

UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF PENNSYLVANIA

KAREL OMAR AGUILAR-ESTRADA  
PETITIONER.

V.  
ICE/ERO WILLIAMSPORT SUB OFFICE, ET AL.  
RESPONDENT.

FILED  
SCRANTON

MAY 27 2025

REGARDING CASE NO. 1:25-CV-00429  
HEARD BY HONORABLE JUDGE WILSON

PER 8  
DEPUTY CLERK

Rebuttal to Respondent's Responses by Petitioner in the matter of Writ of Habeas Corpus

Petitioner respectfully moves this Court with his rebuke to Respondent's claim his petition for habeas corpus relief 1) needs to meet the exhaustion of administrative remedies under 28 U.S.C. Section 2241 and 2) is without merit because he is subject to a final order of removal and may not apply FSA Time Credits. Petitioner will show in the following is in error by the Respondent:

I. History

Respondent served their response to the writ within the timeframe stipulated by the Court in its order (Doc. 7). In turn, Petitioner offers his rebuttal within the timeframe for his response (14 days after the filing (Doc. 10 - Response by Respondent, filed 5/16/2025, received by Petitioner on or about 5/19/2025 at his institution of incarceration).

II. Rebuttal

Petitioner agrees to the three lettered part (A, B, C) of the Factual Background (part II) in the Respondent's response.

Respondent firstly claims the Petitioner did not exhaust the tiered administrative remedy procedures as codified under 28 C.F.R. 542.10, et seq. Petitioner does not rebut this claim. Respondent then contends under Woodford (case citation in Response, Doc. 7) he [Petitioner] must exhaust his administrative remedies before presenting claims for judicial review and insofar claims Petitioner has failed to provide evidence to meet the futility exception held in *Rose v. Lundy* (id.) nexus line of cases. Petitioner asserts in the Third Circuit he must not meet neither option (exhaustion or futility) if a petitioner is seeking relief of issues involving statutory construction (see *Bradshaw v. Carlson*, 682 F. 2d 1050, 1052 (3d Cir. 1981)(also see; *Vasquez v. Warden Strada*, 2012 U.S. App LEXIS 12563 (3rd Cir. June 20, 2012)). As the Petitioner is seeking relief in the instant case regarding an immigration order (declaration) which became final upon a dismissal of an appeal by the BIA (see 8 C.F.R. 1241.1(a)) and then Petitioner becoming "ineligible" for FSA Time Credit Credits under 18 U.S.C. Section 3632(d)(4)(E)(i), it is clear this instant matter is regarding statutory construction, therefore it was not necessary for the Petitioner to exhaust his administrative remedies nor show futility findings, and the Petitioner can show he has merit in way his order of removal is not final.

As the Respondent duly noted:

- "An order of removal made by an immigration judge becomes administratively final upon dismissal of an appeal by the Board of Immigration Appeals." (pg. 10-11 Response (Doc. 10))

- "...[c]ontrary to his [Petitioner's] argument, an order of removal becomes final upon dismissal of an appeal by the Board of Immigration Appeals." (pg. 11, id.)

Respondent avers to a language change (administratively final) in their response, and the Petitioner agrees with their findings as the statutory construction would make his order of removal final; however, as the Petitioner's appeal is still pending (under judicial review of the BIA's affirmation of immigration judge's order), the Third Circuit has held that an order of removal is not final while under their purview. (See *Orozco Arroyo v. Doll*, No. 4:19-cv-490, 2019 U.S. Dist LEXIS 201359, 2019 WL 6173753 at \*4-5 (M.D. Pa. Oct. 10, 2019)(adopted)(The Third Circuit's grant of a temporary stay of removal [under standing order dated 8/5/2015]...[an] order of removal is not administratively final.) Petitioner provided a true copy of the temporary stay of removal in his initial filing (see Doc. 1, Suppl. Notice of Appeal to BIA, Motion to Stay Removal). Petitioner asserts his order of removal is not final until the temporary stay of removal issued by the Third Circuit Court of Appeals is dismissed.

III. Conclusion

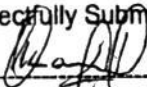
Petitioner holds firm on his position he did not need to exhaust administrative remedies with the BOP as he was challenging statutory construction. As demonstrated in the Respondent's response to the writ, they believe the statute holds the administrative finality of an order to occur when an appeal is dismissed by the BIA thus making him ineligible for FSA Time Credit application. Petitioner notes that in the Third Circuit a stay of removal (regardless if it is temporary until the order or removal has been judicially reviewed) renders an order of removal not administratively final as the Respondent contends.

IV. Prayer

Petitioner prays this Court will find the BOP's statutory interpretation construes he is ineligible for FSA Time Credit application, but in Third Circuit holdings, Petitioner should not be excluded from FSA Time Credit application until his appeal in the Third Circuit has been dismissed. Petitioner additionally seeks for the court to inform the BOP of it's findings as to the Petitioner's order of removal status.

DATED: May 21, 2025

Respectfully Submitted,

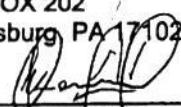
  
Karel Aguilar-Estrada  
Fed. Reg. No. 23493-509  
LSCI Allenwood  
PO Box 1000  
White Deer, PA 17887

Enclosed: copy of Temporary Grant for Stay of Removal (No. 25-1312) dated March 03, 2025

CERTIFICATE OF SERVICE

The undersigned certifies he placed a true copy of this motion in the USPS first class pre-paid in the care of institutional staff to be sent to the following:

Richard Euliss, Esq.  
Sylvia Rambo US Courthouse  
1501 N. 6th St., 2nd FLR  
PO BOX 202  
Harrisburg, PA 17102

  
Karel Aguilar-Estrada

Karel Omar Aguilar-Estrada  
Fed. Reg. No. 23943-509  
c/o LSCI Allenwood  
PO BOX 1000  
White Deer, PA 17887

Clerk of Court  
United States District Court  
for the Middle District of Pennsylvania  
235 N. Washington Avenue  
Rm 101  
Scranton, PA 18503

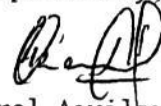
May 21, 2025

RE: Writ of Habeas Corpus by Pro Se Prisoner  
1:25-cv-00429

Dear Clerk of Court,

Please file the enclosed document as a Rebuttal to Respondent's Response.  
Thank you for your attention and time in this matter.

Respectfully,



Karel Aguilar-Estrada

INMATE NAME/NUMBER: Karl Aguilar-Roldan 23493-509  
FEDERAL CORRECTIONAL COMPLEX ALLENWOOD 1000  
P.O. BOX 1000  
WHITE DEER, PA 17887

RECEIVED <> 23493-509 <>  
SCRANTON

MAY 27 2025

PER [Signature]  
DEPUTY CLERK

94 2602 T262 0225 0120 6956



11-114848

CERTIFIED MAIL



United States District Court  
Middle District of PA  
Attn: Clerk of Court  
235 N. Washington AVE  
RM 101  
PO BOX 1148  
Scranton, PA 18503