No. _____

In the Supreme Court of the United States

TERRELL ANTHONY HARGROVE,

Petitioner,

v.

IAN HEALY, WARDEN,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Under the First Step Act, eligible individuals who successfully complete qualifying programs or activities are rewarded with "time credits," which can "be applied toward time in prerelease custody or supervised release." 18 U.S.C. § 3632(d)(4)(C); *see also id.* § 3632(a)(6). In the decision below, the Sixth Circuit held that these time credits cannot be used to reduce "time in prerelease custody or supervised release," but rather to reduce only a term of incarceration. App.4a-5a (citation omitted). The Ninth Circuit has reached the opposite conclusion, noting that courts across the country are fractured on this issue and that "[s]plits in authority are seldom so stark and consequential." *Gonzalez v. Herrera*, 151 F.4th 1076, 1081 (9th Cir. 2025).

The question presented is:

Whether "[t]ime credits" under 18 U.S.C. § 3632(d)(4)(C) may be applied to reduce an individual's term of supervised release.

RELATED PROCEEDINGS

The following proceedings are directly related to this petition:

Terrell Anthony Hargrove v. Ian Healy, No. 24-3809, U.S. Court of Appeals for the Sixth Circuit. Judgment entered September 10, 2025.

Terrell Anthony Hargrove v. Ian Healy, No. 23-cv-1857, U.S. District Court for the Northern District of Ohio. Judgment entered August 28, 2024.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Terrell Anthony Hargrove respectfully petitions this Court for a writ of certiorari to review the judgment of the United States Court of Appeals for the Sixth Circuit in this case.

OPINIONS BELOW

The decision of the court of appeals is reported at 155 F.4th 530 (6th Cir. 2025). App.1a-26a. The district court's order dismissing the case is unreported, and available at No. 23-cv-1857, 2024 WL 3992261 (N.D. Ohio Aug. 28, 2024). App.27a-38a.

JURISDICTION

The court of appeals entered judgment on September 10, 2025. App.1a. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

The relevant statutory provisions are reproduced in the appendix to this petition. App.39a-48a.

INTRODUCTION

This case involves a clear and acknowledged circuit conflict over a question of federal law affecting tens of thousands of criminal defendants: whether "time credits" earned under the First Step Act of 2018 (the "Act") can reduce an individual's term of supervised release. Over a powerful dissent, the Sixth Circuit majority broke from the Ninth Circuit to hold that time credits cannot reduce a term of supervised release, App.1a-2a, despite Congress's instruction that such credits may be "applied toward time in … supervised release," 18 U.S.C. § 3632(d)(4)(C). It did so only by giving the word "toward" an unnatural construction that defies common usage and is inconsistent with how that term is used in other sentence-crediting statutes. This critically important issue demands the Court's immediate intervention.

The First Step Act is "a landmark piece of legislation" that introduced several major criminal-sentencing reforms. *Hewitt v. United States*, 606 U.S. 419, 424 (2025). Those reforms included the creation of a system to incentivize incarcerated individuals to participate in evidence-based recidivism reduction programming or productive activities. *See* 18 U.S.C. § 3632(d)(4)(A). Eligible individuals who successfully complete qualifying programs or activities are rewarded "[t]ime credits," which "shall be applied toward time in prerelease custody or supervised release." *Id.* § 3632(d)(4)(C).

In the decision below, a divided panel of the Sixth Circuit read the statutory term "toward" to mean "[i]n the direction of"—such that time credits bring a prisoner closer to the "start [of] his term of supervised

release," but cannot actually be applied to reduce time spent in supervised release. App.5a-7a (first alteration in original) (emphasis and citations omitted). Thus, in the Sixth Circuit, if an individual completes a term of imprisonment and has earned time credits that have not been applied, these accumulated time credits count for nothing. As Judge Moore explained in her dissent, that holding contravenes settled principles of statutory interpretation and subverts the Act's purpose.

The panel's deeply flawed holding directly conflicts with a decision of the Ninth Circuit, which has held that "earned time credits … reduce a prisoner's supervised release term." *Gonzalez v. Herrera*, 151 F.4th 1076, 1081 (9th Cir. 2025). And, as both courts of appeals acknowledged, district courts across the country are deeply fractured in their interpretation of Section 3632(d)(4)(C). The result is that vital liberty interests of tens of thousands of prisoners each year turn on geographic happenstance. "Splits in authority are seldom so stark and consequential …." *Id.* This Court's review is warranted.

STATEMENT OF THE CASE

A. Statutory Background

1. The First Step Act of 2018 is arguably "the most significant criminal justice reform bill in a generation." *Pulsifer v. United States*, 601 U.S. 124, 155 (2024) (Gorsuch, J., dissenting) (quoting Sens. Richard J. Durbin, *et al. Amici Curiae* Br. 9, *Terry v. United States*, 593 U.S. 486 (2021) (No. 20-5904), 2021 WL 2316781). Enacted by a supermajority of Congress with strong presidential support, this "landmark piece of legislation … changed the federal

criminal-sentencing system in numerous respects." *Hewitt*, 606 U.S. at 424.

As relevant here, the Act requires the Bureau of Prisons ("BOP") to create a system that "provide[s] incentives and rewards for prisoners to participate in and complete evidence-based recidivism reduction programs." 18 U.S.C. § 3632(d). An "evidence-based recidivism reduction program" is "a group or individual activity" that "(A) has been shown by empirical evidence to reduce recidivism or is based on research indicating that it is likely to be effective in reducing recidivism," and "(B) is designed to help prisoners succeed in their communities upon release from prison." *Id.* § 3635(3). These programs include classes on life skills, family relationship building, and parenting; classes on morals, ethics, and academics; cognitive behavioral and substance abuse treatment; mentoring; vocational training; faith-based classes and services; civic engagement and reintegrative community services; a prison job; restorative justice programs; and trauma counseling programs. *Id.* § 3635(3)(C).

The Act's emphasis on recidivism reduction is already paying extraordinary dividends. The recidivism rate for those participating in programming has been approximately "35-37 percent lower than" the rate for prisoners in "BOP at large."[1]

2. The most significant incentive for completing recidivism programs is "earn[ing] time credits." 18 U.S.C. § 3632(d)(4)(A). An eligible individual "shall

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[1] Oversight of the Fed. Bureau of Prisons: Hearing Before the Subcomm. on Crime and Fed. Gov't Surveillance of the H. Comm. on the Judiciary, 118th Cong. 36 (2024) (testimony of BOP Director Colette Peters) ("BOP Cong. Hr'g").

earn 10 days of time credits for every 30 days of successful participation" in such programming. *Id.* § 3632(d)(4)(A)(i).[2] An individual classified by BOP as having a "minimum" or "low" risk of recidivism—as opposed to a "medium" or "high" risk—"shall earn an additional 5 days of time credits for every 30 days of successful participation" in such programming. *Id.* § 3632(d)(4)(A)(ii); *see also id.* § 3632(a)(1) (requiring BOP to "determine the recidivism risk of each prisoner").

Under another provision, 18 U.S.C. § 3624(g), a prisoner who "has earned time credits … in an amount that is equal to the remainder of the prisoner's imposed term of imprisonment" (and satisfies various other conditions) is "[e]ligible" to benefit from those time credits by "being placed in prerelease custody" or "in supervised release." *Id.* § 3624(g)(1). Prerelease custody consists of "conditions that will afford [a] prisoner a reasonable opportunity to adjust to and prepare for the reentry of th[e] prisoner into the community," including a "community correctional facility" or "home confinement." *Id.* § 3624(c)(1)-(2). Supervised release is a set of "conditions specified by [a] sentencing court" that apply after a "person is released from imprisonment." *Id.* § 3624(e). Supervised release "'fulfills rehabilitative ends' and 'provides individuals with postconfinement assistance.'" *Esteras v. United States*, 606 U.S. 185, 196 (2025) (citation omitted).

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[2] The Act deems certain individuals "ineligible to receive time credits" if they are "serving a sentence for a conviction under any of the [sixty-eight] provisions of law" enumerated in Section 3632(d)(4)(D).

With respect to an "[e]ligible prisoner" sentenced to a term of supervised release, BOP "may transfer the prisoner to begin any such term of supervised release at an earlier date, not to exceed 12 months, based on the application of time credits under section 3632." 18 U.S.C. § 3624(g)(1), (3). Time credits earned under the Act may thus reduce an "[e]ligible prisoner['s]" term of incarceration. Section 3632(d)(4)(C) makes such reductions mandatory, providing that BOP "shall transfer eligible prisoners, as determined under section 3624(g), into prerelease custody or supervised release." *Id.* § 3632(d)(4)(C).

3. The question presented concerns whether, once time credits have been applied to reduce a term of imprisonment and a prisoner has been released, any remaining time credits can then be used to reduce a subsequent term of supervised release. A prisoner may have additional, unused time credits when there is a lapse in time between the date when they earn time credits "in an amount that is equal to the remainder of the prisoner's imposed term of imprisonment" and the date of the prisoner's actual release. *Id.* § 3624(g)(1)(A). A prisoner may also have leftover time credits after their release if they continue to earn time credits while in prerelease custody. *See* 87 Fed. Reg. 2705, 2712-13 (Jan. 19, 2022).

These scenarios are governed by Section 3632(d)(4)(C), which states:

> (C) Application of time credits toward prerelease custody or supervised release.—
>
> Time credits earned under this paragraph by prisoners who successfully

> participate in recidivism reduction programs or productive activities shall be applied toward time in prerelease custody or supervised release. The Director of the Bureau of Prisons shall transfer eligible prisoners, as determined under section 3624(g), into prerelease custody or supervised release.

18 U.S.C. § 3632(d)(4)(C).

B. Factual Background

1. In 2006, then-22-year-old Petitioner Terrell Anthony Hargrove was sentenced to 10 years of imprisonment, followed by 5 years of supervised release, for conspiring to distribute drugs, in violation of 21 U.S.C. § 846, and possessing a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c). *See* App.2a; Judgment 1-3, *United States v. Hargrove*, No. 6-cr-26 (E.D. Va. July 11, 2006), ECF No. 19. In December 2015, Mr. Hargrove's supervised release was revoked, and Mr. Hargrove was sentenced to 1 year of imprisonment and 4 years of supervised release. App.29a. Following his release, Mr. Hargrove obtained a job as a forklift operator and became the primary caregiver for his daughter. Def.'s Position on Sent'g 2, *United States v. Hargrove*, No. 18-cr-1 (E.D. Va. May 18, 2018), ECF No. 31.

In 2018, Mr. Hargrove pleaded guilty to distributing a controlled substance, in violation of 21 U.S.C. § 841(a)(1), and was sentenced to 46 months of imprisonment followed by 5 years of supervised release. *See* App.29a; Judgment 1-3, *Hargrove*, No.

18-cr-1 (E.D. Va. May 29, 2018), ECF No. 34.[3] The district court revoked Mr. Hargrove's supervised release and sentenced him to 57 months of imprisonment, to be served consecutively with the 46-month sentence on the distribution conviction. *See* App.29a.

2. After the Act became effective, BOP informed Mr. Hargrove that he was "eligible" to earn time credits. Dkt. 1-2 at 2 (capitalization normalized).[4] While in BOP custody, Mr. Hargrove participated in programs related to job skills, parenting, and education. *See* Ex. D to Motion to Reduce Sentence, *Hargrove*, 6-cr-26 (E.D. Va. July 7, 2020), Dkt. 90-1.

In April 2023, Mr. Hargrove noticed that he was receiving only 10 days of time credits per month, when he should have been receiving 15 days per month due to his "minimum" or "low" risk classification. Dkt. 12 at 2. Mr. Hargrove asked the Warden of FCI Elkton, Ian Healy, to award the additional credits. Dkt. 11-1 ¶ 7. The Warden denied his request on July 7, 2023. *Id.*

Mr. Hargrove appealed to BOP's regional office. *Id.* By August 24, 2023, Mr. Hargrove still had not received a response from BOP, so his counsel followed up, explaining that, under a proper time-credit calculation, Mr. Hargrove was eligible for "immediate[]" transfer to prerelease custody. Dkt. 12-1. Neither Mr. Hargrove nor his counsel received a response from BOP. Dkt. 12 at 2.

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[3] His sentence was reduced to 41 months due to a change in sentencing guidelines. App.29a.

[4] Unless indicated otherwise, "Dkt." refers to documents filed in the district court in this case, *Hargrove v. Healy*, No. 23-cv-1857 (N.D. Ohio).

3. By September 6, 2023, Mr. Hargrove had earned sufficient time credits to be eligible for transfer into prerelease custody at a residential reentry center ("RRC"). Dkt. 1 at 8. When he was not transferred, Mr. Hargrove sought an explanation from BOP. Dkt. 12-2. BOP informed Mr. Hargrove that his eligibility for time credits under the Act had been revoked and that his release date had been delayed. Dkt. 12 at 2. This was the first time BOP told Mr. Hargrove that he was ineligible for time credits. Dkt. 1 at 8; Dkt. 12 at 2.

On September 6, 2023, Mr. Hargrove submitted an administrative request for the "restoration of [his time] credits" to his unit manager, which was denied. Dkt. 1-1 at 2. On September 20, 2023, Mr. Hargrove submitted an administrative request to the Warden, which was also denied. Dkt. 11-1 ¶ 8. On October 23, 2023, Mr. Hargrove appealed to BOP's regional office but received no response. Dkt. 12 at 3.

C. Proceedings Below

1. In September 2023, while his request for an administrative remedy was pending, Mr. Hargrove filed a pro se petition for habeas corpus under 28 U.S.C. § 2241 in the United States District Court for the Northern District of Ohio. Dkt. 1. Mr. Hargrove's petition sought to use his time credits to reduce his term of imprisonment and to apply any remaining credits to reduce his term of supervised release. *Id.* at 9; App.30a. The district court dismissed the petition, concluding that Mr. Hargrove was ineligible for time credits. App.37a.

Before addressing Mr. Hargrove's eligibility, the district court acknowledged—but did not resolve—the parties' dispute over whether Mr. Hargrove's failure

to exhaust administrative remedies barred relief. App.32a-33a. Mr. Hargrove argued that exhaustion was not required because (1) he was experiencing "irreparable harm in the form of over-service of his sentence, given that his release date with credits has already passed," or (2) the parties' dispute about Mr. Hargrove's eligibility to earn time credits "present[ed] an issue of statutory construction." Dkt. 12 at 3. The district court recognized that exhaustion may be excused "[w]hen available remedies are inadequate or futile, do not serve the basic goals of exhaustion, or turn only on statutory construction." App.33a. But rather than resolve the exhaustion issue, the district court cited *Coleman v. United States Parole Commission*, which assumed that exhaustion was "not required" and denied relief on the merits. 644 F. App'x 159, 162 (3d Cir. 2016); *see* App.33a.

