No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

DANIEL JOSEPH TEED - PETITIONER

vs.

THOMPSON, WARDEN FCI ALLENWOOD LOW - RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI TO

THE THIRD CIRCUIT COURT OF APPEALS

APPENDIX

DANIEL JOSEPH TEED, pro se

FCI LORETTO

P.O. BOX 1000

CRESSON, PA 16630

INDEX OF APPENDICES

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-1181

DANIEL JOSEPH TEED,
Appellant

v.

WARDEN ALLENWOOD FCI LOW

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Civil Action No. 1:22-cv-01568)
District Judge: Honorable Christopher C. Conner

Submitted Pursuant to Third Circuit LAR 34.1(a)
July 13, 2023
Before: SHWARTZ, BIBAS, and MONTGOMERY-REEVES, Circuit Judges

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JUDGMENT

This cause came to be considered on the record from the United States District Court for the Middle District of Pennsylvania and was submitted pursuant to Third Circuit LAR 34.1(a) on July 13, 2023. On consideration whereof, it is now hereby

ORDERED and ADJUDGED by this Court that the judgment of the District Court entered February 3, 2023, be and the same is hereby otherwise affirmed. All of the above in accordance with the opinion of this Court.

ATTEST:

s/Patricia S. Dodszuweit
Clerk

Dated: July 17, 2023

Certified as a true copy and issued in lieu of a formal mandate on August 8, 2023

Teste: Patricia A. Dodszuweit

Clerk, U.S. Court of Appeals for the Third Circuit

APPENDIX A

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-1181

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Appellant

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July 13, 2023
Before: SHWARTZ, BIBAS, and MONTGOMERY-REEVES, Circuit Judges

(Opinion filed July 17, 2023)

OPINION*

PER CURIAM

Appellant Daniel Teed, an inmate at FCI Allenwood-Low located in White Deer, Pennsylvania, appeals from the District Court's denial of his habeas corpus petition under

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

28 U.S.C. § 2241. For the reasons that follow, we will affirm the District Court's judgment.

Teed pleaded guilty to conspiring to commit sex trafficking of a minor (18 U.S.C. § 1594(c)), and, in October 2017, the District Court sentenced him to 120 months in prison with 20 years of supervised release. Teed did not self-surrender as agreed, so after he was caught he was charged with failure to surrender for service (18 U.S.C. § 3146) and failure to register as a sex offender (18 U.S.C. § 2250). He again pleaded guilty, and the District Court imposed 18 months on each of those offenses, to be served concurrently with one another but consecutive to the 120-months imposed on the § 1594(c) conviction. Pursuant to 18 U.S.C. § 3584(c), the Bureau of Prisons (BOP) aggregated his three sentences together for a total term of 138 months in prison. In 2019, the BOP determined that he did not qualify for First Step Act (FSA) time credits because his conviction for failing to register as a sex offender rendered him ineligible under 18 U.S.C. § 3632(d)(4)(D)(xxxviii).

In 2022, Teed filed a habeas petition under 28 U.S.C. § 2241 challenging this determination. He claimed that he is eligible under the statute, that the BOP's interpretation was unreasonable, and that the exclusions under § 3632(d)(4)(b)(i)-(lxvi) are unconstitutional. ECF No. 1 at 6-7. After the Government answered and opposed the petition, the District Court denied it. Teed submitted a reply document and a motion for reconsideration. In response, the District Court vacated its previous order and entered a new memorandum and order denying the petition and Teed's motion for reconsideration.

See Dist. Ct. Memorandum (ECF No. 17) and Order (ECF No. 18) entered February 3, 2023. This timely notice of appeal followed.

We have jurisdiction over the appeal pursuant to 28 U.S.C. § 1291. We review the District Court's denial of a § 2241 habeas petition de novo, see Cradle v. United States ex rel. Miner, 290, F.3d 536, 538 (3d Cir. 2002) (per curiam), and the denial of the motion for reconsideration under an abuse of discretion standard, see Max's Seafood Café, ex rel. Lou-Ann, Inc. v. Quinteros, 176 F.3d 669, 673 (3d Cir. 1999).

