

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA	:	
	:	
v.	:	CRIMINAL CASE No.:
	:	1:13-cr-456-SCJ
	:	
RADRIC DAVIS A/K/A "GUCCI	:	
MANE,"	:	
Defendant.	:	

ORDER

The Court enters the following order to resolve the question left open after the August 20, 2014 sentencing hearing [Doc. No. 29] regarding whether this Court may award credit for time that the Defendant was in custody for a State Court of DeKalb County probation revocation, which occurred after and because of his arrest for the conduct in the above-styled case.

The Defendant essentially seeks to have his federal sentence begin running from the date he was taken into state custody for the probation revocation on September 14, 2013. The Defendant argues that the Court should apply United States Sentencing Commission Guideline (USSG) § 5G1.3(c), which states: "In any other case involving an undischarged term of imprisonment, the sentence for the instant offense may be imposed to run concurrently, partially concurrently, or

consecutively to the prior undischarged term of imprisonment to achieve a reasonable punishment for the instant offense.”

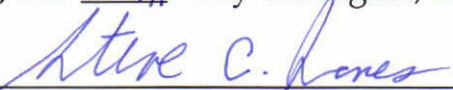
While the Court agrees that USSG § 5G1.3(c) is applicable, the Court does not find that it can use said guideline provision to order that Defendant’s federal sentence runs as of September 14, 2013. The Eleventh Circuit has held that a federal sentence cannot commence prior to the date it is pronounced even if a court orders said sentence to run concurrently with a sentence already being served. See Coloma v. Holder, 445 F.3d 1282, 1285 (11th Cir. 2006) (further stating that concurrent does not mean the second sentence runs from the beginning of the first sentence); see also United States v. Wilson, 503 U.S. 329, 333-35 (1992). To this regard, the Defendant’s request is denied in part. While the Court cannot (under USSG § 5G1.3(c)) order that the Defendant’s federal sentence run concurrently as of September 14, 2013, the Court can order that the present federal sentence run concurrently to any undischarged probation revocation sentence as of the date of the federal sentence on August 20, 2014. To this regard, the following language will be entered in the Judgment and Commitment.

The Defendant is sentenced to the Custody of the Bureau of Prisons for a period of 39 months to run concurrent to any undischarged probation revocation sentence entered in the State Court of DeKalb County, State of Georgia, Case Number 11C033320. The concurrent running of the two

sentences shall begin as of the date of the federal sentencing, August 20, 2014. The Bureau of Prisons shall also apply their own regulations to compute any credit the Defendant is entitled to for time already served.

The remainder of the terms and conditions of the Defendant's sentence will follow in a formal Judgment and Commitment.

IT IS SO ORDERED, this 28th day of August, 2014.

  
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HONORABLE STEVE C. JONES  
UNITED STATES DISTRICT JUDGE