

Wilton CHATMAN-BEY, Appellant,

v.

Edwin MEESE, III, Attorney General  
of the United States, et al.

No. 84-5901.

United States Court of Appeals,  
District of Columbia Circuit.

Aug. 5, 1986.

Prisoner serving consecutive federal and District of Columbia sentences filed petition for writ of mandamus or habeas corpus, challenging determination of parole eligibility date. A transfer order by the United States District Court for the District of Columbia, Hart, J., was reversed by the Court of Appeals, 718 F.2d 484, and the cause was remanded. On remand, the District Court, 594 F.Supp. 718, dismissed the case. On motion to alter or amend, the District Court, Charles R. Richey, J., 597 F.Supp. 509, denied motion. Appeal was taken. The Court of Appeals, Ginsburg, Circuit Judge, held that full aggregation approach must be used in calculating parole eligibility date of persons incarcerated in federal penitentiaries, whether under United States Code sentences or both United States Code and District of Columbia Code sentences.

Reversed and remanded with instructions.

### 1. Declaratory Judgment $\S$ 274, 324

District court had jurisdiction over prisoner's challenge to determination of parole eligibility date, although prisoner styled opening pleading petition for mandamus or habeas corpus, and government contended habeas was available only in court with authority over prisoner's custodian, and mandamus was unavailable since prisoner could petition for habeas corpus; case initiated by prisoner per se was proper one in which to deem pleadings amended to

\* As stated *infra* note 10, the merits of this appeal, set out *infra* at 991-994, although not the

show that prisoner invoked court's general federal question jurisdiction and requested declaratory relief. 28 U.S.C.A. §§ 1331, 2201.

### 2. Pardon and Parole $\S$ 51

Full aggregation approach must be used in calculating parole eligibility date of prisoners incarcerated in federal penitentiaries, whether under United States Code sentences or both United States Code and District of Columbia Code sentences; however, persons sentenced for District of Columbia Code offenses must serve time at least equal to minimum District of Columbia Code term or terms before they may be considered for parole.

Appeal from the United States District Court for the District of Columbia (Civil Action No. 83-01140).

Wilton Chatman-Bey, pro se.

Peter Buscemi, Washington, D.C., appointed by this court, was on the supplemental briefs, for appellant.

Joseph E. diGenova, U.S. Atty., Michael W. Farrell, Thomas J. Tourish, Jr., John C. Martin and Ina Strichartz, Asst. U.S. Attys., Washington, D.C., were on brief, for appellee.

Before WALD, MIKVA and GINSBURG, Circuit Judges.\*

Opinion for the Court filed by Circuit Judge GINSBURG.

GINSBURG, Circuit Judge:

This case concerns the interaction of federal and District of Columbia statutes bearing on the parole eligibility of persons serving consecutive sentences for violations of both the United States Code and the District of Columbia Code: the federal prescription is 18 U.S.C. § 4205(a) (1982), which provides for parole eligibility after service of one-third of the prisoner's term or terms or, at a maximum, 10 years; the

question of jurisdiction, set out *infra* at 990-991, have been resolved by the court en banc.