Under the FSA, certain inmates may earn time credits to be applied toward pre-release custody or early transfer to supervised release. See generally 18 U.S.C. § 3632. The statutory framework delineates ineligible inmates, including "if the prisoner is serving a sentence for" a conviction under Section 2550 for failing to register as a sex offender. § 3632(d)(4)(D)(xxxviii). Teed admits that he has been convicted for failing to register as a sex offender as referenced in that subsection, but argues that he is not presently "serving a sentence for" that offense. He argues that the District Court ran the 18-month sentence for the failure-to-register conviction (the disqualifying offense) consecutive to the 120-month sentence for conspiracy to commit sex trafficking of a minor (which is not disqualifying), and he has not yet finished serving his sentence on that conviction.

We disagree with Teed's argument. Before reaching the conclusion that he was ineligible, the BOP aggregated his sentence pursuant to § 3584(c), which provides that "[m]ultiple terms of imprisonment ordered to run consecutively or concurrently shall be

treated for administrative purposes as a single, aggregate term of imprisonment." 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. See generally United States v. Martin, 974 F. 3d 124, 136 (2d Cir. 2020) (citing United States v. Wilson, 503 U.S. 329, 333-35 (1992) ("After a district court sentences a federal offender, the Attorney General, through the BOP, has the responsibility for administering the sentence.") (emphasis omitted)). Accordingly, here, we view BOP's aggregation of Teed's sentence and FSA ineligibility designation to be proper.

We will therefore affirm the judgment of the District Court.

APPENDIX B

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DANIEL TEED,	:	CIVIL ACTION NO. 1:22-CV-1568
	:	
Petitioner	:	(Judge Conner)
	:	
v.	:	
	:	
WARDEN, LOW SECURITY CORRECTIONAL INSTITUTION, ALLENWOOD,	:	
	:	
Respondent	:	

MEMORANDUM

Petitioner Daniel Teed ("Teed"), an inmate confined at the Federal Correctional Institution, Allenwood, Low, in White Deer, Pennsylvania, initiated the above-captioned action by filing a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. (Doc. 1). Teed seeks an order directing the Bureau of Prisons ("BOP") to deem him eligible for earned time credits pursuant to the First Step Act ("FSA") during the time he was serving his first sentence. (Id. at 8). On November 7, 2022, respondent filed a response and argued that Teed's § 2241 petition must be denied because he is not eligible for earned time credits under the FSA. (Doc. 6). Teed's reply was due on November 21, 2022. Teed did not file a reply; therefore, on November 28, 2022, the court issued a memorandum and order denying the habeas petition. (Docs. 8, 9). On the same day the court issued its memorandum and order, Teed's reply was received and docketed by the Clerk of Court. (Doc. 7).

On December 13, 2022, Teed filed a motion pursuant to Federal Rule of Civil Procedure 59(e) contending that the court issued its November 28, 2022 decision

before considering his traverse. (Doc. 10). Teed also filed a Notice of Appeal on January 27, 2023, which has been docketed in the United States Court of Appeals for the Third Circuit at Docket Number 23-1181. (Docs. 13, 15; Teed v. Warden Allenwood FCI Low, No. 23-1181 (3d Cir.)). On February 1, 2023, the Third Circuit issued an order staying the appeal pending this court's disposition of Teed's Rule 59(e) motion. Teed, No. 23-1181, Doc. 3. While there is nothing in the traverse that alters our prior determination denying the habeas petition, we vacate the prior memorandum and order (Docs. 8, 9) and issue this memorandum and attendant order to reflect consideration of Teed's submission. We also deny Teed's Rule 59(e) motion as he has not presented the court with changes in controlling law, newly discovered evidence, or a clear error of law or fact that would necessitate a different ruling in order to prevent a manifest injustice. See FED. R. CIV. P. 59(e); Lazaridis v. Wehmer, 591 F.3d 666, 669 (3d Cir. 2010).

I. Factual Background

Teed is serving an aggregate one hundred thirty-eight (138) month term of imprisonment imposed by the United States District Court for the Western District of Pennsylvania for conspiracy to commit sex trafficking of children in violation of 18 U.S.C. § 1594(c), failure to register as a sex offender in violation of 18 U.S.C. § 2250, and failure to surrender for service of a sentence in violation of 18 U.S.C. § 3146(a)(2). (Doc. 6-1 at 4-7). Teed's projected release date is November 29, 2027, via good conduct time release. (Id.)