With respect to Mr. Hargrove's eligibility to earn time credits, the district court noted that he was serving consecutive sentences "for two different cases": (1) a 57-month sentence for violating the terms of supervised release imposed in connection with his 2006 firearm possession conviction under Section 924(c); and (2) a 41-month sentence for his 2018 drug distribution conviction under Section 841(a)(1). App.36a; *supra* at 7-8. The firearm-possession conviction was a "disqualifying offense" under 18 U.S.C. § 3632(d)(4)(D). App.36a. But the distribution conviction was not. *See id.* Mr. Hargrove argued that because the sentences were consecutive, he eventually was "*not* serving the [Section] 924(c) revocation sentence" and was serving *only* the sentence for his Section 841(a)(1) violation. Dkt. 12 at 5-6. This latter sentence, he argued, could be reduced by time credits. *Id.* at 6.

The district court disagreed. It noted that "multiple terms of imprisonment ordered to run consecutively or concurrently *shall* be treated for administrative purposes as a single, aggregate term of imprisonment." App.37a (quoting 18 U.S.C. § 3584(c)). The district court concluded that BOP "proper[ly]" performed an "'administrative'" function when it refused to apply sentencing credits mandated by the Act to Mr. Hargrove's distribution sentence. App.37a (citation omitted).

2. Mr. Hargrove appealed. While his appeal was pending, Mr. Hargrove's term of imprisonment ended, and he began serving his term of supervised release. App.2a. A divided panel of the Sixth Circuit dismissed Mr. Hargrove's appeal as moot.

a. The majority held that it could not grant Mr. Hargrove "effectual relief" because "time credits can only reduce [his] *incarceration* term," which was now over. App.4a. The decision turned on the proper interpretation of Section 3632(d)(4)(C)'s first sentence: "Time credits … shall be applied … toward time in prerelease custody or supervised release." 18 U.S.C. § 3632(d)(4)(C). Adopting a reading that diverges from the meaning of "toward" under analogous statutes, the majority held that "when a prisoner earns time credits 'toward' supervised release, he is moving 'in the direction of' supervised release." App.7a. Under the majority's interpretation, time credits thus have no effect whatsoever on how much "time in prerelease custody or supervised release" an individual spends. 18 U.S.C. § 3632(d)(4)(C).

The majority's conclusion relied heavily on Section 3632(d)(4)(C)'s second sentence: "The Director of [BOP] shall transfer eligible prisoners, as determined

under section 3624(g), into prerelease custody or supervised release." *Id.* According to the majority, this language requiring BOP to apply time credits to "[e]ligible prisoners" "presume[s]" that only an "incarcerat[ed]" person—not someone "already on supervised release"—can benefit from time credits. App.6a. Under this reading, time credits do not reduce "time in … supervised release," 18 U.S.C. § 3632(d)(4)(C), but time *before* supervised release.

b. Judge Moore dissented. In her view, "basic principles of statutory construction" dictated that "applying credits toward supervised release means reducing the term of supervised release." App.15a-17a (Moore, J., dissenting). When considering "other uses of 'toward' in the sentencing credit context," she observed, this Court has "repeated[ly]" interpreted the word "'toward'" to mean "'against,'" and held that credits "hav[e] the practical effect of 'reducing' a sentence." App.19a-22a (citing *Reno v. Koray*, 515 U.S. 50, 55 (1995) (interpreting 18 U.S.C. § 3585(b)); *Barber v. Thomas*, 560 U.S. 474, 476 (2010) (interpreting 18 U.S.C. § 3624(b)); *Mont v. United States*, 587 U.S. 514, 522, 524 (2019) (interpreting 18 U.S.C. § 3624(e))). Reading Section 3632(d)(4)(C) to apply time credits "against"—and thereby "reduce"—supervised release would have tracked the meaning of "toward" in other "sentencing-credit statutes." App.19a-21a.

The majority's interpretation, by contrast, rendered Section 3632(d)(4)(C)'s second sentence "superfluous" because its instruction to apply time credits to reduce time in prison would "merely confirm[] the meaning of" the first sentence. App.23a (citation omitted). And the majority's rule would "[e]ncourag[e] inmates to do the bare minimum in

[recidivism-reduction] programming"—rather than "maximizing participation." App.26a.

REASONS FOR GRANTING THE WRIT

This case readily satisfies the Court's criteria for certiorari. The Sixth and Ninth Circuits are in acknowledged conflict as to whether time credits under the First Step Act can be applied to shorten an individual's term of supervised release. That conflict is unquestionably important, because it implicates the liberty interests of an increasing number of individuals who have participated in recidivism-reduction programs, completed prison sentences, and now seek new starts. And the Sixth Circuit's decision incorrectly interprets Section 3632(d)(4)(C)'s text, renders that provision inconsistent with other sentencing-credit statutes, and undermines the Act's objectives. The petition should be granted.

I. The Circuits Are Divided On The Question Presented

Certiorari is warranted in light of the acknowledged circuit split over whether time credits reduce a term of supervised release. In the past year, the Sixth and Ninth Circuits have reached opposite conclusions on this question. On one side, the Sixth Circuit below held that "toward" in Section 3632(d)(4)(C) means "in the direction of," such that time credits may accelerate the beginning of supervised release—but not shorten the supervised release term itself. App.5a-7a. On the other, the Ninth Circuit has held that "toward" means "for the partial payment of," so time credits may reduce the term of supervised release. *Gonzalez v. Herrera*, 151 F.4th 1076, 1082 (9th Cir. 2025) (citation omitted). Dozens of district courts across the country have also

confronted—and disagreed about—this issue. As individuals continue to earn time credits under the Act, courts will continue to face this statutory interpretation question. Until this Court intervenes, thousands of prisoners will continue to be stripped of fundamental liberty interests, purely as a matter of geographic happenstance.

1. In the decision below, the Sixth Circuit majority concluded that "time credits under § 3632(d)(4)(C) can be used to reduce a prison term but not a supervised-release term." App.11a. In the court's view, time credits "help a prisoner to *start* his term of supervised release at an earlier date, not *end* his term of supervised release at an earlier date." App.7a. Accordingly, in the Sixth Circuit, time credits are meaningless after an individual has been placed on supervised release.

When faced with the same question of statutory interpretation, the Ninth Circuit drew a different conclusion. *See Gonzalez*, 151 F.4th at 1081. It recognized that "[d]ivergent interpretations" of Section 3632(d)(4)(C) "have led litigants and courts to opposing conclusions concerning its effect." *Id.*; *see id.* at 1084 (collecting cases). But it concluded that "[f]rom the plain text and canons of construction, it is clear that Congress intended for the [Act's] earned time credits to reduce a prisoner's supervised release term." *Id.* at 1081.

As to the text, the Ninth Circuit noted that the provision's usage of "'credits'" implicates a "store of value," like an "account balance," and that the conventional use of "toward" in such a context is "'for the partial payment of'" or "'[i]n contribution to,'" rather than "'in the direction of.'" *Id.* at 1082-83 (alteration in original) (citations omitted). The court

also noted that Section 3632(d)(4)(C) provides that time credits be applied toward "time *in* … supervised release," indicating that the credits must be applied to the "'measurable duration'" of supervised release. *Id.* (citation omitted). Read as a whole, this sentence "demands that time credits must be applied to time in supervised release," not just to time preceding supervised release. *Id.* at 1083.

This reading also ensured consistency between the meaning of statutory language governing the Act's time credit system and other "federal sentence crediting schemes." *Id.* at 1084-87. And providing prisoners with the maximum incentive to engage in recidivism-reduction programming furthered Congress's stated goals of "reducing recidivism and the cost of managing the nation's incarcerated and supervised population." *Id.* at 1088-89. *Gonzalez* thus reaffirmed what a prior Ninth Circuit panel "implied in dicta": "'under the [Act's] new "risk and needs assessment system," receiving earned time credits can potentially shorten … supervised release.'" *Id.* at 1083 (quoting *Bottinelli v. Salazar*, 929 F.3d 1196, 1200 (9th Cir. 2019)).

The conflict between the Sixth Circuit's decision below and the Ninth Circuit's decision in *Gonzalez* is undeniable. The Ninth Circuit addressed the exact interpretation of the statute that the Sixth Circuit adopted and squarely rejected it. In the Sixth Circuit, unused time credits are worthless to someone on supervised release. But an identically situated person in the Ninth Circuit could apply those credits to shorten a term of supervised release. As the Ninth Circuit itself noted, "[s]plits in authority are seldom so stark and consequential." *Id.* at 1081. Indeed, one district court has already acknowledged that the

Sixth and Ninth Circuits "have reached different conclusions" on this issue and recognized that this conflict could "be addressed by the Supreme Court." *Rucker v. Rardin*, No. 25-cv-10255, 2025 WL 3252290, at *4-5 (E.D. Mich. Nov. 21, 2025). This Court's intervention is necessary to ensure the "uniform interpretation of federal law." *Bullock v. BankChampaign, N.A.*, 569 U.S. 267, 276 (2013).

2. As both the Sixth and Ninth Circuits recognized, other courts across the country have adopted divergent interpretations of Section 3632(d)(4)(C).

a. In unpublished decisions, panels of the Fourth Circuit and Eleventh Circuit have concluded, as the Sixth Circuit did, that time credits cannot shorten a term of supervised release. District courts in these circuits that have since confronted the same question have since relied on these decisions.

In *Guerriero v. Miami RRM*, a petitioner who had 365 days' worth of time credits applied to reduce his prison sentence sought to apply his remaining credits to reduce his three-year term of supervised release. *See* No. 24-10337, 2024 WL 2017730, at *2 (11th Cir. May 7, 2024). As with the Sixth Circuit, the Eleventh Circuit panel reasoned that the first sentence of Section 3632(d)(4)(C) was ambiguous, but the second sentence of Section 3632(d)(4)(C) and Section 3624(g) indicated that time credits may be applied only "to accelerate the beginning of the supervised release term." *Id.* at *2-3. District courts in the Eleventh Circuit have relied on *Guerriero* to hold that time credits may not be applied to reduce terms of supervised release. *See, e.g.*, *Roberson v. United States*, No. 22-CV-352, 2024 WL 5629336, at *4 (M.D. Ala. Nov. 26, 2024) (finding *Guerriero* "persuasive"),

report and recommendation adopted, 2025 WL 1107290 (M.D. Ala. Apr. 14, 2025); *Roberts v. United States*, No. 23-cv-1913, 2024 WL 4651875, at *2 (M.D. Fla. Nov. 1, 2024) (same); *see also Fargesen v. Warden FCI Pensacola*, No. 25cv1018, 2025 WL 2414637, at *4 n.5 (N.D. Fla. July 30) (citing *Guerriero* for same proposition), *report and recommendation adopted*, 2025 WL 2411753 (N.D. Fla. Aug. 20, 2025).

Similarly, in *United States v. Malik*, a Fourth Circuit panel denied an individual's request to apply time credits to the "early termination of his term of supervised release."[5] No. 24-7073, 2025 WL 973003, at *1 (4th Cir. Apr. 1, 2025) (per curiam). The panel reasoned that "[t]ime credits … are to be applied to reduce an incarcerated person's prison term, not the person's term of supervised release."[6] *Id.*; *see also United States v. Park*, No. 11-cr-600, 2025 WL

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[5] In *Valladares v. Ray*, the Fourth Circuit observed that "[u]nder the [Act], … time credits can be applied toward earlier placement in pre-release custody or supervised release." 130 F.4th 74, 79 (4th Cir. 2025) (citing 18 U.S.C. § 3632(d)(4)(C)); *see Gonzalez*, 151 F.4th at 1083 n.6 (citing *Valladares*). But *Valladares* did not address whether time credits could also be applied to reduce a term of supervised release.

[6] Other circuits have yet to squarely address the question presented. *Cf. Gonzalez*, 151 F.4th at 1083 n.6 (suggesting tension between its decision and other Circuit decisions). In *Malik v. Warden Loretto FCI*, a Third Circuit panel declined to consider whether time credits may reduce a supervised release term because the petitioner had forfeited the argument. No. 23-2281, 2024 WL 3649570, at *1-2 (3d Cir. Aug. 5, 2024) (per curiam). And in *Stinson v. Martinez*, a Fifth Circuit panel observed that the Act "provides that [earned time credits] may *only* be applied towards an early start of supervised release or early transfer to pre-release custody," but the petitioner in that case did not seek a reduction of a term of supervised release. No. 24-30793, 2025 WL 2017872, at *1 (5th Cir. July 18, 2025).

3211014, at *1 (D. Md. Nov. 18, 2025) (citing *Malik* for same proposition).

b. District courts are also divided on the application of time credits to reduce a term of supervised release.

Some district courts have held, in line with the Ninth Circuit, that Section 3632(d)(4)(C) provides for the application of time credits to reduce terms of supervised release. *See, e.g.*, *United States v. Mincey*, No. 18-cr-194, 2022 U.S. Dist. LEXIS 181765, at *2-3 (D.N.D. Oct. 4, 2022). At least three courts that have expressed this view are in the Second Circuit, which has not yet ruled on this issue.[7] But many district courts outside of the Sixth and Ninth Circuits—at least 20 at the time of the filing of this petition—have refused to apply time credits to shorten supervised release terms.[8]

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[7] *See Rivera-Perez v. Stover*, 757 F. Supp. 3d 204, 212 (D. Conn. 2024) (holding that credits may be applied "to reduce a term of (i.e., 'time in') prerelease custody or supervised release"); *Lallave v. Martinez*, 635 F. Supp. 3d 173, 190 (E.D.N.Y. 2022) (directing application of "remaining credits to reduce [individual's] time on supervised release"); *see also Cohen v. United States*, No. 20-CV-10833, 2021 WL 1549917, at *4 (S.D.N.Y. Apr. 20, 2021) (rejecting argument that time credits would become "useless to [petitioner] after he has completed his term of home confinement" because credits "can be applied toward … a term of … supervised release").

[8] *See Ways v. Allison*, No. 24CV219, 2024 WL 4906139, at *3-4 (D. Neb. Nov. 27, 2024); *United States v. Marlow*, No. 15CR0018-011, 2024 WL 3691694, at *2-3 (W.D. Va. Aug. 6, 2024); *United States v. Burke*, No. 16-0338(1), 2024 WL 3509285, at *1-2 (D. Minn. July 23, 2024); *Williams v. Fitch*, No. 21-CV-549, 2024 WL 737803, at *6 (M.D. Ala. Jan. 31), *report and recommendation adopted*, 2024 WL 734477 (M.D. Ala. Feb. 22,

This volume of cases underscores the need for immediate review. If the Ninth Circuit's interpretation is correct, the majority of courts across the country are wrongfully keeping individuals on supervised release and nullifying the credits they duly earned pursuant to programs that Congress mandated. More time will not abate the conflict, as there is no indication that the Ninth Circuit would revisit such a recent precedent. Delay will only result in thousands more individuals being denied relief they are entitled to.

