

SEP 02 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LESLIE A. KAKINAMI,

Defendant - Appellant.

No. 07-16357

D.C. Nos. CV-07-00055-DAE
CR-05-00373-DAE

MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
David A. Ezra, District Judge, Presiding

Argued February 13, 2009
Resubmitted September 2, 2009
Honolulu, Hawaii

Before: REINHARDT, BRUNETTI and THOMAS, Circuit Judges.

Leslie Kakinami appeals the district court's order denying her 28 U.S.C. § 2255 motion to vacate, set aside or correct sentence. In her § 2255 motion, Kakinami specifically requested that she be transferred to federal custody and that she receive credit against her federal sentence for time served in state custody since

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

the imposition of her federal sentence on August 17, 2006. On April 24, 2008, subsequent to the district court's order, Kakinami was transferred to federal custody. The Bureau of Prisons has recomputed Kakinami's federal sentence to begin nunc pro tunc on August 17, 2006, the date of imposition. Kakinami's appeal of the district court's denial of that aspect of her motion is accordingly dismissed as moot.

Kakinami also requests credit for time spent in official custody between October 12, 2005 and August 17, 2006, the date her federal sentence was imposed. Although Kakinami's § 2255 motion generally stated that she was being "denied Federal 'credit' time," she did not specifically argue in the district court her entitlement to credit for this time served. Accordingly, we remand to the district court for consideration of this issue in the first instance.

DISMISSED IN PART; REMANDED IN PART.