

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

Armando Duarte Herrera v. Warden Unknown Childress

Herrera · No. 3:25-CV-829-DPJ-ASH · Decided May 14, 2026

SUMMARY

The United States District Court for the Southern District of Mississippi denied Armando Duarte Herrera’s 28 U.S.C. § 2241 habeas petition challenging the Bureau of Prisons’ denial of First Step Act time credits. The court adopted the magistrate judge’s Report and Recommendation, concluding that Herrera was ineligible for the credits because an immigration judge had entered a final order of removal against him.

OPINION

Herrera

PER CURIAM.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF MISSISSIPPI

NORTHERN DIVISION

ARMANDO DUARTE HERRERA PETITIONER

V. CIVIL ACTION NO. 3:25-CV-829-DPJ-ASH

WARDEN UNKNOWN CHILDRESS RESPONDENT

ORDER

This habeas petition under 28 U.S.C. § 2241 is before the Court on the Report and Recommendation [12] of United States Magistrate Judge Andrew S. Harris. Armando Duarte Herrera challenges the Bureau of Prisons’ denial of credit he says he earned under the First Step Act (FSA). Pet. [1] at 1. The FSA “awards time credits to inmates ‘who successfully complete[] evidence-based recidivism reduction programming or productive activities.’” *Vargas v. Rivers*, No. 24-10703, 2025 WL 1380067, at *1 (5th Cir. May 13, 2025) (quoting 18 U.S.C. § 3632(d)(4)(A)) (alteration in *Vargas*). But, as pointed out by Judge Harris, prisoners that are subject to a final order of removal are ineligible. R&R [12] at 2 (citing 18 U.S.C. § 3632(d)(4)(E)). And on April 25, 2023, an immigration judge ordered Duarte Herrera removed to Mexico. *Id.*; see Immigration Order [10-3] at 3–4; Landers Decl. [10-1] at 2. As such, he is ineligible to apply FSA credits toward his sentence, and Judge Harris recommended the petition be denied. R&R [12] at 2–3. Duarte Herrera did not file an objection, and the time to do so has passed. “When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b) advisory committee’s note

(1983), quoted in *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996) (en banc), superseded on other grounds by 28 U.S.C. § 636(b)(1) as noted in *Alexander v. Verizon Wireless Servs., L.L.C.*, 875 F.3d 243, 248 (5th Cir. 2017). Finding no clear error, the Court accepts the well-reasoned recommendation of Judge Harris. IT IS ORDERED that the unopposed Report and Recommendation [12] of United States Magistrate Judge Andrew S. Harris is adopted as the finding and holding of this Court. The petition is denied. A separate judgment will be entered as required by Federal Rule of Civil Procedure 58. SO ORDERED AND ADJUDGED this the 14th day of May, 2026. s/ Daniel P. Jordan III
UNITED STATES DISTRICT JUDGE