

**IN THE COURT OF APPEALS  
OF THE  
STATE OF MISSISSIPPI  
NO. 96-CA-00310 COA**

**RICHARD BISHOP**

**APPELLANT**

v.

**BARBARA BAILEY**

**APPELLEE**

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND MAY NOT BE CITED,  
PURSUANT TO M.R.A.P. 35-B

DATE OF JUDGMENT:	02/26/96
TRIAL JUDGE:	HON. GRAY EVANS
COURT FROM WHICH APPEALED:	SUNFLOWER COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT:	PRO SE
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: JAMES M. NORRIS
NATURE OF THE CASE:	CIVIL - OTHER
TRIAL COURT DISPOSITION:	CIVIL COMPLAINT DISMISSED
DISPOSITION:	AFFIRMED - 12/2/97
MOTION FOR REHEARING FILED:	
CERTIORARI FILED:	
MANDATE ISSUED:	12/23/97

BEFORE THOMAS, P.J., HERRING, AND HINKEBEIN, JJ.

HERRING, J., FOR THE COURT:

Appellant Richard Bishop was sentenced to serve five years with the Mississippi Department of Corrections following his convictions of false pretenses and forgery. His sentence was suspended, and he was placed on three years of supervised probation. However, on February 13, 1992, his probation was revoked. Additionally, on the same date, Bishop was convicted of three counts of forgery and sentenced to serve seven years to run consecutively to the prior five year sentence. On November 6, 1992, Bishop escaped from the Alcorn County Correctional Work Center where he was serving his sentences. On September 17, 1993, he was arrested in Pineallas County, Florida. Bishop refused to waive his extradition to the custody of Mississippi authorities and contested the extradition in the Florida court system. Bishop spent 254 days in the custody of Florida authorities. On May 28, 1994, Bishop was returned to the custody of the Mississippi Department of Corrections. For his

escape charge, Bishop was sentenced to serve an additional three years with the Mississippi Department of Corrections. Moreover, Bishop was not given credit for any of the time he spent jailed in Florida.

Bishop filed a "Motion to Show Cause" in the Circuit Court of Sunflower County, Mississippi, seeking relief from the denial of the Mississippi Department of Corrections to give him credit for the 254 days he spent in the custody of Florida authorities fighting his extradition to Mississippi. Following a hearing, the trial court ruled that Bishop was not entitled to the 254 day credit towards his twelve year sentence. We affirm the decision of the trial court.

In *Holland v. State*, 418 So. 2d 73, 74 (Miss. 1982), the Mississippi Supreme Court addressed the issue of whether a prisoner may receive credit for time spent jailed in another state awaiting return to Mississippi to face criminal charges. In *Holland*, the appellant spent 614 days in the custody of Indiana officials while he contested his extradition to Mississippi. *Id.* The supreme court held that Section 99-19-23 of the Mississippi Code of 1972, which allows credit for time an accused spends incarcerated as he awaits trial, did not apply to time served in another state waiting to return to Mississippi to face charges. The Mississippi Supreme Court stated: "For us to hold otherwise would encourage an accused to flee this State and seek refuge in a state or locality of his own choosing, and fight extradition knowing that any time spent in jail in such state would be credited to any sentence received by him upon conviction. Such holding would be an impediment to, rather than an aid to criminal justice." *Id.* at 74. *See also Commonwealth v. Beauchamp*, 595 N.E. 2d 307 (Mass. 1992) ("To rule otherwise would allow the defendant to choose the State where he would serve a significant portion of his sentence.").

Furthermore, it has been held that a prison inmate who escaped from custody in one state who was recaptured in another state had no due process right to credit against his sentence in the state from which he fled for the time he spent incarcerated in the latter state challenging his extradition. *Boutwell v. Nagle*, 861 F. 2d 1530, 1531 (11th Cir. 1988). In *Boutwell*, the United States Court of Appeal for the Eleventh District held that absent a state statute giving a prisoner credit for time served in the custody of another state, the prisoner is not entitled to such credit. *Id.* In Mississippi, there is no statute entitling Bishop to credit for the time he served in the custody of Florida authorities. Other jurisdictions have held the same. *See State v. Harnum*, 697 A.2d 1380, 1381 (N.H. 1997); *Johnson v. Manson*, 493 A.2d 846 (Conn. 1985).

Accordingly, we rule that Bishop's assignment of error has no merit.

**THE JUDGMENT OF THE CIRCUIT COURT OF SUNFLOWER COUNTY IS AFFIRMED.  
ALL COSTS OF THIS APPEAL ARE ASSESSED TO SUNFLOWER COUNTY.**

**BRIDGES, C.J., McMILLIN AND THOMAS, P.JJ., COLEMAN, DIAZ, HINKEBEIN,  
KING, PAYNE, AND SOUTHWICK, JJ., CONCUR.**