Respondent submitted the Declaration of Jennifer Knepper, BOP Attorney Advisor, wherein she states that Teed was reviewed and found ineligible for earned

time credits under the FSA on November 12, 2019. (Doc. 6-1 at 3 ¶ 5; Doc. 6-1 at 16-17).

In his § 2241 petition, Teed asserts that the BOP violated his due process rights by improperly deeming him ineligible for earned time credits under the FSA. (Doc. 1; see also Doc. 7). Essentially, Teed argues that his sentences for different offenses should be treated in a bifurcated manner for FSA eligibility purposes. For relief, Teed requests that the court order the BOP to deem him eligible for earned time credits under the FSA during the time he was serving his first sentence, to apply these earned time credits to his sentence, and to deem the provisions of 18 U.S.C. § 3632(d)(4)(D) unconstitutional. (Doc. 1 at 8; Doc. 7 at 6). Respondent contends that Teed's § 2241 petition must be denied because he is not eligible for earned time credits under the FSA. (Doc. 6).

II. Discussion

The FSA allows eligible inmates who successfully complete evidence-based recidivism reduction programs or productive activities to receive time credits to be applied toward time in prerelease custody or supervised release. See 18 U.S.C. § 3632(d)(4)(A), (C). An inmate can earn ten (10) days of credit for every thirty (30) days of successful participation. See id. § 3632(d)(4)(A)(i). Furthermore, eligible inmates assessed at a minimum or low risk of recidivism who do not increase their risk of recidivism over two (2) consecutive assessments may earn five (5) additional days of time credit for every thirty (30) days of successful participation, for a total of fifteen (15) days' time credit per thirty (30) days' successful participation. See id. § 3632(d)(4)(A)(ii).

The FSA contains multiple eligibility requirements, including an extensive list of convictions that render a prisoner ineligible to earn time credits. See id. § 3632(d)(4)(D). If time credits under the FSA are properly earned by an eligible inmate, application of those time credits to a prisoner's sentence is governed by 18 U.S.C. § 3624(g). Among other requirements, to be eligible for application of earned time credits, a prisoner must: (1) have earned time credits "in an amount that is equal to the remainder of the prisoner's imposed term of imprisonment"; (2) demonstrate through periodic risk assessments a recidivism risk reduction or maintain a "minimum or low recidivism risk" during the term of imprisonment; (3) have had the remainder of his term of imprisonment computed; and, (4) as pertains to prerelease custody, have been determined under the System[1] to be a minimum or low risk to recidivate pursuant to the last two reassessments of the prisoner or have had a petition to be transferred to prerelease custody approved by the warden of the prison. See id. § 3624(g)(1); see also 28 C.F.R. § 523.44(b), (c).

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[1] Under the FSA, the Attorney General was charged with development and release of a Risk and Needs Assessment System (the "System") within 210 days of December 21, 2018, the date on which the FSA was enacted. See 18 U.S.C. § 3632. The System is to be used for: (1) determining an inmate's recidivism risk; (2) assessing an inmate's risk of violent or serious misconduct; (3) determining the type and amount of evidence-based recidivism reduction programming appropriate for each inmate; (4) periodically assessing an inmate's recidivism risk; (5) reassigning an inmate to appropriate evidence-based recidivism reduction programs or productive activities; (6) determining when to provide incentives and rewards for successful participation in evidence-based recidivism reduction programs or productive activities; (7) determining when the inmate is ready to transfer to pre-release custody or supervised release; and (8) determining the appropriate use of audio technology for program course materials with an understanding of dyslexia. See id. § 3632(a).

Respondent asserts that Teed is ineligible for earned time credits under the FSA because he has been convicted of a disqualifying offense listed in Section 3632(d)(4)(D). 18 U.S.C. § 3632(d)(4)(D) provides that: "[a] prisoner is ineligible to receive time credits under this paragraph if the prisoner is serving a sentence for a conviction under any of the following provisions of law: ... Section 2250, relating to failure to register as a sex offender." 18 U.S.C. § 3632(d)(4)(D)(xxxviii). It is undisputed that Teed was convicted of failing to register as a sex offender in violation of 18 U.S.C. § 2250. However, Teed raises an issue of statutory construction. He argues that he is not yet "serving" a sentence for his conviction under 18 U.S.C. § 2250. (Doc. 1 at 16-18, 20; Doc. 7 at 2). He asserts that he is presently serving a sentence for his conviction of conspiracy to commit sex trafficking of a minor under 18 U.S.C. § 1594(c), and that his 18 U.S.C. § 2250 sentence was ordered to run consecutively. (Id.) Teed therefore claims that he is eligible for earned time credits under the FSA for his 18 U.S.C. § 1594(c) conviction.

