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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

ERIC MANDAL PERRY,  
Plaintiff,  
  
v.  
UNITED STATES OF AMERICA,  
Defendant.

CASE NO. 09cv2203-BTM

**ORDER RE CREDIT  
RESTORATION**

Eric M. Perry was sentenced by the court to 41 months imprisonment. He is presently serving his sentence in Bastrop, Texas. He contends that the Bureau of Prisons has not properly credited him with presentence custody. The court's docket record shows that defendant was in presentence custody from June 21, 1998 to June 24, 1998 at which time he was released on bail. Perry failed to appear for his sentencing on February 23, 1999 and a warrant was issued for his arrest. He was arrested on that warrant on September 24, 2004 and remained in custody until he was sentenced on December 3, 2004.

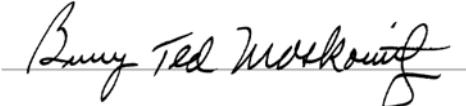
The Bureau of Prisons calculates presentence custody credits pursuant to 18 U.S.C. § 3585(b). If a defendant believes the calculation of presentence credit and his resultant release date is in error, he must exhaust his administrative appeals with the Bureau of Prisons. If he still believes his release date is incorrect due to incorrect credit calculation, he may file a

1 petition for a writ of habeas corpus in the federal district court in which he is confined. The  
2 sentencing court has no jurisdiction to “restore credits” unless it is also the district court for the  
3 district where the defendant is confined. Perry is not confined in this district. Therefore, the  
4 court lacks jurisdiction to consider his request and must deny his request dated August 12,  
5 2009 without prejudice.

6 The clerk shall send a copy of this order to defendant Perry and his trial counsel, Casey  
7 Donovan. The clerk shall enter judgment denying the request for restoration of credits without  
8 prejudice.

9 IT IS SO ORDERED.

10 DATED: October 26, 2009

11   
12 Honorable Barry Ted Moskowitz  
13 United States District Judge  
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