

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ENRIQUE QUIJADA,)	
)	
Petitioner,)	
)	
vs.)	Civil Action No. 3:23-cv-166
)	Judge Stephanie L. Haines
MICHAEL UNDERWOOD,)	Magistrate Judge Maureen P. Kelly
)	
Defendant.)	
)	

MEMORANDUM ORDER

Presently before the Court is a “Supplement” (ECF No. 29) to a Petition for a Writ of Habeas Corpus (ECF No. 9) pursuant to 28 U.S.C. § 2241 filed *pro se* by Enrique Quijada (“Petitioner”). Petitioner’s Petition attacks the Bureau of Prisons’ (“BOP”) calculation and application of Earned Time Credits (“ETCs”) under the First Step Act (“FSA”). His Supplement (ECF No. 29) asks the Court to order the BOP and U.S. Immigration and Customs Enforcement (“ICE”) “to hold him in FCI Loretto, in general population,” until the Court has ruled on the Habeas Petition. This matter was referred to Magistrate Judge Maureen Kelly for proceedings in accordance with the Federal Magistrates Act, 28 U.S. C. § 636, and Local Civil Rule 72.D.

On April 16, 2024, Magistrate Judge Kelly filed a Report and Recommendation (ECF No. 30) recommending that the Supplement (ECF No. 29) be construed as a Motion for Preliminary Injunction and denied. Petitioner was advised he had fourteen days to file objections to the Report and Recommendation. *See* 28 U.S.C. § 636 (b)(1)(B) and (C) and Local Civil Rule 72.D.2. Petitioner has not filed any objections to the Report and Recommendation, and the time to do so has expired.¹

¹ Also on April 16, 2024, Magistrate Kelly Ordered (ECF No. 31) Petitioner to file additional information by April

Upon review of the record and the Report and Recommendation (ECF No. 30) under the applicable “reasoned consideration” standard, *see EEOC v. City of Long Branch*, 866 F.3d 93, 100 (3d Cir. 2017) (standard of review when no timely and specific objections are filed), and pursuant to Local Civil Rule 72.D.2, the Court will accept in whole the findings and recommendations of Magistrate Judge Kelly in this matter. Magistrate Judge Kelly correctly evaluated Petitioner’s Supplement as a Motion for Preliminary Injunction and found that Petitioner had neither shown a likelihood of success on the merits of his case nor demonstrated irreparable harm if he is not transferred to FCI Loretto’s general population.

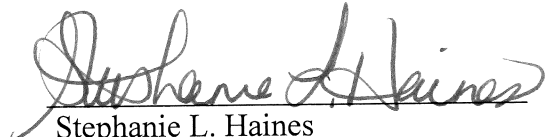
Accordingly, the following order is entered:

ORDER

AND NOW, this 3rd day of January, 2025, IT IS ORDERED that Petitioner’s “Supplement” (ECF No. 29) hereby is DENIED; and,

IT IS FURTHER ORDERED that Magistrate Judge Kelly’s Report and Recommendation (ECF No. 30) is adopted as the Opinion of the Court.

The case is returned to the jurisdiction of Magistrate Judge Kelly for further proceedings.


Stephanie L. Haines
United States District Judge

30, 2024, explaining how his administrative order of removal affected his Petition. Petitioner filed an untimely Response (ECF No. 34) to Judge Kelly’s order arguing that his removal papers are faulty and fraudulent and, therefore, should not be considered when calculating his ETCs.

Defendant Underwood filed a Supplement (ECF No. 32) providing supportive law and explaining that a prisoner is ineligible to apply ETCs to a sentence if he is the subject of a final order of removal. ECF No. 30, p. 1. Underwood attached as Exhibit A Petitioner’s removal paperwork, including the fully executed “Final Administrative Order of Removal”. (ECF No. 32-1, p. 2).