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MEMORANDUM

FILED
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

I. JURISDICTION AND VENUE

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1. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner challenges the execution of his federal sentence—specifically, the denial of First Step Act Time Credits and the unlawful forfeiture of Good Time Conduct. *COM*

2. Venue is proper in the Southern District of Georgia because Petitioner is incarcerated at the Federal Satellite Low ("FSL") Jesup, located in this District. *Rumsfeld v. Padilla*, 542 U.S. 426 (2004).

II. CUSTODY

Petitioner is in the physical custody of the Bureau of Prisons ("BOP") at the Jesup Satellite Low. The Warden is the proper Respondent.

III. EXHAUSTION OF ADMINISTRATIVE REMEDIES

Petitioner has exhausted all available administrative remedies.

A. Issue One – FSA Time Credits

For the FSA time-credit claim, Petitioner completed the entire administrative remedy chain:

1. BP-8 (Informal Resolution; Exhibit 1A)
2. BP-8.5 (Informal to next level; Exhibit 1B)
3. BP-9 (Warden; Exhibit 1C)
4. BP-10 (Regional Director; Exhibit 1D)
5. BP-11 (Central Office; Exhibit 1E)

All requests were denied.

B. Issue Two – Disciplinary Sanction and 41 Days Good Time

Because the disciplinary action began at the DHO level, the first available remedy was the BP-10 Regional Appeal:

Petitioner filed a BP-10 (Exhibit 2A), which was ignored by the Region.

Petitioner then filed a BP-11 (Exhibit 2B), which was denied and, for the first time, asserted that witness testimony could be denied due to a security risk.

No further administrative remedies were available.

IV. STATEMENT OF FACTS

Petitioner raises two distinct issues.

ISSUE ONE

THE BOP UNLAWFULLY DENIED 10 DAYS OF FIRST STEP ACT CREDITS FOR 6/10/23–6/19/23 BY CLASSIFYING PETITIONER AS BEING IN TRANSIT STATUS EVEN THOUGH HE REMAINED IN BOP CUSTODY AND CONTINUED PROGRAMMING

A. Facts

Petitioner self-surrendered to FSL Jesup on September 13, 2022.

On June 9, 2023, the Warden temporarily evacuated the Jesup Satellite Low for institutional reasons. The vast majority of inmates, including Petitioner, were transported to FCI Estill, while others were sent to other BOP institutions.

Petitioner remained continuously in secure housing in BOP custody from June 9, 2023, through June 20, 2023, before being returned to Jesup.

This movement was:

- Not disciplinary
- Not a refusal or SIS hold
- Not any statutorily disqualifying status

While at FCI Estill, Petitioner continued to engage in Productive Activities approved under the First Step Act, including reading, family communication, and self-directed programming.

Despite this, the BOP disallowed 10 days (June 10–19, 2023), classifying Petitioner as being in transit status.

This term does not appear anywhere in 18 U.S.C. § 3632(d)(4) as a basis to deny FSA Time Credits.

B. Administrative History

BP-8 & BP-8.5: Unit Team stated the issue “cannot be resolved at the Unit Team level.”

BP-9, BP-10, BP-11: BOP denied relief, stating that Program Statement 5410.01 prohibits credit while an inmate is in transit status.

ISSUE TWO

THE DHO HEARING VIOLATED DUE PROCESS AND RESULTED IN AN UNLAWFUL LOSS OF 41 GOOD TIME CONDUCT DAYS

A. Facts

On May 23, 2024, Petitioner was accused of Possession of a Hazardous Tool (Code 108) after a MP3 player was found in his bag.

Earlier that day, BOP staff ordered all inmates to leave personal property unattended on the pavilion because work inside the housing unit prevented inmates from returning belongings to their living area.

While Petitioner was eating, inmate Michael Karp, fearing a pat-down, hid his own MP3 player inside Petitioner's bag without Petitioner's knowledge or consent. Inmates Matthew McCall and Cooper Casner personally witnessed Karp put the device into the bag.

Petitioner's incident report states he was "alone on the pavilion" when his bag was searched. This fact actually supports innocence: because Petitioner was isolated when searched, he had no chance to communicate with the witnesses before they independently reported what they saw.

Immediately:

- Karp approached staff and confessed, and
- Casner and McCall approached staff as witnesses. All three acted before speaking with Petitioner. Despite this, DHO Tisdell: 1) refused to interview Karp, Casner or McCall and 2) refused to allow them to testify later falsely stated they refused to be interviewed, which all three contradicted in written statements imposed a sanction of 41 days Good Time Conduct forfeiture.

B. Administrative History

BP-10 (first appeal for DHO matters): Ignored without response. (Exhibit 2A)

BP-11: Denied and raised a new allegation—that witness testimony presented a security risk. (Exhibit 2B)

Petitioner was never given a chance to rebut this new claim.

After Petitioner left SHU, he was placed in the same open dormitory with Karp, Casner, and McCall, demonstrating that staff themselves did not believe a security risk existed.

V. MEMORANDUM OF LAW

ISSUE ONE – THE BOP CANNOT DENY FSA CREDITS BASED ON TRANSIT STATUS

A. Statutory Requirement

Under 18 U.S.C. § 3632(d)(4)(B)(ii), an inmate:

“shall earn time credits... if the prisoner is in BOP custody after the sentence has been imposed.”

Congress created only three disqualifying categories, none of which includes transit status.

B. BOP Cannot Add Extra-Statutory Disqualifications

The BOP unlawfully added a restriction not found in the statute.

- Patel v. Barron, No. C23-937-KKE (W.D. Wash. Sept. 28, 2023)
- Yufenyuy v. Warden, FCI Berlin, No. 22-cv-443-AJ (D.N.H. Mar. 16, 2023)
- Umejesi v. Warden, FCI Berlin, No. 22-cv-251-SE (D.N.H. Mar. 16, 2023)

These decisions emphasize that BOP must apply FSA credits consistent with statutory language.

Petitioner is entitled to the 10 days.

ISSUE TWO – THE DHO HEARING VIOLATED DUE PROCESS

A. Wolff v. McDonnell 418 U.S. 539 (1974)

Wolff requires:

1. The right to present witnesses
2. The right to present documentary evidence
3. An impartial hearing

All were violated.

B. C.F.R. Violations

BOP violated:

1. § 541.5(b)(2) – failure to call witnesses
2. § 541.8(f)(6) – failure to interview witnesses
3. § 541.8(h)(5) – failure to provide written copy of DHO decisions and disposition within 15 work days. (Exhibit 2C, 2D, 2E)
4. § 541.7(h) – failure to provide UDC report by next working day (Exhibit 2F & 2G)
5. § 541.7(b) – uncertified UDC officer
6. Appendix C – denial of SHU legal materials

The DHO ignored:

1. A full confession (Exhibit 2H)
2. Two eyewitness statements (Exhibit 2I & 2J)
3. Staff-ordered unattended property
4. Written, direct exculpatory evidence

C. Remedy

Courts restore good-time when due-process violations occur.
See Howard v. BOP, 487 F.3d 808

VI. RELIEF REQUESTED

Petitioner respectfully requests the Court to:

Issue One – FSA Credits

1. Declare that BOP violated 18 U.S.C. § 3632(d)(4)(B)(ii).
2. Order BOP to restore 10 days of FSA Time Credits.
3. Order recalculation of Petitioner's release date.

Issue Two – Good-Conduct Time

4. Order expungement of the May 23, 2024 incident report.
5. Restore 41 days of Good Time Conduct.
6. Correct all related SENTRY data.

General Relief

7. Grant any additional relief the Court deems appropriate.