

FILED

'AUG - 4 2009

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY [Signature]
DEPUTY CLERK

Armando Diaz Diaz
Name
69539-208
Prison Number
C.C.C.C., Box 3001-0001
California City, California 93504

Address or Place of Confinement

Note: If represented by an attorney, write attorney's name, address & telephone number

United States District Court
EASTERN DISTRICT OF CALIFORNIA

Armando Diaz Diaz
Full Name (First, Middle, Last)

CASE NO. 1:09-cv-1363 SMS(HC)
(to be supplied by the Clerk of the
United States District Court)

Petitioner,

vs.

Mr. J. Sugrue

Name of Warden
(or other authorized person having custody of petitioner)

(HC) Armando Diaz Diaz v. Sugrue

**PETITION FOR
WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241
BY A PERSON IN FEDERAL CUSTODY**

Doc. 4 Att. 1

Respondent.

PLEASE COMPLETE THE FOLLOWING (check the appropriate number):

This petition concerns:

- 1. _____ a conviction
- 2. x a sentence
- 3. _____ jail or prison conditions
- 4. _____ prison discipline
- 5. _____ a parole problem
- 6. _____ other

CAUTION: If you are attacking a federal conviction, sentence or judgment, you must first file a direct appeal or motion under 28 U.S.C. § 2255 in the federal court which entered judgment.

PETITION

- (1) Place of detention: C.C.A, California City Correctional Center
- (2) Name and location of court which imposed sentence: U.S. District Court, District of Oregon, Eugene Division 211 E. 7th Avenue, Room 100, Eugene, OR 97401
- (3) Offense(s) and indictment number(s) (if known) for the sentence imposed:
Eluding Examination and Inspection Docket No. CR 08-60055-HO-1
- (4) The date the sentence was imposed and the terms of the sentence:
August 19, 2008 Sentence imposed, 24 month term
- (5) What was your plea (check one): Not guilty () Guilty (X) Nolo contendere ()
- (6) Kind of trial (check one): Jury () Judge only ()
- (7) Did you appeal from the judgment of conviction or the imposition of sentence: Yes () No ()
- (8) If you did appeal, answer the following for *each* appeal:

FIRST APPEAL:

Name of court: _____
 Grounds raised (list each):
 1) _____
 2) _____
 Result/Date of result: _____

SECOND APPEAL:

Name of court: _____
 Grounds raised (list each):
 1) _____
 2) _____
 Result/Date of result: _____

GROUND FOR THIS 28 U.S.C. § 2241 PETITION

- (9) State *CONCISELY* every ground on which you claim that your sentence is being executed in an illegal manner. Summarize *briefly* the facts supporting each ground

CAUTION: If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

→ **GROUND ONE** Seeking resolution on my time to run concurrent with the State time I did.

Supporting *FACTS* for *GROUND ONE* (tell your story *BRIEFLY* without citing cases or law).

CAUTION: You must state *facts, not conclusions*, in support of your grounds. A rule of thumb to follow is -- who did exactly what to violate your rights at what time or place.

My Federal Public Defender told me to seek the time to run concurrent. I was told by him that my time should run concurrent. And this Correctional Center don't want to give me credit for that time.

→ **GROUND TWO** _____

Supporting *FACTS* for *GROUND TWO* (tell your story *BRIEFLY* without citing cases or law).

ADMINISTRATIVE APPEALS

(10) Have you presented the claims raised in Question #9 of this petition to prison officials in a prison administrations appeal?

