

UNITED STATES DISTRICT COURT
DISTRICT OF WYOMING

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

2020 OCT -8 AM 9:16

MARGARET BOTKINS, CLERK
CASPER

UNITED STATES OF AMERICA,

Plaintiff,

v.

KELLY J. GROVE,

Defendant.

Case No. 17-CR-250-SWS

ORDER DENYING REQUEST FOR CREDIT FOR TIME SERVED

This matter comes before the Court on Defendant's request for credit for time served. (ECF No. 63.) On May 22, 2020, the Government filed a *Petition to Show Cause* after receiving information causing them to believe the Defendant had violated conditions of his probation. (ECF No. 41.) Following a Final Probation Revocation hearing on July 23, 2020, the Court revoked Defendant's probation and sentenced him to serve six months for the violation, with five months to be served concurrent and one month to be served consecutive to any sentence in Circuit Court, Ninth Judicial District Court for Fremont County. (ECF No. 57.)


Based on his letter, Defendant contends he was in custody at the Fremont County Detention Center for 80 days for the same offense and requests credit for serving that time. (ECF No. 63.) The Court will deny Defendant's motion, though, because it is the Bureau of Prisons (BOP), not this Court, that must determine credit for time served. *See United*

States v. Wilson, 503 U.S. 329, 333 (1992) (interpreting 18 U.S.C. § 3585(b) as requiring the computation of credit for time served to occur after the defendant begins his sentence and therefore district court cannot apply § 3585(b) at sentencing). Because this Court cannot apply §3585(b) at sentencing, the Supreme Court in *Wilson* determined the BOP is responsible for administering the sentence and computing credit for time served under §3585(b) as an administrative matter. *Id.* at 335; *see also United States v. Gardner*, 601 F. App'x 717 (10th Cir. March 4, 2015) (Court lacked authority to grant defendant specific credit for time served prior to commencement of his ten-year sentence because court could not apply this section at sentencing) (unpublished).

The Defendant's letter presents no statutory authority that would allow the Court to modify the sentence. A prisoner must present his or her request for any sentence credit to the BOP in the first instance. Only thereafter may they seek judicial review of the BOP's determination. *See United States v. Meindl*, 269 F. App'x. 849 (10th Cir. March 18, 2008) (unpublished) (citing with approval *United States v. Jenkins*, 38 F.3d 1143, 1144 (10th Cir. 1994)). There is no indication Defendant first presented this issue to the BOP for determination, and he must begin his inquiry there.

IT IS THEREFORE ORDERED that Defendant's request for credit for time served (ECF No. 63) is hereby **DENIED**.

DATED this 7th day of October, 2020.


Scott W. Skavdahl
United States District Judge