2024); *Davis v. Rardin*, No. 22-cv-2854, 2024 WL 209172, at *5-6 (D. Minn. Jan. 19, 2024); *Stewart v. Peters*, No. 23-cv-21, 2023 WL 8856148, at *1-2 (S.D. Miss. Dec. 4), *report and recommendation adopted*, 2023 WL 8852747 (S.D. Miss. Dec. 21, 2023); *United States v. Calhoun*, No. 08-CR-77, 2023 WL 7930053, at *2-3 (S.D. Miss. Nov. 16, 2023); *Goggans v. Jamison*, No. 23-cv-3645, 2023 WL 7389136, at *2 (S.D.N.Y. Oct. 13, 2023); *Berry v. Gabby*, No. 23cv121, 2023 WL 6798869, at *4 (N.D. Fla. Sept. 15), *report and recommendation adopted*, 2023 WL 6794978 (N.D. Fla. Oct. 13, 2023); *Alexander v. Joseph*, No. 22cv23874, 2023 WL 6798866, at *2 (N.D. Fla. Sept. 12), *report and recommendation adopted*, 2023 WL 6794979 (N.D. Fla. Oct. 13, 2023); *Gelagotis v. Boncher*, No. 22-cv-11697, 2023 WL 6377874, at *3-4 (D. Mass. Sept. 29, 2023); *Gonzalez v. Pierre-Mike*, No. 23-cv-11665, 2023 WL 5984522, at *5 (D. Mass. Sept. 14, 2023); *United States v. Scriven*, No. 16-CF-174, 2023 WL 5811250, at *1 (E.D.N.C. Sept. 7, 2023); *Dandridge v. United States*, No. 22-cv-647, 2023 WL 4137470, at *1-2 (E.D. Va. June 22, 2023); *Shiflet v. Yates*, No. 22-cv-0161, 2023 WL 2817333, at *3 (E.D. Ark. Feb. 9), *report and recommendation adopted*, 2023 WL 2813877 (E.D. Ark. Apr. 6, 2023); *Burton v. King*, No. 22-HC-2003, 2023 U.S. Dist. LEXIS 243647, at *20 (E.D.N.C. Mar. 27, 2023); *Harrison v. Fed. Bureau of Prisons* ("*BOP*"), No. 22-14312, 2022 WL 17093441, at *1 (S.D. Fla. Nov. 21, 2022); *Pillow v. BOP*, No. 22-cv-0713, 2022 WL 13892877, at *7 (E.D. Ark. Oct. 21, 2022); *Zimmer v. Marske*, No. 21-cv-284, 2022 WL 4016623, at *1 (W.D. Wis. Sept. 2, 2022).

The arguments on both sides have been thoroughly ventilated—not only by the Sixth Circuit majority and dissent, but also the Ninth Circuit and the dozens of lower courts that have addressed (and fractured on) this issue. And, as this Court has recognized on numerous occasions, a disjuncture between the country's largest judicial circuit and another circuit on an issue of statutory interpretation is alone enough to warrant review. *See, e.g.*, *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 116 (2020) (Ninth and Third Circuits); *Bittner v. United States*, 598 U.S. 85, 89 (2023) (Fifth and Ninth Circuits); *see also Sw. Airlines Co. v. Saxon*, 596 U.S. 450, 455 (2022) (Seventh and Fifth Circuits); *Bissonnette v. LePage Bakeries Park St., LLC*, 601 U.S. 246, 252 (2024) (Second and First Circuits); *M&K Emp. Sols., LLC v. Trs. of the IAM Pension Fund*, 145 S. Ct. 2871, 2871 (2025) (D.C. and Second Circuits). There is simply no reason to allow this split to persist and deepen when this Court's eventual resolution of this issue is both imperative and inevitable.

II. The Question Presented Is Exceptionally Important

1. The question presented implicates the uniformity of federal law on an issue of profound personal and societal significance. Supervised release is "a form of custody" that "impose[s] significant limitations on a person's freedom." *United States v. Sanford*, 806 F.3d 954, 960 (7th Cir. 2015) (Posner, J.). Terms of supervised release often last for years. *See, e.g.*, 18 U.S.C. § 3583(b) (up to five years for Class A or B felonies and up to three years for Class C or D felonies); 21 U.S.C. § 841(b)(1)(A) (listing drug

offenses for which "a term of supervised release of at least 5 years" must be imposed "in addition to a term of imprisonment"); *id.* § 841(b)(1)(B)-(E) (similar, but imposing "term[s] of supervised release of at least" 4, 3, 2, and 2 years, respectively). During that time, individuals may be subject to a host of mandatory and discretionary conditions, such as requirements to participate in mental health programs, refrain from computer use, and adhere to curfew, among others. *See* Charles Doyle, Cong. Rsch. Serv., RL31653, *Supervised Release (Parole): An Overview of Federal Law* 7-19 (2021), https://www.congress.gov/crs-product/RL31653 ("Cong. Rsch. Serv. Supervised Release Rep."). These conditions implicate fundamental liberty interests—such as the right to privacy, *see, e.g.*, *United States v. Cruz-Rivera*, 74 F.4th 503, 507-08 (7th Cir. 2023) (condition permitting seizure of electronic devices, communication, and data without a search warrant supported by probable cause); the right to bodily autonomy, *see, e.g.*, *United States v. Williams*, 356 F.3d 1045, 1055 (9th Cir. 2004) (condition compelling person to take antipsychotic medication); the right to travel, *see, e.g.*, *United States v. Llantada*, 815 F.3d 679, 683 (10th Cir. 2016) (condition prohibiting individual from leaving "judicial district without the permission of the court or probation officer" (emphasis omitted)); and the right of a parent to make decisions about their child, *see, e.g.*, *United States v. Myers*, 426 F.3d 117, 122, 125 (2d Cir. 2005) (Sotomayor, J.) (condition prohibiting individual from spending time alone with child absent authorization from U.S. Probation Office). Ensuring the nationwide uniformity with respect to these vital liberty interests is of paramount importance.

Inconsistent application of time credits critically undermines the purpose of a "monumental" piece of legislation. *United States v. Brooker*, 976 F.3d 228, 230 (2d Cir. 2020). The Act was designed to "enhance public safety by improving the effectiveness and efficiency of the Federal prison system with offender risk and needs assessment, individual risk reduction incentives and rewards, and risk and recidivism reduction." H.R. Rep. No. 115-699, at 22 (2018). A centerpiece of the Act's recidivism reduction efforts was its encouragement of participation in beneficial programs and activities, and time credits are the most significant incentive for such participation. The time credit system is therefore essential to furthering the Act's rehabilitative ends. This Court must ensure that it is administered as Congress intended.

2. As the dozens of decisions addressing the question presented demonstrate, this issue frequently recurs. Almost 75% of defendants convicted of federal offenses are sentenced to a term of supervised release, which amounts to more than 100,000 of the approximately 150,000 people in BOP custody.[9] As of 2023, more than half of the prison population was eligible to earn time credits, with 18,000 people released from prison after earning and applying time credits in 2023 alone.[10]

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[9] Cong. Rsch. Serv. Supervised Release Rep. 1; Fed. Bureau of Prisons, *Statistics: Total Federal Inmates* (last updated Jan. 1, 2026), https://www.bop.gov/about/statistics/population_statistics.jsp.

[10] *See* Off. of the Att'y Gen., Dep't of Just., *First Step Act: Annual Report* 17 (Apr. 2023), https://www.bop.gov/inmates/fsa/docs/first-step-act-annual-report-april-2023.pdf; U.S. Sent'g

Many—if not most—of the individuals who earn time credits will accrue extra credits as a result of their delayed release from incarceration. As BOP has publicly acknowledged, more than 60,000 incarcerated individuals eligible for relief under the Act are facing 3- to 12-month delays in their transfers from prison to prerelease custody due to a lack of capacity at RRCs. *See* BOP Cong. Hr'g 42-43; *Crowe v. Fed. BOP*, No. 24-cv-3582, 2025 WL 1635392, at *4, *22 (D.D.C. June 9) (acknowledging delayed transfers but refusing to require BOP to transfer prisoners to prerelease custody on date they become eligible), *appeal docketed*, No. 25-5296 (D.C. Cir. Aug. 18, 2025). The federal government currently contracts with just 155 RRCs nationwide.[11] According to BOP, "[e]ach contract for an RRC has a maximum number of inmates that can be placed in the RRC or on home confinement." Decl. of Bianca Shoulders ¶ 12, *Crowe*, No. 24-cv-3582 (D.D.C. Feb. 12, 2025), ECF No. 34-1. And the RRCs have been "at capacity" since at least July 2024—and likely significantly before then. *See* BOP Cong. Hr'g 43.

Before the Act, most individuals spent only "weeks or months in an RRC." *Id.* Following the Act, however, there is no rule limiting the duration of prerelease custody to 12 months or less for individuals "eligible" to receive time credits. 18 U.S.C. § 3624(g)(10). Individuals with sufficient time credits

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Comm'n, *First Step Act: Earned Time Credits* 2 (Dec. 2024), https://www.ussc.gov/sites/default/files/pdf/training/first-step-act/data-snapshot_FSAETC.pdf.

[11] *See* Fed. Bureau of Prisons, About Our Facilities: Nationwide RRC Contracts, https://www.bop.gov/about/facilities/residential_reentry_management_centers.jsp (last visited Jan. 5, 2026).

thus "qualify for months and years in a[n] [RRC]." BOP Cong. Hr'g 43. With RRCs "at capacity," prerelease custody options are limited (or nonexistent) for the foreseeable future, causing significant delays in the application of time credits.

The question presented here thus affects *tens of thousands* of individuals—a number that will only continue to grow as more individuals earn time credits. Under the Sixth Circuit's approach, however, individuals who earn time credits bear the costs of BOP's delay, because their credits become useless upon the start of their supervised release terms. Indeed, the Sixth Circuit's rule may discourage people from continuing to pursue recidivism-reduction programming. Individuals approaching the end of their terms of imprisonment or who, like Mr. Hargrove, are in disputes with BOP about their time credits will have no incentive to engage in the maximum amount of recidivism-reduction programming if the credits associated with those programs will be worthless upon their release.

3. This case is an ideal vehicle to address this acknowledged conflict. The Sixth Circuit squarely addressed the question presented in a reasoned majority opinion and over a dissent that thoroughly addressed the issue. There are no obstacles to this Court's review of this issue, which the Sixth Circuit resolved as a threshold jurisdictional question after Mr. Hargrove began his supervised release. Review in the context of mootness is particularly appropriate, because litigation regarding the proper application of time credits may proceed slowly, and often will not be resolved before an individual's term of imprisonment ends. This case thus cleanly presents a purely legal

question for this Court's review, in a procedural posture in which it typically arises.

In the seven years since its enactment, this Court has regularly resolved conflicts as to the Act's scope and application.[12] This equally important issue likewise demands the Court's intervention.

III. The Decision Below Is Wrong

Certiorari is also warranted because the Sixth Circuit's reading of the Act is deeply flawed. Statutory text and context support applying time credits to reduce an individual's term of supervised release.

1. Section 3632(d)(4)(C) states: "[t]ime credits earned … shall be applied toward time in … supervised release." 18 U.S.C. § 3632(d)(4)(C). "[G]iving the words used their ordinary meaning," this provision unambiguously permits the reduction of a term of supervised release. *Artis v. District of Columbia*, 583 U.S. 71, 83 (2018) (citation omitted).

To "apply" "credits … toward" something ordinarily means to reduce that thing. For example, applying a store credit toward the cost of an item reduces its cost; applying tax credits reduces the

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[12] *See Concepcion v. United States*, 597 U.S. 481, 490 (2022) (whether court adjudicating sentence-reduction motion may consider intervening changes of law or fact); *Hewitt v. United States*, 606 U.S. 419, 422-24 (2025) (whether the Act's elimination of mandatory minimum penalties applies to individuals sentenced prior to the Act); *Terry v. United States*, 593 U.S. 486, 488-92 (2021) (whether offenses that did not trigger mandatory minimum penalties qualify for sentence reduction); *Pulsifer v. United States*, 601 U.S. 124, 127-28 (2024) (whether defendant must satisfy multiple conditions to qualify for safety-valve relief).

amount of tax owed; and an "account balance" can "*be applied toward* a car loan, mortgage, or other debt obligation." *Gonzalez*, 151 F.4th at 1082. Here, the relevant object—that is, the thing to be reduced—is "time in … supervised release." Applying time credits "toward time in … supervised release" *reduces* an individual's term of supervised release. An "ordinary American … approach[ing]" Section 3632(d)(4)(C)'s terms would conclude that time credits shorten the time an individual is subject to supervised release. *Feliciano v. Dep't of Transp.*, 605 U.S. 38, 45-46 (2025).

The Sixth Circuit's contrary interpretation gives the text a highly unnatural construction. According to the decision below, "[t]ime credits earned … shall be applied" "in the direction of" "time in prerelease custody or supervised release." App.4a-7a (citations omitted). As the Ninth Circuit observed, it is difficult to understand "[h]ow … one appl[ies] credits 'in the direction of' time." *Gonzalez*, 151 F.4th at 1083. The decision below suggests that "time credits" must "reduce a prison term" *before* supervised release. App.11a. But that is not what the statute says. Instead, it links "[t]ime credits" to "*time in* prerelease custody or supervised release." 18 U.S.C. § 3632(d)(4)(C) (emphasis added).

The Sixth Circuit's reading also creates redundancy. If "toward" means "in the direction of," App.7a, "the inclusion of" the words *time in* as part of Section 3632(d)(4)(C)'s first sentence would be "superfluous," *Thompson v. United States*, 604 U.S. 408, 415 (2025). But if "toward" means "against," "time in … supervised release" parallels the reference to "[t]ime credits" and identifies the duration reduced by those credits. 18 U.S.C. § 3632(d)(4)(C). This

interpretation—unlike the Sixth Circuit's—"give[s] effect … to every … word of [the] statute." *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001) (quoting *United States v. Menasche*, 348 U.S. 528, 538-39 (1955)).

2. This natural reading of Section 3632(d)(4)(C) is reinforced by the "'normal rule of statutory construction' that words repeated in different parts of the same statute generally have the same meaning." *Law v. Siegel*, 571 U.S. 415, 422 (2014) (citation omitted). In "other provisions governing the administration of federal sentences," time credits that apply toward a specified part of a prisoner's sentence reduce that part of the sentence. *Reno v. Koray*, 515 U.S. 50, 58 (1995).

