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BISHOP, J., concurring in result. In this habeas corpus action, the respondent, the commissioner of correction, advances two arguments challenging the habeas court's decision granting the petition for a writ of habeas corpus filed by the petitioner, Odilio Gonzalez. First, the respondent argues that "[b]ecause the calculation and application of jail credits are a posttrial, administrative matter, counsel's performance with respect to such credits cannot fall within the sixth amendment's guarantee of effective counsel at a criminal prosecution." Second, the respondent argues, in the alternative, that the habeas court was simply wrong in determining that the petitioner's trial counsel was ineffective by not assuring that bond had been raised, on the occasion of a third arrest, on the two previously pending files in which he later pleaded guilty. I write separately because I agree that the habeas court's decision should be affirmed, but I disagree with my colleagues' view of the record and, specifically, with their characterization of the issues on appeal.

As to the respondent's first claim, I find it more deft than persuasive. In focusing on the respondent's post-trial sentence calculation, this claim attempts to shift the focus from the pretrial conduct of trial counsel to the postconviction ministerial duty of the respondent, positing that, because the petitioner had no right to counsel at the moment at which the respondent calculated the petitioner's required period of confinement, he could not have been deprived of a constitutional right. This claim is wide of the mark. The petitioner has not asserted that the respondent's calculation was either incorrect or an act of discretion. To the contrary, it is plain that because the petitioner had not been held in custody in lieu of bond on the two files in which he ultimately pleaded guilty, he was not statutorily entitled to pretrial jail credit on those files pursuant to General Statutes § 18-98d. The operative moment was not when the respondent made a necessary calculation, but, rather, as the court determined, on January 16, 2007, when the petitioner was arraigned in a third file and ordered held in lieu of bond. The habeas court determined, and I agree, that his trial counsel on all three then pending files should reasonably have sought an increase in bond with respect to each of the two files already pending so that, if convicted on any or both of those files, he would have received pretrial jail credit time as set forth in § 18-98d. Once the petitioner's trial counsel failed to do so, the calculation of his sentence without jail credit time was a foregone conclusion.¹ In sum, because the petitioner did not claim that he was entitled to counsel at the moment the respondent determined the application of § 18-98d, and the trial court made no such determination, the respondent's assertion

that the petitioner had no such right is simply not responsive to the record.

The respondent's second argument is no more than a rehashing of facts and a disagreement with the conclusions drawn by the habeas court from the evidence. The respondent takes issue with the court's conclusion, supported by expert evidence at the habeas trial, that on January 16, 2007, trial counsel should have secured higher bonds on the two pending files in which he also represented the petitioner. The respondent argues: "The foremost concern of any competent defense attorney at this point would be avoiding a lengthy period of incarceration for his client and not maximizing his client's credit for presentence confinement. While the failure to seek an increase in the previous bonds was an oversight, it was hardly an error so serious that [the] petitioner's counsel was not acting as the 'counsel' guaranteed by the sixth amendment." Noticeably, nowhere in this argument does the respondent claim that the petitioner had no constitutional right to counsel at his arraignment on the third charge and that his right to counsel did not pertain, as well, to the two previously pending files in which trial counsel also represented the petitioner. Because the respondent makes no such claim, I see no useful purpose in an analysis of whether this moment was a critical stage in the underlying criminal trial proceedings. And, because the respondent's claims are simply a refutation of the habeas court's well reasoned findings based on evidence credited by the court, I regard this part of the respondent's argument as no more than an effort to retry the factual issues on appeal, a function for which we have no charter. Accordingly, I respectfully concur that the judgment should be affirmed.

¹ Additionally, to the extent that the respondent's argument rests, in any part, on the notion that a defendant no longer has the right to counsel in postjudgment discretionary sentencing procedures, the respondent fails to acknowledge that our Supreme Court has held that the constitutional and statutory right to counsel pertains to the discretionary process of sentence review. *Consiglio v. Warden*, 153 Conn. 673, 677, 220 A.2d 269 (1966).