IN THE COURT OF APPEALS OF IOWA

No. 3-304 / 92-1177

FILED
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WILLIAM BUMPUS,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Polk County, Anthony Critelli, Judge.

Bumpus appeals from the denial of his application for postconviction relief. **APPEAL DISMISSED**

Francis C. Hoyt, Jr., West Des Moines, for appellant.

Bonnie J. Campbell, Attorney General, and R. Andrew Humphrey, Assistant Attorney General, for appellee.

Considered by Oxberger, C.J., and Schlegel and Sackett, JJ.

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OXBERGER, C.J.

William Bumpus was convicted of robbery in the first degree in 1982 and sentenced to a term of imprisonment not to exceed twenty-five years. After this conviction Bumpus was sent to a federal correctional facility for a violation of his federal parole. Bumpus was in federal custody 1525 days while discharging the federal sentence.

In August 1986, the district court entered a nunc pro tunc order "confirming that sentence in this case be served concurrently" and crediting Bumpus with 1610 days for time served. In March 1992, Bumpus filed for postconviction relief seeking to have his release date reflect the 1610 days credit plus "good and honor" time reductions. The State argued the district court erred in the 1986 order and Bumpus was entitled to only 1525 days credit.

The court held time spent in county jail and federal prison is not subject to inclusion in the calculation of "honor contract time," and that he was entitled to 1525 days credit. See Iowa Code § 246.43 (1981) (prisoners employed outside the walls of institution while serving time in the penitentiary or reformatory are subject to special reduction) (repealed 1983 Iowa Acts ch. 147, § 13).

Discussion

An initial question is whether Bumpus may continue to pursue an application under Iowa Code chapter 663A since he has completed the sentence he had challenged.

Generally, a mootness problem does not arise solely because a criminal defendant's sentence has expired prior to filing a postconviction application. Wenck v. State, 320 N.W.2d 567, 569 (Iowa 1982). However, we find the case presented by Bumpus distinguishable from that set forth in Wenck. In Wenck, the applicant challenged various aspects of his underlying conviction. Id. at 568. In his postconviction application, Wenck alleged his guilty pleas were involuntary and his misdemeanor sentences unconstitutional. Id. In this case, Bumpus's sole challenge involves the correct computation of his sentence. At issue is 85 days in which Bumpus did not believe he was required to serve. The 85 days in dispute did not arise out of nor impact Bumpus's conviction nor status as a felon. He has since served the time and was released June 16, 1993. No remedy is available to him. Accordingly, we find this appeal has been rendered moot. In so finding, we make no finding regarding the computation of Bumpus's sentence.

APPEAL DISMISSED.