

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
MICHIGAN

Alberto Manuel Nunez v. Eric Rardin

Nunez v. Rardin · No. 2:25-cv-12596 · Decided November 25, 2025

SUMMARY

The United States District Court for the Eastern District of Michigan dismissed Alberto Manuel Nunez’s 28 U.S.C. § 2241 petition challenging the Bureau of Prisons’ calculation of First Step Act and Second Chance Act credits. The court held that Nunez failed to exhaust the Bureau of Prisons’ administrative review process and dismissed the petition without prejudice.

CASE DETAILS

COURT	United States District Court for the Eastern District of Michigan
WRITING FOR THE COURT	Matthew F. Leitman
JURISDICTION	United States District Court for the Eastern District of Michigan
DECIDED	November 25, 2025
DOCKET	2:25-cv-12596
DISPOSITION	dismissed
PROCEDURAL POSTURE	Nunez, a federal prisoner proceeding under 28 U.S.C. § 2241, petitioned for habeas relief challenging the Bureau of Prisons' calculation of his sentencing credits and prerelease custody date. The government responded that he had failed to exhaust the Bureau's administrative-remedy process. The district court dismissed the petition without prejudice for failure to exhaust.
STANDARD OF REVIEW	The court applied the exhaustion requirement governing § 2241 petitions by federal prisoners; because the petition was dismissed for failure to exhaust, the court did not reach the merits of the sentencing-credit calculation.
PRECEDENTIAL VALUE	unpublished and nonprecedential district-court opinion
PARTIES	Alberto Manuel Nunez v. Eric Rardin

TOPICS

- federal habeas corpus
- exhaustion of remedies
- post-conviction relief
- administrative procedure act

PRACTICE AREAS

federal habeas corpus

prisoner litigation

administrative exhaustion

sentencing-credit computation

QUESTIONS PRESENTED

1. Whether a federal prisoner's challenge under 28 U.S.C. § 2241 to the execution and calculation of his sentence is properly brought through habeas corpus.
2. Whether Nunez exhausted the Bureau of Prisons' available administrative remedies before filing his § 2241 petition.
3. Whether the expiration of the time to appeal the warden's decision excused Nunez's failure to complete the administrative-remedy process.
4. Whether the petition should be dismissed without prejudice for failure to exhaust.

HOLDINGS

1. A federal inmate may properly use a petition for a writ of habeas corpus under 28 U.S.C. § 2241 to challenge the manner in which the inmate's sentence is being executed, including the computation of sentencing credits and release dates.
2. A federal prisoner must exhaust available Bureau of Prisons administrative remedies concerning sentence computation before seeking habeas review under § 2241, subject to the recognized futility exception.
3. A prisoner may not avoid the exhaustion requirement by abandoning the administrative process and then asserting that exhaustion is futile because the time to pursue administrative review has expired.

KEY QUOTATIONS

“[A]n inmate cannot simply fail to file a grievance or abandon the process before completion and claim that he has exhausted his remedies or that it is futile for him to do so because his grievance is now time-barred under the regulations.” (at 309)

FACTUAL BACKGROUND

Alberto Manuel Nunez is a federal inmate serving a 151-month sentence at FCI Milan for possession with intent to distribute cocaine. He challenged the Bureau of Prisons' calculation of his Second Chance Act and First Step Act credits, asserting that his prerelease custody date should have been no later than May 12, 2023, rather than February 17, 2026. Nunez pursued only the initial administrative review with the warden, whose July 29, 2025 decision denied relief and informed him of his right to appeal; Nunez did not pursue the remaining administrative appeals.

PROCEDURAL HISTORY

Nunez filed a § 2241 petition in the Eastern District of Michigan. He had submitted a first-level administrative request to the prison warden, which was denied, but he did not appeal to the Regional Director or the BOP

General Counsel. The court concluded that he had not exhausted available administrative remedies and dismissed the petition without prejudice.

DISPOSITION

dismissed

CASES CITED

- United States v. Nunez, No. 19-cr-20433, Judgment, ECF No. 24 (E.D. Mich. Jan. 16, 2020)
- Capaldi v. Pontesso, 135 F.3d 1122, 1123 (6th Cir. 1998)
- Hall v. Eichenlaub, 559 F. Supp. 2d 777, 779-80 (E.D. Mich. 2008)
- Luedtke v. Berkebile, 704 F.3d 465, 466 (6th Cir. 2013)
- Fazzini v. Ne. Ohio Corr. Ctr., 473 F.3d 229, 231 (6th Cir. 2006)
- United States v. Wilson, 503 U.S. 329, 335 (1992)
- Woodford v. Ngo, 548 U.S. 81, 89 (2006)
- McCarthy v. Madigan, 503 U.S. 140, 145 (1992)
- Palm v. Rardin, No. 1:24-CV-12651, 2025 U.S. Dist. LEXIS 82211, 2025 WL 1364376, at *2 (E.D. Mich. Apr. 30, 2025)
- Hartsfield v. Vidor, 199 F.3d 305, 309 (6th Cir. 1999)
- Wright v. Morris, 111 F.3d 414, 417 n.3 (6th Cir.), cert. denied, 522 U.S. 906 (1997)
- Witham v. United States, 355 F.3d 501, 504 (6th Cir. 2004)

OPINION

Nunez

PER CURIAM.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ALBERTO MANUEL NUNEZ,

Petitioner, Case No. 2:25-cv-12596 Hon. Matthew F. Leitman v.

ERIC RARDIN,

Respondent.