First, "toward" means "in partial payment of" or "against" in the context of "satisfactory behavior," or "good time," credits under 18 U.S.C. § 3624(b). Under Section 3624(b), by "display[ing] exemplary compliance" with prison rules, "a prisoner who is serving a term of imprisonment of more than 1 year … may receive *credit toward* the service of the prisoner's sentence of up to 54 days for each year of the prisoner's sentence imposed by the court." 18 U.S.C. § 3624(b)(1) (emphasis added). "A prisoner shall be released by the Bureau of Prisons on the date of the expiration of the prisoner's term of imprisonment, less any time credited toward the service of the prisoner's sentence …." *Id.* § 3624(a). As this Court has recognized, Section 3624(b) "permits federal prison authorities to award prisoners credit *against* prison time as a reward for good behavior." *Barber v. Thomas*, 560 U.S. 474, 476 (2010) (emphasis added); *see also Pepper v. United States*, 562 U.S. 476, 501 (2011) (explaining that credits under Section 3624(b)

"reduc[e] the time to be served" in prison (citation omitted)).

Second, "toward" also means "in partial payment of" or "against" with respect to "prior custody" credits under 18 U.S.C. § 3585(b). "A defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences … as a result" of a specified offense or charge "that has not been credited against another sentence." 18 U.S.C. § 3585(b). Section 3585(b) thus governs "whether credit *against* [an individual's] sentence must be granted for time spent in 'official detention' before the sentence began" and, if so, "*reduces* a defendant's 'imprisonment' by the amount of time spent in 'official detention' before his sentence." *Reno*, 515 U.S. at 55, 59 (emphasis added) (quoting 18 U.S.C. § 3585(b)); *see also id.* at 54 n.1 (describing circuit conflict on whether time under certain restrictions was "creditable toward," *i.e.*, could reduce, a "sentence").

And third, "toward" means "in partial payment of" for purposes of credits for prisoners transferred to the United States after "serving a sentence of imprisonment in a foreign country." 18 U.S.C. § 4105(a). A "transferred offender shall be given credit *toward* service of [a] sentence for any days, prior to the date of commencement of the sentence, spent in custody in connection with the offense or acts for which the sentence was imposed." *Id.* § 4105(b) (emphasis added). Credits for transferred offenders thus count against a sentence, reducing its duration.

"[W]hen Congress used the word *toward*" in Section 3632(d)(4)(C), "it did so with the same definition as used in [these] preexisting laws."

Gonzalez, 151 F.4th at 1087. The Court "does not lightly assume that Congress silently attaches different meanings to the same term in the same or related statutes." *Azar v. Allina Health Servs.*, 587 U.S. 566, 574 (2019). This inference of consistent usage is particularly powerful because Section 3632 refers to Section 3624 and Section 3585. *See* 18 U.S.C. § 3632(a)(7), (d)(4)(C) (referring to "section 3624" and "section 3624(g)"); *id.* § 3632(d)(4)(B) (referring to "section 3585(a)"). It would be "contrary to common sense" to conclude "that the same word means two very different things in the same statutory context." *Merck & Co. v. Reynolds*, 559 U.S. 633, 656-57 (2010) (Scalia, J., concurring in part and concurring in the judgment) (construing provision that "specifically" referred to prior legislative acts using same word).

The Sixth Circuit has no persuasive response to the incongruence between its interpretation of "toward" in Section 3632(d)(4)(C) and the meaning of "toward" in other sentencing-credit provisions. According to the Sixth Circuit, statutes such as 18 U.S.C. §§ 3624(b) and 3585(b) "have the same meaning no matter which definition of 'toward' we use." App.10a. That is wrong. A time credit that reduces a term of imprisonment does not move a prisoner "in the direction of" serving prison time in the future. Rather, a prisoner who receives "credit toward service of the prisoner's sentence," 18 U.S.C. § 3624(b)(1), or "credit toward the service of a term of imprisonment," *id.* § 3585(b), is *currently* serving prison time. These credits reduce prison time—they do not accelerate the start of prison time. The same is true for time credits under Section 3632(d)(4)(C); these credits reduce "time in … supervised release"

for individuals currently subject to supervised release.

3. Moreover, if Congress meant for time credits to reduce only a term of imprisonment *before* supervised release, it could—and would—have said so clearly. It would be utterly bizarre for Congress to invoke "time in … supervised release," *id.* § 3632(d)(4)(C), in a provision that, according to the Sixth Circuit, has nothing to do with the duration of supervised release, App.5a-7a.

By contrast, in other sentencing-credit statutes, Congress clearly articulated that credits reduce time in incarceration. For example, in providing for good-time credits, *supra* at 27-28, Congress made clear that credit goes "toward the service of the *prisoner's sentence*." 18 U.S.C. § 3624(b) (emphasis added); *see also id.* § 3585(b) (providing credits for time spent in custody "prior to the date [a] sentence commences" that apply "toward the service of *a term of imprisonment*" (emphasis added)). But the Act's time credit provision does not use this construction. This Court presumes that "Congress acts intentionally when it omits language included elsewhere." *Dep't of Homeland Sec. v. MacLean*, 574 U.S. 383, 392 (2015). This presumption applies with "even greater" force here, *Jama v. ICE*, 543 U.S. 335, 341 (2005), because Congress was plainly aware of the good-time credit provision when it drafted the Act's time credit provision. Indeed, the Act both established a new system for determining eligibility and applying time credits, Pub. L. No. 115-391, § 101, 132 Stat. 5194, 5198 (2018), and modified the existing good-time credit system, *id.* § 102, 132 Stat. at 5210. Because the Act's time credit provision and the good-time credit provision use distinct language, the two

statutes should not be given an identical construction that limits the effect of time credits under the Act to reducing a term of imprisonment.

4. Interpreting Section 3632(d)(4)(C) to permit the application of time credits to reduce time in supervised release also "follows from the legislative purpose that this statute's text embodies." *Fischer v. United States*, 603 U.S. 480, 499 (2024) (Jackson, J., concurring). The Act awards time credits for rehabilitative, educational, and professional programs that are "designed to help prisoners succeed in their communities upon release from prison." 18 U.S.C. § 3635(3)(A)-(C). That aim is identical to the goal of supervised release: "improv[ing] the odds of a successful transition from the prison to liberty." *Johnson v. United States*, 529 U.S. 694, 708-09 (2000). Because they serve the same purpose, it makes sense to allow time credits earned from recidivism-reduction programs to count against time on supervised release. Moreover, applying time credits to time in supervised release "encourages prisoners to engage in as much programming as possible to achieve the rehabilitative ends promoted by supervised release." App.25a (Moore, J., dissenting). This reading "best serves the purposes of the statute." *Gonzalez*, 151 F.4th at 1088.

5. The Sixth Circuit's contrary interpretation emphasizes Section 3632(d)(4)(C)'s second sentence: "The Director of [BOP] shall transfer eligible prisoners, as determined under section 3624(g), into prerelease custody or supervised release." 18 U.S.C. § 3632(d)(4)(C); App.5a-6a. But this sentence only further supports petitioner's interpretation of the statute.

In the Sixth Circuit's view, the second sentence "doesn't contemplate" application of time credits "to a prisoner who is already on supervised release … because that person would not need to be transferred to prerelease custody or supervised release." App.6a. But in so holding, the Sixth Circuit reads Section 3632(d)(4)(C) to say the same thing twice: the first sentence would provide that time credits must reduce a term of imprisonment, and the second would direct BOP—the only entity with authority over individuals serving federal prison sentences—to transfer individuals out of prison based on earned time credits. Put another way, the Sixth Circuit's reading renders Section 3632(d)(4)(C)'s first sentence redundant because the text of Section 3624(g) and the second sentence of Section 3632(d)(4)(C) already require BOP to apply credits to reduce a term of imprisonment. As the Ninth Circuit noted, this "forced redundancy" is "difficult to comprehend." *Gonzalez*, 151 F.4th at 1085.

By contrast, petitioner's reading harmonizes the two sentences of Section 3632(d)(4)(C). The first sentence provides that time credits may be used to reduce "time in prerelease custody or supervised release," 18 U.S.C. § 3632(d)(4)(C)—regardless of whether the prisoner who earned time credits is still in BOP custody. *Gonzalez*, 151 F.4th at 1085. And the second sentence requires BOP to apply time credits to reduce terms of imprisonment for "[e]ligible prisoners" in accordance with Section 3624(g).

In short, the Sixth Circuit's decision is out of step with Section 3632(d)(4)(C)'s text, other sentencing-credit statutes, and common sense. These errors highlight the need for this Court to address the circuit

conflict on this important question of federal statutory interpretation.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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January 8, 2026

APPENDIX

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UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

Terrell Anthony Hargrove,
Petitioner-Appellant,
v.
Ian Healy, Warden,
Respondent-Appellee.

No. 24-3809

Appeal from the United States District Court for the Northern District of Ohio at Youngstown.
No. 4:23-cv-01857—Benita Y. Pearson, District Judge.

Decided and Filed: September 10, 2025

Before: MOORE, GRIFFIN, and NALBANDIAN, Circuit Judges

NALBANDIAN, J., delivered the opinion of the court in which GRIFFIN, J., concurred. MOORE, J. (pp. 9–18), delivered a separate dissenting opinion.

OPINION

NALBANDIAN, Circuit Judge. Terrell Anthony Hargrove appeals the denial of a writ of habeas corpus. He claims that prison officials unlawfully denied him access to First Step Act time credits. But Hargrove has already been placed on supervised release. And because we hold that First Step Act

credits cannot be used to reduce a supervised-release term, we dismiss Hargrove's appeal as moot.

I.

In 2006, Hargrove was sentenced to 120 months' imprisonment, followed by five years of supervised release for several drug trafficking offenses. *Hargrove v. Healy*, No. 4:23-CV-1857, 2024 WL 3992261, at *1 (N.D. Ohio Aug. 28, 2024). He was eventually placed on supervised release, but it was revoked after he committed another drug crime. *Id.* When this case arose, he was serving 57 months' imprisonment for his supervised-release violation to run consecutively with his 46-month sentence for heroin distribution, followed by five years of supervised release. *Id.* at *2.

In 2023, Hargrove petitioned pro se for a writ of habeas corpus under 28 U.S.C. § 2241. He argued that the Bureau of Prisons (BOP) "refused to permit [him] to earn and apply First Step Act (FSA) earned time credits despite [his] statutory eligibility to do so." R.1, Pet., p.2, PageID 2. After the court appointed counsel for Hargrove, the warden, Ian Healy, moved to dismiss. Healy argued that Hargrove did not exhaust his administrative remedies for his claims and is ineligible to receive First Step Act time credits because one of his convictions is statutorily excluded from the time-credit program. The district court agreed. It concluded both that Hargrove failed to exhaust his administrative remedies and that he is ineligible for time credits because he received an aggregate sentence for a disqualifying offense. Hargrove appealed. While awaiting review in this court, Hargrove was released from the BOP's custody and began serving his term of supervised release.

II.

Before deciding a case on the merits, we must ensure our jurisdiction to do so. *Sherrod v. Wal-Mart Stores Inc.*, 103 F.4th 410, 412 (6th Cir. 2024). Under Article III, our jurisdiction "extends . . . only to 'Cases' and 'Controversies.'" *Brown v. Yost*, 122 F.4th 597, 601 (6th Cir. 2024) (en banc) (per curiam) (quoting U.S. Const. art. III, § 2). It does not extend to "moot questions or abstract propositions." *North Carolina v. Rice*, 404 U.S. 244, 246 (1971) (per curiam) (internal quotation marks omitted). To avoid entangling ourselves in such abstractions, we require that there be a "real and substantial controversy," capable of "specific relief," that lasts throughout the entire litigation. *Id.* (internal quotation marks omitted); *League of Women Voters of Ohio v. Brunner*, 548 F.3d 463, 473 (6th Cir. 2008). So if an intervening event occurs that "make[s] it 'impossible' for the relevant federal court to grant any 'effectual relief,'" the suit is moot, and we have no authority to continue considering it. *Brown*, 122 F.4th at 601 (quoting *Church of Scientology v. United States*, 509 U.S. 9, 12 (1992)).

Healy argues that this case is moot for two reasons. Both are because Hargrove is on supervised release. First, Healy argues that because Hargrove is no longer incarcerated, he is not "in custody" and so cannot bring a habeas claim. *See* 28 U.S.C. § 2255(a). Second, Healy argues that First Step Act time credits cannot reduce Hargrove's term of supervised release. The first argument is meritless. We have consistently found that "individuals subject to supervised release in the federal system[] satisfy the 'in custody' requirement" to bring a habeas claim. *E.g.*, *In re Stansell*, 828 F.3d 412, 416 (6th Cir. 2016).

The second raises an issue of first impression in our court. If, as Hargrove reads the law, First Step Act time credits can be applied to reduce his time on supervised release, a ruling in his favor would mean that he'd be freed from post-release control sooner—*i.e.*, his case is not moot because he can obtain effectual relief. But if, as Healy reads the text, First Step Act time credits can only reduce Hargrove's *incarceration* term, a ruling in Hargrove's favor would not provide effectual relief because he is no longer incarcerated. And his case became moot the moment he entered supervised release. This is the question of statutory interpretation we turn to now.

A.

The question here is whether the time credits that Hargrove earned can reduce his supervised-release term. The statute reads: "Time credits earned under this paragraph by prisoners who successfully participate in recidivism reduction programs or productive activities shall be applied *toward* time in prerelease custody or supervised release." 18 U.S.C. § 3632(d)(4)(C) (emphasis added). Hargrove contends that under this provision, time credits that apply "toward" supervised release reduce the term of the supervised release itself. Healy, on the other hand, argues that the provision means that the time credits reduce the prison term that a prisoner is serving so that the supervised-release term begins sooner. But the credits don't reduce the supervised-release term itself.

We begin with the text's plain meaning and consider the design of the full statute to ensure our interpretation is consistent. *United States v. Jones*, 81 F.4th 591, 597–98 (6th Cir. 2023). Dictionaries

offer relevant meanings of "toward" that support each party's position. It can mean "[i]n the direction of," as Healy urges. *Toward*, American Heritage Dictionary of the English Language (5th ed. 2018). Meaning that time credits can be applied to move a prisoner "[i]n the direction of" supervised release. Or it can mean "[i]n furtherance or partial fulfillment of," as Hargrove argues. *Id.* Meaning that time credits can be applied to fulfill a prisoner's supervised-release term.

But just because dictionaries offer multiple definitions for a term does not mean that the term is ambiguous. Here, context guides us to the correct definition. *See Salazar v. Paramount Glob.*, 133 F.4th 642, 650 (6th Cir. 2025) ("[I]t remains 'a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme.'" (quoting *West Virginia v. EPA*, 597 U.S. 697, 721 (2022))); *see also* Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 70 (2012) ("Most common English words have a number of dictionary definitions . . . . One should assume the contextually appropriate ordinary meaning unless there is reason to think otherwise."); *id.* at 167 ("Context is the primary determinant of meaning.").

