

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Crim. No. 10-39-LPS
)
LORENZO GIL-DELACRUZ,)
)
 Defendant.)

MEMORANDUM ORDER

At Wilmington this **2nd** day of **July 2012**:

WHEREAS, Defendant filed a Motion to Compel the Bureau of Prisons to Allow Defendant to Participate In and Obtain Appropriate Time Credit for The 500 Hour Comprehensive Treatment Program (“Motion”) (D.I. 44 at 3);

WHEREAS, the government having filed its response, arguing that the Court has no jurisdiction to compel the Bureau of Prisons (“BOP”) to grant Defendant’s Motion (D.I. 47) (citing *Tapia v. United States*, 131 S.Ct. 2382, 2390-91 (June 16, 2011) (“A sentencing court can **recommend** that the BOP place an offender in a particular facility or program. But decisionmaking authority rests with the BOP”); *Beckley v. Miner*, 125 Fed. Appx. 385, 389 (Feb. 3, 2005) (unpublished) (“It is well settled . . . that the Bureau has nearly exclusive jurisdiction to classify and transfer prisoners.”)); *see also* 18 U.S.C. § 3621(b) (“The Bureau of Prisons shall designate the place of the prisoner’s employment.”));

WHEREAS, Defendant failed to cite any contrary authority;

WHEREAS, the Court at sentencing recommended, but did not compel, Defendant’s participation in the 500-hour program, *see* D.I. 43 at 37 (“I will also put out in the

judgment a recommendation – it is merely a recommendation – that the Bureau of Prisons consider putting M.r. Gil-Delacruz in a comprehensive 500-hour drug treatment program.”); D.I. 38 at 2 (“The court makes the following recommendations to the Bureau of Prisons: The Court recommends that the Defendant be placed in the 500 hour residential drug treatment program.”);

WHEREAS, the Court concludes that it lacks authority to grant the relief sought by Defendant’s Motion, namely to *compel* the BOP to place him in the 500 hour program;

NOW, THEREFORE, IT IS ORDERED that Defendant’s Motion (D.I. 44) is

DENIED.


UNITED STATES DISTRICT JUDGE