A
	(4) Result: <u>N/A</u>
	(5) Date of result: N/A
	(6) Issues raised: N/A
	Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.
	(c) Third appeal:
	(1) Name of the agency or court: N/A

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(3) Opinion or case number: N/A
(4) Result: N/A
(5) Date of result: N/A
(6) Issues raised: N/A
Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.
4. If you did not appeal the decision to a higher agency or court, explain why you did not I did not appeal the decision to a higher court because I understood that I
waived that right in my plea agreement. Therefore, I could not appeal the decision.
 Other than the appeals listed above, have you filed any other petitions, applications or motions concernithe issues raised in this petition? Yes □ NoxX If yes, answer the following: (a) Name of the agency or court: N/A
(b) Date you filed: N/A
(c) Opinion or case number: N/A
(d) Result: N/A
(e) Date of result: N/A
(f) Issues raised: N/A
Attach, if available, a copy of any brief filed on your behalf and a copy of the decision.

6. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the <u>facts</u> supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available administrative remedies on each ground on which you request action by the federal court.

(a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.): The District Court for the District of Utah and the government failed to acknowledge the time I spent in constructive cusdody of the government on pretrial conditions prior to the commencemen of my sentence on February 24th, 2006. The government failed to give me credit for this time, and the court, knowing the statute, failed to order the government to give me credit for the time I spent in constructive custody and was detained by the government by the direct custody of the United States Probation Office in Salt Lake City, Utah. See Attached Memorandum of Law in support of this Petition.
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Memorandum of Law in support of this Petition.
(b) Did you exhaust all available administrative remedies relating to Ground One? Yes □ No ★ X
(c) If yes, did you present the issue to:
☐ The Board of Immigration Appeals
☐ The Office of General Counsel
☐ The Parole Commission
Other:
(d) If you did not exhaust all available administrative remedies relating to Ground One, explain why: The relief being sought is in relation to a violation of my
Constitutional Rights and therefore there was no Administrative
Remedy relating to Ground One to exhaust as the Bureau of Prisons
does not have the legal power invested in it to remedy this
claim. Only a United States District Court can remedy this
violation.

(a) Supporting FACTS (Do not argue credite law. Just state the specific facts that support your claim.): The Ninth Circuit has already followed the Supreme Court's Decision that section 3583 substitutes "official detention" for "GUSTODY" and that it therefore entarges the class of persons who receive pre-sentence credit for time that they were in custody. see attached memorandum of law (b) Did you exhaust all available administrative remedies relating to Ground Two? Yes No KK (c) If yes, did you present the issue to: The Board of Immigration Appeals The Office of General Counsel The Parole Commission Other: (d) If you did not exhaust all svailable administrative remedies relating to Ground Two, explain why: The relief being sought is in relation to a violation of my Constitutional Rights and therefore the Bureau of Prisons does not have authority to remedy this. Only the United States Distri Court can correct this error. Therefore there was no Administrate Remedy to seek in relation to Ground Two.	ROUND TWO: The Ninth Circuit ruled in 2006 that every p	erson
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Remedy to seek in relation to Ground iwo.	Court can correct this error. Therefore there was no	
	Remedy to seek in relation to Ground Two.	

GROUND THI	REE The government and District Court of Utah, by
failing to	o give me credit for the time I was in custody and
detained	by the government that they have placed me in Double
Jeopardy .	and have therefore violated my Fifth Amendment Right
o be pro	tected from Double Jeopardy
43 a	
(a) Suppor	rting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.):
By fa	iling to award me credit for the time that I was on
<u>pretr</u>	ial custody for the government, I am being required to
<u>serve</u>	220 days of my sentence for the same criminal offense
twice	which constitutes DOUBLE JEOPARDY. The United States
Distr	ict Court for the District of Utah and the government
<u>faile</u>	d to give me credit for my pretrial custody and detention ave therefore violated my Fifth Amendment Right.
and h	ave therefore violated my Fifth Amendment Right.
See A	ttached Memorandum of Law in support of this Petition.
	
