

Defendant argues that he understood his federal sentence was ordered to be served concurrent to any subsequently imposed state term of imprisonment. Such is not the case. The reference to “recommendation” above was not a misstatement but rather served as a reference to a recommendation to the Bureau of Prisons and its authority to designate the place and terms of confinement. *See McCarthy v. Doe*, 146 F.3d 118, 122-23 (2d Cir. 1998).

At the time defendant was sentenced, he was effectively on loan from state custody. Longstanding principles dictate that the “sovereignty which first arrests the individual acquires the right to prior and exclusive jurisdiction over him . . . , and this plenary jurisdiction is not exhausted until there has been complete . . . service of any sentence imposed by . . . judgment of conviction entered against the individual by the courts of that first sovereignty.” *In re Liberatore*, 574 F.2d 78, 89 (2d Cir. 1978) (internal citations omitted). As Connecticut was the first sovereignty, this Court could not direct the sentence imposed by the State, *see id.*, and the federal sentence imposed would not commence until “the date the defendant is received in custody awaiting transportation to, or arrives voluntarily to commence service of sentence at, the official detention facility at which the sentence is to be served,” 18 U.S.C. § 3585(a).

The sentence disposition sought through the present motion is not unresolvable under the present circumstances, *see McCarthy*, 146 F.3d at 122-23 (describing authority to designate place of confinement as resting in Attorney General and Bureau of Prisons); *Barden v. Keohane*, 921 F.2d 476, 482-83 (3d Cir. 1991), however it suffices to say that the matter is not resolvable through retroactive modification of a federal sentence in light of subsequent events in state criminal proceedings. The authority to effect the modification sought lies not in this Court, *see Romandine v. United States*,

206 F.3d 731 (7th Cir. 2000), but rather in the state court imposing the subsequent sentence utilizing its authority to relinquish custody to the federal government, the Bureau of Prisons or the Attorney General, *see* 18 U.S.C. § 3621(b). As offered at the time of sentencing, if a recommendation is sought, such may be raised in a motion to that effect. A direct modification is, however, beyond the authority of this Court.

Defendant's motion for clarification (Doc. No. 2271) is **granted**, but the motion is **denied** to the extent it seeks an impermissible retroactive modification of the sentence imposed.

SO ORDERED.

Dated at New Haven, Connecticut, March ____, 2003.

Peter C. Dorsey
United States District Judge