

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
VIRGINIA, RICHMOND DIVISION

Babatunde Popoola v. Sam Scales, et al.

Popoola · No. 3:25cv390 (DIN) · Decided December 3, 2025

SUMMARY

The Eastern District of Virginia denies Respondents’ motion to dismiss and grants Babatunde Popoola’s petition for habeas corpus under 28 U.S.C. § 2241. The court holds that the petitioner’s challenge to his transfer from prerelease custody to incarceration based on an immigration detainer is cognizable in habeas and that the Bureau of Prisons’ withdrawal of prerelease custody solely on that basis violates the First Step Act. The court does not find that the reincarceration violated the Fifth Amendment Due Process Clause.

CASE DETAILS

COURT	United States District Court for the Eastern District of Virginia, Richmond Division
WRITING FOR THE COURT	David J. Novak
JURISDICTION	United States District Court for the Eastern District of Virginia
DECIDED	December 3, 2025
DOCKET	3:25cv390 (DIN)
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Federal habeas petition under 28 U.S.C. § 2241 challenging the Bureau of Prisons' reincarceration of a federal inmate who had been transferred to prerelease custody after earning First Step Act time credits. Respondents moved to dismiss.
STANDARD OF REVIEW	A § 2241 petition is subject to Rule 12(b)(1) and Rule 12(b)(6) standards. The court accepts well-pleaded factual allegations as true, views facts in the light most favorable to the petitioner, and may dismiss for lack of subject-matter jurisdiction or failure to state a claim. Habeas relief is available when a petitioner is in custody in violation of the Constitution or laws of the United States.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion
PARTIES	Babatunde Popoola v. Sam Scales, Kevin Hudson

TOPICS

federal habeas corpus

immigration

statutory interpretation

due process

administrative law

PRACTICE AREAS

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First Step Act

federal prison administration

immigration detention and removal

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constitutional due process

QUESTIONS PRESENTED

1. Whether Popoola's challenge to reincarceration from a halfway house to a prison based on the Bureau of Prisons' administration of First Step Act time credits was cognizable under 28 U.S.C. § 2241.
2. Whether 18 U.S.C. § 3621(b) barred judicial review of the Bureau of Prisons' decision to reincarcerate Popoola.
3. Whether the court should excuse Popoola's failure to exhaust administrative remedies.
4. Whether the First Step Act permits the Bureau of Prisons to deny earned time credits to a noncitizen with an immigration detainer but no final order of removal.
5. Whether the Bureau of Prisons satisfied its First Step Act obligations by applying only 365 credits toward supervised release and refusing to apply additional credits toward prerelease custody.
6. Whether Popoola's reincarceration violated the Fifth Amendment Due Process Clause.

HOLDINGS

1. A federal inmate's challenge to reincarceration from a halfway house based on the Bureau of Prisons' alleged violation of the mandatory First Step Act time-credit provisions is a challenge to the execution of the sentence and is cognizable under § 2241.
2. Section 3621(b)'s bar on review of BOP place-of-imprisonment designations does not bar judicial review of whether the BOP complied with the mandatory First Step Act time-credit provisions.
3. The exhaustion requirement for a § 2241 petition should be waived where the petitioner's release date is approaching, administrative review would likely be futile, and the claim presents a purely legal challenge to a nationwide BOP policy.
4. The First Step Act does not permit the BOP to exclude a noncitizen with an immigration detainer from earning or applying FSA time credits when the inmate has no final order of removal.
5. When an eligible inmate has earned more than 365 FSA time credits, the BOP may not refuse to apply the excess credits toward prerelease custody solely because the inmate has an immigration detainer.
6. Popoola's reincarceration did not violate the Fifth Amendment Due Process Clause because returning him to ordinary incarceration did not affect the duration of his sentence or impose an atypical and significant hardship relative to the baseline conditions dictated by his sentence.

KEY QUOTATIONS

“The mandatory language in § 3632(d)(4)(C), especially when viewed in the context of the statute as a whole, clearly reflects Congress’s intent to impose a mandatory obligation upon the BOP to award FSA time-credits to eligible inmates and apply such time-credits to supervised release or prerelease custody.” (14-15)

“For all of these reasons, the Court holds that the FSA does not permit the exclusion of non-citizens with detainers from earning and applying FSA time-credits and rejects Respondents’ argument to this effect.” (25)

“The BOP cannot undermine the FSA’s entire statutory scheme in the name of “discretion.”” (28-29)

“Because the Court finds that his reincarceration does not impose an “atypical and significant hardship” relative to the nature of his sentence, it need not consider whether the FSA creates a liberty interest in earning FSA credits.” (33)

FACTUAL BACKGROUND

Popoola, a federal inmate and noncitizen, was sentenced in the District of Maryland to 144 months' imprisonment for conspiracy to commit wire fraud, conspiracy to commit money laundering, and aggravated identity theft. ICE lodged a detainer against him, but no final order of removal had been issued. After earning First Step Act time credits, Popoola was transferred to a halfway house on December 17, 2024, but the Bureau of Prisons reincarcerated him on February 11, 2025, pursuant to a policy categorically withholding prerelease custody from noncitizens with active immigration detainers. The Bureau applied 365 credits toward early supervised release but refused to apply Popoola's remaining credits toward prerelease custody.

PROCEDURAL HISTORY

Popoola filed the § 2241 petition on May 23, 2025, after the Bureau of Prisons returned him from a halfway house to incarceration based on an immigration detainer. Respondents moved to dismiss, arguing that the claims were not cognizable in habeas, that 18 U.S.C. § 3621(b) barred review, that Popoola failed to exhaust administrative remedies, and that neither the First Step Act nor the Due Process Clause was violated. The court denied the motion to dismiss, granted the habeas petition on the First Step Act claim, and rejected the Due Process claim.

