

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,

v.

CASE NO. 8:15-CR-388-T-17JSS

MICHAEL WESLEY.

_____ /

ORDER

This cause is before the Court on:

Dkt. 55 Motion for Jail Time Credit

Defendant Michael Wesley, pro se, states that Defendant Wesley did not receive credit for time spent in Pinellas County Jail from November 2015 until April 2017.

The Final Judgment in this case provides:

IMPRISONMENT

The defendant is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a term of **TWENTY-SEVEN (27) MONTHS**. This term consists of TWENTY-SEVEN (27) MONTHS on each of Counts One and Four of the Indictment, all such terms to run concurrently. Defendant will receive credit for time served as calculated by the United States Bureau of Prisons.

The term of imprisonment imposed by this judgment shall run concurrently with the defendant's term of imprisonment imposed pursuant to the judgment in Docket Number 2014CF2535, in Lake County, Florida

(Dkt. 52, p. 2).

In United States v. Herrera, 931 F.2d 761, 764 (11th Cir. 1991), the Eleventh Circuit notes:

The [BOP]...established regulations governing formal review of inmate complaints relating to any aspect of imprisonment. See 28 CFR Secs. 542.10 to .16 (1989). These regulations...set out the procedures that prisoners must pursue prior to seeking relief in the district court.

If, and only if, the defendant has pursued his administrative remedy may he seek relief in the district court.

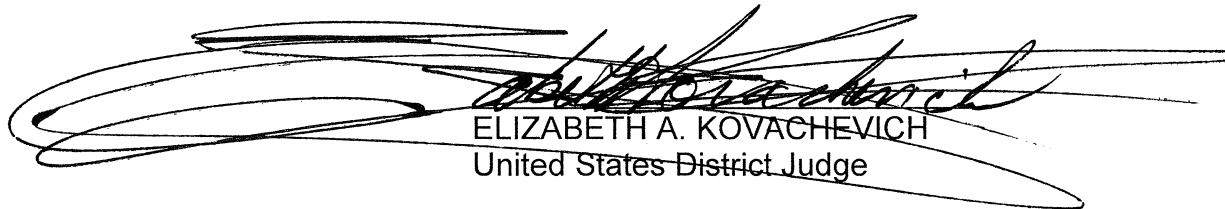
In Herrera, the Eleventh Circuit held that, because the defendant had failed to pursue his administrative remedy, “[t]he district court was without jurisdiction to entertain [the defendant’s] application for credit time.” Id.

Defendant Wesley has not established that Defendant Wesley has pursued the administrative remedies that are available to Defendant. Therefore, this Court does not have jurisdiction to entertain Defendant’s Motion. Accordingly, it is

ORDERED that pro se Defendant Michael Wesley’s Motion for Jail Credit Time (Dkt. 55) is **denied without prejudice** for lack of jurisdiction.

Case No. 8:15-CR-388-T-17JSS

DONE and ORDERED in Chambers in Tampa, Florida on this 7th day of
February, 2018.



ELIZABETH A. KOVACHEVICH
United States District Judge

Copies to:
All parties and counsel of record

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