

IN THE SUPREME COURT OF THE UNITED STATES

WILLIAM MAXWELL, PETITIONER

v.

ALBERT THOMAS, III, WARDEN

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

BRIEF FOR THE RESPONDENT IN OPPOSITION

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QUESTIONS PRESENTED

1. Whether a claim regarding application of time credits under the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194 (codified in relevant part at 18 U.S.C. 3631-3635), can be brought in a habeas petition under 28 U.S.C. 2241.

2. Whether this Court's decision in Perttu v. Richards, 605 U.S. 460 (2025), has any effect on petitioner's failure to exhaust his administrative remedies for any claim regarding First Step Act time credits.

PARTIES TO THE PROCEEDING

Petitioner is William Maxwell.

Respondent is Albert Thomas, III, Warden, FCI Beaumont Low.

ADDITIONAL RELATED PROCEEDINGS

United States District Court (D.N.J.):

United States v. Maxwell, No. 11-cr-740 (July 30, 2015)

Maxwell v. United States, No. 25-cv-16419 (filed Oct. 9, 2025)

United States District Court (E.D. Tex.):

Maxwell v. Warden, No. 22-cv-40 (Oct. 6, 2023)

United States Court of Appeals (3d Cir.):

United States v. Maxwell, No. 15-2925 (July 15, 2022)

United States Court of Appeals (5th Cir.):

Maxwell v. Thomas, No. 23-40699 (Apr. 3, 2025)

Supreme Court of the United States:

Maxwell v. United States, No. 23-7404 (Oct. 7, 2024)

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No. 25-5930

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 5-6) is reported at 133 F.4th 453.* The opinion and order of the district court (Pet. App. 9-12) is available at 2023 WL 6578464. The report and recommendation of the magistrate judge (Pet. App. 13-19) is available at 2023 WL 6635074.

JURISDICTION

The judgment of the court of appeals was entered on April 3, 2025. A petition for rehearing was denied on June 23, 2025 (Pet.

* The appendix to the petition for a writ of certiorari is not consecutively paginated in its entirety. We thus use the pagination of the PDF file on the Court's electronic docket.

App. 20). The petition for a writ of certiorari was filed on August 20, 2025. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a jury trial in the United States District Court for the District of New Jersey, petitioner was convicted on one count of conspiring to violate the Racketeer Influenced and Corrupt Organizations Act (RICO), in violation of 18 U.S.C. 1962(d); one count of conspiring to commit securities fraud, in violation of 18 U.S.C. 371; one count of conspiring to commit wire fraud, in violation of 18 U.S.C. 1349; 16 counts of wire fraud, in violation of 18 U.S.C. 1343; one count of conspiring to commit money laundering, in violation of 18 U.S.C. 1956(h); one count of conspiring to obstruct justice, in violation of 18 U.S.C. 1512(k); and one count of conspiring to sell or transfer a firearm to a prohibited person, in violation of 18 U.S.C. 371 and 18 U.S.C. 922(d)(1) (2006). 11-cr-740 D. Ct. Doc. No. 1307, at 1 (D.N.J. Aug. 11, 2015). He was sentenced to 240 months of imprisonment, to be followed by three years of supervised release. Id. at 3-4. The court of appeals affirmed, 41 F.4th 136, and this Court denied a petition for a writ of certiorari, 145 S. Ct. 189.

In 2022, petitioner filed a petition for a writ of habeas corpus under 28 U.S.C. 2241. 22-cv-40 D. Ct. Doc. 1 (Feb. 7, 2022). The district court dismissed the petition. Pet. App. 9-12. The court of appeals affirmed. Id. at 5-6.

