

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
MISSISSIPPI, NORTHERN DIVISION

Efren Angulo Luango v. Warden Childress

Luango · No. 3:25-CV-70-DPJ-ASH · Decided December 31, 2025

SUMMARY

A United States Magistrate Judge recommends dismissing without prejudice Efren Angulo-Luango’s 28 U.S.C. § 2241 petition challenging the Bureau of Prisons’ denial of First Step Act time credits. The recommendation concludes that he failed to exhaust the Bureau of Prisons’ administrative-remedy process and did not establish grounds to excuse exhaustion. It also notes that any challenge to an immigration removal order would fall outside the district court’s subject-matter jurisdiction.

CASE DETAILS

COURT	United States District Court for the Southern District of Mississippi, Northern Division
WRITING FOR THE COURT	Andrew S. Harris, United States Magistrate Judge
JURISDICTION	United States District Court for the Southern District of Mississippi, Northern Division
DECIDED	December 31, 2025
DOCKET	3:25-CV-70-DPJ-ASH
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on a federal prisoner's 28 U.S.C. § 2241 petition challenging the Bureau of Prisons' denial of First Step Act time credits.
STANDARD OF REVIEW	A federal prisoner seeking sentence credit under § 2241 must properly exhaust the Bureau of Prisons' administrative-remedy process unless extraordinary circumstances demonstrate that exhaustion would be futile.
PRECEDENTIAL VALUE	nonprecedential report and recommendation
PARTIES	Efren Angulo Luango v. Warden Childress

TOPICS

federal habeas corpus

exhaustion of remedies

post-conviction relief

immigration

subject matter jurisdiction

PRACTICE AREAS

federal habeas corpus

post-conviction relief

administrative law

immigration

QUESTIONS PRESENTED

1. Whether Luango was required to exhaust the Bureau of Prisons' administrative remedies before seeking relief under 28 U.S.C. § 2241.
2. Whether Luango's belief that administrative review would be futile or cause delay excused the exhaustion requirement.
3. Whether the district court would have subject-matter jurisdiction over any challenge to the legality of the August 22, 2016 immigration order of removal.

HOLDINGS

1. A federal prisoner seeking credit against a sentence must first properly exhaust the Bureau of Prisons' multi-tiered administrative-remedy process before filing a § 2241 petition, even though the exhaustion requirement is judicially imposed rather than statutory.
2. Exhaustion is not excused merely because the petitioner believes administrative review will be unsuccessful or that completing the process will cause delay; extraordinary circumstances and demonstrated futility are required.
3. To the extent the petition challenged the legality of the August 22, 2016 immigration order of removal, the district court lacked subject-matter jurisdiction because such a challenge is inextricably linked to the removal order.

KEY QUOTATIONS

“Simply put, Angulo-Luango was required to exhaust before filing his habeas petition. Because he failed to do so, his petition should be dismissed.” (Analysis)

FACTUAL BACKGROUND

Luango is serving a 175-month aggregate term of incarceration for conspiracy to possess with intent to distribute a controlled substance on a vessel subject to United States jurisdiction and for violating a previously imposed term of supervised release. He alleged that he had accrued programming credits that should have qualified him for First Step Act time credits, but the Bureau of Prisons disallowed them. The BOP's records showed that he had filed no administrative remedies concerning his First Step Act eligibility, and Luango admitted that he made only an informal verbal complaint and did not pursue the formal administrative process.

PROCEDURAL HISTORY

Luango filed a § 2241 habeas petition and amended petition seeking sentence credit for allegedly earned First Step Act programming credits. The respondent opposed relief, arguing that Luango failed to exhaust administrative remedies and that the petition also failed on the merits. The magistrate judge recommended dismissal without prejudice for failure to exhaust, subject to the parties' right to object and the district judge's review under 28 U.S.C. § 636(b)(1).

DISPOSITION

other

CASES CITED

- United States v. Sonsteng, No. 2:17-539, 2021 WL 2380054, at *1 (S.D. Tex. June 9, 2021)
- Pack v. Yusuff, 218 F.3d 448, 451 (5th Cir. 2000)
- Castano v. Everhart, 235 F. App'x 206, 207 (5th Cir. 2007)
- United States v. Gabor, 905 F.2d 76, 78 n.2 (5th Cir. 1990)
- Woodford v. Ngo, 548 U.S. 81, 83–84 (2006)
- Herrera-Villatoro v. Driver, 269 F. App'x 372 (5th Cir. 2008)
- Gayton v. Rivers, No. 3:23-CV-1842-X, 2023 WL 8007387, at *2 (N.D. Tex. Aug. 24, 2023), report and recommendation adopted, 2023 WL 8005316 (N.D. Tex. Nov. 17, 2023)
- Mayberry v. Pettiford, 74 F. App'x 299, 299 (5th Cir. 2003)
- Fuller v. Rich, 11 F.3d 61, 62 (5th Cir. 1994)
- Jackson v. Harrison, No. 3:22-CV-471-TSL-MTP, 2024 WL 542400, at *2 (S.D. Miss. Jan. 12, 2024), report and recommendation adopted, 2024 WL 542379 (S.D. Miss. Feb. 9, 2024)
- Overshown v. Upton, 466 F. App'x 361, 361 (5th Cir. 2012)
- Brown v. Young, No. 08-1586, 2009 WL 666945, at *3 (W.D. La. Feb. 3, 2009)
- Kennedy v. Berkebile, No. 3:08-CV-2067, 2009 WL 151207, at *2 (N.D. Tex. Jan. 20, 2009)
- Herman v. Wendt, No. 3:03-CV-1204, 2004 WL 60818, at *2 (N.D. Tex. Jan. 13, 2004), report and recommendation adopted, 2004 WL 557290 (N.D. Tex. Feb. 11, 2004)
- Duarte v. Mayorkas, 27 F.4th 1044, 1054–55 (5th Cir. 2022)
- Martinez v. Napolitano, 704 F.3d 620, 623 (9th Cir. 2013)
- Alexander v. Verizon Wireless Services, L.L.C., 875 F.3d 243, 248 (5th Cir. 2017)
- Douglass v. United Services Auto. Ass'n, 79 F.3d 1415, 1428–29 (5th Cir. 1996)

