

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

JAMAR ALLEN WELLS,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV 10-412-FHS-KEW
)	
JUSTIN JONES, DOC Director,)	
)	
Respondent.)	

OPINION AND ORDER

This matter is before the court on petitioner’s petition for a writ of habeas corpus, filed pursuant to 28 U.S.C. § 2241. Petitioner, an inmate currently incarcerated at Davis Correctional Facility in Holdenville, Oklahoma, is challenging the execution of his sentence and requesting immediate release from custody. The respondent has filed a motion to dismiss, alleging petitioner has failed to exhaust his administrative remedies and his state court remedy. Petitioner has not filed a response to the motion.

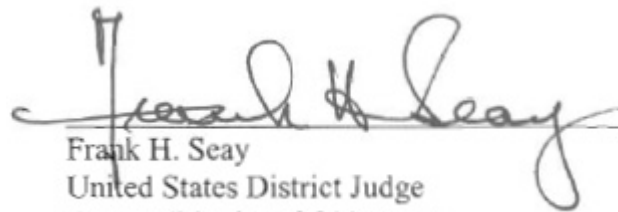
Petitioner alleges he should have been promoted to a higher earned credit level, and the failure to promote him has extended his length of incarceration. The respondent asserts petitioner received three prison disciplinary reports that resulted in repeated demotions to Earned Credit Level 1. According to the documents attached to the affidavit by the DOC Administrative Programs Officer of the Administrative Review Unit, petitioner has not completed the process of exhaustion of administrative remedies. *See* Docket #10-2 at 1-4. The respondent further asserts petitioner has not filed a state habeas corpus action raising the issue, pursuant to Okla. Stat. tit. 12. § 1331.

“A threshold question that must be addressed in every habeas case is that of

exhaustion.” *Harris v. Champion*, 15 F.3d 1538, 1554 (10th Cir. 1994). A petitioner proceeding under § 2241 must exhaust available state remedies. *Montez v. McKinna*, 208 F.3d 862, 866 (10th Cir. 2000). “This requirement extends to the exhaustion of *administrative* remedies as well.” *Dulworth v. Evans*, 442 F.3d 1265, 1269 (10th Cir. 2006) (emphasis in original) (citations omitted). Here, the court finds petitioner has failed to exhaust either administrative or state court remedies.

ACCORDINGLY, the respondent’s motion to dismiss [Docket #10] is GRANTED, and this action is, in all respects, dismissed.

IT IS SO ORDERED this 3rd day of August, 2011.



Frank H. Seay
United States District Judge
Eastern District of Oklahoma