The context here shows that Healy's interpretation is correct. In the very next sentence, the statute provides: "The Director of the Bureau of Prisons shall transfer eligible prisoners, as determined under section 3624(g), into prerelease custody or supervised release." 18 U.S.C. § 3632(d)(4)(C). This consequential provision gives the BOP enforcement authority over the time-credit system, so it makes sense to read the two in tandem.

And this sentence says that to carry out the time-credit system, the director "shall transfer eligible prisoners . . . into prerelease custody or supervised release." *Id.* Eligible prisoners are in prison and have completed the relevant prison program. *See id.* § 3624(g)(1) (defining an eligible prisoner as "a prisoner . . . who has earned time credits under the risk and needs assessment system"); *see also id.* § 3635(4) (defining 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 Bureau of Prisons"); *id.* § 3635(3) (defining the relevant "evidence-based recidivism reduction programs" as those that "help prisoners succeed in their communities upon release from prison"). The Director then transfers these prisoners either into prerelease custody or supervised release—both of which presume incarceration. So this next sentence doesn't contemplate that the provision would apply to a prisoner who is already on supervised release, like Hargrove, because that person would not need to be transferred to prerelease custody or supervised release. Indeed, it's not even clear that the BOP Director would have anything to do with someone who is already on supervised release. *See id.* § 3624(e) ("A prisoner whose sentence includes a term of supervised release after imprisonment *shall be released by the Bureau of Prisons to the supervision of a probation officer*." (emphasis added)). Nor would someone who is already on supervised release be participating in the relevant program because those programs exist within the prison.

Beyond that, we look to § 3624(g), which the second sentence references. Because the statute calls on the BOP to enforce the time-credit system "as

determined under § 3624(g)," *id.*, "[t]he provisions of [§ 3632(d)(4)(c)] should be interpreted in a way that renders them compatible, not contradictory" with § 3624(g). Scalia & Garner, *supra*, at 180 ("harmonious-reading canon"); *see Epic Sys. Corp. v. Lewis*, 584 U.S. 497, 502 (2018). And § 3624(g)(1)(A) defines an "eligible prisoner[]" as one who "has earned time credits . . . in an amount that is equal to the remainder of the prisoner's imposed term of imprisonment." This indicates that a prisoner is eligible for First Step Act benefits when his time credits complete his term of *imprisonment*. *Id.* § 3624(g)(1)(A). This provision also says that if a prisoner is sentenced to supervised release, "the Director of [BOP] may transfer the prisoner to *begin any such term of supervised release at an earlier date*, not to exceed 12 months, based on the application of time credits under section 3632." *Id.* § 3624(g)(3) (emphasis added). So the time credits help a prisoner to *start* his term of supervised release at an earlier date, not *end* his term of supervised release at an earlier date.

When we read the sections together, the BOP implements that time-credit system by allowing a prisoner to "begin [his] term of supervised release at an earlier date" once he "has earned time credits . . . in an amount that is equal to the remainder of [his] term of imprisonment." *Id.* § 3624(g). This language makes clear that when a prisoner earns time credits "toward" supervised release, he is moving "in the direction" of supervised release; the credits are not in partial fulfillment of his supervised-release term.

Finally, plenty of caselaw supports this conclusion. In *Guerriero v. Miami RRM*, the only other circuit court to consider this issue found it

"apparent from the overall statutory language . . . that the time credits would reduce a prisoner's incarceration time—not that the credits would reduce the post-incarceration supervised release." No. 24-10337, 2024 WL 2017730, at *3 (11th Cir. May 7, 2024) (per curiam). And many district courts have come to this conclusion as well. *See Singleton v. Neely*, No. 7:22-CV-00844, 2023 WL 9550049, at *4 (N.D. Ala. Dec. 21, 2023), *report and recommendation adopted*, 2024 WL 476949 (N.D. Ala. Feb. 7, 2024); *Williams v. Fitch*, No. 2:21-CV-549, 2024 WL 737803, at *5 (M.D. Ala. Jan. 31, 2024), *report and recommendation adopted sub nom.*, *Williams v. Cohen*, No. 5:20-cv-2074, 2024 WL 734477 (M.D. Ala. Feb. 22, 2024); *Alexander v. Joseph*, No. 3:22cv23874, 2023 WL 6798866, at *2 (N.D. Fla. Sept. 12, 2023), *report and recommendation adopted*, 2023 WL 6794979 (N.D. Fla. Oct. 13, 2023); *Harrison v. Fed. Bureau of Prisons*, No. 22-14312, 2022 WL 17093441, at *2 (S.D. Fla. Nov. 21, 2022); *United States v. Calabrese*, No. 1:11-cr-00437, 2023 WL 1969753, at *3 (N.D. Ohio Feb. 13, 2023). *But see Dyer v. Fulgam*, No. 1:21-CV-299, 2022 WL 1598249, at *3 (E.D. Tenn. May 20, 2022), *appeal dismissed as moot*, No. 22-5608 (6th Cir. June 6, 2023).

A few district court cases have viewed the statute differently. A handful have concluded that First Step Act credits cannot be applied to a prison term at all, and instead can be applied only to reduce a term of prerelease custody or supervised release. *See United States v. Smith*, 646 F. Supp. 3d 915, 920 (E.D. Mich. 2022); *United States v. Roberts*, No. 2:22-cr-0242, 2024 WL 4762680, at *4 (S.D. Ohio Nov. 13, 2024); *United States v. Morgan*, 657 F. Supp. 3d 976, 981 (E.D. Mich. 2023). As explained, this view is

incompatible with § 3632(d)(4)(C)'s command that the BOP enforce the time-credit system "as determined under § 3624(g)." Section 3624(g)(3) expressly allows "the Director of [BOP] [to] *transfer the prisoner to begin any such term of supervised release at an earlier date*, not to exceed 12 months, based on the application of time credits under section 3632." If time credits in § 3632 could be used only to reduce a term of supervised release and not to reduce a term of imprisonment, this language would be contradictory. It is not.

Another court conducted a statutory analysis of the two sentences in § 3632(d)(4)(C) and concluded they address different situations: The first addresses a prisoner in prerelease custody or on supervised release who is using time credits to reduce that term, and the second addresses a prisoner in BOP custody who is using the credits to reduce their term of imprisonment. *Rivera-Perez v. Stover*, 757 F. Supp. 3d 204, 212–13 (D. Conn. 2024). The court reasoned that while the second sentence calls the BOP the relevant actor, the first uses passive voice and so can refer to any agency. *Id.* And the "BOP has no role whatsoever in determining or crediting time in supervised release," so the first sentence must be telling another agency to enact the time-credit system for prisoners on supervised release. *Id.* at 213.

This logic works only if you read each sentence in isolation, but we don't do that. *See United States v. Morton*, 467 U.S. 822, 828 (1984). Start with the title of the provision: "Application of time credits toward prerelease custody or supervised release." 18 U.S.C. § 3632(d)(4)(C); *see Dubin v. United States*, 599 U.S. 110, 121 (2023) (looking to headings to resolve doubt). The title does not imply that it is outlining *two*

situations when time credits can be applied—it implies only one. Next, even if the first sentence were directing some undisclosed agency to apply the time credits toward prerelease custody or supervised release, the statute would provide no indication of how that should be done. And that would contrast with the second sentence, which directs the BOP to follow the comprehensive process outlined in § 3624(g). So reading these sentences together, particularly alongside § 3624(g), the more logical reading is that the first sentence outlines what the time-credit system is (a way to move toward prerelease custody or supervised release) and the second sentence outlines how it works (through BOP transfer as determined by § 3624(g)).

The dissent says that our statute is ambiguous. And so it looks to other statutes for clues about its meaning. It settles on 18 U.S.C. § 3624(b)(1) and 18 U.S.C. § 3585(b), concluding that Congress used "toward" in those statutes to mean "in furtherance of"—and that we should do the same here. But these statutes have the same meaning no matter which definition of "toward" we use. *See* 18 U.S.C. § 3624(b)(1) (A prisoner "may receive credit toward the service of the prisoner's sentence . . . ."; "[T]he prisoner shall receive no such credit toward service of the prisoner's sentence . . . ."; "[The BOP] shall consider whether the prisoner . . . is making satisfactory progress toward earning . . . a high school diploma . . . ."); 18 U.S.C. § 3585(b) ("A defendant shall be given credit toward the service of a term of imprisonment . . . ."). Because the two definitions of "toward" are interchangeable in these statutes, neither statute is helpful in our case.

Second, the dissent asks which reading would best accomplish Congress's goal of reducing recidivism, citing *United States v. Johnson* to explain the unique value of supervised release. Putting aside whether this is an appropriate consideration, *Johnson*'s actual holding is inconsistent with the dissent's conclusion. In *Johnson*, the Supreme Court refused to alter Johnson's supervised-release term even though he had over-served his prison sentence. *United States v. Johnson*, 529 U.S. 53, 60 (2000). The Court concluded that because "supervised release, unlike incarceration, provides individuals with postconfinement assistance," courts cannot treat "time in prison as interchangeable with [terms] of supervised release." *Id.* In other words, supervised release and incarceration are qualitatively different, which is how today's decision treats them.

For these reasons, we hold that First Step Act time credits under § 3632(d)(4)(C) can be used to reduce a prison term but not a supervised-release term.

B.

What does this mean for Hargrove? It means his case is moot. A ruling in his favor—that he is eligible for First Step Act credits—would not change his supervised-release status or remaining time on supervised release. So Hargrove's case is moot because an intervening event (Hargrove's release from BOP custody) makes it impossible for us to grant any effectual relief. *See Brown*, 122 F.4th at 601. For this same reason, we do not address Hargrove's other jurisdictional argument—that he didn't need to exhaust his administrative claim before filing a habeas petition—or the merits of his case.

III.

We dismiss the appeal as moot.

DISSENT

KAREN NELSON MOORE, Circuit Judge, dissenting. Terrell Hargrove, a federal prisoner, has filed a petition for a writ of habeas corpus. Hargrove sought a writ ordering Respondent, Ian Healy, the warden at Federal Correctional Institution, Elkton, to apply his time credits earned under the First Step Act to transfer him earlier to a term of supervised release and to credit any unused time credits to reduce his supervised-release term. The majority argues that Hargrove's petition and appeal are moot because credits earned under the First Step Act cannot be used to reduce time spent in supervised release. I dissent from this holding.

I. STATUTORY BACKGROUND

In 2018, Congress enacted the First Step Act. *First Step Act of 2018*, Pub. L. No. 115-391, 132 Stat. 5194. The Act implemented a number of prison and sentencing reforms. *Id.* Among those reforms, the First Step Act "established a system of time credits and provided eligible inmates the opportunity to earn these credits for participating in evidence-based recidivism reduction programming and productive activities." *Valladares v. Ray*, 130 F.4th 74, 79 (4th Cir. 2025) (citing 18 U.S.C. § 3632(d)(4)(A)).

To implement this system, Congress directed the Attorney General to "develop and release publicly on the Department of Justice website a risk and needs assessment system[.]" 18 U.S.C. § 3632(a). The

Attorney General developed the Prisoner Assessment Tool Targeting Estimated Risk and Needs ("PATTERN tool") to assess "the recidivism risk of each prisoner as part of the intake process, and classify each prisoner as having minimum, low, medium, or high risk for recidivism." *Id.* § 3632(a)(1); *see also PATTERN Risk Assessment*, *available at* https://www.bop.gov/inmates/fsa/pattern.jsp. With the PATTERN tool, the BOP assesses and periodically reassesses "the risk of violent or serious misconduct of each prisoner," assigns and reassigns "evidence-based recidivism reduction programming that is appropriate for each prisoner," and, as relevant to this appeal, "determine[s] when a prisoner is ready to transfer into prerelease custody or supervised release in accordance with section 3624." 18 U.S.C. § 3632(a)(2)–(7).

Under the First Step Act, eligible prisoners can earn up to ten days of time credits for every thirty days of successful participation in programming. *Id.* § 3632(d)(4)(A)(i)–(ii). If a prisoner maintains a low risk assessment for recidivism, he or she may earn an additional five days of time credits for every thirty days of successful participation. *Id.* Not all prisoners are eligible to receive time credits. Certain convictions enumerated in the First Step Act render a prisoner ineligible to earn time credits. *Id.* § 3632(d)(4)(D).

As indicated by both the text and the header of the First Step Act provision, time credits earned under the Act are applied by the BOP "toward [a prisoner's] time in prerelease custody or supervised release." *Id.* § 3632(d)(4)(C). Furthermore, as part of the system incentivizing low-risk prisoners to participate in evidence-based recidivism-reduction programming,

under § 3624(g)(3), "the Director of the [BOP] may transfer [a] prisoner to begin any such term of supervised release at an earlier date, not to exceed 12 months, based on the application of time credits under section 3632." *Id.* § 3624(g)(3).

II. MOOTNESS

I disagree with the majority's position that the First Step Act forecloses the type of relief Hargrove seeks. Section 3632(d)(4)(C), as the provision's title indicates, covers the "**[a]pplication of time credits toward prerelease custody or supervised release.**" Under the First Step Act, time credits "shall be applied *toward* time in prerelease custody or supervised release." 18 U.S.C. § 3632(d)(4)(C) (emphasis added). According to the Warden, "toward" means "in the direction of," and so time credits can be applied only to bring a prisoner closer to a term of prerelease custody or supervised release by reducing his or her term of incarceration. Hargrove, on the other hand, argues that "toward" means, essentially, "in furtherance or partial fulfillment of," such that time credits may be applied *against* or to *reduce* a term of supervised release, separate from the term of imprisonment.

Thus, mootness turns on the meaning Congress attached to the word "toward" under § 3632(d)(4)(C). This question is particularly difficult because, as other courts have also noted, the plain language of § 3632(d)(4)(C) is ambiguous. In resolving this ambiguity, some courts have held that credits may be applied to reduce *either* a term of incarceration *or* supervised release, and others have held that credits may be applied to reduce *only* a term of incarceration.

I believe that basic principles of statutory construction resolve this ambiguity in Hargrove's favor. Although the terms of the First Step Act are ambiguous, Congress, the Supreme Court, and the lower courts have consistently interpreted similar time-credit statutes to mean that credits earned toward a sentence are applied to reduce that sentence. Applying the presumption that Congress intends to use the same meaning of the same word in similar provisions, I would hold that time credits under the First Step Act, "shall be applied" to transfer prisoners at an earlier date to begin a term of prerelease custody or supervised release, and also "shall be applied" to reduce "time in prerelease custody or supervised release." 18 U.S.C. § 3632(d)(4)(C).

