

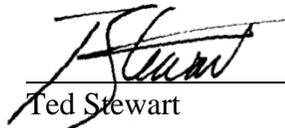
administrative remedies set forth in 28 C.F.R. §§ 542.13-16.”² Petitioner admits that he has not fully exhausted his administrative remedies. This failure to exhaust requires dismissal.

Petitioner appears to argue that his failure to exhaust should be excused because the BOP may not render a decision until after his scheduled release date. “A narrow exception to the exhaustion requirement applies if a petitioner can demonstrate that exhaustion is futile.”³ Here, Petitioner has failed to demonstrate futility. The fact that the BOP may not render a decision until after his presumptive release date does not excuse his failure to exhaust.⁴ Without even attempting to complete the administrative process, Petitioner cannot show that it would be futile.⁵ It is therefore

ORDERED that Petitioner’s Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241 (Docket No. 1) is DENIED WITHOUT PREJUDICE.

DATED this 15th day of April, 2019.

BY THE COURT:



Ted Stewart
United States District Judge

² *Sandefur v. Pugh*, 189 F.3d 478, at *1 (10th Cir. 1999) (unpublished table decision).

³ *Garza v. Davis*, 596 F.3d 1198, 1204 (10th Cir. 2010).

⁴ *Gonzalez v. United States*, 959 F.2d 211, 212 (11th Cir. 1992) (holding that the BOP’s alleged failure to release an inmate on his presumptive release date did not excuse the prisoner’s failure to exhaust); *Wuertenberg v. Young*, No. 09-0824, 2009 WL 4227453, at *4 (W.D. La. Nov. 24, 2009) (holding that impending release date did not excuse exhaustion requirement).

⁵ *Preiser v. Rodriguez*, 411 U.S. 475, 494–95 (1973) (“It is true that exhaustion of state remedies takes time, but there is no reason to assume that state prison administrators or state courts will not act expeditiously.”).