1. Petitioner is a federal prisoner serving a 240-month sentence for his role in a scheme to take over FirstPlus Financial Group, Inc., a Texas-based mortgage-loan company, and to drain FirstPlus of its assets. 41 F.4th at 157-162. Petitioner and his co-conspirators, members of La Cosa Nostra, sent threatening letters to FirstPlus's CEO and other members of its board of directors, successfully coercing them to hand over control of the company. Id. at 159. Once in control, petitioner and his co-conspirators "bled FirstPlus dry," draining the company of more than \$14 million and leaving it with "less than \$2,000" in its accounts. Id. at 162, 165. A federal grand jury in the District of New Jersey returned a 25-count indictment against petitioner and 12 other defendants. 11-cr-740 D. Ct. Doc. 1 (D.N.J. Oct. 26, 2011). Petitioner was charged with conspiring to violate RICO; conspiring to make false statements in connection with a loan application; conspiring to commit securities fraud, wire fraud, money laundering, and bank fraud; wire fraud; conspiring to obstruct justice; and conspiring to transfer a firearm to a prohibited person. Id. at 2-78, 82-87. A jury found petitioner guilty on all counts except conspiring to commit bank fraud and to make false statements. 41 F.4th at 165 & n.13; 11-cr-740 D. Ct. Doc. 1307, at 1. Petitioner was sentenced to 240 months of imprisonment, to be followed by three years of supervised release. Id. at 3-4. The court of appeals affirmed, 41 F.4th 136, and this Court denied a petition for a writ of certiorari, 145 S. Ct. 189.

In 2022, petitioner filed a petition for a writ of habeas corpus under 28 U.S.C. 2241 in the United States District Court for the Eastern District of Texas, the district where he is confined, contending that he should be transferred to a halfway house or home confinement under the Coronavirus, Aid, Relief, and Economic Security (CARES) Act of 2020, Pub. L. No. 116-136, 134 Stat. 281, the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194, and other authorities. D. Ct. Doc. 1 (Feb. 7, 2022).

The magistrate judge recommended dismissing the habeas petition. Pet. App. 13-19. The magistrate judge found that petitioner had failed to exhaust administrative remedies on all but the CARES Act claim; and as to that claim, the magistrate judge determined that petitioner was not entitled to relief on the merits. Id. at 17-19. The magistrate judge acknowledged that under 18 U.S.C. 3624, the Bureau of Prisons (BOP) has authority to release a prisoner to home confinement for the shorter of ten percent of the term of imprisonment or six months, and that the CARES Act granted authority to lengthen that period. Id. at 18. But the magistrate judge explained that the CARES Act does not give prisoners a right to serve their sentences in home confinement, and that BOP acted within its discretion in denying petitioner's request based on the totality of the circumstances. Id. at 18-19.

2. The district adopted the magistrate judge's report and recommendation, overruled petitioner's objections, and dismissed the habeas petition. Pet. App. 9-12. After an "independent re-

view” of the record, the court confirmed that petitioner’s administrative grievances were “clearly challenging the BOP’s refusal to grant him his requested relief of home confinement” under the CARES Act, and that “[n]one of the grievances mention the entitlement to [First Step Act] earned time credits” or the denial of any other First Step Act privileges. Id. at 11. The court overruled objections to the magistrate judge’s findings related to petitioner’s claim under the CARES Act, finding that BOP had acted within its discretion in denying that request. Id. at 12.

3. The court of appeals affirmed in a per curiam opinion. Pet. App. 5-6. On appeal, petitioner abandoned his CARES Act claim, instead contending that the district court had erred in determining that he failed to exhaust administrative remedies under the First Step Act. Id. at 6 n.1. The court of appeals determined that it “need not address” that issue because Section 2241 was “not a proper vehicle” for petitioner to seek “transfer to a halfway house or home confinement” under the First Step Act in the first place. Id. at 6. The court relied on circuit precedent holding that a similar claim under the First Step Act could not be pursued through habeas. Ibid. (citing Melot v. Bergami, 970 F.3d 596, 599 (5th Cir. 2020)). The court acknowledged that a more recent circuit decision had stated that a habeas petition under Section 2241 is a proper vehicle to seek home confinement under the CARES Act. Id. at 6 n.1 (citing Cheek v. Warden, 835 Fed. Appx. 737, 739 (5th Cir. 2020) (per curiam)).