Yes () No () If your answer is no, explain why not: _____

If your answer is yes, answer the following for *each* administrative appeal:

FIRST ADMINISTRATIVE APPEAL Level of appeal: 14-5A

Grounds raised (list each):

- 1) To run my time concurrent State with Fedral
- 2) _____

Result/Date of result: May 27, 2009

SECOND ADMINISTRATIVE APPEAL Level of appeal: 14-5B

Grounds raised (list each):

- 1) To run my time concurrent State with Fedral
- 2) _____

Result/Date of result July 5, 2009

THIRD ADMINISTRATIVE APPEAL

Level of appeal: _____

Grounds raised (list each):

- 1) _____
- 2) _____

Result/Date of result: _____

FOURTH ADMINISTRATIVE APPEAL

Level of appeal: _____

Grounds raised (list each):

- 1) _____
- 2) _____

Result/Date of result: _____

- (11) Is the grievance process completed? Yes () No (x)

PREVIOUS PETITIONS

- (12) Have you filed previous petitions for habeas corpus under 28 U.S.C. § 2241 or 28 U.S.C. § 2255, or any other applications, petitions or motions with respect to the claims raised in Question #9 of this petition?

Yes () No (x)

- (13) If your answer to Question #12 was yes, give the following information for *each* previous petition:

FIRST PREVIOUS PETITION

Name of court: _____

Nature of proceeding: _____

Grounds raised (list each):

- 1) _____
- 2) _____

Result/Date of result: _____

SECOND PREVIOUS PETITION

Name of court: _____

Nature of proceeding: _____

Grounds raised (list each):

- 1) _____
- 2) _____

Result/Date of result: _____

- (14) If the claims raised in Question #9 of this petition concern your conviction or sentence, explain why you are filing your petition pursuant to § 2241 instead of § 2255.

I was taken out of State before my sentence in the State County Jail, and after my Federal sentence the Federal took me back to the State County Jail. And they both don't want to give me Jail credit for that. And my Attorney told me to file it.

(15) Are you presently represented by counsel?

Yes () No (X)

If so, provide your attorney's name, address, and telephone number:

(16) If you are seeking leave to proceed *in forma pauperis*, have you completed the application setting forth the required information?

Yes () No (X)

Note: If your answer is no, you must send a \$5.00 filing fee to the court with your petition.

WHEREFORE, petitioner prays that the court grant petitioner relief to which he may be entitled in this proceeding.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

07-23-09
(Date)

Armando DIAZ
(Signature of Petitioner)

(Signature of Attorney, if any)

I hereby certify that on July 23, 2009: I have mailed by the United States Postal Service that is located at California City Correctional Institution P.O. BOX 3001-0001 California City, CA 93504.

The document(s) to the following participant(s):

Clerk, United States District Court
1130 "O" Street, Room 5000
Fresno, California 93721

(1) Original

(2) Copies

A true and correct copy of the attached document(s) indentified as follows:

**PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. §2241 BY A PERSON
IN FEDERAL CUSTODY**

(1) Attorney Letter

(1) 14-5A

(1) 14-5B

I further declare under the penalty of perjury that the foregoing is true and correct.

Dated: 07-23 - 2009.

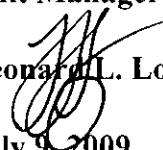
Armando Diaz

Armando Diaz Diaz
Reg. No. 69539-208



*9 copies of memo
for 7/20/09
1600*

CALIFORNIA CITY CORRECTIONAL CENTER

TO: Unit Manager (N Unit)
FROM:  Leonard L. Lopez, Executive Assistant/Grievance Officer
DATE: July 9, 2009
RE: CCA Grievance form for inmate Diaz-Diaz, Armando
#69539-208 N100-204

The attached form is being returned without action. Policy 14-5 requires inmates to attempt an informal resolution first via a recent answered Inmate/Resident Request to Staff Member. If that answer is not acceptable then the inmate may file the CCA Inmate/Resident Grievance Form 14-5A with a copy of the Inmate/Resident Request to Staff Member attached to the Grievance form within seven (7) days of the alleged incident. The next step is the CCA Inmate/Resident Grievance Appeal to Warden Form 14-5A (same form) with copies of the answered Grievance form and Inmate Request to Staff Member within five (5) days of receiving the decision from the Grievance Officer.

Unit Manager, will you advise the inmate of this information:

This grievance is returned with no action because the inmate did not follow CCA Policy 14-5; he did not sign and date the 14-5B. A Grievance must be filed within five days of the Informal Response which is dated June 5, 2009. This exceeds the time frame outline in CCA Policy 15-5.