	
(h) Did voi	u exhaust all available administrative remedies relating to Ground Three? Yes D Noxx
,-, ,	TO THE PERSON OF
(c) If yes, o	did you present the issue to:
	The Board of Immigration Appeals
	The Office of General Counsel
•	The Parole Commission
	Other:
•	
(d) If you	did not exhaust all available administrative remedies relating to Bround Three explain when
Ground	did not exhaust all available administrative remedies relating to Ground Three, explain why: Three is a direct violation of a Constitutional Right and
can no	t be remedied by the Bureau of Prisons. Therefore there
was no	administrative remedy to exhaust. This issue or ground
can on	ly be remedied in a United States District Court.
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a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.) The Ninth Circuit Court of Appeals Concluded in 2006 that if a person is Detained in a pretrial setting, while enjoying the presumption of innocence that it is only fair that the government give him credit for that time he is in custody. Detention is defined as being in custody and custody is being under the control for inspection, preservation, and security. These definitions define my pretrial conditions. I was in the direct custody of the United States Probation Office under Prestrial services in Salt Lake City, Utah, which resulted from a court order sought by the government. Therefor I was in the custody of the government during this time. The Ninth Circuit has already determined that I'm eligible for a credit of this time spent in custody and detained. The failure of this honorable court to order this time credited towards the service of my sentence would violate my constitution right to be protected from Double Jeopardy as granted by the Fifth Amendment to the Constitution. See Attached Memorandum of Law in Support of this Petition for Writ of Habeas Corpus. (b) Did you exhaust all available administrative remedies relating to Ground Four? Yes Now Cound Four is not an issue that can be corrected or remedied by the Bureau of Prisons. Therefore there were no administrate.		a person in custody. Custody is defined as the
Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.) The Ninth Circuit Court of Appeals Concluded in 2006 that if a person is Detained in a pretrial setting, while enjoying the presumption of innocence that it is only fair that the government give him credit for that time he is in custody. Detention is defined as being in custody and custody is being under the control for inspection, preservation, and security. These definitions define my pretrial conditions. I was in the direct custody of the United States Probation Office under Pre-trial services in Sath Lake City, Utah, which resulted from a court order sought by the government. Therefor I was in the custody of the government during this time. The Ninth Circuit has already determined that I'm eligible for a credit of this time spent in custody and detained. The failure of this honorable court to order this time credited fowards the service of my sentence would violate my constitution towards the service of my sentence would violate my constitution of Law in Support of this Petition for Writ of Habeas Corpus. (b) Did you exhaust all available administrative remedies relating to Ground Four? Yes \(\) Not (c) If yes, did you present the issue to: \[\] The Board of Immigration Appeals \[\] The Office of General Counsel \[\] The Parole Commission \[\] Other: (d) If you did not exhaust all available administrative remedies relating to Ground Four, explain who foculd four is not an issue that can be corrected or remedied by the Bureau of Prisons. Therefore there were no administrative remedies relating to the corrected or remedied that the surface of the prisons of the sought. The United State District Court is the only legal entitity that can hear and address this issue to make a correction, as it is a violation		ontrol of a thing or percon for inspection, preservation
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in the direct custody of the United States Probation Office under Pre-trial services in Salt Lake City, Utah, which resulted from a court order sought by the government. Therefor I was in the custody of the government during this time. The Ninth Circuit has already determined that I'm eligible for a credit of this time spent in custody and detained. The failure of this honorable court to order this time credited towards the service of my sentence would violate my constitution right to be protected from Double Jeopardy as granted by the Fifth Amendment to the Constitution. See Attached Memorandum of Law in Support of this Petition for Writ of Habeas Corpus. (b) Did you exhaust all available administrative remedies relating to Ground Four? Yes Now Now Now Yes, did you present the issue to: The Board of Immigration Appeals The Office of General Counsel The Parole Commission Other: (d) If you did not exhaust all available administrative remedies relating to Ground Four, explain when Ground Four Is not an Issue that can be corrected or remedied by the Bureau of Prisons. Therefore there were no administrative remedies relating to Cround Four, explain when Ground Four is not an Issue that can be corrected or remedied by the Bureau of Prisons. Therefore there were no administrative remedies relating to Cround Four is not an Issue that can be sought. The United State District Court is the only legal entitity that can hear and address this issue to make a correction, as it is a violation	(a) Supporting The Nintle Nintle Person the presence government Detention	g FACTS (Do not argue or cite law. Just state the specific facts that support your claim.): h Circuit Court of Appeals Concluded in 2006 that if is Detained in a pretrial setting, while enjoying umption of innocence that it is only fair that the nt give him credit for that time he is in custody. n is defined as being in custody and custody is being
resulted from a court order sought by the government. Interest I was in the custody of the government during this time. The Ninth Circuit has already determined that I'm eligible for a credit of this time spent in custody and detained. The failure of this honorable court to order this time credited towards the service of my sentence would violate my constitution if the protected from Double Jeopardy as granted by the Fifth Amendment to the Constitution. See Attached Memorandum of Law in Support of this Petition for Writ of Habeas Corpus. (b) Did you exhaust all available administrative remedies relating to Ground Four? Yes Now	These de	finitions define my pretrial conditions. I was
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Fifth Amendment to the Constitution. See Attached Memorandum of Law in Support of this Petition for Writ of Habeas Corpus. (b) Did you exhaust all available administrative remedies relating to Ground Four? Yes Now	for a cr	edit of this time spent in custody and detained. The
Fifth Amendment to the Constitution. See Attached Memorandum of Law in Support of this Petition for Writ of Habeas Corpus. (b) Did you exhaust all available administrative remedies relating to Ground Four? Yes Now	منا الماسالية	he protected from Double Jeopardy as granted by the
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remedies related to this ground to be sought. The United State District Court is the only legal entitity that can hear and address this issue to make a correction, as it is a violation	(b) Did you e	exhaust all available administrative remedies relating to Ground Four? Yes NOW I you present the issue to: The Board of Immigration Appeals The Office of General Counsel The Parole Commission
remedies related to this ground to be sought. The United State District Court is the only legal entitity that can hear and address this issue to make a correction, as it is a violation	(b) Did you e	exhaust all available administrative remedies relating to Ground Four? Yes Now present the issue to: The Board of Immigration Appeals The Office of General Counsel The Parole Commission Other: Id not exhaust all available administrative remedies relating to Ground Four, explain why our is not an issue that can be corrected or remedied
District Court is the only legal entitity that can hear and address this issue to make a correction, as it is a violation	(b) Did you of (c) If yes, did	exhaust all available administrative remedies relating to Ground Four? Yes Now Now Now Now Note that issue to: The Board of Immigration Appeals The Office of General Counsel The Parole Commission Other: Id not exhaust all available administrative remedies relating to Ground Four, explain who your is not an issue that can be corrected or remedied gureau of Prisons. Therefore there were no administrative trations.
AUGIESS CHIS ISSUE CO MONTO CO TOTAL	(b) Did you of (c) If yes, did (d) If you do Ground Fremedies	exhaust all available administrative remedies relating to Ground Four? Yes Now Now Property the issue to: The Board of Immigration Appeals The Office of General Counsel The Parole Commission Other: Id not exhaust all available administrative remedies relating to Ground Four, explain why your is not an issue that can be corrected or remedied Bureau of Prisons. Therefore there were no administrative remedies related to this ground to be sought. The United States
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Please answer these additional questions about this petition:

