

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

October 19, 2026

Thomas B. Plunkett, III
Clerk

No. 25-30550

ASHTON CAUSEY,

Petitioner—Appellant,

versus

NATHAN PATE, *Warden, Federal Correctional Institution OAKDALE I,*

Respondent—Appellee.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 2:25-CV-379

Before HAYNES, HIGGINSON, and HO, *Circuit Judges.*

PER CURIAM:*

The Bureau of Prisons (“BOP”) denied federal inmate Ashton Causey’s request for earned time credits under the First Step Act (“FSA”). The BOP aggregated Causey’s sentences for multiple convictions and concluded that, because one sentence is ineligible to earn time credits under the FSA, Causey may not earn time credits for any portion of his term of imprisonment. Causey filed a petition for a writ of habeas corpus, which the

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

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district court denied. For the reasons below, we AFFIRM. We also DENY Causey's motion to consolidate this appeal with others before our court.

I. Background

Causey, a federal inmate in the custody of the BOP, pleaded guilty to multiple counts of an eight-count indictment, including one count of possession of firearms in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A). He was sentenced to 210 months' imprisonment, with the term imposed on his § 924(c) conviction to be served consecutively with the terms imposed on his other convictions, which were all to be served concurrently.

The BOP denied Causey's request for earned time credits under the FSA. The BOP concluded that Causey was ineligible under the FSA because he had a disqualifying conviction, possession of firearms in furtherance of a drug trafficking crime under § 924(c). Causey filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging the denial, arguing that when Congress enacted § 924(c), it intended that defendants would serve the mandatory consecutive sentence for their § 924(c) offense prior to serving other sentences. He argued that after completing his sentence for the § 924(c) offense, he should be eligible to earn credit under the FSA while serving the remainder of his sentence.

The district court referred this case to the magistrate judge under 28 U.S.C. § 636, who recommended that the petition be denied. The magistrate judge reasoned that the BOP properly considered Causey's consecutive sentences as a single, aggregate term of imprisonment, and, because Causey was serving a sentence for a disqualifying § 924(c) offense, he was ineligible to earn time credits under the FSA for his entire sentence. Causey filed objections, but the district court determined that the Report and Recommendation was correct and denied the petition. Causey timely

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appealed. He also filed a motion to consolidate his appeal with two other cases before us.

II. Jurisdiction & Standard of Review

The district court exercised jurisdiction over this federal habeas case under 28 U.S.C. § 2241. We have jurisdiction over this appeal under 28 U.S.C. § 1291 because the district court entered a final judgment.

A § 2241 petition for a writ of habeas corpus is the proper procedural vehicle for challenging the prison authorities' determination of the duration of a prisoner's sentence. *Pack v. Yusuff*, 218 F.3d 448, 451 (5th Cir. 2000). A federal prisoner does not need a certificate of appealability to appeal the denial of a § 2241 petition. *Jeffers v. Chandler*, 253 F.3d 827, 830 (5th Cir. 2001) (per curiam); *see also* 28 U.S.C. § 2253.

In reviewing the denial of a § 2241 petition, we review factual findings for clear error and legal conclusions, including issues of statutory interpretation, de novo. *Jeffers*, 253 F.3d at 830.

III. Discussion

On appeal, Causey argues that (A) he should be able to earn FSA time credits for the remainder of his sentence because he has completed his § 924(c) sentence. He also argues that (B) the district court erred and, separately, that we should consolidate his appeal with two other appeals, because the exhaustion of administrative remedies is satisfied when the agency has a formally adopted policy that removes the agency's discretion to grant the requested relief. We address each in turn.

A. Aggregation of Sentences for FSA Purposes

Under the FSA, certain federal prisoners may participate in incentive programs and earn time credits to be applied toward pre-release custody or early transfer to supervised release. *See* 18 U.S.C. § 3632(d)(4). The FSA

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defines “prisoner” as “a person who has been sentenced to a term of imprisonment pursuant to a conviction for a Federal criminal offense, or a person in the custody of the [BOP].” *Id.* § 3635(4). The statutory framework provides that a prisoner is ineligible to receive credits “if the prisoner is serving a sentence for a conviction under [certain specified] provisions of law.” *Id.* § 3632(d)(4)(D). One such disqualifying conviction is “[18 U.S.C. §] 924(c), relating to unlawful possession or use of a firearm during and in relation to any crime of violence or drug trafficking crime.” *Id.* § 3632(d)(4)(D)(xxii). Under 18 U.S.C. § 3584(c), “[m]ultiple terms of imprisonment ordered to run consecutively or concurrently shall be treated for administrative purposes as a single, aggregate term of imprisonment.”

