

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals**For the Seventh Circuit****Chicago, Illinois 60604**

Submitted November 7, 2025*

Decided November 10, 2025

BeforeFRANK H. EASTERBROOK, *Circuit Judge*KENNETH F. RIPPLE, *Circuit Judge*DORIS L. PRYOR, *Circuit Judge*

No. 25-1200

JAMES MCKINNEY,
*Petitioner-Appellant,*Appeal from the United States District
Court for the Central District of Illinois.*v.*

No. 1:24-cv-1328

STEVE LAURITSEN,
*Respondent-Appellee.*Colleen R. Lawless,
*Judge.***ORDER**

James McKinney appeals the denial of his petition for writ of habeas corpus, *see* 28 U.S.C. § 2241, challenging the Bureau of Prison's computation of his sentence. Because the Bureau properly calculated and executed his sentence, we affirm.

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

This appeal has an extensive procedural history. In 2017, McKinney pleaded guilty in the Southern District of Iowa to heroin-related offenses and was sentenced to 50 months' imprisonment, followed by six years' supervised release. In 2019, he was transferred by the Bureau of Prisons, first to a residential reentry center and later to home confinement. After he violated his placement conditions in January 2020, the Bureau cancelled his home confinement and ordered him to return to the reentry center. McKinney, however, removed his GPS ankle monitor and fled. He was a fugitive from January 6, 2020, until September 13, 2021, when the U.S. Marshals Service arrested him.

In early 2022, McKinney pleaded guilty to a charge of escape from custody under 18 U.S.C. § 751(a). He was sentenced to 12 months' imprisonment to be served consecutively to the remaining term of imprisonment for his heroin conviction. He was also sentenced to a year of supervised release, to be served concurrently with the six-year term of supervised release in the heroin case.

On September 30, 2022, McKinney completed his custodial sentence in the heroin case. The Bureau, having yet to receive the judgment in the escape case, released him erroneously. He then began serving his concurrent supervised release term.

In October 2023, the Probation Office petitioned to revoke McKinney's supervised release in the heroin case based on violations of his conditions of supervision. The district court agreed and revoked his supervised release. The court sentenced him to 10 months in prison and 60 months of supervised release. McKinney then began serving his sentence at Federal Correctional Institution Pekin in central Illinois.

By the time McKinney returned to prison, the Bureau had received the revocation judgment and became aware of the unsatisfied judgment in the escape case. The Bureau recalculated his sentence, combining the custodial sentences from the escape case and the revocation case for an aggregate sentence of 22 months. In March 2024, the Bureau notified the district court of these details and its subsequent recalculation of McKinney's sentence.

In March 2024, McKinney moved to alter or amend judgment in the escape case, contending among other things that the Bureau "added 12 months to [the] sentence that [he had] already served and completed supervised release for." The district court denied these motions, noting that McKinney was "not entitled to a boon by virtue of [the Bureau's] error." And because McKinney objected to the Bureau's execution of his

sentence instead of the judgment itself, the court concluded, his claim would be cognizable only if raised in a collateral attack in the district of his confinement.

In September 2024, McKinney petitioned the Central District of Illinois under 28 U.S.C. § 2241 to challenge the Bureau's execution of his sentence. As relevant for this appeal, he argued, first, that because a term of supervised release cannot begin until a prescribed term of imprisonment ends, *see* 18 U.S.C. § 3583(a), his completion of his supervised release in the escape case meant that he must have finished serving the custodial portion of that sentence. Next, he invoked the common law doctrine of "primary custody"¹ and argued that the prison term on his escape charge began running once the Marshals Service apprehended him in September 2021. He also asserted that the Bureau's calculation violated a common law rule that requires a sentence to be served continuously rather than stretched out through releases and reimprisonments. *See Dunne v. Keohane*, 14 F.3d 335, 336 (7th Cir. 1994). He argued that the Bureau violated this rule (also known as the doctrine against punishment on the installment plan) by requiring him to serve out his escape sentence despite having released him erroneously, through no fault of his own.

The district court denied McKinney's petition. First, the court explained that while the statutory framework for computing multiple sentences did not address McKinney's situation, *see* 18 U.S.C. § 3584, the Bureau's calculation was consistent with the statute, and no provision allowed the Bureau to disregard McKinney's undischarged escape sentence. Next, the court determined that the doctrine of primary custody did not apply to McKinney's situation because for the relevant time he had been only in federal custody. As for McKinney's argument regarding the rule against installment punishment, the court found the rule of "dubious application" because McKinney's delayed sentence had been caused by the government's "inadvertent error," and there were no issues of fundamental fairness.

¹ The doctrine of primary custody governs sentence calculation when two separate sovereigns—state and federal, for example—have custody of a prisoner at different times. Under the doctrine, a prisoner's federal sentence does not begin until the federal government exercises primary jurisdiction over him. *Pope v. Perdue*, 889 F.3d 410, 415 (7th Cir. 2018). The doctrine also authorizes the sovereign that first arrests a defendant to take primary custody over him.

On appeal, McKinney presses only one argument—that the district court erred by declining to afford him relief under the rule against installment punishment.² Citing *Dunne* and related cases, he maintains that a sentence must be served continuously, unless interrupted by escape or some fault of the prisoner, and he cannot be required to serve it in installments. He contends that his 12-month prison term in the escape case expired during the 13 months that he erroneously was out on release, so the Bureau had no authority to re-impose the sentence.

The district court rightly concluded, however, that McKinney was not entitled to relief under the common law rule. This rule, which rarely is invoked successfully, *see Dunne*, 14 F.3d at 336, does not apply here. This is not a case where “the government is trying to delay the expiration of the defendant’s sentence.” *Id.* at 337. Declarations from Bureau officials reflect that the Bureau had not received the judgment in McKinney’s escape case upon its entry, and thus the agency could not account for it in its sentencing calculations. As the district court explained, the Bureau’s error was inadvertent, and equity did not call for application of the rule, given that McKinney’s early-release error was discovered only when he was returned to prison for his own conduct in violating the conditions of his supervised release in the heroin case. Thus, the circumstances of McKinney’s reimprisonment differ factually from the handful of cases where prisoners have successfully invoked the rule. *E.g.*, *White v. Pearlman*, 42 F.2d 788, 789 (10th Cir. 1930) (applying rule after prisoner called attention to government’s error in releasing him and was later recommitted); *Green v. Christiansen*, 732 F.2d 1397, 1400 (9th Cir. 1984) (applying rule where government mistakenly released prisoner and re-apprehended him two years later after discovering its error).

To the extent McKinney questions the district court’s determination that the Bureau properly administered the escape and revocation sentences consecutively, *see* 18 U.S.C. § 3584(a), he does not develop any argument for us to address, *see Pole v. Randolph*, 570 F.3d 922, 939 (7th Cir. 2009).

AFFIRMED

² On May 30, 2025, while this appeal was pending, the Bureau released McKinney from custody. Despite his release from prison, this appeal is not moot because he remains subject to a term of supervised release and a decision in his favor could affect the length of that term. *See Pope*, 889 F.3d at 414.