(Cla	ims	e you challenging your conviction or sentence in any of the challenging a federal conviction or sentence may only be a § 2255 motion is legally inadequate or ineffective.)	e grounds raise e raised in a r	ed above? Ye notion under		N oxiX 2255,
	If y	res, answer the following:				
	(a)	Have you filed a motion under 28 U.S.C. § 2255?	Yes □	No □		
		If yes, answer the following:				
		(1) Name of court: N/IA			- Carlo de la carl	usa usa ana
		(2) Case number: N/A				·
		(3) Opinion or case number: N/A				
		(4) Result: N/A				······································
		(5) Date of result: N/A				
		(6) Issues raised: N/A				

		Attach, if available, a copy of any brief filed on your behalf and	l a copy of the d	ecision.		**************************************
	Ri	Explain why the remedy under § 2255 is inadequate or ecause I am seeking a remedy for a ights to be protected from Double Jroperly sought in a § 2241 Petition iolation that occurred during my cr	as it i	s a Cons	titution	nal
8.	Ift	this case concerns immigration removal proceedings, answ	ver the follow	ing:		
	(a)	Date you were taken into immigration custody: N/P	A			
	(b)	Date of removal or reinstatement order: N/A				
	(c)	Did you file an appeal with the Board of Immigration A	Appeals?	Yes 🗆	No XX	
		(1) Date you filed: N/A			6	
		(2) Case number: N/A				

	(3) Result: N/A
	(4) Date of result: N/A
	(5) Issues raised: N/A
(d)	Attach, if available, a copy of any brief filed on your behalf and a copy of the decision. Did you file an appeal with the federal court of appeals? Yes Noxx
	(1) Name of the court: N/A (2) Date you filed: N/A (3) Case number: N/A
	(4) Result: N/A (5) Date of result: N/A (6) Issues raised: N/A
	Attach, if available, a copy of any brief filed on your behalf and a copy of the decision. That this court correct the
Doubl of Pr and D that	ioner asks that the Court grant the following relief: That this court correct the e Jeopardy that has occured against me by ordering the Bureau isons to credit me for the 220 days that I spent in the custody etention of the government during my pretrial proceedings and this petition be handled in a Summary Way. See Attached Memorandum her relief to which Petitioner may be entitled. (Money damages are not available in habeas corpus
Habeas C	clare under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of corpus was placed in the prison mailing system on(month, day, year). **Corpus was placed in the prison mailing system on
N/A	N/A
Signature	of attorney, if any Date

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