

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WISCONSIN

Walter A. Gallegos Orellana v. Warden E. Emmerich and
Immigration and Customs Enforcement

No. 26-cv-0603-bhl (E.D. Wis. Apr. 17, 2026) · No. 2:26-cv-00603 · Decided April 17, 2026

SUMMARY

The court dismissed in part and otherwise denied a pro se petition under 28 U.S.C. § 2241 challenging the denial of First Step Act time credits and the legality of an expedited removal order. It held that federal prisoners subject to a final removal order are statutorily ineligible to apply First Step Act time credits and that district courts lack jurisdiction to review expedited removal orders, subject to narrow statutory exceptions. The court also rejected the petitioner’s Suspension Clause argument and ordered the case closed.

CASE DETAILS

COURT	United States District Court for the Eastern District of Wisconsin
WRITING FOR THE COURT	Brett H. Ludwig
JURISDICTION	United States District Court for the Eastern District of Wisconsin
DECIDED	April 17, 2026
DOCKET	2:26-cv-00603
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner sought expedited relief under 28 U.S.C. § 2241, challenging the denial of First Step Act time credits and the legality of an expedited removal order. The court screened the petition under Rule 4 and dismissed the removal-order claims for lack of subject-matter jurisdiction while denying the remaining claims.
STANDARD OF REVIEW	Rule 4 habeas screening; the court may summarily dismiss a petition that plainly appears legally insufficient or fails to show entitlement to relief. Subject-matter jurisdiction was reviewed under Federal Rule of Civil Procedure 12(h)(3).
PRECEDENTIAL VALUE	Unpublished district court screening order; precedential status is unknown in the provided metadata.

PARTIES

Walter A. Gallegos Orellana v. Warden E. Emmerich, Immigration and Customs Enforcement

TOPICS

federal habeas corpus removal proceedings immigration detention subject matter jurisdiction
procedural due process

PRACTICE AREAS

immigration federal habeas corpus immigration detention post-conviction relief civil procedure

QUESTIONS PRESENTED

1. Whether a federal prisoner subject to a final order of removal may have First Step Act time credits applied toward prerelease custody or early transfer to supervised release.
2. Whether a district court has subject-matter jurisdiction under 28 U.S.C. § 2241 to review the legality of an expedited removal order issued under 8 U.S.C. § 1225(b)(1).
3. Whether the Suspension Clause provides district-court habeas jurisdiction to review an expedited removal order or otherwise obtain relief from removal.

HOLDINGS

1. A federal prisoner who is the subject of a final order of removal is statutorily ineligible to apply First Step Act time credits toward prerelease custody or early transfer to supervised release. The court therefore could not order the warden to apply those credits.
2. District courts lack subject-matter jurisdiction to review challenges to expedited removal orders. Judicial review of an order of removal lies exclusively in the appropriate court of appeals, subject only to the narrow exceptions in 8 U.S.C. § 1252(e)(2).
3. The Suspension Clause does not confer district-court jurisdiction to review an expedited removal order or to obtain relief from removal where Congress has provided the statutory review mechanism in the courts of appeals.

KEY QUOTATIONS

“Because Gallegos Orellana is subject to a removal order, he is statutorily barred from having First Step Act time credits applied to his release date.”

“Congress has expressly foreclosed this Court’s jurisdiction over such a challenge and, therefore, habeas review is prohibited.”

“The Suspension Clause does not contemplate a right to “enter or remain in a country or to obtain administrative review potentially leading to that result.””

FACTUAL BACKGROUND

Gallegos Orellana, a Guatemalan citizen, was serving a seventy-two-month federal sentence in Wisconsin for conspiracy to manufacture and distribute five kilograms or more of cocaine. ICE issued an expedited removal order against him on July 16, 2024, based on his alleged inadmissibility and lack of valid entry documents. He alleged that the removal order caused the Bureau of Prisons to deny him application of earned First Step Act time credits, affecting his release date, and he sought immediate release and review of the removal order.

PROCEDURAL HISTORY

Gallegos Orellana filed a pro se § 2241 habeas petition in the Eastern District of Wisconsin while incarcerated at FCI Oxford. He sought immediate release, application of First Step Act time credits, a declaration invalidating his expedited removal order, and relief under the Fifth Amendment and Suspension Clause. The district court dismissed the petition in part for lack of jurisdiction and otherwise denied it, directed entry of judgment, and closed the case.

DISPOSITION

other

CASES CITED

- *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001)
- *McFarland v. Scott*, 512 U.S. 849, 856 (1994)
- *Cheng v. United States*, 725 F. Supp. 3d 432, 440 (S.D.N.Y. 2024)
- *Padilla v. Gonzales*, 470 F.3d 1209, 1213 (7th Cir. 2006)
- *Chen v. Gonzales*, 435 F.3d 788, 790 (7th Cir. 2006)
- *Montes Cabrera v. U.S. Department of Homeland Security*, No. 24-3079, 2025 WL 1009120, at *2 (7th Cir. Apr. 4, 2025)
- *Montes v. Department of Homeland Security*, No. 25-cv-372-wmc, 2025 WL 1638439, at *2 (W.D. Wis. June 9, 2025)
- *Morales-Ramirez v. Reno*, 209 F.3d 977, 978 (7th Cir. 2000)
- *Nasrallah v. Barr*, 590 U.S. 573, 580 (2020)
- *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 107, 116-17 (2020)
- *Boumediene v. Bush*, 553 U.S. 723, 746 (2008)