I begin with the key provision of the First Step Act:

> **Application of time credits toward prerelease custody or supervised release.**--Time credits earned under this paragraph by prisoners who successfully participate in recidivism reduction programs or productive activities shall be applied toward time in prerelease custody[1] or supervised release. The Director of the Bureau of Prisons shall transfer eligible prisoners, as determined under section 3624(g), into prerelease custody or supervised release.

18 U.S.C. § 3632(d)(4)(C). "Statutory interpretation starts (and customarily ends) with the text of the statute." *Royal Truck & Trailer Sales & Serv., Inc. v.*

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[1] Types of prerelease custody include home confinement and placement in a residential reentry center. 18 U.S.C. § 3624(g)(2)(A) & (B).

Kraft, 974 F.3d 756, 761 (6th Cir. 2020). "[E]very word and every provision is to be given effect." *Delek US Holdings, Inc. v. United States*, 32 F.4th 495, 498 (6th Cir. 2022) (quoting *Nielsen v. Preap*, 586 U.S. 392, 414 (2019)).

The relevant statutory language provides that "[t]ime credits earned . . . by prisoners . . . shall be applied toward time in prerelease custody or supervised release." 18 U.S.C. § 3632(d)(4)(C). Focusing on the word "toward," the Warden argues that prisoners cannot use First Step Act time credits to reduce their time on supervised release because, had Congress intended this scheme, it would have used the word "*against*." Warden Br. at 11–12 (citing *Toward*, *Black's Law Dictionary* (12th ed. 2024) ("[i]n the direction of, on a course or line leading to (some place or something)")). As another court has noted, the Warden's reading is not so straightforward. "It is not clear from that sentence, read in isolation, whether the time credits are to be used to reduce incarceration time so as to accelerate the beginning of prerelease custody or supervised release, on the one hand, or, on the other hand, are to be used to reduce the actual time imposed by the original sentence of supervised release[.]" *Guerriero v. Miami RRM*, No. 24-10337, 2024 WL 2017730, at *2 (11th Cir. May 7, 2024) (per curiam).

As the Eleventh Circuit noted, many district courts have adopted the position that time credits may not be used to reduce a term of supervised release but are "to be used to reduce incarceration time so as to accelerate the beginning of prerelease custody or supervised release." *See id.* at *3 (collecting cases). Other courts have reasoned that applying credits toward supervised release means

reducing the term of supervised release. "For example, applying a store credit *toward* the cost of an item means that the cost of that item is reduced by the amount of the credit. Similarly, applying a credit toward one's account balance means that the balance will be reduced by the amount of the credit." *Rivera-Perez v. Stover*, 757 F. Supp. 3d 204, 211–12 (D. Conn. 2024) (emphasis added). By that logic, so too would applying time credits toward supervised release discount or reduce the time spent on supervision. Many courts have adopted this position. *See, e.g.*, *Dyer v. Fulgam*, No. 1:21-CV-299-CLC-CHS, 2022 WL 1598249, at *3 (E.D. Tenn. May 20, 2022), *appeal dismissed as moot*, *Dyer v. Fulgam*, No. 22-5608 (6th Cir. June 6, 2023); *United States v. Smith*, 646 F. Supp. 3d 915, 920 (E.D. Mich. 2022); *United States v. Roberts*, No. 2:22-cr-0242, 2024 WL 4762680, at *4 (S.D. Ohio Nov. 13, 2024); *Cook v. Hemingway*, No. 21-cv-11711, 2022 WL 3568571, at *4 (E.D. Mich. Aug. 18, 2022); *Kuzmenko v. Phillips*, No. 2:25-cv-00663-DJC-AC, 2025 WL 779743, at *6 (E.D. Cal. Mar. 10, 2025) (the Government arguing that the First Step Act gives BOP authority to reduce time spent on supervised release); *Cohen v. United States*, No. 20-CV-10833 (JGK), 2021 WL 1549917, at *4 (S.D.N.Y. Apr. 20, 2021). Some courts have gone even further, holding that time credits "apply to only 'prerelease custody or supervised release,' *not* to a term of imprisonment." *United States v. Morgan*, 657 F. Supp. 3d 976, 981 (E.D. Mich. 2023); *see also Smith*, 646 F. Supp. 3d at 920; *Roberts*, 2024 WL 4762680, at *4.

Dictionaries published around the time of the passage of the First Step Act confirm the ambiguity identified by the Eleventh Circuit and exemplified by

the dozens of district courts that have taken opposing positions. Dictionaries define "toward" to mean both "[i]n the direction of," as urged by the Warden, and "[i]n furtherance or partial fulfillment of," as urged by Hargrove. *Toward*, *The American Heritage Dictionary of the English Language* (5th ed. 2018); *see also Toward*, *Webster's New World College Dictionary* (5th ed. 2020). If Congress intended to use "toward" in the sense of "in the direction of," then time credits applied toward time in supervised release would move a prisoner closer in the direction of prerelease custody or supervised release. This would confirm the Warden's reading: time credits reduce a term of incarceration but not time in prerelease custody or supervised release. If, on the other hand, Congress intended to use "toward" in the sense of "in furtherance or partial fulfillment of," then time credits applied toward time in prerelease custody or supervised release would reduce those sentences. This would confirm Hargrove's reading: time credits reduce a term of prerelease custody or supervised release.

There are no persuasive reasons on the face of the statute to favor one interpretation over the other. Read in isolation, § 3632(d)(4)(C) does not on its own resolve this ambiguity. Reading other uses of "toward" in the sentencing-credit context does, however, firmly resolve this ambiguity in Hargrove's favor. *See Azar v. Allina Health Servs.*, 587 U.S. 566, 574 (2019) ("[The] [Supreme] Court does not lightly assume that Congress silently attaches different meanings to the same term in the same or related statutes." (citing *Law v. Siegel*, 571 U.S. 415, 422 (2014))). In these other instances, courts, most notably the Supreme Court, have interpreted the

word "toward" in the sentencing-credit context to mean that the credit should *reduce* or count *against* the prisoner's sentence. This supports reading the First Step Act as Hargrove urges.

For instance, in 18 U.S.C. § 3585(b), Congress used the word "toward" to describe giving "[a] defendant . . . credit *toward* the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences." *Id.* (emphasis added). As our own court has noted, "toward" in § 3585(b) means that "[a] federal defendant has the right to receive credit for time served in official detention before his sentence begins." *Gilbert v. United States*, 64 F.4th 763, 772 n.4 (6th Cir. 2023). It would make sense—and also follow the Court's instructions to attach the same meaning to the same term in related statutes—to interpret the use of "toward" in § 3632(d)(4)(C) to mean credit *against* or to *reduce* time in prerelease custody or supervised release.

Moreover, the Supreme Court has used similar language when discussing the meaning of "toward" in 18 U.S.C. § 3585(b). "Title 18 U.S.C. § 3585 determines when a federal sentence of imprisonment commences and whether credit *against* that sentence must be granted for time spent in 'official detention' before the sentence began." *Reno v. Koray*, 515 U.S. 50, 55 (1995) (emphasis added). Thus, the Court has endorsed reading "toward" as "against" when interpreting a sentencing-credit statute. And so too has the Court noted that "§ 3585(b) *reduces* a defendant's 'imprisonment' by the amount of time spent in 'official detention' before his sentence[.]" *Id.* at 59. In other words, using "toward" in a sentencing

statute has the practical effect of "reducing" a prisoner's sentence.

The same is true with respect to 18 U.S.C. § 3624(b). Section 3624(b)(1) allows prisoners to "receive credit *toward* the service of the prisoner's sentence[.]" *Id.* (emphasis added). And, as the Supreme Court has stated, this "permits federal prison authorities to award prisoners credit *against* prison time as a reward for good behavior." *Barber v. Thomas*, 560 U.S. 474, 476 (2010) (emphasis added). Moreover, as the Court has noted, the Sentencing Commission has recognized that "toward" in § 3624(b) means "for reducing" time spent serving a sentence. *Pepper v. United States*, 562 U.S. 476, 501 (2011) (quoting the commentary to U.S.S.G. § 5K2.19). Thus, just as with § 3585(b), courts have interpreted "toward" in § 3624(b) as synonymous with "against," and having the practical effect of "to reduce." The consistency of interpretation across the two statutes strongly favors Hargrove's interpretation.

But these are not the only occasions in which the Supreme Court has used "toward," "against," and "reduce" interchangeably when discussing sentencing credits. *See Mont v. United States*, 587 U.S. 514, 521–22, 524 (2019). In *Mont*, the Supreme Court addressed the scope of § 3624(e)'s provision "for tolling when a person 'is imprisoned in connection with a conviction.'" *Id.* at 521 (quoting 18 U.S.C. § 3624(e)). According to the Court, "[t]his phrase, sensibly read, includes pretrial detention credited *toward* another sentence for a new conviction." *Id.* (emphasis added). In its discussion of the sentencing-credit provision, the Court oscillated between saying credit "toward" and credit "against" a sentence. For instance, the Court held that "the phrase 'in

connection with a conviction' encompasses a period of pretrial detention for which a defendant receives credit *against* the sentence ultimately imposed." *Id.* (quoting 18 U.S.C. § 3624(e)). The Court then switched back and forth again between "toward" and "against." *Id.* at 522 ("credited *toward* the new sentence" and "crediting the pretrial detention that Mont served while awaiting trial and sentencing for his crimes *against* his ultimate sentence" (emphasis added)). Indeed, on three more occasions in *Mont*, the Supreme Court uses "toward" to mean that a sentencing credit reduces a term of incarceration. *Id.* at 524 ("Permitting a period of probation or parole to count *toward* supervised release but excluding a period of incarceration furthers the statutory design of 'successful[ly] transition[ing]' a defendant from 'prison to liberty.' Allowing pretrial detention credited *toward* another sentence to toll the period of supervised release is consistent with that design." (emphasis added) (alterations in original) (quoting *Johnson v. United States*, 529 U.S. 694, 708–09 (2000))).

Thus, on at least three separate occasions, the Supreme Court has noted that "toward" means "against," and thereby having the practical effect of "reducing" a sentence. Significantly, that is three separate occasions involving two separate statutes. This consistency is notable. In the face of these precedents, it is hardly unusual to interpret the word "toward" as synonymous with "against," and having the practical effect of "to reduce," when interpreting a sentencing-credit statute. I see no reason to adopt a position different from that of the Court when interpreting the meaning of "toward" as it is used in § 3632(d)(4)(C).

The Supreme Court's consistent and repeated interpretation of "toward" as synonymous with "against" and meaning "to reduce" in the sentencing-credit statutes strongly counsels in favor of doing the same here. Adopting this interpretation also makes sense in the First Step Act's framework. As described by the court *Rivera-Perez*, the first sentence of § 3632(d)(4)(C) makes time credits available to reduce an incarcerated person's time in prerelease custody or supervised release. 757 F. Supp. 3d at 212–13. Then, the second sentence provides the BOP the authority to transfer eligible prisoners to prerelease custody or supervised release up to a year earlier than scheduled. *Id.* That the BOP is invoked only in the second sentence is not superfluous. "Once a federal inmate is released from BOP custody to begin supervision by Probation, the BOP has no further authority over that inmate." *Id.* at 213. "Consistent with that reality, the first sentence of section 3632(d)(4)(C), unlike the second, is not directed at the BOP, but rather uses passive voice: 'Time credits . . . *shall be applied* toward time in prerelease custody or supervised release." *Id.* (emphasis and alteration in original) (quoting 18 U.S.C. § 3632(d)(4)(C)). Under this interpretation, full meaning is given to § 3632(d)(4)(C).

Nor am I persuaded to depart from this holding based on how other courts have interpreted the first sentence of § 3632(d)(4)(C) in contrast to the second sentence. The second sentence does not shed meaningful clarity on this issue. I am not convinced to apply a different meaning for "toward" under the First Step Act given the precedents establishing that "toward" is synonymous with "against," and has the practical of effect of "reducing" a sentence. In my

estimation, the second sentence only confirms the ambiguity that "toward" in § 3632(d)(4)(C) can reasonably mean either "in the direction of" or "in furtherance or partial fulfillment of" prerelease custody or supervised release. The second sentence reads as follows: "The Director of the Bureau of Prisons shall transfer eligible prisoners, as determined under section 3624(g), into prerelease custody or supervised release." There are two persuasive readings of this sentence that point towards opposing results. First, in the Warden's favor, "the second sentence clearly indicates that Congress meant that the time credits are to be used to reduce incarceration time so as to accelerate the beginning of prerelease custody or supervised release[.]" *Guerriero*, 2024 WL 2017730, at *2.

But this is not the only way to read this language. "Reading the second sentence as merely confirming the meaning of the first, however, would render the second sentence entirely superfluous." *Rivera-Perez*, 757 F. Supp. 3d at 212 (citing *Mackey v. Lanier Collection Agency & Serv., Inc.*, 486 U.S. 825, 837 (1988) ("As our cases have noted in the past, we are hesitant to adopt an interpretation of a congressional enactment which renders superfluous another portion of that same law.")). To avoid rendering the second sentence superfluous, the first sentence of § 3632(d)(4)(C) could be read to "allow[ ] credits to be applied to reduce a term of (i.e., 'time in') prerelease custody or supervised release[.]" *Id.* In this reading, the second sentence is not rendered superfluous because it "allows the BOP to apply credits to transfer an inmate to prerelease custody or to supervised at an earlier date." *Id.* The first sentence allows time credits to be applied toward reducing time in

prerelease custody or supervised release, whereas the second sentence grants the BOP the authority to transfer eligible inmates into prerelease custody or supervised release at an earlier time.

My interpretation of "toward" is also supported by and consistent with the rationale animating the time-credits system. With the First Step Act, Congress aimed to "enhance public safety by improving the effectiveness and efficiency of the Federal prison system with offender risk and needs assessment, individual risk reduction incentives and rewards, and risk and recidivism reduction." H.R. Rep. No. 115-699, at 22 (2018). As part of that incentive structure, the First Step Act provides time credits for low-risk inmates who participate in evidenced-based recidivism-reduction programming or productive activities. Evidenced-based recidivism-reduction programming means either a group or individual activity that "has been shown by empirical evidence to reduce recidivism or is based on research indicating that it is likely to be effective in reducing recidivism [and] is designed to help prisoners succeed in their communities upon release from prison[.]" 18 U.S.C. § 3635(3)(A) & (B).