OPINION

Luango

PER CURIAM.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF MISSISSIPPI

NORTHERN DIVISION

EFREN ANGULO LUANGO PETITIONER

V. CIVIL ACTION NO. 3:25-CV-70-DPJ-ASH

WARDEN CHILDRESS RESPONDENT

REPORT AND RECOMMENDATION

Pro se Petitioner Efren Angulo-Luango, a prisoner incarcerated at the Federal Correctional Complex in Yazoo City, Mississippi, filed this habeas petition under 28 U.S.C. § 2241 challenging the Bureau of Prisons' denial of jail time credits under the First Step Act. As explained below, the undersigned recommends the petition be dismissed without prejudice for failure to exhaust. I. Facts and Procedural History Angulo-Luango is presently serving a 175-month total term of incarceration for conspiracy to possess with intent to distribute a controlled substance on board a vessel subject to the jurisdiction of the United States and a violation of a previously imposed term of supervised release. He says he has "accrued many days of program participation that should have earned him time credits" under the FSA but the BOP has disallowed those credits. Pet. [1] at 2. He asks the Court to "order B.O.P. to grant [him his] hard earned [time credits] towards a reduction of [his] sentence of 365 days." Am. Pet. [4] at 7. Respondent opposes Angulo-Luango's petition, arguing that he failed to exhaust and his petition fails on the merits. II. Analysis "The BOP is responsible for calculating sentencing credit, and the proper vehicle for raising . . . a challenge [to that calculation] is a petition pursuant to 28 U.S.C. § 2241." *United States v. Sonsteng*, No. 2:17-539, 2021 WL 2380054, at *1 (S.D. Tex. June 9, 2021) (citing *Pack v. Yusuff*, 218 F.3d 448, 451 (5th Cir. 2000)). Before filing a § 2241 petition, "[a] federal prisoner seeking credit on his sentence . . . 'must first exhaust his administrative remedies through the'" BOP. *Castano v. Everhart*, 235 F. App'x 206, 207 (5th Cir. 2007) (quoting *United States v. Gabor*, 905 F.2d 76, 78 n.2 (5th Cir. 1990)). The BOP's regulations provide for a multiple-step Administrative Remedy Program that "allow[s] an inmate to seek formal review of an issue relating to any aspect of his/her own confinement." 28 C.F.R. § 542.10; see generally *id.* §§ 542.10–542.19 (Subpart B, Administrative Remedy Program). To begin the process, "an inmate shall first present an issue of concern informally to staff." *Id.* § 542.13. If informal resolution does not address the inmate's concerns, within "20 calendar days following the date on which the basis for the Request occurred," the inmate must file "a formal written Administrative Remedy Request, on the appropriate form (BP-9)." *Id.* § 542.14(a). Once a BP-9 is filed, "response shall be made by the Warden . . . within 20 calendar days." *Id.* Next, "[a]n inmate who is not satisfied with the Warden's response may submit an Appeal on the appropriate form (BP-10) to the appropriate Regional Director within 20 calendar days of the date the Warden signed the response." *Id.* § 542.15(a). The Regional Director then has 30 calendar days to respond, *id.* § 542.18, and "[a]n inmate who is not satisfied with the Regional Director's response may submit an Appeal on the appropriate form (BP-11) to the General Counsel within 30 calendar days of the date the Regional Director signed the response," *id.* § 542.15(a). The General Counsel has 40 calendar days to respond to the BP-11. *Id.* § 542.18. "The filing of an appeal to the General Counsel 'is the final administrative appeal.'