OPINION AND ORDER DISMISSING

PETITION FOR WRIT OF HABEAS CORPUS

This is a pro se habeas case filed under 28 U.S.C. § 2241. Alberto Manuel Nunez is a federal inmate currently confined at the Federal Correctional Institution in Milan, Michigan. Nunez challenges the calculation of his sentencing credits and release date by the Federal Bureau of Prisons under the First Step Act and the Second Chance Act. (Petition, ECF No. 1.) I. Nunez is serving a 151-month sentence at FCI Milan for his conviction of possession with intent to

distribute cocaine in violation of 21 U.S.C. § 841(a)(1). See *United States v. Nunez*, No. 19-cr-20433, Judgment, ECF No. 24 (E.D. Mich. Jan. 16, 2020). Nunez asserts that the BOP has calculated his sentencing credits to call for his conditional release to prerelease custody on February 17, 2026. (ECF No. 1, PageID.1.) Without explaining the basis for his own more favorable calculation, Nunez asserts that if his credits were “applied correctly” his conditional release date to prerelease custody should be “no later than May 12, 2023.” (Id.) Nunez claims that he exhausted his administrative remedies by submitting a BP-8 and BP-9 form, and that the Warden denied his request for review on July 29, 2025. (Id.) Respondent filed a responsive pleading to the petition asserting that Nunez failed to fully exhaust his administrative remedies with the BOP prior to filing the petition, and that his claim is otherwise without merit. (Response, ECF No. 6.) II. A petition for writ of habeas corpus filed by a federal inmate under 28 U.S.C. § 2241 is proper where the inmate is challenging the manner in which his sentence is being executed. *Capaldi v. Pontesso*, 135 F.3d 1122, 1123 (6th Cir. 1998); see also *Hall v. Eichenlaub*, 559 F. Supp. 2d 777, 779-80 (E.D. Mich. 2008). Before filing a habeas petition, however, a prisoner must exhaust his available administrative remedies. See *Luedtke v. Berkebile*, 704 F.3d 465, 466 (6th Cir. 2013); *Fazzini v. Ne. Ohio Corr. Ctr.*, 473 F.3d 229, 231 (6th Cir. 2006). The exhaustion requirement obligates federal prisoners to seek administrative review within the BOP regarding the computation of their sentences before seeking habeas review. See *United States v. Wilson*, 503 U.S. 329, 335 (1992). The requirement “protects ‘administrative agency authority,’” promotes judicial efficiency, and “may produce a useful record” for judicial review. *Woodford v. Ngo*, 548 U.S. 81, 89

(2006) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 145 (1992)).

The BOP provides federal prisoners with a multi-tiered administrative review process. If a matter cannot be resolved informally, a prisoner must file an Administrative Remedy Request Form (BP-9 Form) with the Warden. See 28 C.F.R. §§ 542.14(a), 542.18. If the prisoner is unsatisfied with the Warden’s response, he may then file a BP-10 Form with the Regional Director. See 28 C.F.R. 542.15, 542.18. Finally, if the prisoner is unsatisfied with the Regional Director’s response, he may file a BP-11 Form with BOP General Counsel. See 28 C.F.R. §§ 542.15, 542.18. Nunez indicates in his petition that he followed only the first step of the administrative review process, and BOP records confirm that allegation. On July 17, 2025, Nunez submitted the first-level request for administrative review with the Warden. (Affidavit of M. Burnetta, ECF No. 6-2, PageID.34; Request of Adm. Remedy, ECF No. 6-6, PageID.49.) On July 29, 2025, the Warden denied the request for review. (Response, ECF No. 6-6, PageID.48.) The Warden indicated that Nunez’s prerelease custody placement date had been calculated based on 365 days of Second Chance Act credits and 600 days of Federal Time Credits. (Id.) The Warden also informed Nunez that if he was not satisfied with the response, he could submit an appeal with the Regional Director. (Id.) But Nunez did not seek further administrative review. (Adm. Remedy Update, Id. PageID.46.) Therefore, Nunez did not exhaust his administrative remedies before filing his petition. Nunez has

neither argued nor shown that it would be futile for him to attempt to exhaust his administrative remedies, the only recognized exception to the exhaustion requirement. See, e.g., *Palm v. Rardin*, No. 1:24-CV-12651, 2025 U.S. Dist. LEXIS 82211, 2025 WL 1364376, at *2 (E.D. Mich. Apr. 30, 2025). While the time for seeking review of the Warden's July 29, 2025, decision has expired, that fact does not excuse Nunez's failure to exhaust his administrative remedies. See *Hartsfield v. Vidor*, 199 F.3d 305, 309 (6th Cir. 1999) ("[A]n inmate cannot simply fail to file a grievance or abandon the process before completion and claim that he has exhausted his remedies or that it is futile for him to do so because his grievance is now time-barred under the regulations.") (citing *Wright v. Morris*, 111 F.3d 414, 417 n.3 (6th Cir.), cert. denied, 522 U.S. 906 (1997)). Accordingly, the petition will be dismissed without prejudice for Nunez's failure to exhaust administrative remedies. III. The Court DISMISSES WITHOUT PREJUDICE the petition for a writ of habeas corpus. Lastly, a certificate of appealability is not needed to appeal the dismissal of a habeas petition filed pursuant to 28 U.S.C. § 2241. *Witham v. United States*, 355 F.3d 501, 504 (6th Cir. 2004). Accordingly, Nunez need not request one from this Court or the United States Court of Appeals for the Sixth Circuit should he seek to appeal this decision. IT IS SO ORDERED.
s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: November 25, 2025 I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on November 25, 2025, by electronic means and/or ordinary mail. s/Holly A. Ryan Case Manager
(313) 234-5126