Teed's assertion lacks merit. The relevant statutory provision is 18 U.S.C. § 3584(c), which provides that "[m]ultiple terms of imprisonment ordered to run consecutively ... shall be treated for administrative purposes as a single, aggregate term of imprisonment." 18 U.S.C. § 3584(c). Thus, multiple sentences shall be aggregated to form a single sentence for computation purposes. In Chambers v. Warden Lewisburg USP, 852 F. App'x 648 (3d Cir. 2021) (nonprecedential)[2], the

[2] The court acknowledges that nonprecedential decisions are not binding upon federal district courts. Citations to nonprecedential decisions reflect that the court has carefully considered and is persuaded by the panel's *ratio decidendi.*

United States Court of Appeals for the Third Circuit considered whether the sentences for petitioner's convictions should have been aggregated for purposes of calculating a projected release date and whether the BOP should have awarded petitioner extra good-time credits under the FSA. The Third Circuit determined that "[t]he BOP was permitted to aggregate [petitioner's] otherwise-consecutive sentences into a single unit for purely administrative purposes, such as—at issue here—calculating [good time credits] under 18 U.S.C. § 3624." Id. at 650 (citing 18 U.S.C. § 3584(c); United States v. Martin, 974 F.3d 124, 136 (2d Cir. 2020)).

Applying these principles here, the court finds that the BOP properly aggregated Teed's sentences into one sentence for administrative purposes and found that he is ineligible for earned timed credits under the FSA based on his disqualifying offense. This conclusion is bolstered by the relevant regulations, which plainly state that: "[i]f the inmate is serving a term of imprisonment for an offense specified in 18 U.S.C. § 3632(d)(4)(D), the inmate is not eligible to earn FSA Time Credits." 28 C.F.R. § 523.41(d)(2). Because Teed was convicted of an offense enumerated in 18 U.S.C. § 3632(d)(4)(D) and his sentences were aggregated to form a single sentence for administrative purposes, the BOP properly deemed him ineligible for earned time credits under the FSA. See 18 U.S.C. §

3632(d)(4)(D)(xxxviii). Thus, he is statutorily ineligible to receive earned time credits under the FSA and his § 2241 petition must be denied.[3]

III. Conclusion

We will deny Teed's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. An appropriate order shall issue.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner
United States District Judge
Middle District of Pennsylvania

Dated: February 3, 2023

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[3] Insofar as Teed challenges the BOP's interpretation of 18 U.S.C. § 3632(d)(4)(D), the court finds the BOP's interpretation of the statute to be reasonable in light of other statutory obligations imposed upon the BOP. As stated, 18 U.S.C. § 3584(c) provides that "[m]ultiple terms of imprisonment ordered to run consecutively or concurrently shall be treated for administrative purposes as a single, aggregate term of imprisonment." Courts have consistently held that sentence calculation by the BOP and the BOP's administration of incentives which reduce the length of a prisoner's term of imprisonment are administrative functions of the BOP subject to § 3584(c). See, e.g., Mills v. Quintana, 408 F. App'x 533, 535 n. 3 (3d Cir. 2010) ("The BOP is the agency responsible for implementing and applying federal law concerning the computation of federal sentences, and it has developed detailed procedures for determining the credit available to prisoners."); Vitrano v. Marberry, No. 06-CV-310, 2008 WL 471642 (W.D. Pa. Feb. 19, 2008) (providing that the BOP is responsible for implementing statutes concerning the computation of federal sentences); see also Lopez v. Davis, 531 U.S. 230, 242 (2001) (the BOP is "the agency empowered to administer the early release program"); Peyton v. Rowe, 391 U.S. 54, 67 (1968) (holding that a prisoner incarcerated on multiple sentences is, for purposes of determining whether he has standing to seek habeas relief, in custody on all sentences).