INMATE/RESIDENT GRIEVANCE

FULL NAME:	Armando Díaz Diaz		
NUMBER:	69539-208	HOUSING ASSIGNMENT:	N-100

INFORMAL RESOLUTION ATTACHED (Not required for an emergency grievance)? YES NO

GRIEVANCE CATEGORY (CIRCLE ONE):

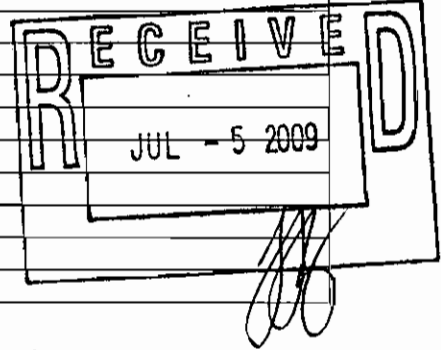
1. Facility Staff	8. Dental Services	15. Housing
2. Access to Legal Materials	9. Mental Health Services	16. Laundry
3. Denied Access to Informal Resolution/Grievance Process	10. Trust Account	17. Recreation
4. Reprisal for Using Informal Resolution/Grievance Process	11. Commissary	18. Visitation
5. Safety/Security	12. Food Service	19. Programs-education, work, religious, etc.
6. Sanitation	13. Mail	20. Violations of federal or state regulations, laws, court decisions (i.e. ADA or Constitutional rights)
7. Medical Services	14. Intake	21. Other

STATE GRIEVANCE: (Include documentation, witnesses, date of incident, and any other information pertaining to the grievance subject. Attach additional pages if necessary).

I'm seeking resolution on my time to run concurrent with my State time. Enclose is a copy of the Oregon Department Of Corrections J & C. And it don't add up to what Records is telling me. And Also I'm including all the documents I've filed up to now. Please see attach paper work.

Requested Action: (Attach additional pages if necessary)

Seeking to get time credit for the time I was in Oregon Department of Corrections.



Inmate/Resident's Signature: _____ Date Submitted: _____

RESPONDING STAFF MEMBER'S REPORT: (Attach additional pages if necessary. All pages must include the grievance number.)

RESPONDING STAFF MEMBER'S DECISION: (Attach additional pages if necessary. All pages must include the grievance number.)

Responding Staff Member's Printed Name: _____ Title: _____
Responding Staff Member's Signature: _____ Date: _____
Inmate/Resident's Signature (upon receipt): _____ Date: _____

INMATE/RESIDENT APPEAL (Attach additional pages if necessary. All pages must include the grievance number.)

WARDEN/ADMINISTRATOR'S DECISION: (Attach additional pages if necessary. All pages must include the grievance number.)

Warden/Administrator's Signature: _____ Date: _____
Inmate/Resident's Signature (upon receipt) _____ Date: _____

INFORMAL RESOLUTION

Records

To be completed by inmate/resident:

Date: 5/27/09

Name (Print): Dias Armando Dias
Last Name First Name Middle Initial

Number: 69539-208 HOUSING ASSIGNMENT: N-100

Description of issue, problem, and solution you suggest:

I present you the following.
I've tried by all means available to me in this place to have my sentence Computation corrected
Attached please find a reply sent to me by my public defender, in it he tells me that the Bureau of Prisons should give me credit for that time, unless they have documents from the Oregon Department of Corrections, that say that time was -----

Attach additional pages, if necessary.

FOR STAFF USE ONLY:

Date received from inmate/resident: 05-12-09

Name of staff member completing informal resolution process: Roseeta Edwards

Date response due to inmate/resident: 06-05-09

Date and time initial meeting held with the inmate/resident: 06-05-09 8:30 AM

Additional information received from initial meeting:

<u>No additional information needed.</u>

Names of staff members involved with the inmate/resident's issue:

<u>Roseeta Edwards, Records Supervisor</u>
<u>Jean Koray, Records Manager</u>

Distribution:
Original: Facility
Copy: Inmate/Resident

Page 2

credited to my State sentence.

