

CONNECTICUT APPELLATE COURT

Akov Ortiz v. Commissioner of Correction

Ortiz · No. AC 47672 · Decided May 26, 2026

SUMMARY

The Connecticut Appellate Court affirmed the habeas court’s dismissal of Akov Ortiz’s petition concerning the calculation of presentence confinement credit. The court held that, under General Statutes § 18-98d and Harris v. Commissioner of Correction, credit accruing simultaneously on multiple dockets is applied only once and cannot be counted again to accelerate a later concurrent sentence. The court also declined to review an unpreserved claim concerning the calculation of parole eligibility as a remedy for an alleged Miller violation.

CASE DETAILS

COURT	Connecticut Appellate Court
WRITING FOR THE COURT	Suarez, J.; Clark, J.; Wilson, J.
JURISDICTION	Connecticut Appellate Court
DECIDED	May 26, 2026
DOCKET	AC 47672
DISPOSITION	affirmed
PROCEDURAL POSTURE	The petitioner appealed, following the granting of certification, from the habeas court's judgment dismissing his amended habeas petition for failure to state a claim upon which relief could be granted.
STANDARD OF REVIEW	The dismissal of a habeas petition for failure to state a claim presents a question of law reviewed de novo or plenary. The reviewing court determines whether the lower court's conclusions are legally and logically correct and supported by the record.
PRECEDENTIAL VALUE	published
PARTIES	Akov Ortiz, petitioner v. Commissioner of Correction, respondent

TOPICS

- state post-conviction relief
- post-conviction relief
- statutory interpretation
- appellate procedure
- standard of review

PRACTICE AREAS

habeas corpus

post-conviction relief

criminal sentencing

statutory interpretation

appellate procedure

QUESTIONS PRESENTED

1. Whether the habeas court properly dismissed Ortiz's claim that the Commissioner incorrectly calculated his presentence confinement credit under General Statutes § 18-98d.
2. Whether presentence confinement credit accruing on separate offenses prosecuted under different docket numbers may be counted again to reduce a later-imposed concurrent sentence.
3. Whether Ortiz's assertedly unusual procedural history and the fact that his cases arose in the same jurisdiction required application of the exception recognized in *James v. Commissioner of Correction*.
4. Whether the court should review Ortiz's unpreserved argument that parole eligibility was an insufficient remedy for an alleged Miller violation.

HOLDINGS

1. Under General Statutes § 18-98d (a) (1) (A), presentence confinement credit that accrued simultaneously on multiple dockets is used when applied to the first sentence and may not be counted a second time to accelerate the discharge date of a later-imposed concurrent sentence.
2. The James exception does not apply where the sentences arise from distinct offenses and incidents prosecuted under different docket numbers, even if the cases are related procedurally or occurred in the same jurisdiction.
3. The court did not reach the merits of Ortiz's newly framed parole-eligibility argument because it was not raised in the habeas petition or decided by the habeas court.

KEY QUOTATIONS

“when concurrent sentences are imposed on different dates, the presentence confinement days accrued simultaneously on more than one docket are utilized fully on the date that they are applied to the first sentence. Hence, they cannot be counted a second time to accelerate the discharge date of any subsequent sentence without violating the language of § 18-98d (a) (1) (A).” (at 823)

“In Harris, the presentence confinement credit had been accruing at the same time for two completely separate charges that were prosecuted separately. In the present case, however, presentence confinement credit was not accruing for two separate prosecutions but for one prosecution for felony murder that included the predicate lesser included offenses of robbery and assault.” (at 39-40)

FACTUAL BACKGROUND

Ortiz was convicted or pleaded guilty in multiple criminal matters arising from distinct incidents, including burglary, murder, assaults on police officers, witness tampering, and escape. The matters were prosecuted under different docket numbers, and sentences were imposed at different times; some later sentences ran concurrently with an earlier forty-two-year sentence. The Department of Correction applied presentence confinement credit to the earlier sentences and declined to apply the same credit again to the later concurrent sentences.