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DANIEL TEED,	:	CIVIL ACTION NO. 1:22-CV-1568
	:	
Petitioner	:	(Judge Conner)
	:	
v.	:	
	:	
WARDEN, LOW SECURITY CORRECTIONAL INSTITUTION, ALLENWOOD,	:	
	:	
Respondent	:	

ORDER

AND NOW, this 3rd day of February, 2023, upon consideration of the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 (Doc. 1), respondent's response (Doc. 6), petitioner's reply (Doc. 7) to the response, and petitioner's Rule 59(e) motion (Doc. 10), and for the reasons set forth in the accompanying memorandum, it is hereby ORDERED that:

1. The Clerk of Court is directed to REOPEN this case.
2. The Clerk of Court is directed to VACATE this court's prior memorandum and order (Docs. 8, 9).
3. The petition for writ of habeas corpus is DENIED. (Doc. 1).
4. Petitioner's Rule 59(e) motion (Doc. 10) is DENIED.
5. The Clerk of Court is directed to CLOSE this case.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner
United States District Judge
Middle District of Pennsylvania

APPENDIX C

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-1181

DANIEL JOSEPH TEED,
Appellant

v.

WARDEN ALLENWOOD FCI LOW

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Civil Action No. 1:22-cv-01568)
District Judge: Honorable Christopher C. Conner

Submitted Pursuant to Third Circuit LAR 34.1(a)
July 13, 2023
Before: SHWARTZ, BIBAS, and MONTGOMERY-REEVES, Circuit Judges

---

JUDGMENT

This cause came to be considered on the record from the United States District Court for the Middle District of Pennsylvania and was submitted pursuant to Third Circuit LAR 34.1(a) on July 13, 2023. On consideration whereof, it is now hereby

ORDERED and ADJUDGED by this Court that the judgment of the District Court entered February 3, 2023, be and the same is hereby otherwise affirmed. All of the above in accordance with the opinion of this Court.

ATTEST:

s/Patricia S. Dodszuweit
Clerk

Dated: July 17, 202

Mandate originally issued on August 8, 2023 **was recalled on** August 31, 2023**. This document is certified as a true copy and reissued in lieu of a formal mandate on** October 12, 2023**.**

Teste: APPENDIX Document

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 23-1181

Daniel Teed v. Warden Allenwood FCI Low

1-22-cv-01568

ORDER

It appearing that a panel of this Court disposed of the above case by a Judgment filed July 17, 20023, and it further appearing that a Petition for Rehearing was timely filed by Appellant on August 22, 2023, and it further appearing that the Clerk's Office erroneously issued the certified Judgment in lieu of formal mandate on August 8, 2023

It is **ORDERED** that the certified Judgment issued in lieu of formal mandate on 08/08/2023, be and is hereby RECALLED.

For the Court,

s/ Patricia S. Dodszuweit
Clerk

Dated: August 31, 2023

A True Copy:

Patricia A. Dodszuweit

Patricia S. Dodszuweit, Clerk

sb/cc: cc: Navin Jani, Esq.
Daniel Joseph Teed
Peter J. Welsh

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-1181

DANIEL JOSEPH TEED,
Appellant

v.

WARDEN ALLENWOOD FCI LOW

(D.C. Civil Action No. 1-22-cv-01568)

SUR PETITION FOR REHEARING

Present: CHAGARES, Chief Judge, JORDAN, HARDIMAN, SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, FREEMAN, MONTGOMERY-REEVES, and CHUNG, Circuit Judges

The petition for rehearing filed by Appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT,

s/ Tamika R. Montgomery-Reeves
Circuit Judge

APPENDIX D

Amendment 5 Criminal actions—Provisions concerning—Due process of law and just compensation clauses.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment 14

Sec. 1. [Citizens of the United States.] All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Sec. 2. [Representatives—Power to reduce apportionment.] Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Sec. 3. [Disqualification to hold office.] No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Sec. 4. [Public debt not to be questioned—Debts of the Confederacy and claims not to be paid.] The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Sec. 5. [Power to enforce amendment.] The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Additional material from this filing is available in the Clerk's Office.