If you have those documents could you please provide me with a copy , so I can file a 28 U.S.C.2241 in the United District Court for the Central District of California.

Armando Dias Dias

On this day of May 27, 2009

Dates and times of contact with staff members concerning the inmate/resident's issue:

Jean Kahan 06-04-09

Additional information received from meetings with staff members:

None

STAFF RESPONSE:

I spoke to inmate Diaz Diaz and showed him documentation from Oregon DOC jail time credit on state sentence from 02-22-08 until 07-16-08 credited to state sentence. Tentative completion date if remedy suggested: 06-05-09

Completion of Informal Resolution Process:

By signing below, the inmate/resident verifies agreement with the remedy suggested above. If the inmate/resident is not satisfied with the remedy suggested above, the inmate/resident is not required to sign below and may choose to file a formal grievance with the Facility Grievance Officer. In either case, the inmate/resident will receive a copy of this form on the day the final resolution process is completed.

Inmate Signature: Diaz Date: 6-5-09
Designated Staff Signature: [Signature] Date: 6-05-09
*Witness Signature: _____ Date: _____

*In the event the inmate/resident refuses to sign this form, a witness signature must be obtained to verify that the inmate/resident was offered the opportunity for informal resolution.

Informal Resolution Outcome: [X] RESOLVED [] UNRESOLVED

Distribution:
Original: Facility
Copy: Inmate/Resident

FEDERAL PUBLIC DEFENDER

DISTRICT OF OREGON

151 W. 7th, Suite 510

Eugene, OR 97401

541-465-6937 / Fax 541-465-6975

STEVEN T. WAX
Federal Public Defender
STEPHEN R. SADY
Chief Deputy Defender
Steven Jacobson
Bryan E. Lessley▲
Nancy Bergeson
Christopher J. Schatz
Ellen C. Pitcher
Craig Weirnerman▲
Mark Bennett Weintraub▲
Gerald M. Needham
Thomas J. Hester
Ruben L. Iñiguez
Anthony D. Bornstein
Lisa Hay

Main Office:
101 SW Main Street, Suite 1700
Portland, OR 97204
503-326-2123
Fax 503-326-5524

Branch Office:
15 Newtown Street
Medford, OR 97501
541-776-3630
Fax 541-776-3624

Tonia L. Moro +
Susan Russell
Patrick Ehlers
Francesca Freccero
C. Renée Manes
Amy Baggio
Neil Brown
Kristina Hellman
Harold DuCloux III
Alison M. Clark
Brian Butler+
Thomas E. Price
Lynn Deffebach*
Michelle Sweet*

▲ Eugene Office
+ Medford Office
*Research/Writing Attorney

April 30, 2009

LEGAL MAIL

**CONFIDENTIAL: ATTORNEY/CLIENT CORRESPONDENCE
OPEN ONLY IN THE PRESENCE OF THE INMATE**

Armando Diaz-Diaz
Reg. No. 69539-208
California City Correctional Center
P. O. Box 3001-0001
California City, CA 93509

Dear Mr. Diaz-Diaz:

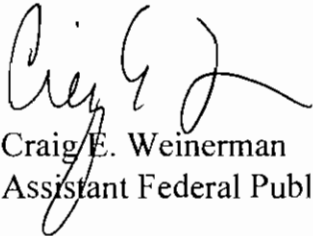
You have asked the Bureau of Prisons to give you custody credit from February 24, 2008, the date you committed the illegal reentry offense, to July 22, 2008, the date you were released from state custody to federal custody.

The Bureau of Prisons has rejected your request. They say you were held in primary state custody during that time and they claim the time cannot be applied to your federal sentence because it was applied to your state sentence.

The Bureau of Prisons cites 18 U.S.C. §3585(b). That section states that you shall be given custody credit for time spent in official detention "as a result of the offense for which the sentence was imposed . . . that has not been credited against another sentence." The question is whether the time was credited against your state sentence. If it was, you get no credit on your federal sentence. As I said in my March 23, 2009, letter, the judgment in your state case does not say you received credit on your concurrent 21-month state sentence for any time served between February 24, 2008, and July 22, 2008. Thus, federal law requires that the Bureau of Prisons give you custody credit for that time unless they have documents from the Oregon Department of Corrections that say that time was credited to your state sentence.

