

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

November 17, 2011

Lyle W. Cayce
Clerk

No. 11-40276
Summary Calendar

THOMAS CLEVELAND,

Petitioner-Appellant

v.

JOHN B. FOX, Warden,

Respondent-Appellee

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:10-CV-485

Before REAVLEY, SMITH, and PRADO, Circuit Judges.

PER CURIAM:*

Thomas Cleveland, federal prisoner # 41753-179, appeals the district court's denial of his 28 U.S.C. § 2241 petition. Cleveland argues that the district court erred by concluding that the Bureau of Prisons (BOP) correctly denied him presentence credit against his federal sentence for the time he spent in state custody between December 15, 2004, and April 30, 2006.

A defendant is given credit toward his term of imprisonment for any time he spent in official detention prior to the commencement of his sentence "that

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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has not been credited against another sentence.” 18 U.S.C. § 3585(b). Here, the period for which Cleveland seeks credit against his federal sentence was credited against his state sentence. Thus, the BOP properly determined that Cleveland was not entitled to credit under § 3585(b) against his federal sentence. The judgment of the district court is therefore **AFFIRMED**.