The issue is whether it was proper for the BOP to aggregate Causey’s sentence for his conviction under § 924(c) with sentences for his additional convictions such that he is ineligible for FSA time credits after serving his § 924(c) sentence. We conclude that it was.

We recently addressed this issue in an unpublished opinion, *Martinez v. Rosalez*, No. 23-50406, 2024 WL 140438 (5th Cir. Jan. 12, 2024) (per curiam) (unpublished).¹ In *Martinez*, a United States citizen was convicted in Mexico of aggravated homicide and later transferred to the United States to serve the remainder of his sentence. *Id.* at *1. The district court determined that the BOP properly aggregated his sentences and that because his foreign sentence correlated to a domestic conviction for first-degree murder, a disqualifying offense for FSA purposes, he was not eligible to earn FSA time credits. *Id.* at *2. We “agree[d] with the district court that aggregation in the administrative context under §§ 3584(c) and 4105(c)(4) was proper for

¹ Although *Martinez* is not “controlling precedent,” it “may be [cited as] persuasive authority.” *Ballard v. Burton*, 444 F.3d 391, 401 n.7 (5th Cir. 2006) (citing 5TH CIR. R. 47.5.4).

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purposes of FSA time credits.”² *Id.* at *3. In accordance with *Martinez*, we conclude that the BOP’s aggregation of Causey’s sentences for FSA purposes was proper.³

We agree with other courts in noting that every circuit to consider this issue has come to the same conclusion.⁴ For example, in *Bonnie v. Dunbar*,

² The latter of these provisions, 18 U.S.C. § 4105(c)(4), provides that a federal sentence imposed while a prisoner is serving a foreign sentence shall be aggregated with the foreign sentence as if the foreign sentence were a federal sentence.

³ Causey relies on *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024). In *Loper Bright*, the Supreme Court held that “courts need not and under the [Administrative Procedure Act] may not defer to an agency interpretation of the law simply because a statute is ambiguous.” *Id.* at 413. Instead, courts must apply the “best reading” of the statute—“the reading the court would have reached if no agency were involved.” *Id.* at 400 (citation modified). Causey avers that the “best reading” of § 3584(c) concludes that the determination of whether someone is eligible for FSA time credits is not an administrative function delegated to the BOP. As the magistrate judge’s Report and Recommendation concluded, the district court’s denial of Causey’s petition was based on his conviction for a disqualifying offense specified by Congress in the FSA, not the BOP’s interpretation of an ambiguous statute. Regardless, our “best reading” of the relevant statutes comes to the same conclusion—aggregation of Causey’s sentences for FSA purposes is appropriate.

⁴ See, e.g., *Giovinco v. Pullen*, 118 F.4th 527, 533 (2d Cir. 2024) (“Congress has directed that . . . the BOP must aggregate multiple terms of imprisonment. That ‘administrative purpose’ includes the implementation of the FSA time credit program that may reduce the sentence. In reaching this conclusion, we agree with every other circuit court to have considered the question.”), *cert. denied sub nom. Giovinco v. Flowers*, 145 S. Ct. 1947 (2025); *Teed v. Warden Allenwood FCI Low*, No. 23-1181, 2023 WL 4556726, at *2 (3d Cir. July 17, 2023) (per curiam) (unpublished) (“Calculation of an inmate’s term of imprisonment is widely recognized as an ‘administrative purpose’ well within the BOP’s responsibilities as charged by Congress. Accordingly, here, we view BOP’s aggregation of [the petitioner’s] sentence and FSA ineligibility designation to be proper.” (citation modified)); *Colotti v. Peters*, No. 25-1191, 2025 WL 1321386, at *2 (3d Cir. May 7, 2025) (per curiam) (unpublished) (“[T]he BOP properly aggregated Colotti’s convictions as a single sentence for purposes of FSA time credits.”); *Bonnie v. Dunbar*, 157 F.4th 610, 618 (4th Cir. 2025) (“[W]e conclude that § 3584(c) applies when construing § 3632 and thus directs the BOP to treat multiple sentences as a single aggregate sentence for administrative purposes, including the computation of FSA time credits.”); *id.* (“[W]e

