

**UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
PENNSYLVANIA**

Norberto Martinez v. Michael Underwood, Warden, F.C.I. Loretto

Martinez v. Underwood, No. 3:25-159 (W.D. Pa. Jan. 27, 2026) · No. 3:25-159 · Decided January 27, 2026

OPINION

MARTINEZ

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF PENNSYLVANIA

NORBERTO MARTINEZ,)

) Petitioner,)) v.) Civil Action No. 3:25-159) Judge Nora Barry Fischer MICHAEL
UNDERWOOD, WARDEN,) Magistrate Judge Keith Pesto

F.C.I. LORETTO,)

) Respondent.)

MEMORANDUM ORDER

AND NOW, this 27th day of January, 2026, upon consideration of the Report and Recommendation filed by United States Magistrate Judge Keith A. Pesto on December 11, 2025, (Docket No. 11), recommending that the § 2241 habeas petition filed by Petitioner Michael Donell Moore against Warden Michael Underwood of FCI Loretto be denied as the Petitioner is statutorily barred from earned time credits due to his conviction under 18 U.S.C. § 924(c) and directing that any objections were due within 14 days such that objections from non-ECF users were due by December 29, 2025, no objections having been filed as of the date of this Order, and this matter having been recently reassigned to the undersigned for prompt disposition, and upon independent review of the record and de novo consideration of the Magistrate Judge's December 11, 2025 Report and Recommendation, (Docket No. 11), IT IS HEREBY ORDERED that the December 11, 2025 Report and Recommendation is ADOPTED as the opinion of this Court; IT IS FURTHER ORDERED that the Petition [1] is DENIED, as Petitioner is statutorily barred from earned time credits due to his conviction under § 924(c), see e.g., 18 U.S.C. § 3632(d)(4)(D)(xxii); Colotti v. Peters, No. 25-1191, 2025 WL 1321386, at *2 (3d Cir. May 7, 2025) ("under the plain text of the Act, Colotti is ineligible to earn good time credits [given his 924(c) conviction]. Further, as the District Court concluded, the BOP properly aggregated Colotti's convictions as a single sentence for purposes of FSA time credits"); Pacheco Mejia v. Warden Loretto FCI, No. 25-2205, 2025 WL 3124474, at *1 (3d Cir. Nov. 7, 2025) ("Congress explicitly identified Section 924(c) offenders like Pacheco Mejia as ineligible for First Step Act time-credit purposes."); and, IT IS FURTHER ORDERED that an appropriate Judgment follows. s/Nora Barry Fischer Nora

Barry Fischer Senior U.S. District Judge cc/ecf: Magistrate Judge Keith A. Pesto cc: Norberto Martinez, Reg. No. 45757-053 F.C.I. Loretto P.O. Box 1000 Cresson, PA 16630 (via first class mail) 2

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