Unfortunately, I cannot compel the Bureau of Prisons to give you custody credits. You must challenge the Bureau of Prisons' denial of custody credits by filing appeals with the team unit, the warden, the region, and national. If you are denied relief, you may then file a petition under 28 U.S.C. § 2241 in the United States District Court for the Central District of California. I am enclosing a copy of a sample 2241 petition.

Sincerely yours,



Craig E. Weinerman
Assistant Federal Public Defender

CEW:le
Enclosure

12/12/08
14:56:50

Location: IBRO

SID#: 10480910

Court Name: DIAZ-DIAZ, ARMANDO
True Name:
Birth Date: 10/30/1972
Sex/Race: M/H
Hair/Eyes: BLACK/BROWN
Height/Weight: 5'03"/116 lbs

Orig Adm Date: 10/09/2008
Curr Adm Date: 10/09/2008
Proj Rele Date: 10/07/2009
Phys Rele Date:
Maximum Date: 02/12/2010
Parole Release:
Good Time Date:

GHOST Rel Dt: 00/00/0000

SG Earned Date: 01/06/2010
SG Proj Date: 10/07/2009

02 SG
Offense (abbrev) DELIV METH
137.635/137.700 N/N
Sent Reduct/Ovrd E/N
Sentence yy-mm-dd 000-021-000
Court docket# 08FE0290ST
Docket county/count DESC/1
Name of judge TIKTIN
Date convicted 10/09/2008
Sentence begin dt. 10/09/2008
Time served credit 00146
GT-ET credit/Lost 0037
Inop/Merit GT
MAX sent date 02/12/2010
SG earned date 01/06/2010
Proj rele/GT date 10/07/2009
Termination date
Termination code
PPS sent length 000-036-000

Febrero 22 08 → 21 Mes
→ 24 estado
→ 23 estado
→ 20 estado

INMATE COPY

INFORMAL RESOLUTION

To be completed by inmate/resident:

Date: 5/27/09

Name (Print): Dias Armando Dias
Last Name First Name Middle Initial

Number: 69539-208 HOUSING ASSIGNMENT: N-100

Description of issue, problem, and solution you suggest:

I present you the following.
I've tried by all means available to me in this place to have my sentence Computation corrected
Attached please find a reply sent to me by my public defender, in it he tells me that the Bureau of Prisons should give me credit for that time, unless they have documents from the Oregon Department of Corrections, that say that time was -----

Attach additional pages, if necessary.

FOR STAFF USE ONLY:

Date received from inmate/resident: _____

Name of staff member completing informal resolution process: _____

Date response due to inmate/resident: _____

Date and time initial meeting held with the inmate/resident: _____

Additional information received from initial meeting:

Names of staff members involved with the inmate/resident's issue:

Distribution:
Original: Facility
Copy: Inmate/Resident

Page 2

credited to my State sentence.

If you have those documents could you please provide me with a copy , so I can file a 28 U.S.C.2241 in the United District Court for the Central District of California.

Armando Dias Dias

On this day of May 27, 2009

**FEDERAL PUBLIC DEFENDER
DISTRICT OF OREGON**

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Federal Public Defender
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Chief Deputy Defender
Steven Jacobson
Bryan E. Lessley▲
Nancy Bergeson
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April 30, 2009

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Armando Diaz-Diaz
Reg. No. 69539-208
California City Correctional Center
P. O. Box 3001-0001
California City, CA 93509

Dear Mr. Diaz-Diaz:

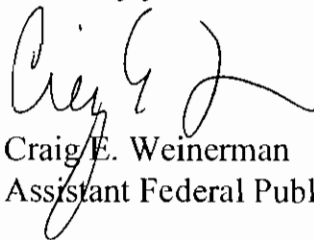
You have asked the Bureau of Prisons to give you custody credit from February 24, 2008, the date you committed the illegal reentry offense, to July 22, 2008, the date you were released from state custody to federal custody.