The purpose of the time-credit system is to promote rehabilitation and efficiency in the federal penal system by incentivizing inmates to participate in recidivism-reducing programming while in prison. *See id.* The First Step Act was designed with "the most modern social science evaluation tools to find out who is at low risk of reoffending." 164 Cong. Rec. S7642 (daily ed. Dec. 17, 2018) (statement of Sen. Cornyn). In doing so, the First Step Act "allows prisons to help criminals transform their lives, if they are willing to take the steps and responsibility to do

so, so that we are not perpetuating the cycle of crime . . . ." *Id.* Reading § 3632(d)(4)(C) in favor of the Warden would inhibit these aims. The Warden's position perversely encourages prisoners to participate in as little programming as is necessary to achieve early release, but no more than that. *See* 18 U.S.C. § 3624(g)(3). It thereby does not encourage meaningful participation in programming that Congress intended would most benefit low-risk prisoners. Nor does the Warden's reading promote maximizing participation in evidence-based programing proven to reduce recidivism.

Hargrove's reading, on the other hand, encourages prisoners to engage in as much programming as possible to achieve the rehabilitative ends promoted by supervised release, but while still incarcerated. *See United States v. Johnson*, 529 U.S. 53, 59 (2000) (discussing the unique rehabilitative ends in the context of supervised release). By incentivizing prisoners to engage in programming while incarcerated, the First Step Act streamlines the rehabilitative process. As the Court has noted, "Congress intended supervised release to assist individuals in their transition to community life. Supervised release fulfills rehabilitative ends, distinct from those served by incarceration." *Id.* "[T]he primary goal [of supervised release] is to ease the defendant's transition into the community after the service of a long prison term for a particularly serious offense, or to provide rehabilitation to a defendant who has spent a fairly short period in prison for punishment or other purposes but still needs supervision and training programs after release." *Id.* (first alteration added) (quoting S. Rep. No. 98–225, at 124 (1983)). Congress's decision

through the First Step Act to promote rehabilitation while incarcerated via the time-credit system and the PATTERN tool supports these aims. Congress has the authority to craft these types of incentives, and the courts must enforce the text that Congress has enacted.

Reading § 3632(d)(4)(C) as reducing a term of prerelease custody or supervised release comports with Congress's goal with the First Step Act of promoting community safety and a prisoner's transition into the community. *See* 18 U.S.C. § 3635. Congress was clear about this. "The data indicates that unless the government acts to reduce the recidivism rate among federal inmates, there is a strong possibility that former prisoners will recidivate and be rearrested or end up re-incarcerated. Not only is it in the fiscal interest of the government to reduce recidivism, it is in the public safety interest as well." H.R. Rep. 115-699, at 22 (2018). The First Step Act was intended to rework the federal system to address the needs and improve the success of prisoners once they return to the community. *Id.* Encouraging inmates to do the bare minimum in programming, and possibly even turn down programming assigned for their benefit under the PATTERN tool once they reach the minimum credits needed for early release, would run counter to the very heart of the First Step Act. On the other hand, encouraging inmates to rehabilitate while incarcerated and to prepare them for successful supervised release would promote the ends of the Act.

For these reasons, I respectfully dissent.

[2024 WL 3992261]

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

TERRELL ANTHONY HARGROVE,	)	CASE NO. 4:23-CV-1857
Petitioner,	)	JUDGE BENITA Y. PEARSON
v.	)	
WARDEN IAN HEALY,	)	**MEMORANDUM OF OPINION AND ORDER**
Respondent.	)	[Resolving ECF No. 11]

Pending before the Court is Respondent Warden Ian Healy's Motion to Dismiss. ECF No. 11. For the following reasons, Respondent's motion to dismiss is granted, and the petition for writ of habeas corpus (ECF No. 1) is dismissed.

I. Background

Petitioner Terrell Hargrove filed the instant petition for a writ of habeas corpus while incarcerated in FCI Elkton in Lisbon, Ohio, which is located within the Northern District of Ohio.[1] Petitioner filed a *pro*

[1] [1] According to the Bureau of Prisons ("BOP") website, Petitioner is located at RRM Raleigh and has an expected release

se Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241.[2] ECF No. 1. Petitioner also filed a motion for appointment of counsel. ECF No. 3. The Court granted the motion and appointed the Office of the Federal Public Defender to represent Petitioner. ECF No. 7 at PageID #: 52

A. Petitioner's 2006 Case

In July 2006, Petitioner was sentenced to a 120[3] month term of imprisonment and five years of supervised release for convictions of conspiracy to distribute and possession with intent to distribute cocaine base and possession of a firearm in furtherance of a drug trafficking. *United States v. Hargrove*, Case No. 3:06-cr-26-JAG (E.D. Va. Jan. 5, 2012) (Doc. 35).

While incarcerated, Petitioner filed myriad motions, including a petition for writ of habeas corpus. *Hargrove v. United States*, Case No. 3:14-cv-75-JAG (E.D. Va. Nov. 7, 2005) (Doc. 1). In that case,

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date of November 22, 2024. BOP Inmate Locator, https://www.bop.gov/inmateloc/ (last visited August 28, 2024)

[2] Under Sixth Circuit precedent, the petition is deemed filed when handed to prison authorities for mailing to the federal court. *Cook v. Stegall*, 295 F.3d 517, 521 (6th Cir. 2002). Even though the Court did not receive the petition until May 3, 2022, Petitioner dated his petition on May 1, 2022. *See Brand v. Motley*, 526 F.3d 921, 925 (6th Cir. 2008) (holding that the date the prisoner signs the document is deemed under Sixth Circuit law to be the date of handing to officials) (citing *Goins v. Saunders*, 206 Fed.Appx. 497, 498 n. 1 (6th Cir. 2006) (per curiam)).

[3] Originally, Petitioner was sentenced to 144 months. *United States v. Hargrove*, Case No. 3:06-cr-26-JAG (E.D. Va. July 11, 2006) (Doc. 19). This sentence was reduced pursuant to 18 U.S.C. § 3582.

Petitioner requested jail credit, pursuant to *Willis v. United States*, 438 F.2d 293 (5th Cir. 1971). His motion was denied because he was ineligible for such credit.

In December 2015, Petitioner was arrested for a supervised release violation, and sentenced to 12 months of imprisonment and four years on supervised release. *United States v. Hargrove*, Case No. 3:06-cr-26-JAG (E.D. Va. Dec. 1, 2015) (Doc. 61). Petitioner served this sentence and began his new term on supervised release. In December 2017, Petitioner was arrested on a new supervised release violation, and a new case was initiated. *See id.* at Doc. 65; *United States v. Hargrove*, Case No. 3:18-cr-01-JAG (E.D. Va. Dec. 7, 2017) (Doc. 1). Petitioner admitted to the violation, and the Court revoked his supervised release. The Court sentenced Petitioner to 57 months of imprisonment, consecutive to the sentence in his new (2017) case as discussed below. *See United States v. Hargrove*, Case No. 3:06-cr-26-JAG (E.D. Va. May 29, 2018) (Doc. 71).

B. Petitioner's 2017 Case

In 2017, Petitioner was charged with two counts of distribution of heroin. *United States v. Hargrove*, Case No. 3:18-cr-01-JAG (E.D. Va. Dec. 7, 2017) (Doc. 1). Petitioner pleaded guilty to one count of distribution of heroin. The Court sentenced Petitioner to 46 months of imprisonment and 5 years of supervised release. *Id.* at Doc. 34. In January 2024, Petitioner moved for a reduction of sentence pursuant to Amendment 821 to the Sentencing Guidelines. The Court granted that motion and reduced Petitioner's sentence to 41 months. *Id.* at Doc. 69.

C. Petitioner's Habeas Motion

In September 2023, Petitioner filed the instant petition under 28 U.S.C. § 2241 for a Writ of Habeas Corpus. ECF No. 1. Petitioner argues the BOP has "erroneously denied his statutory right to First Step Act ("FSA") earned time credits." Petitioner also argues that he should be excused from exhaustion of administrative remedies because the denial of FSA credits is causing him irreparable harm. ECF No. 1 at PageID #: 6–7.

Petitioner asks the Court to (1) hold a hearing on the claims within his Petition; (2) issue an order instructing that Petitioner attend and present evidence at a hearing; (3) find that Petitioner has earned the appropriate amount of FSA earned time credits to be placed in prerelease custody immediately; (4) find that Petitioner has satisfied FSA requirements for application of earned time credits; (5) issue an order instructing Respondent and the Federal Bureau of Prisons (BOP) to immediately process Petitioner for either prerelease placement or immediate release; and (6) credit all unused FSA credits toward the service of Petitioner's term of supervised release. ECF No. 1 at PageID #: 8.

Respondent filed a Return of Writ and Motion to Dismiss (ECF No. 11). The matter has been fully briefed.

II. Standard of Review

Respondent has filed a motion to dismiss the § 2241 Petition. Rules 4 and 5 of the Rules Governing Section 2254 Cases in the United States District Courts permit a respondent to file a motion to dismiss a petition for writ of habeas corpus under 28 U.S.C. § 2254, and those rules may be applied to § 2241

petitions. *See* Rule 1(b) of the Rules Governing Section 2254 Cases in the United States District Courts. Courts have considered motions to dismiss § 2241 petitions alleging a failure to exhaust administrative remedies under Fed. R. Civ. P. 12(b)(6). *See, e.g.*, *Cook v. Spaulding*, 433 F. Supp. 3d 54, 56-57 (D. Mass. 2020).

"To survive a [Rule 12(b)(6)] motion to dismiss, [the petition] must allege 'enough facts to state a claim to relief that is plausible on its face.'" *Traverse Bay Area Intermediate Sch. Dist. v. Mich. Dep't of Educ.*, 615 F.3d 622, 627 (6th Cir. 2010) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)); *see Cook*, 433 F. Supp. 3d at 55. When making the determination to dismiss under Rule 12(b)(6) the court will accept all well-pleaded facts as true and make all reasonable inferences in favor of the non-movant. *Phila. Indem. Ins. Co. v. Youth Alive, Inc.*, 732 F.3d 645, 649 (6th Cir. 2013).

III. Discussion

Respondent argues: (1) Petitioner has failed to exhaust his administrative remedies, and, even if he had exhausted his administrative remedies, (2) Petitioner is ineligible to receive First Step Act ("FSA") time credits because he is currently incarcerated for possession of a firearm in relation to a drug trafficking crime. ECF No. 11 at PageID #: 58.

Petitioner contends that the Court should excuse the exhaustion of administrative remedies. ECF No. 12 at PageID #: 98. Petitioner also contends that because his sentences are distinct, he should receive FSA credit on his eligible 46-month—nonfirearms related---sentence.

A. Jurisdiction

As stated above, Petitioner filed his petition while housed at FSL Elkton, a facility within the Northern District of Ohio. *See* ECF No. 1 at PageID #: 1; ECF No. 11 at PageID #: 60. Since that time, Petitioner has been transferred to Raleigh RRM. *See* BOP Inmate Locator, https://www.bop.gov/inmateloc/ (last visited August 28, 2024). Therefore, the Court must ensure that it maintains jurisdiction over the matter. The Court ordered parties to file Notices describing their positions on the Court's jurisdiction.

The Sixth Circuit has held that "[a] district court's jurisdiction generally is not defeated when a prisoner who has filed a [28 U.S.C.] § 2241 petition while present in the district is involuntarily removed from the district while the case is pending." *White v. Lamanna*, 42 Fed. Appx. 670, 671 (6th Cir. 2002). Therefore, the Court finds that it retains jurisdiction over the petition, despite Petitioner's transfer.

B. Exhaustion of Administrative Remedies

The parties agree that Petitioner did not exhaust his administrative remedies prior to filing his petition. ECF No. 11 at PageID #: 63; ECF No. 12 at PageID #: 98. Petitioner argues that he should be excused from exhaustion of administrative remedies because "he is currently being irreparably injured due to the fact his FSA time credits can be applied immediately." ECF No. 1 at PageID #: 7. Respondent argues that Petitioner failed to explain how exhaustion of administrative remedies would be futile. ECF No. 11 at PageID #: 63.

It is well-settled that federal prisoners must exhaust their administrative remedies before filing a habeas petition pursuant to 28 U.S.C. § 2241. *Fazzini*

v. Northeast Ohio Correctional Center, 473 F.3d 229, 231 (6th Cir. 2006); *Little v. Hopkins*, 638 F.2d 953, 954 (6th Cir. 1981). When available remedies are inadequate or futile, do not serve the basic goals of exhaustion, or turn only on statutory construction, however, the Court may decide not to apply the exhaustion doctrine. *Coleman v. U.S. Parole Comm'n*, 644 Fed.Appx. 159, 162 (3d Cir. 2016). Exhaustion of administrative remedies serves two primary purposes: (1) it "protects administrative agency authority," which "gives an agency an opportunity to correct its own mistakes with respect to the programs it administers before it is haled into federal court . . ."; and (2) "promotes efficiency." *Woodford v. Ngo*, 548 U.S. 81, 89 (2006) (internal quotation marks omitted).

Petitioner makes two arguments urging waiver of the exhaustion requirement: (1) he "faces imminent irreparable harm in the form of over-service of his sentence," and (2) "and the claim presents an issue of statutory construction." ECF No. 12 at PageID #: 98. Petitioner's arguments in support of his petition address interpretation of 18 U.S.C. §§ 3632 and 3584(c). Petitioner's claims fail on the *Coleman v. U.S. Parole Comm'n*, 644 Fed. Appx. 159, 162 (3d Cir. 2016)

C. FSA Credit Eligibility

Pursuant to 18 U.S.C. § 3632, eligible individuals in custody may receive time credits to be applied toward time in prerelease custody or supervised release. 18 U.S.C. § 3632(d)(4)(C). 18 U.S.C. § 3632(d)(4)(D) defines convictions that make an individual ineligible. Specifically, 18 U.S.C. § 3632(d)(4)(D) states: "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 . . ." One of the listed disqualifying offenses is "Section 924(c), relating to unlawful possession or use of a firearm during and in relation to any crime of violence or drug trafficking crime." 18 U.S.C. § 3632(d)(4)(D)(xxii).

Petitioner concedes that his 2006 conviction for possession of a firearm in furtherance of a drug trafficking crime is one of the disqualifying offenses enumerated in 18 U.S.C. § 3632(d)(4)(D). Petitioner challenges the BOP's decision to aggregate his sentences and find him ineligible for FSA time credits. He argues that the plain language and context of the FSA demonstrate that he is eligible to earn time credits towards the sentence for his qualifying offenses. ECF No. 12 at PageID #: 100. Respondent contends that Petitioner is ineligible because he is serving an aggregate sentence for a disqualifying offense. ECF No. 11 at PageID #: 64.

Petitioner's argument against aggregation turns on his interpretations of 18 U.S.C. §§ 3584(c) and 3632(d)(4)(D). Numerous courts have rejected Petitioner's argument.