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the Fourth Circuit addressed a case similar to this instant one in which part of the prisoner's sentence was attributable to a conviction under § 924(c) while the rest of the sentence was attributable to convictions that are not ineligible under the FSA. 157 F.4th 610, 612 (4th Cir. 2025). The Fourth Circuit agreed with the BOP's aggregation of the sentences, holding that the prisoner was indeed ineligible to earn time credits under the FSA. *Id.* at 619. The FSA's ineligibility provision, the Fourth Circuit said, "disqualifies *a prisoner*, not *a sentence*, from receiving FSA time credits, defining such prisoner as one who is serving a sentence for a disqualifying crime." *Id.* at 615.

Causey also argues that if we find that the interplay between § 3584(c) and § 3632(d)(4)(D) is ambiguous, we should apply the rule of lenity and hold that § 3584(c) does not impact his eligibility to earn time credits under the FSA. The rule of lenity holds that ambiguities in criminal statutes are resolved in favor of the defendant. *United States v. Bass*, 404 U.S. 336, 347 (1971). But as explained above, we conclude that the statutes at issue are clear.

note that every court that has considered the issue has reached the conclusion that we reach here today."); *Oiler v. LeMaster*, No. 24-5033, 2025 WL 1864875, at *1 (6th Cir. Jan. 10, 2025) (unpublished) ("As we have recognized, 'the calculation of a prisoner's sentence, and the awarding of credits that reduce the length of that sentence, are administrative functions of the BOP subject to § 3584(c).'" (quoting *Keeling v. LeMaster*, No. 22-6126, 2023 WL 9061914, at *1 (6th Cir. Nov. 22, 2023) (unpublished))); *Clinkenbeard v. Murdock*, No. 24-3127, 2025 WL 926451, at *1 (8th Cir. Mar. 27, 2025) (per curiam) (unpublished) ("[T]he BOP correctly treated [the petitioner's] prison terms as a single aggregate sentence for all 3 offenses, and therefore properly denied him FSA credits."); *Sok v. Eischen*, No. 23-1025, 2023 WL 5282709, at *1 (8th Cir. Aug. 17, 2023) (per curiam) (unpublished) ("[W]e conclude that . . . the BOP correctly treated [the petitioner's] prison terms as a single aggregated sentence for all 3 offenses, and therefore properly denied him FSA credits.").

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B. Exhaustion of Administrative Remedies

Causey's supplemental brief on appeal argues that the district court was incorrect in "characteriz[ing] Causey's argument for skipping the administrative exhaustion of remedies requirement as grounded on Causey's mere belief that the claim would be denied." He argues that the BOP is bound by established policy, so making continued efforts to exhaust remedies would be legally futile.⁵ We conclude that the district court did not deny Causey's petition on any exhaustion of administrative remedies grounds. The magistrate judge's Report and Recommendation adopted by the district court did not address this issue but solely addressed ineligibility under the FSA. Thus, his supplemental brief is not relevant on this appeal. For the same reason, we DENY Causey's motion to consolidate this appeal with that of appeal Nos. 25-30546 and 25-30574.

IV. Conclusion

Accordingly, we AFFIRM the district court's denial of Causey's petition for a writ of habeas corpus and DENY his motion to consolidate.

⁵ In his briefing, Causey refers to this policy only as the "Program Statement." It appears that Causey is referring to the policy referred to in his petition as "BOP Program Statement 5880.28," which he asked the district court to declare as invalid.

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STEPHEN A. HIGGINSON, *Circuit Judge*, dissenting:

I am persuaded by Judge Wynn’s thoughtful analysis of recidivism reduction programs and time credits pursuant to the First Step Act, set forth in Judge Wynn’s dissent in *Bonnie v. Dunbar*, 157 F.4th 610 (4th Cir. 2025). For the reasons he extensively elaborates, *id.* at 619-627, I would reverse the district court’s judgment denying the instant petition for a writ of habeas corpus.