The Bureau of Prisons has rejected your request. They say you were held in primary state custody during that time and they claim the time cannot be applied to your federal sentence because it was applied to your state sentence.

The Bureau of Prisons cites 18 U.S.C. §3585(b). That section states that you shall be given custody credit for time spent in official detention "as a result of the offense for which the sentence was imposed . . . that has not been credited against another sentence." The question is whether the time was credited against your state sentence. If it was, you get no credit on your federal sentence. As I said in my March 23, 2009, letter, the judgment in your state case does not say you received credit on your concurrent 21-month state sentence for any time served between February 24, 2008, and July 22, 2008. Thus, federal law requires that the Bureau of Prisons give you custody credit for that time unless they have documents from the Oregon Department of Corrections that say that time was credited to your state sentence.

Unfortunately, I cannot compel the Bureau of Prisons to give you custody credits. You must challenge the Bureau of Prisons' denial of custody credits by filing appeals with the team unit, the warden, the region, and national. If you are denied relief, you may then file a petition under 28 U.S.C. § 2241 in the United States District Court for the Central District of California. I am enclosing a copy of a sample 2241 petition.

Sincerely yours,



Craig E. Weirnerman
Assistant Federal Public Defender

CEW:le
Enclosure

INMATE REQUEST TO STAFF MEMBER - RESPONSE

Diaz-Diaz, Armando

69539-208

N01-204U

This is in response to your 'Inmate Request to Staff Member' received on 05-07-2009, which was forwarded by the Warden of California City Correctional Center for a response directly to you. You state that you disagree with your sentence computation and the Inmate Request to Staff Member Responses you received from the Records Office on 04/10/09 and 04/14/09 concerning your release date. You also provided copies of two letters from your Federal Public Defender in the District of Oregon stating that he also disagreed with your release date.

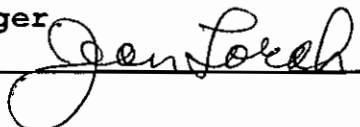
As the Records Manager, I met with you on Tuesday, May 12, 2009 to discuss your concerns. As I explained, the State Judge's ruling to run your state sentence concurrent to your Federal sentence only changes the credit you receive on your Federal sentence if your Federal Judge orders your Federal sentence to run concurrent to your state sentence on your Federal Judgment & Commitment Order (J&C). This did not happen in your case; the J&C is silent, which means that your Federal sentence is to run consecutive to your State sentence.

I showed you on your paperwork from the Oregon Department of Corrections where they credited you 146 days on your State sentence, covering the period of February 22nd through July 16th of 2008, which is why the jail credit toward your Federal sentence begins on July 17, 2008 and runs through August 18, 2008, the day before your sentence was imposed and begins to run (August 19, 2008). As explained in the copout response dated 04/14/09, per 18 U.S.C. 3585(b), you receive credit for any time spent in custody from the date of offense (11-18-2006) "...that has not been credited against another sentence."

If you still have concerns with your sentence computation, you can obtain an Informal Resolution form from your Unit Team.

Should you have any further questions, please direct them to Jean Lorah, Records Manager.

Jean Lorah,
Records Manager



5-12-09
Date

INMATE REQUEST TO STAFF MEMBER



RECEIVED

#105 5-7-09

14-5C

CCA BOP FACILITY
(facility name)

TO: (Name and Title of Staff Member)

The Warden, Mr. Segru

DATE:

5/02/09

FROM:

Diaz Diaz Armando

REGISTER NO.

69539-208

WORK ASSIGNMENT:

ORDERLY

UNIT:

N,100,204 UP

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

I'd like to present you the following issue. On April 4/09 I wrote a copout to records dept asking for a computation of my sentence, attached is their reply with wich I don't agree. I was sentenced to 24 months on a federal court, records show my release date for April 13,2010, counting from ~~March~~^{Feb 22} 22/2008 to April 13,2010, is way more than 24 months. The State Judge ordered that my sentence be runed concurrent with any federal term I get from a federal judge. Attached is a report from the Oregon Department of corrections stating my proj rel date for 10/7/2009

DO NOT WRITE BELOW THIS LINE

DISPOSITION:

See attached Response.

