

# United States Court of Appeals for the Fifth Circuit

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No. 22-10623  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

February 27, 2023

Lyle W. Cayce  
Clerk

JULIA ANN POFF,

*Petitioner—Appellant,*

*versus*

MICHAEL CARR, *Warden,*

*Respondent—Appellee.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC Nos. 4:21-CV-900, 4:21-CV-1288

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Before HIGGINBOTHAM, GRAVES, and HO, *Circuit Judges.*

PER CURIAM:\*

Julia Ann Poff, federal prisoner # 30835-479, filed a pro se 28 U.S.C. § 2241 petition asserting that her conviction under 18 U.S.C. § 844(d) was not a crime of violence and, therefore, she could earn credit against her sentence under the First Step Act of 2018 (FSA), Pub. L. No. 115-391, 132 Stat. 5194. She sought immediate release under the FSA and the Coronavirus

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\* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

No. 22-10623

Aid, Relief, and Economic Security (CARES) Act. She also alleged that the Bureau of Prisons (BOP) discriminated against her based on her disability and that an unnamed judge discriminated against her by failing to grant her request for enrollment in an educational program. Poff filed a second § 2241 petition challenging the denial of sentence credits for completing Evidence-Based Recidivism Reduction (EBRR) programming under the FSA. The district court consolidated the two § 2241 petitions.

“[A] federal prisoner filing a § 2241 petition must first pursue all available administrative remedies.” *Gallegos-Hernandez v. United States*, 688 F.3d 190, 194 (5th Cir. 2012). The district court found that Poff had failed to exhaust administrative remedies with respect to all her claims except for credits against her sentence under the FSA. We review for abuse of discretion the dismissal of a § 2241 petition for failure to exhaust administrative remedies. *Fuller v. Rich*, 11 F.3d 61, 62 (5th Cir. 1994). On appeal, Poff has not shown that the district court abused its discretion in dismissing these portions of her consolidated § 2241 petitions for failure to exhaust administrative remedies, or that she was entitled to an exception to the exhaustion requirement. *See Gallegos-Hernandez*, 688 F.3d at 194; *Fuller*, 11 F.3d at 62.

Poff argues that the district court erred in denying on the merits her claim for credit against her sentence under 18 U.S.C. § 3632 for completing rehabilitation correspondence courses. “In an appeal from the denial of habeas relief, this court reviews a district court’s findings of fact for clear error and issues of law *de novo*.” *Jeffers v. Chandler*, 253 F.3d 827, 830 (5th Cir. 2001).

The FSA requires the BOP to evaluate each prisoner and determine the type and amount of EBRR programming appropriate for each prisoner to reduce their risk of recidivism. § 3632(a)(3). Prisoners are to be given

No. 22-10623

incentives to participate in the EBRR programs, including 10 days of time credits for every 30 days of successful participation in EBRR programming. § 3632(d)(4)(A)(i). However, a prisoner may not earn credits for EBRR programs completed before December 21, 2018, or during official detention prior to the commencement of the prisoner's sentence. § 3632(d)(4)(B). The district court found that none of the alleged correspondence courses were completed within the applicable time period as part of any EBRR program approved for Poff. Poff does not dispute this but asserts that she should get the credit because the courses fit her needs. Although this may be true, it does not establish a basis for entitlement to sentence credit under § 3632(d)(4)(A)(i) or that the district court erred in denying her § 2241 petition seeking such relief. *See Jeffers*, 253 F.3d at 830.

AFFIRMED.