

1 following up with the warden's office at petitioner's place of incarceration. ECF No. 11-1.
2 Because there appears to be a material factual dispute as to whether petitioner sought
3 administrative relief, the court would normally be inclined to hold an evidentiary hearing to
4 resolve the dispute. See Hillery v. Pulley, 533 F. Supp. 1189, 1204 (E.D. Cal. 1982) (federal
5 court has discretion to hold an evidentiary hearing particularly where there is a material factual
6 dispute). However, the court will not hold an evidentiary hearing because the petition before the
7 court fails on the merits.

8 II. "PATTERN" Assessment

9 Via the First Step Act (FSA) of 2018, 18 U.S.C. §§ 3631 et seq., a system was created
10 that, under certain circumstances, allows inmates to earn sentence credit by completing evidence-
11 based recidivism reduction programs ("EBRRs") or productive activities ("PAs"). See 18 U.S.C.
12 § 3632(d)(4). In accordance with the FSA, the BOP uses the Prisoner Assessment Tool Targeting
13 Estimated Risk and Needs ("PATTERN") to assess each prisoner's risk of recidivism. Id. §
14 3632(a); <https://www.bop.gov/inmates/fsa/pattern.jsp>.

15 In the habeas petition, counsel for petitioner indicates:

16 It does not appear the BOP completed its PATTERN assessment of
17 Mr. Renteria. If it has, it has not provided a copy of that assessment
to Mr. Renteria or undersigned counsel.

18 With the response to petitioner's habeas petition, respondent provides evidence that petitioner has
19 had several "PATTERN" assessments while in BOP custody with the most recent one occurring
20 on January 4, 2023. ECF No. 6 at 2, 9-10. Petitioner fails to proffer any evidence that the
21 assessments did not occur. Furthermore, petitioner does not argue the conclusions reached in the
22 assessments are erroneous or that petitioner is entitled to a further assessment. For these reasons,
23 there does not appear to be any basis for this court to order further assessment.

24 III. Recalculation of Release Date

25 Petitioner asks that the court order the BOP to recalculate petitioner's release date
26 given that he has completed the following classes/programs: "GED; English as a second
27 language; ACT; Work keys; NCRC; and Threshold." ECF No. 1 at 1. Petitioner suggests that he
28 is entitled to additional sentence credit under the FSA. However, as noted by respondent (ECF

1 No. 6 at 4-6), petitioner is precluded under 18 U.S.C. § 3624(g)(B) from the application of any
2 FSA credit because it has been determined through his “PATTERN” assessment that his risk of
3 recidivism is high (ECF No. 6-1 at 2).¹ Petitioner does not challenge the determination that his
4 risk of recidivism is high, nor that the conclusion that it being high precludes application of FSA
5 credit. For these reasons, petitioner has not shown a basis for this court to order recalculation of
6 his release date.

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. The Clerk of Court assign a district court judge to this action.

9 Further, IT IS HEREBY RECOMMENDED that:

10 1. Petitioner’s petition for a writ of habeas corpus be denied; and

11 2. Respondent’s motion to dismiss for failure to exhaust administrative remedies (ECF
12 No. 6) be denied as moot.

13 These findings and recommendations are submitted to the United States District Judge
14 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
15 after being served with these findings and recommendations, any party may file written
16 objections with the court and serve a copy on all parties. Such a document should be captioned
17 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the
18 objections shall be served and filed within fourteen days after service of the objections. The
19 parties are advised that failure to file objections within the specified time may waive the right to
20 appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

21 Dated: January 3, 2025

22 
23 CAROLYN K. DELANEY
24 UNITED STATES MAGISTRATE JUDGE

25 1
rent0826.fsa

26
27
28 ¹ The same conclusion was reached in Doran v. F.C.I. Herlong, No. 2:22-cv-2040 KJN P, 2023
WL 6314241 at *3-4 (E.D. Cal. Sept. 28, 2023) on indistinguishable facts.