Signature: *J. Lorch, Records Mgr*

Date: *5-12-09*

Original - Inmate Central File
Copy - Inmate/Resident

**FEDERAL PUBLIC DEFENDER
DISTRICT OF OREGON**

STEVEN T. WAX
Federal Public Defender
STEPHEN R. SADY
Chief Deputy Defender
Steven Jacobson
Bryan E. Lessley▲
Nancy Bergeson
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Fax 503-326-5524

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Medford, OR 97501
541-776-3630
Fax 541-776-3624

Tonia L. Moro +
Susan Russell
Patrick Ehlers
Francesca Freccero
C. Renée Manes
Amy Baggio
Nell Brown
Kristina Hellman
Harold DuCloux III
Alison M. Clark
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▲ Eugene Office
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*Research/Writing Attorney

March 23, 2009

LEGAL MAIL

**CONFIDENTIAL: ATTORNEY/CLIENT CORRESPONDENCE
OPEN ONLY IN THE PRESENCE OF THE INMATE**

Armando Diaz-Diaz
Reg. No. 69539-208
California City Correctional Center
P. O. Box 3001-0001
California City, CA 93509

Dear Mr. Diaz-Diaz:

I believe the Bureau of Prisons has incorrectly calculated your custody credits.

The date of the offense in your federal case was February 24, 2008. You were in state custody at the time awaiting trial on charges of unlawful possession and unlawful delivery of a controlled substance. You were released on those charges on July 16, 2008, and made your first appearance on the federal charges on August 4, 2008.

You were sentenced to the 24-month term on the federal case on August 19, 2008. You returned to Deschutes County and received a concurrent 21-month sentence on the delivery/possession charges. The state judgment does not say you received credit for time previously served. The Bureau of Prisons should give you credit for time served back to February 24, 2008. See 18 U.S.C. § 3585(b).

You must challenge the Bureau of Prison's denial of custody credits by filing appeals with your team unit, the warden, the region, and national.

March 23, 2009

Page 2

I am enclosing a copy of the state judgment.

Sincerely yours,



Craig E. Weinerman
Assistant Federal Public Defender

CEW:le
Enclosure

AUG 26 2008

FEDERAL PUBLIC DEFENDER
EUGENE

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

Case Number: CR 08-60055-HO-1

ARMANDO DIAZ-DIAZ

USM Number: 69539-208

Craig Weinerman
Defendant's Attorney

William Fitzgerald
Assistant U.S. Attorney

FILED 08 AUG 26 12:11 USDJ-CRE

THE DEFENDANT:

- pleaded guilty to counts 1 and 2 of the Information
- pleaded nolo contendere to count(s) _____ which was accepted by the court.
- was found guilty on count(s) _____ after a plea of not guilty.

The defendant is adjudicated guilty of the following offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number</u>
8 USC 1325(a)	Eluding Examination and Inspection	On or about Nov. 28, 2006	1
8 USC 1325(a)	Eluding Examination and Inspection	<u>On or about Feb. 24, 2008</u>	2

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) _____, and is discharged as to such count(s).
- Count(s) _____ is/are dismissed on the motion of the United States.
- The defendant shall pay a special assessment in the amount of \$10 for Count 1 and \$100 for Count 2, for a total of \$110 for Counts 1 and 2 payable immediately to the Clrk of the U.S. District Court. (See also the Criminal Monetary Penalties sheet.)

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and the United States Attorney of any material change in the defendant's economic circumstances.

August 19, 2008

Date of Imposition of Sentence

Signature of Judicial Officer

MICHAEL R. HOGAN UNITED STATES DISTRICT JUDGE

Name and Title of Judicial Officer

August 26, 2008

Date

certified to be a true and correct copy of original filed in my office.

