

STATE OF WISCONSIN
COURT OF APPEALS

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CLERK OF COURT OF APPEALS
OF WISCONSIN

CAMRON RUFUS SPENCER, PRO SE
PETITIONER-APPELLANT,

v

10AP912
Appeal No: 2019AP000913C

Circuit No: 2017CF001033

STATE OF WISCONSIN,
RESPONDENT-APPELLEE.

APPELLANT'S BRIEF

APPEAL FROM CIRCUIT COURT OF MILWAUKEE
WISCONSIN CIRCUIT NO: 2017CF001033
THE HONORABLE MICHAEL J HANRAHAN

CAMRON RUFUS SPENCER
FCI Gilmer PO Box 6000
Glenville, WV 26351

-- Pro Se Appellant --

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STATE OF WISCONSIN
COURT OF APPEALS

CAMRON RUFUS SPENCER, PRO SE :
PETITIONER-APPELLANT, : Appeal No: 2019AP000913CR
: Circuit No: 2017CF001033
: HONORABLE MICHAEL J HANRAHAN
v : CIRCUIT COURT JUDGE
:
:
:
STATE OF WISCONSIN, : APPELLANT'S BRIEF
RESPONDENT-APPELLANT. :

COMES NOW, CAMRON RUFUS SPECNER, THROUGH PRO SE REPRESENTATION, humbly moves to Brief this Court on the Nature of this Appeal from a Judgment from the District Circuit Court. Pro Se 'unskilled' litigants, Ashcroft v Iqbal, 556 US 662 (2009), pleading standards for Pro Se litigants are relaxed. See Arnett v Webster, 658 F3d 742, 751 (7th Cir 2011) (reminding Courts to "construe Pro Se complaints literally and hold them to less stringent standards than formal pleading 'drafted' by lawyers").

PROCEDURAL HISTORY

Appellant-Petitioner, CAMRON RUFUS SPENCER, per Haines v Kerner, 404 US 519-520 (1972), before this Honorable Court, appealing the decision of the Circuit Court for Milwaukee County, denying his request for 'Jail Time Credit,' from the dates of June 2, 2017 thru November 28, 2017, and to DISMISS the 'detainer,' which is currently lodged against him.

The Appellant-Petitioner, has been in federal custody ... since on or about, June 2, 2017, until November 28, 2017. The Petitioner-Appellant was sentenced by the State of Wisconsin on November 28, 2017, by the HON MICHAEL J HANRAHAN.

During the final proceedings, there was a question about the 179 days of 'Jail Time Credit,' that should have been applied towards the Appellant-Petitioner, in this cause of action and that the 'state sentence' and that foresaid sentence was being held in 'abeyance,' until there was (a)n determination of whether or not, the Federal Government (Dept of Justice / Federal Bureau of Prisons) would give the Appellant-Petitioner CAMRON RUFUS SPENCER, the 'Jail Time Credit' in it's sentence?

On March 19, 2019, the Petitioner-Appellant sought to have the 'detainers' in Case Numbers 16CF003383 and 17CF001033 ... DISMISSED and his request was subsequently DENIED.

Altogether, the Circuit Court recognized that the Petitioner Appellant provided the appropriate documentation which

indicates that he DID NOT receive the requested 'Jail Time Credit,' towards his federal sentence, hence, the Circuit Court DID NOT GRANT his request to have the 179 days credited towards his sentence, for the State of Wisconsin, since it was 'held' in abeyance.

The Circuit Court then suggested that the Appellant-Petitioner seek the 179 days of 'Jail Time Credit,' from the Federal Government, back in November of 2017, on the 28th day. The Circuit Court for the State of Wisconsin needed to know the answer to one (1) question? Is there a possibility that Federal Government would or will give the Appellant-Petitioner 'credit' for this time served? The answer to that question would be ... NO. The 179 days can only be applied at the state level.

Now the Circuit Court for the State of Wisconsin, is basically 'reneging' on it's own intent at it's sentencing.

The Federal Government has REFUSED to 'credit,' MR SPENCER'S federal sentence, in the amount of 179 days, pursuant to 18 USC § 3583(a) and (b), and stated that ANY 'Jail Time Credit' must be awarded by the State of Wisconsin.

The Appellant-Petitioner, CAMRON RUFUS SPENCER, filed for RECONSIDERATION to the Circuit Court for the State of Wisconsin on April 12, 2019, but was once again DENIED.

SUMMARY OF ARGUMENT

The Petitioner-Appellant may have intended to invoke 18 USC § 3585(b), as it is the statute that governs application of 'Jail Time Credit.' However, the execution of that sentence and the computation of 'Jail Time Credit,' is (a)n Administrative Function under the authority of the Office of the Attorney General, which has delegated this task to the Federal Bureau of Prisons. See United States v Wilson, 503 US 329, 334, 112 S Ct 1351, 117 L Ed 2d 593 (1992).

