

August 15, 2005

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-11084  
Summary Calendar

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PETER J. MCMAHON,

Petitioner-Appellant,

versus

L.E. FLEMING, Warden, FMC Fort Worth,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:04-CV-587-A  
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Before SMITH, GARZA, and PRADO, Circuit Judges.

PER CURIAM:\*

Peter J. McMahon, federal prisoner # 06394-062, challenges the district court's dismissal of his 28 U.S.C. § 2241 petition, in which he argued that the Bureau of Prisons does not properly calculate good time credit, for failure to exhaust administrative remedies.

McMahon concedes that he did not exhaust administrative remedies. However, he asserts that the exhaustion requirement is not jurisdictional and that his failure to exhaust should be

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

excused because exhaustion would be futile and would cause him irreparable harm. He further contends that the district court abused its discretion in failing to provide findings and conclusions in support of its dismissal. McMahon has not established that the district court abused its discretion in dismissing his petition for failure to exhaust administrative remedies. See Fuller v. Rich, 11 F.3d 61, 62 (5th Cir. 1994). Accordingly, the district court's judgment is AFFIRMED.