8-26-08

Sheryl S. McConnell, Clerk
Deputy

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Judgment in a Criminal Case
Attachment (Page 3)- Statement of Reasons
DEFENDANT: DIAZ-DIAZ, ARMANDO
CASE NUMBER: CR 08-60055-HO-1
DISTRICT: Oregon

STATEMENT OF REASONS
Not for Public Disclosure

IV ADVISORY GUIDELINE SENTENCING DETERMINATION(Check only one.)

A. The sentence is within the advisory guideline range that is not greater than 24 months, and the court finds no reason to depart

V DEPARTURES AUTHORIZED BY THE ADVISORY SENTENCING GUIDELINES (If applicable)
This section does not apply for this case

VI COURT DETERMINATION FOR SENTENCE OUTSIDE THE ADVISORY GUIDELINE SYSTEM
This section does not apply for this case

VII COURT DETERMINATIONS OF RESTITUTION

A. Restitution Not Applicable.

B. Total Amount of Restitution: \$

C. Restitution not ordered (Check only one.):

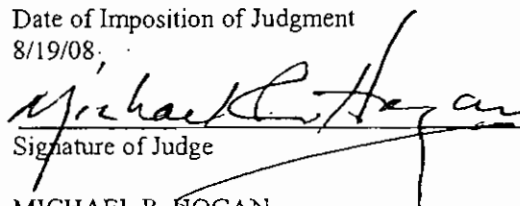
VIII ADDITIONAL FACTS JUSTIFYING THE SENTENCE IN THIS CASE (If applicable)

* Pursuant to Guideline 5G1.1(a), when the minimum of the advisory guideline range exceeds the statutory maximum sentence, the sentence becomes the guideline range. The maximum sentence has been imposed.

Sections I,II, III, IV, and VII of the Statement of Reasons form must be completed in all felony cases.

Defendant's Soc.Sec.No.: None
Defendant's Date of Birth 10/13/72
Defendant's Residence Address: 1153 Kenwood Drive
Madras, OR 97743
Defendant's Mailing Address: Same as above

Date of Imposition of Judgment
8/19/08.


Signature of Judge

MICHAEL R. HOGAN
UNITED STATES DISTRICT JUDGE
Date Signed: August 26, 2008

AUG 26 2008

Judgment in a Criminal Case
Attachment (Page 1)- Statement of Reasons
DEFENDANT: DIAZ-DIAZ, ARMANDO
CASE NUMBER: CR 08-60055-HO-1
DISTRICT: Oregon

FEDERAL PUBLIC DEFENDER
EUGENE

FILED '08 AUG 26 12:11 USDC-ORE

STATEMENT OF REASONS
Not for Public Disclosure

I COURT FINDING ON PRESENTENCE INVESTIGATION REPORT

- A. The court adopts the presentence investigation without change.
- B. The court adopts the presentence investigation report with the following changes.
(Check all that apply and specify court determination, findings, or comments, referencing paragraph numbers in the presentence report, if applicable.)
 - 1. Chapter Two of the U.S.S.G. Manual determinations by court (including changes to base offense level, or specific offense characteristics):
 - 2. Chapter Three of the U.S.S.G. Manual determinations by court (including changes to victim-related adjustments, role in the offence, obstruction of justice, multiple counts, or acceptance of responsibility):
 - 3. Chapter Four of the U.S.S.G. Manual determinations by court (including changes in criminal history category or scores, career offender, or criminal livelihood determinations):
 - 4. Additional Comments or Findings (including comments or factual findings concerning certain information in the presentence report that the Federal Bureau of Prisons may rely on when it makes inmate classification, designation, or programming decisions):
- C. The record establishes no need for a presentence investigation report pursuant to Fed.R.Crim.P. 32.

II COURT FINDING ON MANDATORY MINIMUM SENTENCE (Check all that apply.)

- A. No count of conviction carries a mandatory minimum sentence.
- B. Mandatory minimum sentence imposed.
- C. One or more counts of conviction alleged in the indictment carry a mandatory minimum term of imprisonment, but the sentence imposed is below a mandatory minimum term because the court has determined that the mandatory minimum does not apply based on:

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