The court explained, however, that petitioner had waived his CARES Act claim on appeal. See ibid.

ARGUMENT

Petitioner contends (Pet. 10-20) that a habeas petition under 28 U.S.C. 2241 is a proper vehicle to challenge the application of First Step Act time credits. He further contends (Pet. 20-21) that this Court's decision in Perttu v. Richards, 605 U.S. 460 (2025), undermines the district court's determination that petitioner had failed to exhaust his administrative remedies. The first question presented does not warrant review by this Court given petitioner's failure to exhaust administrative remedies and the tension within the Fifth Circuit's own decisions. The second question presented was not pressed or passed upon below and is meritless in any event. The petition should be denied.

1. Section 2241 authorizes federal courts to issue a writ of habeas corpus to a state or federal prisoner who "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. 2241(c)(3). "[T]he essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and * * * the traditional function of the writ is to secure release from illegal custody." Preiser v. Rodriguez, 411 U.S. 475, 484 (1973).

Historically, habeas was available only to determine whether "the court of conviction lacked jurisdiction over the defendant or his offense." Brown v. Davenport, 596 U.S. 118, 129 (2022). The

writ has over time “evolved as a remedy available to effect discharge from any confinement contrary to the Constitution or fundamental law.” Preiser, 411 U.S. at 485. This Court has recognized that habeas is typically available where the relief sought would “terminate custody, accelerate the future date of release from custody, []or reduce the level of custody.” Skinner v. Switzer, 562 U.S. 521, 534 (2011) (quoting Wilkinson v. Dotson, 544 U.S. 74, 86 (2005) (Scalia, J., concurring)) (emphasis added; brackets omitted).

In this Court, petitioner principally contends (Pet. ii, 10-14) that he is entitled to time credits under the First Step Act. That Act created a new system of time credits that inmates can earn by participating in recidivism-reduction programs and other productive activities. See 18 U.S.C. 3631-3635. For prisoners eligible to earn time credits, the Act provides that the credits “shall be applied toward time in prerelease custody,” i.e., placement in a residential reentry center or home confinement, “or supervised release.” 18 U.S.C. 3632(d)(4)(C). The Act further states that the BOP Director “shall transfer eligible prisoners, as determined under section 3624(g), into prerelease custody or supervised release.” Ibid. Section 3624(g), in turn, defines “eligible prisoners” as those who have accrued time credits “in an amount that is equal to the remainder of the prisoner’s imposed term of imprisonment,” 18 U.S.C. 3624(g)(1)(A), and who have been

determined "to be a minimum or low risk to recidivate," 18 U.S.C. 3624(g) (1) (D) (i) (I) and (D) (ii).

To the extent the court of appeals determined that petitioner could not challenge BOP's execution of time credits under the First Step Act through a habeas petition solely because application of those credits would not accelerate his release from custody, see Pet. App. 2, that determination would be inconsistent with language in this Court's opinion in Jones v. Hendrix, 599 U.S. 465 (2023), stating that Section 2241 encompasses a prisoner's claim "that he is being detained in a place or manner not authorized by the sentence, that he has unlawfully been denied parole or good-time credits, or that an administrative sanction affecting the conditions of his detention is illegal." Id. at 475 (emphasis added); see Woodall v. Federal Bureau of Prisons, 432 F.3d 235, 243 (3d Cir. 2005) ("[c]arrying out a sentence through" home confinement or "detention in a" halfway house is sufficiently "different from carrying out a sentence in an ordinary penal institution" to support a manner-of-detention challenge under Section 2241).