28 C.F.R. § 542.15(a). Upon completing this multi-tiered review process, a federal inmate h[a]s exhausted h[is] administrative remedies for filing a § 2241 petition.” *Gayton v. Rivers*, No. 3:23-CV-1842-X, 2023 WL 8007387, at *2 (N.D. Tex. Aug. 24, 2023) (citing *Gross*, 2009 WL 1675075, at *1), report and recommendation adopted, 2023 WL 8005316 (N.D. Tex. Nov. 17, 2023). “[P]roper exhaustion of administrative remedies is necessary,” and “filing an untimely or otherwise procedurally defective administrative grievance or appeal” will not satisfy the requirement. *Woodford v. Ngo*, 548 U.S. 81, 83–84 (2006); see also *Herrera-Villatoro v. Driver*, 269 F. App’x 372 (5th Cir. 2008). The declaration of BOP Paralegal Amy Landers explains that Angulo-Luango has filed no administrative remedies “related to his assertions concerning his FSA eligibility” or about anything else during his incarceration. Landers Decl. [17-1] ¶ 14. And Angulo-Luango admits as much, stating in his Amended Petition that he addressed the FSA-credits issue only through an “informal verbal” complaint to his unit team and explaining that he did not pursue the matter further because he “didn’t think [he] would get any results just as [his] peers with [the] exact same issue have gotten no results.” Am. Pet. [4] at 2, 3. Thus, Angulo-Luango failed to fully exhaust his administrative remedies. In a response to a Court Order, Angulo-Luango argued that he should be excused from exhausting because it is not required by statute and “would serve no purpose beyond delay.” Resp. [7] at 1. Angulo-Luango is correct that exhaustion is not required by statute, but courts in the Fifth Circuit nevertheless require federal prisoners to “exhaust ‘administrative remedies before seeking habeas relief . . . under . . . § 2241.’” *Mayberry v. Pettiford*, 74 F. App’x 299, 299 (5th Cir. 2003) (quoting *Fuller v. Rich*, 11 F.3d 61, 62 (5th Cir. 1994)). And “[t]he fact that it takes time to exhaust administrative remedies d[oes] not excuse [Angulo-Luango] from completing the process.” *Jackson v. Harrison*, No. 3:22-CV-471-TSL-MTP, 2024 WL 542400, at *2 (S.D. Miss. Jan. 12, 2024), report and recommendation adopted, 2024 WL 542379 (S.D. Miss. Feb. 9, 2024). Exhaustion may be excused “in extraordinary circumstances” where a petitioner “demonstrate[s] the futility of administrative review.” *Overshown v. Upton*, 466 F. App’x 361, 361 (5th Cir. 2012) (citing *Fuller*, 11 F.3d at 62). But “merely conclusory allegations to support [a] claim of futility” will not meet that burden. *Brown v. Young*, No. 08-1586, 2009 WL 666945, at *3 (W.D. La. Feb. 3, 2009). In particular, “the mere fact that [Angulo-Luango] believes his administrative review will be denied does not make th[e] remedy futile.” *Kennedy v. Berkebile*, No. 3:08-CV-2067, 2009 WL 151207, at *2 (N.D. Tex. Jan. 20, 2009) (quoting *Herman v. Wendt*, No. 3:03-CV-1204, 2004 WL 60818, at *2 (N.D. Tex. Jan. 13, 2004), report and recommendation adopted, 2004 WL 557290 (N.D. Tex. Feb. 11, 2004)). Simply put, Angulo-Luango was required to exhaust before filing his habeas petition. Because he failed to do so, his petition should be dismissed.¹

III. Conclusion and Recommendation For the foregoing reasons, the undersigned recommends that Angulo-Luango’s petition be dismissed without prejudice for failure to exhaust. ¹ To the extent that Angulo-Luango’s petition could be read to challenge the legality of the August 22, 2016 immigration order of removal entered against him, the Court lacks subject-matter jurisdiction to consider such a challenge. See *Duarte v. Mayorkas*, 27 F.4th 1044,

1054– 55 (5th Cir. 2022) (“When a claim by an alien, however it is framed, challenges the procedure and substance of an agency determination that is inextricably linked to the order of removal,’ the federal district court lacks subject-matter jurisdiction.” (quoting *Martinez v. Napolitano*, 704 F.3d 620, 623 (9th Cir. 2012))). IV. Notice of Right to Object In accordance with Federal Rule of Civil Procedure 72 and 28 U.S.C. § 636(b)(1), any party, within fourteen days after being served a copy² of this report and recommendation, may serve and file written objections to the recommendations, with a copy to the United States District Judge, the Magistrate Judge, and the opposing party. The District Judge at the time may accept, reject, or modify, in whole or part, the recommendations of the Magistrate Judge, or may receive further evidence or recommit the matter to the undersigned with instructions. The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendations contained within this report and recommendation within fourteen days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the proposed factual findings and legal conclusions accepted by the district court for which there is no objection. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *Alexander v. Verizon Wireless Services, L.L.C.*, 875 F.3d 243, 248 (5th Cir. 2017); *Douglass v. United Services Auto. Ass’n*, 79 F.3d 1415, 1428–29 (5th Cir. 1996). Respectfully submitted, this the 31st day of December, 2025. s/ Andrew S. Harris

UNITED STATES MAGISTRATE JUDGE

² When a document is served by mail, the party is considered to have been served on the date the document is mailed by the Court. See Fed. R. Civ. P. 5(b)(2)(C).