

Case No. 4:12-CV-1000
Gwin, J.

Parties must file any objections to a Report and Recommendation within fourteen days of service.^{4/}

Failure to object within that time waives the right to appeal the Magistrate Judge's recommendation.^{5/}

Absent objection, a district court may adopt the Magistrate Judge's report without review.^{6/}

II. Analysis

Here, Petitioner has not objected to any portion of Magistrate Judge McHargh's Report and Recommendation. Moreover, having conducted its own review of the record in this case, the Court agrees with the conclusions of Magistrate Judge McHargh.

Leguen-Mejia argues that time he served on a state conviction should be credited to his federal sentence. But the power to grant credit for time served lies solely with the Attorney General and the Bureau of Prisons ("BOP").^{7/} The BOP did not abuse its discretion in failing to award federal sentence credit for the time Leguen-Mejia spent in state custody because 18 U.S.C. § 3585(b) only allows credit for time "that has not been credited against another sentence."^{8/}

Furthermore, the BOP even asked the federal sentencing court whether the state and federal sentences were intended to run concurrently or consecutively. The sentencing court responded that the "state sentence is intended to run consecutive to the federal sentence."^{9/} Even if the sentencing court had been silent, "[m]ultiple terms of imprisonment imposed at different times run consecutively

^{4/} [N.D. Ohio L.R. 72.3\(b\)](#).

^{5/} *Id.*; see [Thomas v. Arn](#), 474 U.S. 140, 145 (1985); [United States v. Walters](#), 638 F.2d 947, 949-50 (6th Cir. 1981).

^{6/} *Thomas*, 474 U.S. at 149.

^{7/} [18 U.S.C. § 3585\(b\)](#); see [United States v. Wilson](#), 503 U.S. 329, 333 (1992).

^{8/} [18 U.S.C. § 3585\(b\)](#); see [Woody v. Marberry](#), 178 F. App'x 468, 471 (6th Cir. 2006).

^{9/} Doc. 1-2 at 9; see [Setser v. United States](#), 132 S.Ct. 1463, 1468 (2012) (holding it within a district court's discretion to order that a federal sentence run consecutively to an anticipated state sentence).

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unless the court orders that the terms are to run concurrently.”^{10/} Thus, the BOP did not err in calculating Leguen-Mejia’s prison sentence.

Accordingly, the Court **ADOPTS** Magistrate Judge McHargh’s findings of fact and conclusions of law and incorporates them fully herein by reference. The Court **DENIES** Leguen-Mejia’s habeas petition.

IT IS SO ORDERED.

Dated: January 14, 2015

s/ *James S. Gwin*
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

^{10/} [18 U.S.C. 3584\(a\)](#).