Nevertheless, this Court's review is unwarranted for two reasons. First, petitioner failed to exhaust administrative remedies for his claim challenging BOP's execution of First Step Act time credits. Although the court of appeals did not address exhaustion, the issue was raised below and both the magistrate judge and district court found a failure to exhaust. See Granfinanciera, S.A. v. Nordberg, 492 U.S. 33, 38 (1989) (respondent may "defend [the]

judgment on any ground properly raised below whether or not that ground was relied upon, rejected, or even considered by the District Court or the Court of Appeals") (citation omitted). The magistrate judge reviewed the record and determined that petitioner had not exhausted any claim under the First Step Act, including for time credits. Pet. App. 16-18. The district court conducted an "independent review" and determined that "[n]one of [petitioner's] grievances mention the entitlement to [First Step Act] earned time credits as authority for why [p]etitioner should now be placed in home confinement or a halfway house." Id. at 11. Petitioner rehashes his interactions with prison staff to argue that he properly exhausted the time-credits issue, see Pet. 1-9, but this Court "do[es] not grant * * * certiorari to review evidence and discuss specific facts." United States v. Johnston, 268 U.S. 220, 227 (1925); see Sup. Ct. R. 10. As the district court expressly noted, petitioner remains free to present his First Step Act time-credits argument through the administrative process so that if he has a meritorious claim, BOP can address it. See Pet. App. 11.

Second, the decision below reflects intracircuit tension that makes this case an inappropriate vehicle in which to address the first question presented. As the court of appeals acknowledged (Pet. App. 6 & n.1), its decision in Melot v. Bergami, 970 F.3d 596 (5th Cir. 2020), holds that a Section 2241 petition is not the appropriate vehicle for raising a home-confinement request under

a First Step Act pilot program, whereas its nonprecedential decision in Cheek v. Warden, 835 Fed. Appx. 737 (5th Cir. 2020) (per curiam), states that Section 2241 is the appropriate vehicle to raise a home-confinement request under the CARES Act. That intracircuit tension is best left for resolution in the first instance by the court of appeals. See Wisniewski v. United States, 353 U.S. 901, 902 (1957) (per curiam) (“It is primarily the task of a Court of Appeals to reconcile its internal difficulties.”). And that court might well reach a different decision in a case that it understands to present a time-credits issue, as it did for the CARES Act claim in Cheek. Cf. Pet. App. 6 n.1 (stating that petitioner had “waived” the CARES Act issue); Pet. 24 n.5 (noting that the court of appeals incorrectly described petitioner as relying on the First Step Act pilot program that was at issue in Melot).

2. Petitioner further contends (Pet. ii, 20-21) that this Court’s decision in Perttu v. Richards, 605 U.S. 460 (2025), establishes that the district court should have determined whether exhaustion of remedies was interwoven with petitioner’s underlying claims. Petitioner did not raise any argument below that his time-credits claim was interwoven with exhaustion, nor was any such issue addressed by the courts below. This Court’s “traditional rule * * * precludes a grant of certiorari * * * when the question presented was not pressed or passed upon below.” United States v. Williams, 504 U.S. 36, 41 (1992) (citation and internal

quotation marks omitted). Petitioner provides no sound basis to deviate from that traditional rule here.

In any event, Perttu is irrelevant. Perttu held that factual disputes related to exhaustion -- which are ordinarily decided by a judge -- must nevertheless be decided by a jury if they are "intertwined with the merits" of a claim protected by the Seventh Amendment. 605 U.S. at 468. But petitions for writs of habeas corpus are not "Suits at common law" that must be tried before a jury in the first place, U.S. Const. Amend. VII, so Perttu's Seventh Amendment concerns are inapposite, see 605 U.S. at 471. Besides, the question whether BOP misapplied the First Step Act is not intertwined with the question whether petitioner properly exhausted his claim. The district court here determined based on a thorough review of the record that petitioner failed to exhaust administrative remedies with respect to any claim regarding First Step Act time credits. Pet. App. 11. Perttu has no bearing on that factbound determination.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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