PROCEDURAL HISTORY

Ortiz filed an amended habeas petition challenging, among other things, the calculation of presentence confinement credit and the adequacy of parole eligibility as a remedy for alleged Miller violations. The habeas court first dismissed the credit claim and later dismissed the remaining claims concerning youth-related sentencing. After the court granted certification to appeal from the final judgment, Ortiz appealed to the Connecticut Appellate Court.

DISPOSITION

affirmed

CASES CITED

- Harris v. Commissioner of Correction, 271 Conn. 808, 860 A.2d 715 (2004)
- James v. Commissioner of Correction, 327 Conn. 24, 170 A.3d 662 (2017)
- Payton v. Albert, 209 Conn. 23, 547 A.2d 1 (1988)
- Rivera v. Commissioner of Correction, 254 Conn. 214, 255 n.44, 756 A.2d 1264 (2000)
- Anderson v. Commissioner of Correction, 204 Conn. App. 712, 723, 254 A.3d 1011 (2021), cert. denied, 338 Conn. 914, 259 A.3d 1179 (2021)
- Whitaker v. Commissioner of Correction, 90 Conn. App. 460, 475-76, 878 A.2d 321 (2005), cert. denied, 276 Conn. 918, 888 A.2d 89 (2005)
- Rodriguez v. Commissioner of Correction, 131 Conn. App. 336, 351, 27 A.3d 404 (2011), aff'd, 312 Conn. 345, 92 A.3d 944 (2014)
- Johnson v. Commissioner of Correction, 285 Conn. 556, 580, 941 A.2d 248 (2008)
- Vazquez v. Commissioner of Correction, 128 Conn. App. 425, 434, 17 A.3d 1089 (2011), cert. denied, 301 Conn. 926, 22 A.3d 1277 (2011)
- Banks v. Commissioner of Correction, 347 Conn. 335, 359-60, 297 A.3d 541 (2023)
- State v. Golding, 213 Conn. 233, 239-40, 567 A.2d 823 (1989)
- In re Yasiel R., 317 Conn. 773, 781, 120 A.3d 1188 (2015)
- State v. McCleese, 333 Conn. 378, 215 A.3d 1154 (2019)
- Miller v. Alabama, Miller v. Alabama, 567 U.S. 460, 132 S. Ct. 2455, 183 L. Ed. 2d 407 (2012)
- Alston v. Commissioner of Correction, 236 Conn. App. 568, 580, 349 A.3d 324 (2025), cert. denied, 354 Conn. 916, 351 A.3d 413 (2026)
- Khan v. Commissioner of Correction, 234 Conn. App. 851, 858-59, 344 A.3d 1234 (2025)
- State v. Ortiz, 133 Conn. App. 118, 120-21, 33 A.3d 862 (2012), aff'd, 312 Conn. 551, 93 A.3d 1128 (2014)
- State v. Ortiz, 79 Conn. App. 667, 670-71, 830 A.2d 802 (2003), cert. denied, 266 Conn. 933, 837 A.2d 806 (2003)
- North Carolina v. Alford, 400 U.S. 25, 91 S. Ct. 160, 27 L. Ed. 2d 162 (1970)
- Glen S. v. Commissioner of Correction, 223 Conn. App. 152, 155 n.3, 307 A.3d 951 (2024), cert. denied, 348 Conn. 951, 308 A.3d 1038 (2024)

- State v. Payne, 303 Conn. 538, 549-50, 34 A.3d 370 (2012)
- State v. Hurdle, 350 Conn. 770, 785, 326 A.3d 528 (2024)
- State v. Boyd, 214 Conn. 132, 133-34, 570 A.2d 1125 (1990)
- Boyd v. Lantz, 487 F. Supp. 2d 3, 13 (D. Conn. 2007)
- Johnson v. Commissioner of Correction, Docket No. CV-XX-XXXXXXX-S, 2021 WL 1792357 (Conn. Super. April 5, 2021)
- James v. Commissioner of Correction, 327 Conn. 24, 170 A.3d 662 (2017)
- State v. James, 247 Conn. 662, 666-67, 725 A.2d 662 (1999)

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