DISPOSITION

writ_granted

CASES CITED

- Ex parte Endo, 323 U.S. 283, 307 (1944)
- Adepoju v. Scales, 782 F. Supp. 3d 306 (E.D. Va. 2025)
- Torrence v. Lewis, 60 F.4th 209, 213 (4th Cir. 2023)
- Kabando v. Blinken, 2021 WL 3929826, at *2 (E.D. Va. Sept. 2, 2021)
- White v. CMA Construction Co., Inc., 947 F. Supp. 231, 233 (E.D. Va. 1996)
- Richmond, Fredericksburg & Potomac R.R. Co. v. United States, 945 F.2d 765, 768 (4th Cir. 1991)
- CSX Transportation, Inc. v. Norfolk Southern Ry. Co., 2019 WL 4564564, at *6 (E.D. Va. Sept. 9, 2019)

- Republican Party of N.C. v. Martin, 980 F.2d 943, 952 (4th Cir. 1992)
- Mylan Laboratories, Inc. v. Matkari, 1 F.3d 1130, 1134 (4th Cir. 1993)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- E. Shore Markets, Inc. v. J.D. Associates Ltd. Partnership, 213 F.3d 175, 180 (4th Cir. 2000)
- In re Wright, 826 F.3d 774, 778 (4th Cir. 2016)
- Preiser v. Rodriguez, 411 U.S. 475, 499-500 (1973)
- Fontanez v. O'Brien, 807 F.3d 84, 87 (4th Cir. 2015)
- Ziglar v. Abbasi, 582 U.S. 120, 144-45 (2017)
- Skinner v. Switzer, 562 U.S. 521, 534 (2011)
- Trump v. J.G.G., 604 U.S. 670, 672 (2025)
- Muniz v. Sabol, 517 F.3d 29, 33 (1st Cir. 2008)
- Levine v. Apker, 455 F.3d 71, 77-78 (2d Cir. 2006)
- Woodall v. Federal Bureau of Prisons, 432 F.3d 235, 241-43 (3d Cir. 2005)
- Melot v. Bergami, 970 F.3d 596, 599 (5th Cir. 2020)
- Kruger v. Erickson, 77 F.3d 1071, 1073 (8th Cir. 1996)
- Reaves v. Garrett, 2025 WL 890147, at *2 (E.D. Ark. Mar. 21, 2025)
- United States v. Houck, 2 F.4th 1082, 1085 (8th Cir. 2021)
- Timms v. U.S. Attorney General, 93 F.4th 187, 191 n.8 (4th Cir. 2024)
- Rodriguez v. Ratledge, 715 F. App'x 261, 266 (4th Cir. 2017)
- McGee v. Martinez, 627 F.3d 933, 935 (3d Cir. 2010)
- In re Rowe, 750 F.3d 392, 396-97 (4th Cir. 2014)
- Valladares v. Ray, 130 F.4th 74, 77-79 (4th Cir. 2025)
- Kuzmenko v. Phillips, 2025 WL 779743, at *4, *6 (E.D. Cal. Mar. 10, 2025)
- Sierra v. Jacquez, 2022 WL 18046701, at *3 (W.D. Wash. Dec. 27, 2022)
- Komando v. Luna, 2023 WL 310580, at *6 (D.N.H. Jan. 13, 2023)
- Booker v. Bayless, 2024 WL 3875031, at *4 (N.D.W. Va. Aug. 20, 2024), *aff'd*, 2025 WL 817172 (4th Cir. Mar. 14, 2025)
- Andrews v. Ramos, 2023 WL 1822837, at *1 (E.D.N.C. Feb. 8, 2023), *aff'd*, 2023 WL 3676776 (4th Cir. May 26, 2023)
- Timms v. Johns, 627 F.3d 525, 530-31 (4th Cir. 2010)
- Medina v. Warden, FCI Petersburg Low, 2024 WL 3012494, at *3 (E.D. Va. June 14, 2024)
- Forbes v. Warden, FCI McDowell, 2025 WL 849815, at *2 (S.D.W. Va. Mar. 18, 2025)
- Wesa v. Engleman, 2025 WL 2005224, at *8 (C.D. Cal. June 6, 2025)
- Martinez-Polanco v. Warden, FCI Fort Dix, 2025 WL 1511192, at *4 (D.N.J. May 27, 2025)
- Duffis v. Thompson, 2023 WL 3876496, at *2 (M.D. Pa. May 10, 2023)
- United States v. Rios-Villanueva, 2023 WL 186804, at *6 (D.S.C. Jan. 13, 2023)
- Rodriguez v. Hutchinson, 2025 WL 889525, at *3 (D.S.C. Jan. 7, 2025)

- Crowe v. Federal Bureau of Prisons, 2025 WL 1635392, at *23 (D.D.C. June 9, 2025)
- Board of Regents of State Colleges v. Roth, 408 U.S. 564, 569-70 (1972)
- Wilkinson v. Austin, 545 U.S. 209, 221 (2005)
- Puranda v. Johnson, 2009 WL 3175629, at *3-4 (E.D. Va. Sept. 30, 2009)
- Incumaa v. Stirling, 791 F.3d 517, 527-28 (4th Cir. 2015)
- Riley v. Adams, 2005 WL 6124307, at *1-2 (E.D. Va. Sept. 23, 2005), *aff'd*, 196 F. App'x 151 (4th Cir. 2006)
- Sanko v. McDonnell, 2007 WL 5745934, at *1 (E.D. Va. Aug. 1, 2007), *aff'd*, 283 F. App'x 166 (4th Cir. 2008)

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