This delegation of task(s) includes responsibility for computing 'Jail Time Credit' and determining a sentencing termination date, once the Defendant 'actually' commences serving his sentence. Wilson, 503 US at 355.

Request for credit time that has been served for a federal sentence, must be made initially through FBOP Administrative channels, which are governed by federal regulation. United States v Koller, 956 F2d 1408, 1417 (7th Cir 1992); see also 28 CFR 542.10 ("the purpose of the Administrative Remedy Program is to allow (a)n inmate to seek formal review of (a)n issue, relating to any aspect of his own confinement.

The Appellant-Petitioner sought to have his 'Jail Time Credit' reviewed by the Administrative Remedy Program at where he is currently housed, which is FCI Gilmer, a federal prison located in Gilmer County, Glenville, WV.

The Administrative Staff at FCI Gilmer, advised the Appellant Petitioner, to seek Judicial Review of his sentence, in as much as, the FBOP CANNOT award 'Wisconsin State Jail Time Credits,' in the amount of 179 days or remove 'detainers' under The State of Wisconsin Case Numbers: 16CF003383 and 17CF001033.

The Appellant-Petitioner, CAMRON RUFUS SPENCER, was told that the Attorney General and the Administrative Procedure Act CANNOT be used to 'resolve' this issue.

ARGUMENT

It is clear, that the Circuit Court for the State of Wisconsin, Circuit Court JUDGE HONORABLE MICHAEL J HANRAHAN and the Federal Bureau of Prisons Administrative Procedure, could NOT and would NOT award the Appellant-Petitioner, CAMRON RUFUS SPENCER, 179 days of 'Jail Time Credit,' that was earned by the Appellant-Petitioner's confinement.

(A)n 'ex post facto' sentencing loss of 179 days Jail Credit, would amount to Cruel and Unusual Punishment. See Greene v Meese, 875 F2d 639, 640 (7th Cir 1989); "in any event, the exhaustion requirement is NOT JURISDICTIONAL and there is every reason to proceed to the merits in this instance, and enter a 'SUMMARY JUDGMENT.'"

In Burke v Johnson, 452 F3d 665 (7th Cir 2006), 'Jail Time Credit,' from Wis Stat 973.155(1)(a) provides, in pertinent

part: "A convicted offender shall be given credit toward the service of his convicted sentence, for all the days spent in 'custody' in connection with the course for which he is 'held' awaiting his sentencing hearing and at that time, awarded time for being in 'custody.'"

Normally, 'Jail Time Credit' is given by the sentencing court, the sentencing court in this matter has violated Wis Stat 973.155(1)(a), because of that fact, the Petitioner Appellant has had to petition this Honorable Circuit Court of Appeals for **RELIEF** in this matter.

The Federal Bureau of Prisons could NOT award 'Jail Time Credit,' to MR SPENCER, because the 'Jail Time Credit, is to be awarded to a State Sentence, NOT a Federal Sentence.

With the above fact(s) coming into play, the Petitioner-Appellant, CAMRON RUFUS SPENCER'S only avenue is to appeal to this Honorable Court of Appeals.

The Appellant-Petitioner in this cause of action, CAMRON RUFUS SPENCER, **PRAYS** this Honorable Court of Appeals, award him 179 days of 'Jail Time Credit,' for time served in prior custody and to **ORDER** the lower court (Wisconsin Circuit Court) to remove the 'detainers' in both case number(s): 2016CR003383 and 2017CR001033, as soon as time warrants and permits.

Respectfully submitted on this 9 day of July 2019.

/s/ C. Camron Spencer
CAMRON RUFUS SPENCER

JURISDICTIONAL STATEMENT

This Court of Appeals has Jurisdictional Authority within Wisconsin Statutes, 752.31(2) and Rule of Appellate Procedure 809.10(1); Fed R App P 28(a)(4); Cir R 28(a). See Freeman v Mayer, 95 F3d 569, 571 (7th Cir 1996)

Circuit Court Judge: Honorable MICHAEL J HANRAHAN
Milwaukee County
Branch Four

Sentencing Hearing Date: November 28, 2017

CERTIFICATE OF SERVICE

CAMRON RUFUS SPENCER, a Pro Se Litigant, would be invoking the 'Prison Mailbox Rule,' Fed R App P 4(c). This is known and deemed to have been filed, based on the post mark, rather than when it reaches the Clerk's Office. A True and Original Copy has been sent to Clerk of Wisconsin Supreme Court, 110 E Main Street, Suite 215, PO Box 1688, Madison, WI, on this 9 day of July, 2019.

Executed under the penalty of perjury, pursuant to 28 USC 1746.

/s/ CAMRON RUFUS SPENCER
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