

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Justin Clayburn v. Jason Gunther

Clayburn · No. CV-25-00967-PHX-MTL · Decided April 14, 2026

SUMMARY

The United States District Court for the District of Arizona adopted a magistrate judge’s Report and Recommendation and denied and dismissed Justin Clayburn’s petition without prejudice for failure to exhaust administrative remedies. The court also agreed that the petition failed on the merits because 18 U.S.C. § 3632(d)(4)(A) ties earned-time credits to successful participation in evidence-based recidivism reduction programming or productive activities. The court directed the clerk to enter judgment and terminate the case.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                             |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the District of Arizona                                                                                                                                                                                                                                    |
| WRITING FOR THE COURT | Michael T. Liburdi                                                                                                                                                                                                                                                                          |
| JURISDICTION          | United States District Court for the District of Arizona                                                                                                                                                                                                                                    |
| DECIDED               | April 14, 2026                                                                                                                                                                                                                                                                              |
| DOCKET                | CV-25-00967-PHX-MTL                                                                                                                                                                                                                                                                         |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                   |
| PROCEDURAL POSTURE    | The district court reviewed a magistrate judge's report and recommendation recommending denial and dismissal of the petition without prejudice for failure to exhaust administrative remedies and, alternatively, dismissal on the merits. Neither party filed objections.                  |
| STANDARD OF REVIEW    | Because neither party objected to the report and recommendation, the court stated that it was relieved of its obligation to review the recommendation, citing United States v. Reyna-Tapia and Thomas v. Arn. The court nonetheless reviewed the report and recommendation and accepted it. |
| PRECEDENTIAL VALUE    | unpublished district court order                                                                                                                                                                                                                                                            |
| PARTIES               | Justin Clayburn v. Jason Gunther                                                                                                                                                                                                                                                            |

TOPICS

- post-conviction relief
- federal habeas corpus
- statutory interpretation
- plain meaning rule
- civil procedure

## PRACTICE AREAS

post-conviction relief

federal habeas corpus

prisoner litigation

statutory interpretation

## QUESTIONS PRESENTED

1. Whether the petition should be dismissed without prejudice because petitioner failed to exhaust administrative remedies and did not establish that exhaustion would be futile.
2. Whether 18 U.S.C. § 3632(d)(4)(A) forecloses petitioner's argument concerning the triggering date for earned time credits.

## HOLDINGS

1. The petition must be denied and dismissed without prejudice because petitioner failed to exhaust administrative remedies and did not satisfy his burden of showing that exhaustion would be futile.
2. The plain language of 18 U.S.C. § 3632(d)(4)(A) forecloses petitioner's argument because the triggering date for earned time credits is successful participation in evidence-based recidivism reduction programming or productive activities.

## KEY QUOTATIONS

*“Petitioner has failed to exhaust his administrative remedies, and he fails to satisfy his burden that doing so would be futile.”* (at 2)

*“the plain language of 18 U.S.C. § 3632(d)(4)(A) forecloses Petitioner’s argument because the triggering date for earned time credits is successful participation in “evidence-based recidivism reduction programming or productive activities.””* (at 2)

## FACTUAL BACKGROUND

Petitioner challenged the treatment or triggering date of earned time credits under 18 U.S.C. § 3632(d)(4)(A). The court found that petitioner had failed to exhaust administrative remedies and had not shown that exhaustion would be futile. The court also agreed that the merits were foreclosed by the statutory language requiring successful participation in evidence-based recidivism reduction programming or productive activities.

## PROCEDURAL HISTORY

Petitioner filed a petition identified in the order as Doc. 1. Magistrate Judge Michael T. Morrissey issued a report and recommendation recommending dismissal without prejudice for failure to exhaust administrative remedies and alternatively on the merits. After neither party objected, the district court reviewed and accepted the report and recommendation, denied and dismissed the petition without prejudice, and directed the Clerk to enter judgment and terminate the case.

## DISPOSITION

dismissed

## CASES CITED

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

## OPINION

Clayburn

PER CURIAM.

1 2 3 4 5

6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

8 9 Justin Clayburn, No. CV-25-00967-PHX-MTL 10 Petitioner, ORDER 11 v. 12 Jason Gunther,  
13 Respondent. 14 15 Before the Court is Petitioner Justin Clayburn’s Petition (Doc. 1) and United  
16 States 16 Magistrate Judge Michael T. Morrissey’s Report and Recommendation (“R&R”) (Doc.  
17 15). The R&R recommends that the Court deny and dismiss the amended petition without 18  
prejudice for failure to exhaust administrative remedies. On an alternative basis, the R&R 19  
recommends dismissal of the Petition on the merits. 20 The Magistrate Judge advised the parties  
that they had fourteen days to file 21 objections to the R&R and that failure to file timely  
objections could be considered a 22 waiver of the right to obtain review of the R&R. See United  
States v. Reyna-Tapia, 328 23 F.3d 1114, 1121 (9th Cir. 2003). Neither party filed objections,  
which relieves the Court 24 of its obligation to review the R&R. See Reyna-Tapia, 328 F.3d at  
1121; Thomas v. Arn, 25 474 U.S. 140, 149 (1985) (“[Section 636(b)(1)] does not . . . require any  
review at all . . . 26 of any issue that is not the subject of an objection.”); Fed. R. Civ. P. 72(b)(3)  
 (“The district 27 judge must determine de novo any part of the magistrate judge’s disposition that  
has been 28 properly objected to.”). 1 The Court has nonetheless reviewed the R&R and finds that  
it is well-taken. 2|| Petitioner has failed to exhaust his administrative remedies, and he fails to  
satisfy his || burden that doing so would be futile. As for the merits, the Court agrees with the R&R  
that the plain language of 18 U.S.C. § 3632(d)(4)(A) forecloses Petitioner’s argument because ||  
the triggering date for earned time credits is successful participation in “evidence-based 6 ||  
recidivism reduction programming or productive activities.” (Doc. 15 at 4 (quoting 18 U.S.C. §  
3632(d)(4)(A).) 8 The Court will accept the R&R in its entirety. See 28 U.S.C. § 636(b)(1) (stating  
|| that the district court “may accept, reject, or modify, in whole or in part, the findings or 10 ||  
recommendations made by the magistrate”); Fed. R. Civ. P. 72(b)(3) (“The district judge 11} may  
accept, reject, or modify the recommended disposition; receive further evidence; or 12 || return the  
matter to the magistrate judge with instructions.”). 13 IT IS ORDERED that the R&R (Doc. 15) is  
ACCEPTED. 14 IT IS FURTHER ORDERED Petitioner’s petition (Doc. 1) is DENIED and 1)  
DISMISSED WITHOUT PREJUDICE. 16 IT IS FURTHER ORDERED directing the Clerk of the  
Court to enter judgment ☐☐ accordingly and terminate this case. 18 Dated this 14th day of April,

2026. 19 Wichaël T. Sihurde Michael T. Liburdi 22 United States District Judge 23 24 25 26 27 28  
-2-

---

Retrieved from lawtools.ai · <https://lawtools.ai/cases/federal/united-states-district-court-for-the-district-of-arizona/2026/justin-clayburn-v-jason-gunther-pql1p3w0>