

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WASHINGTON

Dmytro Malakhov v. Andrew Cooper

Malakhov · No. 2:25-cv-01391-LK · Decided January 20, 2026

SUMMARY

The United States District Court for the Western District of Washington adopted a magistrate judge’s Report and Recommendation and dismissed Dmytro Malakhov’s 28 U.S.C. § 2241 habeas petition. The court held that Malakhov failed to exhaust his administrative remedies concerning First Step Act time credits and had not shown that he participated in qualifying programs before his transfer to FDC SeaTac.

CASE DETAILS

COURT	United States District Court for the Western District of Washington
WRITING FOR THE COURT	Lauren King
JURISDICTION	United States District Court for the Western District of Washington
DECIDED	January 20, 2026
DOCKET	2:25-cv-01391-LK
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner sought habeas relief under 28 U.S.C. § 2241, alleging that the Bureau of Prisons failed to apply earned First Step Act time credits. The district court adopted a magistrate judge's Report and Recommendation and dismissed the petition for failure to exhaust administrative remedies and, alternatively, on the merits.
STANDARD OF REVIEW	Because no party objected to the Report and Recommendation, the district court was not required to conduct de novo review of the unobjected-to issues. The court stated that it could accept, reject, or modify the magistrate judge's findings and recommendations under 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b)(3).
PRECEDENTIAL VALUE	Unknown; district court order with no reporter citation
PARTIES	Dmytro Malakhov v. Andrew Cooper

TOPICS

federal habeas corpus

exhaustion of remedies

post-conviction relief

civil procedure

PRACTICE AREAS

Federal habeas corpus

Prisoner litigation

Administrative exhaustion

First Step Act sentencing credits

QUESTIONS PRESENTED

1. Whether the § 2241 petition should be dismissed because Malakhov failed to exhaust available Bureau of Prisons administrative remedies and did not establish futility or waiver.
2. Whether Malakhov was entitled to First Step Act time credits for the period before his arrival at FDC SeaTac based on the evidence presented.
3. What review was required of the magistrate judge's Report and Recommendation when no party filed objections.

HOLDINGS

1. The petition was properly dismissed because Malakhov failed to exhaust his available Bureau of Prisons administrative remedies and did not show that exhaustion would have been futile or that the Bureau of Prisons waived the requirement.
2. In a § 2241 case, exhaustion is a prudential rather than jurisdictional requirement and may be waived, including when pursuing administrative remedies would be futile; neither futility nor waiver was established here.
3. The petition was also properly denied on the merits because Malakhov presented no evidence that he participated in programs covered by the First Step Act before arriving at FDC SeaTac.

KEY QUOTATIONS

“In § 2241 cases, exhaustion is a prudential rather than jurisdictional requirement, and it is therefore subject to waiver” (at 2 n.1)

“Accordingly, the Court ADOPTS the R&R, Dkt. No. 10, and DISMISSES the habeas petition.” (at 2)

FACTUAL BACKGROUND

Malakhov was serving an 18-month sentence for conspiracy to launder monetary instruments. He self-surrendered on January 13, 2025, was held at the Metropolitan Detention Center in Los Angeles, and was transferred to FDC SeaTac on May 8, 2025. He alleged that the Bureau of Prisons improperly failed to award First Step Act credits for the period before his transfer, although the government stated that he had not participated in qualifying evidence-based recidivism-reduction programming or productive activities and had not completed the administrative appeal process.

PROCEDURAL HISTORY

Malakhov filed a § 2241 habeas petition on July 23, 2025. The magistrate judge recommended dismissal because Malakhov had not exhausted available Bureau of Prisons administrative remedies and had not shown that

exhaustion would be futile or waived; the magistrate judge also recommended denial on the merits because Malakhov provided no evidence that he participated in qualifying programs before arriving at FDC SeaTac. No party objected to the Report and Recommendation, and the district court adopted it and dismissed the case.

DISPOSITION

dismissed

CASES CITED

- United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc)
- Thomas v. Arn, 474 U.S. 140, 149 (1985)

OPINION

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 WESTERN DISTRICT OF
WASHINGTON AT SEATTLE 9 10 DMYTRO MALAKHOV, CASE NO. 2:25-cv-01391-LK 11
Petitioner, ORDER ADOPTING REPORT AND 12 v. RECOMMENDATION 13 ANDREW
COOPER, 14 Respondent. 15 16 This matter comes before the Court on the Report and
Recommendation (“R&R”) of 17 United States Magistrate Judge Grady J. Leupold.

Dkt. No. 10. Judge Leupold recommends that 18 the writ of habeas corpus filed by Petitioner
Dmytro Malakhov, Dkt. No. 3, be dismissed as 19 unexhausted and without merit. Dkt. No. 10 at
8. No party filed objections.