The Sixth Circuit has addressed the propriety of sentence aggregation in a similar case. *See Keeling v. Lemaster*, No. 22-6126, 2023 WL 9061914 (6th Cir. Nov. 22, 2023). In that case, the petitioner pleaded guilty to possession with intent to distribute methamphetamine, possession of a firearm in furtherance of a drug-trafficking offense ("§ 924(c) conviction"), and possession of a firearm by a convicted felon. *Id.* at *1. He received concurrent terms of 57 months of imprisonment for his possession with intent to distribute methamphetamine and possession of a firearm by a

convicted felon convictions, with a consecutive 60-month term of imprisonment for his possession of a firearm in furtherance of a drug-trafficking offense conviction. *Id.* The BOP categorized the petitioner as ineligible for FSA time credits because of his § 924(c) conviction. The petitioner argued that he should earn credit because the sentence for his § 924(c) conviction was consecutive to those of his other convictions, making it separate and distinct. Circuit, relying on 18 U.S.C. § 3584(c),[4] determined that the petitioner's sentence was a single aggregated sentence for all three offenses and affirmed the district court decision denying the § 2241 petition. *Id.*

The Sixth Circuit has not addressed a case regarding aggregation of sentences imposed in separate cases, but a district court in the Eastern District of Michigan has. *See Andrews v. Rardin*, No. 2:24-cv-10994, 2024 WL 3236249 (E.D. Mich. June 28, 2024). In that case, the petitioner, in 2005, pleaded guilty to conspiracy to distribute and possession with intent to distribute 50 grams or more of cocaine base and an amount of cocaine, and possession of firearms in relation to a drug trafficking crime ("§ 924(c) conviction"). *Id.* at *1. After serving his sentence of imprisonment, petitioner was released to serve a five-year term of supervised release. *Id.* While serving his term of supervised release, in 2017, the petitioner pleaded guilty in a new case for possession with intent to distribute cocaine base and felon in possession of a firearm. Accordingly, the court revoked Petitioner's supervised release and sentenced him to twenty-four

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[4] 18 U.S.C. § 3584(c) provides: "[m]ultiple terms of imprisonment ordered to run consecutively shall be treated for administrative purposes as a single, aggregate term of imprisonment."

(24) months of imprisonment. *Id.* at *2. Additionally, Petitioner was sentenced to 120 months in prison to run concurrently for each of the new offenses. The court imposed this new sentence consecutively to the sentence imposed due to the revocation of his supervised release. *Id.* The district court stated that "[p]etitioner misconstrue[d] his 2005 firearms conviction [his § 924] as being a prior conviction and sentence." *Id.* at *2. Then, relying on *Keeling v. Lemaster*, the district court concluded that "it was proper for the BOP to aggregate [petitioner's] sentences, for the purposes of the First Step Act, and conclude that [p]etitioner [was] ineligible to receive credits under the FSA." *Id.* at *3. Courts outside of the Sixth Circuit also support this interpretation. *See Martinez v. Rosalez*, No. 23-50406, 2024 WL 140438 (5th Cir. Jan. 12, 2024) (affirming decision that petitioner's foreign sentence was properly aggregated with his domestic sentence); *Teed v. Warden Allenwood FCI Low*, No. 23-1181, 2023 WL 4556727 (3d Cir. July 17, 2023) (affirming denial of § 2241 petition because the BOP properly aggregated petitioner's consecutive sentences); *Sok v. Eischen*, No. 20-1025, 2023 WL 5282709 (8th Cir. Aug. 17, 2023) (same).

Like the petitioner in *Andrews v. Rardin*, Petitioner in the instant case is currently serving a sentence for two different cases. One, pursuant to the revocation of his supervised release in his previous case, in which he was convicted for possession of a firearm in furtherance of drug trafficking ("§ 924(c) conviction) and the second, for a new offense. Petitioner's revocation case, like in *Rardin*, involved a disqualifying offense while his new case does not.

Petitioner, like the petitioner in *Rardin*, argues that his 2006 conviction is a prior conviction and sentence.

§ 3584(c) states that "multiple terms of imprisonment ordered to run consecutively or concurrently *shall* be treated for administrative purposes as a single, aggregate term of imprisonment." (emphasis added). With this understanding, the Court finds that the BOP's aggregation of Petitioner's sentence is reasonable and required, pursuant to 18 U.S.C. § 3584(c). *See also Sok v. Eischen*, No., 2022 WL 17156797, at *6 (D. Minn. Oct. 26, 2022) ("The BOP's aggregation of [p]etitioner's sentences is not only a reasonable interpretation of § 3632(d)(4)(D), but said aggregation is, in fact, required pursuant to the BOP's obligation to comply with the statutory mandate of Congress in § 3584(c).") Therefore, the BOP reasonably aggregated Petitioner's terms of imprisonment and determined that he was ineligible for FSA time credits. Because the BOP's actions were proper, the Court concludes that Petitioner is ineligible to receive credits under the FSA. Petitioner is not entitled to habeas relief.

IV. Conclusion

For the foregoing reasons, Respondent's Motion to Dismiss (ECF No. 11) is granted, and the Petition for a Writ of Habeas Corpus (ECF No. 1) brought pursuant to 28 U.S.C. § 2241 is dismissed pursuant to 28 U.S.C. § 2243.

IT IS SO ORDERED.

August 28, 2024
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge

18 U.S.C. § 3624

§ 3624. Release of a prisoner

(a) DATE OF RELEASE.—A prisoner shall be released by the Bureau of Prisons on the date of the expiration of the prisoner's term of imprisonment, less any time credited toward the service of the prisoner's sentence as provided in subsection (b). If the date for a prisoner's release falls on a Saturday, a Sunday, or a legal holiday at the place of confinement, the prisoner may be released by the Bureau on the last preceding weekday.

* * *

(b) CREDIT TOWARD SERVICE OF SENTENCE FOR SATISFACTORY BEHAVIOR.—(1) Subject to paragraph (2), a prisoner who is serving a term of imprisonment of more than 1 year[1] other than a term of imprisonment for the duration of the prisoner's life, may receive credit toward the service of the prisoner's sentence of up to 54 days for each year of the prisoner's sentence imposed by the court, subject to determination by the Bureau of Prisons that, during that year, the prisoner has displayed exemplary compliance with institutional disciplinary regulations. Subject to paragraph (2), if the Bureau determines that, during that year, the prisoner has not satisfactorily complied with such institutional regulations, the prisoner shall receive no such credit toward service of the prisoner's sentence or shall receive such lesser credit as the Bureau determines to be appropriate. In awarding credit under this section, the Bureau shall consider whether the prisoner,

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[1] So in original. Probably should be followed by a comma.

during the relevant period, has earned, or is making satisfactory progress toward earning, a high school diploma or an equivalent degree. Credit that has not been earned may not later be granted. Subject to paragraph (2), credit for the last year of a term of imprisonment shall be credited on the first day of the last year of the term of imprisonment.

* * *

(c) PRERELEASE CUSTODY.—

(1) IN GENERAL.—The Director of the Bureau of Prisons shall, to the extent practicable, ensure that a prisoner serving a term of imprisonment spends a portion of the final months of that term (not to exceed 12 months), under conditions that will afford that prisoner a reasonable opportunity to adjust to and prepare for the reentry of that prisoner into the community. Such conditions may include a community correctional facility.

(2) HOME CONFINEMENT AUTHORITY.—The authority under this subsection may be used to place a prisoner in home confinement for the shorter of 10 percent of the term of imprisonment of that prisoner or 6 months. The Bureau of Prisons shall, to the extent practicable, place prisoners with lower risk levels and lower needs on home confinement for the maximum amount of time permitted under this paragraph.

* * *

(e) SUPERVISION AFTER RELEASE.—A prisoner whose sentence includes a term of supervised release after imprisonment shall be released by the Bureau of Prisons to the supervision of a probation officer who shall, during the term imposed, supervise the person

released to the degree warranted by the conditions specified by the sentencing court. The term of supervised release commences on the day the person is released from imprisonment and runs concurrently with any Federal, State, or local term of probation or supervised release or parole for another offense to which the person is subject or becomes subject during the term of supervised release. A term of supervised release does not run during any period in which the person is imprisoned in connection with a conviction for a Federal, State, or local crime unless the imprisonment is for a period of less than 30 consecutive days. Upon the release of a prisoner by the Bureau of Prisons to supervised release, the Bureau of Prisons shall notify such prisoner, verbally and in writing, of the requirement that the prisoner adhere to an installment schedule, not to exceed 2 years except in special circumstances, to pay for any fine imposed for the offense committed by such prisoner, and of the consequences of failure to pay such fines under sections 3611 through 3614 of this title.

* * *

(g) PRERELEASE CUSTODY OR SUPERVISED RELEASE FOR RISK AND NEEDS ASSESSMENT SYSTEM PARTICIPANTS.—

(1) ELIGIBLE PRISONERS.—This subsection applies in the case of a prisoner (as such term is defined in section 3635) who—

(A) has earned time credits under the risk and needs assessment system developed under subchapter D (referred to in this subsection as the "System") in an amount that is equal to the

remainder of the prisoner's imposed term of imprisonment;

(B) has shown through the periodic risk reassessments a demonstrated recidivism risk reduction or has maintained a minimum or low recidivism risk, during the prisoner's term of imprisonment;

(C) has had the remainder of the prisoner's imposed term of imprisonment computed under applicable law; and

(D)(i) in the case of a prisoner being placed in prerelease custody, the prisoner—

(I) has been determined under the System to be a minimum or low risk to recidivate pursuant to the last 2 reassessments of the prisoner; or

(II) has had a petition to be transferred to prerelease custody or supervised release approved by the warden of the prison, after the warden's determination that—

(aa) the prisoner would not be a danger to society if transferred to prerelease custody or supervised release;

(bb) the prisoner has made a good faith effort to lower their recidivism risk through participation in recidivism reduction programs or productive activities; and

(cc) the prisoner is unlikely to recidivate; or

(ii) in the case of a prisoner being placed in supervised release, the prisoner has been determined under the System to be a

minimum or low risk to recidivate pursuant to the last reassessment of the prisoner.

(2) TYPES OF PRERELEASE CUSTODY.—A prisoner shall be placed in prerelease custody as follows:

(A) HOME CONFINEMENT.—

(i) IN GENERAL.—A prisoner placed in prerelease custody pursuant to this subsection who is placed in home confinement shall—

(I) be subject to 24-hour electronic monitoring that enables the prompt identification of the prisoner, location, and time, in the case of any violation of subclause (II);

(II) remain in the prisoner's residence, except that the prisoner may leave the prisoner's home in order to, subject to the approval of the Director of the Bureau of Prisons—

(aa) perform a job or job-related activities, including an apprenticeship, or participate in job-seeking activities;

(bb) participate in evidence-based recidivism reduction programming or productive activities assigned by the System, or similar activities;

(cc) perform community service;

(dd) participate in crime victim restoration activities;

(ee) receive medical treatment;

(ff) attend religious activities; or

(gg) participate in other family-related activities that facilitate the prisoner's successful reentry such as a family funeral, a family wedding, or to visit a family member who is seriously ill; and

(III) comply with such other conditions as the Director determines appropriate.

(ii) ALTERNATE MEANS OF MONITORING.—If the electronic monitoring of a prisoner described in clause (i)(I) is infeasible for technical or religious reasons, the Director of the Bureau of Prisons may use alternative means of monitoring a prisoner placed in home confinement that the Director determines are as effective or more effective than the electronic monitoring described in clause (i)(I).

(iii) MODIFICATIONS.—The Director of the Bureau of Prisons may modify the conditions described in clause (i) if the Director determines that a compelling reason exists to do so, and that the prisoner has demonstrated exemplary compliance with such conditions.

(iv) DURATION.—Except as provided in paragraph (4), a prisoner who is placed in home confinement shall remain in home confinement until the prisoner has served not less than 85 percent of the prisoner's imposed term of imprisonment.

(B) RESIDENTIAL REENTRY CENTER.—A prisoner placed in prerelease custody pursuant

to this subsection who is placed at a residential reentry center shall be subject to such conditions as the Director of the Bureau of Prisons determines appropriate.

(3) SUPERVISED RELEASE.—If the sentencing court included as a part of the prisoner's sentence a requirement that the prisoner be placed on a term of supervised release after imprisonment pursuant to section 3583, the Director of the Bureau of Prisons may transfer the prisoner to begin any such term of supervised release at an earlier date, not to exceed 12 months, based on the application of time credits under section 3632.

* * *

18 U.S.C. § 3632

§ 3632. Development of risk and needs assessment system

(a) IN GENERAL.—Not later than 210 days after the date of enactment of this subchapter, the Attorney General, in consultation with the Independent Review Committee authorized by the First Step Act of 2018, shall develop and release publicly on the Department of Justice website a risk and needs assessment system (referred to in this subchapter as the "System"), which shall be used to—

* * *

(6) determine when to provide incentives and rewards for successful participation in evidence-based recidivism reduction programs or productive activities in accordance with subsection (e);

(7) determine when a prisoner is ready to transfer into prerelease custody or supervised release in accordance with section 3624; * * * .

In carrying out this subsection, the Attorney General may use existing risk and needs assessment tools, as appropriate.

* * *

(d) EVIDENCE-BASED RECIDIVISM REDUCTION PROGRAM INCENTIVES AND PRODUCTIVE ACTIVITIES REWARDS.—The System shall provide incentives and rewards for prisoners to participate in and complete evidence-based recidivism reduction programs as follows:

* * *

(4) TIME CREDITS.—

(A) IN GENERAL.—A prisoner, except for an ineligible prisoner under subparagraph (D), who successfully completes evidence-based recidivism reduction programming or productive activities, shall earn time credits as follows:

(i) A prisoner shall earn 10 days of time credits for every 30 days of successful participation in evidence-based recidivism reduction programming or productive activities.

(ii) A prisoner determined by the Bureau of Prisons to be at a minimum or low risk for recidivating, who, over 2 consecutive assessments, has not increased their risk of recidivism, shall earn an additional 5 days of time credits for every 30 days of successful participation in evidence-based recidivism reduction programming or productive activities.

(B) AVAILABILITY.—A prisoner may not earn time credits under this paragraph for an evidence-based recidivism reduction program that the prisoner successfully completed—

(i) prior to the date of enactment of this subchapter; or

(ii) during official detention prior to the date that the prisoner's sentence commences under section 3585(a).

(C) APPLICATION OF TIME CREDITS TOWARD PRERELEASE CUSTODY OR SUPERVISED RELEASE.—Time credits earned under this paragraph by prisoners who successfully

participate in recidivism reduction programs or productive activities shall be applied toward time in prerelease custody or supervised release. The Director of the Bureau of Prisons shall transfer eligible prisoners, as determined under section 3624(g), into prerelease custody or supervised release.

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