

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 07-4517

WILLIE J. HENRY,

Appellant

v.

RONNIE HOLT;
BUREAU OF PRISONS

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Civil No. 07-cv-1293)
District Judge: Honorable Edwin M. Kosik

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B)
or Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6

February 28, 2008

Before: BARRY, CHAGARES and GREENBERG, Circuit Judges

(Opinion filed: March 31, 2008)

OPINION

PER CURIAM

The procedural history of this case and the details of appellant's claims are well known to the parties, set forth in the District Court's thorough memorandum, and need

not be discussed at length. Briefly, Willie Henry filed a petition pursuant to 28 U.S.C. § 2241 in which he argued that his federal sentence should be credited with time spent in state custody. He also contended that his sentencing court misapplied the sentencing guidelines. The District Court denied the petition, and Henry filed a timely notice of appeal.

We have jurisdiction under 28 U.S.C. § 1291 and exercise plenary review over the District Court's legal conclusions. Cradle v. U.S. ex rel. Miner, 290 F.3d 536, 538 (3d Cir. 2002). Under 18 U.S.C. § 3585(b), a defendant can only receive credit towards a federal sentence for prior custody "that has not been credited against another sentence." Henry does not dispute that the time at issue was credited towards his state sentence. Thus, it cannot be credited towards his federal sentence. We also agree with the District Court that Henry's challenge to the sentencing court's application of the sentencing guidelines is not properly raised in a § 2241 petition.

Summary action is appropriate if there is no substantial question presented in the appeal. See Third Circuit LAR 27.4. For the above reasons, as well as those set forth by the District Court, we will summarily affirm the District Court's October 3, 2007 order. See Third Circuit I.O.P. 10.6.