For the reasons 20 described below, this Court adopts the R&R and dismisses the case. 21 Mr.
Malakhov is serving an 18-month sentence after being convicted of conspiracy to 22 launder
monetary instruments, in violation of 18 U.S.C. § 1956(h). Dkt. No. 8-1 at 2–3. He self- 23
surrendered on January 13, 2025, and was held at the Metropolitan Detention Center in Los 24
Angeles from that date until he was transported to his designated institution, FDC SeaTac, on May
1 8, 2025.

Id. at 3. Mr. Malakhov began earning First Step Act (“FSA”) credits when he was 2 transferred to
FDC SeaTac and has “earned 60 days towards early release, which have been applied 3 to the
calculation of his sentence.” Id. With good conduct time and FSA credits, his projected 4 release
date is January 22, 2026. Id. at 3, 6. 5 On July 23, 2025, Mr. Malakhov filed this petition for a writ
of habeas corpus under 28 6 U.S.C. § 2241, contending that the Bureau of Prisons (“BOP”)
“fail[ed] to apply earned time 7 credits... under [the] First Step Act of 2018.” Dkt.

No. 3 at 6. He contends that he was “wrongly 8 denied” the credits when he “[e]ntered FDC-LA”
on January 13, 2025, and did not start receiving 9 credits until he was transferred to FDC SeaTac
in May 2025. Id. 6–7. 10 The Government responds that Mr. Malakhov “is not entitled under the
First Step Act to 11 earn time credits for the period between his sentencing and designation at a

BOP facility, 12 particularly when he was not engaged in any evidence-based recidivism reduction programming 13 or other productive activities as required by the Act.” Dkt.

No. 6 at 2; see also Dkt. No. 8-1 at 3 14 (according to its records, Mr. Malakhov “has not engaged in any programming or activities that 15 the BOP considers to be evidence-based recidivism reduction programming or other ‘productive 16 activities,’ even after his arrival at the FDC.”).

The Government states that although Mr. Malakhov 17 filed an initial complaint about the credits in June 2025, he did not appeal the denial of his 18 complaint to either the Western Regional Counsel or BOP’s General Counsel. Dkt. No. 8-1 at 4. 19 Consequently, he did not exhaust his administrative remedies. Id. at 3–4. 20 On December 15, 2025, Judge Leupold issued an R&R concluding that Mr. Malakhov 21 failed to exhaust his administrative remedies or show that exhaustion was futile or waived.

Dkt. 22 No. 10 at 5–7. Accordingly, Judge Leupold recommended that the Court dismiss Mr. Malakhov’s 23 24 1 petition for failure to exhaust. Id. at 7.1 Judge Leupold also recommended that the Court deny the 2 habeas petition on the merits because Mr. Malakhov “failed to provide any evidence that he 3 successfully participated in programs covered by the FSA to earn credits before his arrival to FDC 4 SeaTac.” Id. at 7.

Objections to the R&R were due by December 29, 2025, id. at 8, but no party 5 filed objections. 6 This Court must “make a de novo determination of those portions of the report or specified 7 proposed findings or recommendations to which” a party objects. 28 U.S.C. § 636(b)(1); see Fed. 8 R. Civ. P. 72(b)(3) (“The district judge must determine de novo any part of the magistrate judge’s 9 disposition that has been properly objected to.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 10 1121 (9th Cir.

2003) (en banc) (same). The Court “may accept, reject, or modify, in whole or in 11 part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1); see 12 Fed. R. Civ. P. 72(b)(3). However, the Federal Magistrates Act “does not on its face require any 13 review at all... of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 14 149 (1985); see *Reyna-Tapia*, 328 F.3d at 1121 (“[T]he district judge must review the magistrate 15 judge’s findings and recommendations de novo if objection is made, but not otherwise.”).

16 For the reasons provided by Judge Leupold in his R&R, Dkt. No. 10, the Court finds that 17 Mr. Malakhov has failed to exhaust his administrative remedies, doing so would not have been 18 futile, and the BOP did not waive the requirement.

In addition, the Court agrees with Judge 19 Leupold that Mr. Malakhov has not provided any evidence to show that he participated in any 20 covered programs to earn FSA credits before his arrival at FDC SeaTac. 21 22 23 1 Judge Leupold noted that “[i]n § 2241 cases, exhaustion is a

prudential rather than jurisdictional requirement, and it is therefore subject to waiver,” which can occur when “pursuit of administrative remedies would have been futile.” 24 Id. at 5–6.

1 Accordingly, the Court ADOPTS the R&R, Dkt. No. 10, and DISMISSES the habeas 2 petition.
3 Dated this 20th day of January, 2026. 4 A 5 Lauren King United States District Judge 6 7 8 9 10
11 12 13 14 15 16 17 18 19 20 21 22 23 24