

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Edelmira Marquez v. Eliseo Ricolcol, Warden

Marquez v. Ricolcol · No. 5:25-cv-00286-AB (DTB) · Decided March 13, 2025

SUMMARY

The United States District Court for the Central District of California issued an order to show cause in a 28 U.S.C. § 2241 habeas action. The court found that the petition appeared unexhausted because the petitioner had not pursued the Bureau of Prisons' four-step administrative remedy process. The petitioner was ordered to explain by April 11, 2025, why the petition should not be dismissed.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	David T. Bristow, Magistrate Judge
JURISDICTION	United States District Court for the Central District of California
DECIDED	March 13, 2025
DOCKET	5:25-cv-00286-AB (DTB)
DISPOSITION	other
PROCEDURAL POSTURE	Order to show cause in a federal habeas proceeding under 28 U.S.C. § 2241 concerning apparent failure to exhaust Bureau of Prisons administrative remedies.
STANDARD OF REVIEW	Under Habeas Rule 4, the court must promptly examine a habeas petition and dismiss it if it plainly appears from the petition and attached exhibits that the petitioner is not entitled to relief.
PRECEDENTIAL VALUE	District court order; precedential status is unknown and no reporter citation appears.
PARTIES	Edelmira Marquez v. Eliseo Ricolcol, Warden

TOPICS

- [federal habeas corpus](#) [exhaustion of remedies](#) [post-conviction relief](#) [pleadings](#) [civil procedure](#)

PRACTICE AREAS

- [Federal habeas corpus](#) [Post-conviction relief](#) [Administrative law](#)

QUESTIONS PRESENTED

1. Whether the § 2241 petition should be dismissed or otherwise addressed because Petitioner apparently failed to exhaust available Bureau of Prisons administrative remedies.
2. Whether Petitioner should be given an opportunity to show cause why the petition should not be dismissed for failure to exhaust.

HOLDINGS

1. A § 2241 habeas petition is subject to the screening requirements of the Habeas Rules, including Habeas Rule 4, under which the court must promptly examine the petition and dismiss it when the petition and attached exhibits plainly show that the petitioner is not entitled to relief.
2. Federal prisoners generally must exhaust available federal administrative remedies before seeking habeas relief under § 2241, but the requirement is prudential rather than jurisdictional and may be waived in appropriate circumstances.
3. The ordinary Bureau of Prisons administrative-remedy process requires an inmate to proceed through informal resolution, a formal request to the warden, an appeal to the Regional Director, and an appeal to the General Counsel; a merits decision by the General Counsel ordinarily completes exhaustion.

KEY QUOTATIONS

“Federal prisoners are required to exhaust their federal administrative remedies prior to bringing a petition for a writ of habeas corpus in federal court.”

“The exhaustion requirement applicable to habeas petitions under Section 2241 is a prudential requirement.”

FACTUAL BACKGROUND

Marquez seeks immediate release from prison and placement on supervised release under the amended Federal First Offenders Act. Her § 2241 petition does not indicate that she presented the claim through the Bureau of Prisons administrative-remedy process. The petition therefore appeared, on its face, to be completely unexhausted through the BOP's four-step process.

PROCEDURAL HISTORY

Petitioner filed a § 2241 habeas petition on January 31, 2025, without paying the filing fee or submitting an application to proceed in forma pauperis. After the Clerk issued a discrepancy notice, Petitioner paid the filing fee on March 5, 2025. Upon screening under Habeas Rule 4, the court found that the petition appeared unexhausted because it did not indicate that Petitioner had pursued any of the four levels of the Bureau of Prisons administrative-remedy process. The court issued an order to show cause and allowed a written response by April 11, 2025, without making a final dismissal determination.

DISPOSITION

other

CASES CITED

- Mayle v. Felix, 545 U.S. 644, 656 (2005)
- Martinez v. Roberts, 804 F.2d 570, 571 (9th Cir. 1986) (per curiam)
- Ward v. Chavez, 678 F.3d 1042, 1045 (9th Cir. 2012)
- Singh v. Napolitano, 649 F.3d 899, 900 (9th Cir. 2011) (per curiam) (as amended)
- Brown v. Rison, 895 F.2d 533, 535 (9th Cir. 1990)
- Reno v. Koray, 515 U.S. 50 (1995)
- Laing v. Ashcroft, 370 F.3d 994, 1000 (9th Cir. 2004)
- Montes v. Thornburgh, 919 F.2d 531, 537 (9th Cir. 1990)
- Pagtalunan v. Galaza, 291 F.3d 639 (9th Cir. 2002)

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