

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-7225

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

KITRUS BINION,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
(CR-E-91-3(W))

December 21, 1992

Before WILLIAMS, HIGGINBOTHAM, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Binion pleaded guilty to bank larceny in violation of 18 U.S.C. § 2113(b). At sentencing, the district court refused to grant credit for time served by Binion while he was under federal detainer in state custody in Indiana, but granted credit for time

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

served when he was surrendered to federal authorities awaiting trial.

Under the Sentencing Reform Act of 1984, 18 U.S.C. § 3585(b), some courts concluded that they were authorized to credit or deny time served prior to conviction. The case of United States v. Wilson, 112 S.Ct. 1351 (1992), resolves the issue. It makes clear that the district courts have no jurisdiction to grant or deny credits at sentencing. The computation of credits is wholly the function of the United States Attorney General after the defendants begin their sentences.

The district court acted beyond its jurisdiction in undertaking to consider crediting time previously served regardless of its conclusion. Both of those parts of its sentence which grant and which deny credit for time served prior to appellant's conviction must be vacated as beyond the jurisdiction of the district court.

SENTENCE PARTIALLY VACATED.