

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-10658

CARLOS FIGUEROA-GIBSON,

Petitioner-Appellant,

versus

WARDEN,

Respondent-Appellee.

Appeal from the United States District Court
for the Southern District of Georgia
D.C. Docket No. 2:23-cv-00025-LGW-BWC

Before BRANCH and LUCK, Circuit Judges, and SCHLESINGER,* District Judge.

PER CURIAM:

* Honorable Harvey E. Schlesinger, United States District Judge for the Middle District of Florida, sitting by designation.

Carlos Figueroa-Gibson is a federal prisoner set for release in January 2030. Under the First Step Act, most federal prisoners can participate in programs to earn “credits,” which may push up their release dates. But not Figueroa. He is ineligible to earn credits because the Act bars prisoners convicted of attempted child sex trafficking—like him—from earning early-release credits. *See* 18 U.S.C. § 3632(d)(4)(D)(xxvii).

Figueroa petitioned the district court for habeas corpus relief under 28 U.S.C. section 2241, asserting that the Act’s bar on him earning early-release credits violated his procedural-due-process and equal-protection rights. The district court dismissed Figueroa’s petition. After careful review, and with the benefit of oral argument and supplemental briefing, we affirm.

I. FACTUAL BACKGROUND AND PROCEDURAL HISTORY

In 2019, Figueroa pleaded guilty to attempted child sex trafficking. *See* 18 U.S.C. §§ 1591(a)(1), (b)(2), 1594(a). He was sentenced to 120 months’ imprisonment.

As a general rule, the First Step Act allows a prisoner to earn credits for early release by taking classes and working in areas that are recommended by the Bureau of Prisons based on the prisoner’s individual needs plan. *Id.* § 3632(d)(4)(A); 28 C.F.R. § 523.41(a)–(b). These credits are applied toward prerelease custody or supervised release. 18 U.S.C. § 3632(d)(4)(C); *see also id.* § 3624(g)(1). But some prisoners, because of the nature of their convictions, are ineligible to earn credits, including those convicted of attempted

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child sex trafficking like Figueroa. *See id.* § 3632(d)(4)(D)(xxvii). Figueroa calls this the exclusionary provision.

Figueroa filed a habeas petition under section 2241, claiming that the Act’s exclusionary provision violated his procedural-due-process and equal-protection rights. First, he alleged that the “denial of access” to credits based on his offense, without any “individual determination[]” of his risk of recidivism, violated the Due Process Clause because it created an “irrebuttable presumption” that ineligible prisoners are “irredeemable.” This was a “procedural[-]due[-]process claim,” he emphasized.

Second, Figueroa claimed that the exclusionary provision violated the Equal Protection Clause because it created a “non-sensical classification system” that discriminated between eligible and ineligible prisoners based solely on their offense of conviction. As for a remedy, Figueroa requested a declaration that the exclusionary provision was “[u]nconstitutional both on its face and as applied to [him].”

He had standing to challenge the exclusionary provision, he alleged, because he was injured by his inability to collect “more than half a year’s worth” of credits, which could apply to his release. His injury was “fairly traceable to the challenged action of the defendant.” And it was “likely, not merely speculative,” that his injury would be redressed by a declaration that the Act’s exclusionary provision was unconstitutional, since he did eligible work and had already participated in a “plethora” of programs that would otherwise earn him credits.

Figueroa conceded that he hadn't exhausted his administrative remedies in challenging the constitutionality of the exclusionary provision. But he argued that he should be excused from the exhaustion requirement because the Bureau couldn't declare its own governing statute unconstitutional.

The government, in response, moved to dismiss. First, it argued that Figueroa lacked standing. A declaration that the exclusionary provision was unconstitutional would not redress his injury because he failed to show participation in credit-earning programs. Second, the government asserted that Figueroa did not exhaust his administrative remedies. And third, Figueroa's claims failed on the merits. His procedural-due-process claim failed because Figueroa had no "protected liberty interest" in the earned-time credits. And his equal-protection claim failed because he wasn't similarly situated to prisoners convicted of different, non-disqualifying offenses.

The district court granted the government's motion and dismissed Figueroa's petition. He appeals the dismissal.

II. STANDARD OF REVIEW

We review standing *de novo*. *CAMP Legal Def. Fund, Inc. v. City of Atlanta*, 451 F.3d 1257, 1268 (11th Cir. 2006). And we review *de novo* the dismissal of a petition for a writ of habeas corpus. *Siebert v. Allen*, 455 F.3d 1269, 1271 n.2 (11th Cir. 2006). "We may affirm on any ground supported by the record, regardless of whether that ground was relied upon or even considered below."

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Waldman v. Conway, 871 F.3d 1283, 1289 (11th Cir. 2017) (per curiam).

III. DISCUSSION

We divide our discussion into two parts. We start with whether Figueroa had standing to bring his petition. Then, we turn to whether Figueroa failed to state a claim.

A. Standing

The Constitution limits the “judicial [p]ower” of federal courts to the resolution of “[c]ases” and “[c]ontroversies.” U.S. Const. Art. III § 2. Rooted in the case-and-controversy requirement is the standing doctrine. *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016).

Standing requires (1) an injury in fact (2) that is fairly traceable to the defendant’s actions and (3) likely redressable by a favorable decision. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992). These elements are the “irreducible . . . minimum” required by the Constitution. *Id.* at 560. The party invoking federal jurisdiction bears the burden of alleging standing. *Trichell v. Midland Credit Mgmt., Inc.*, 964 F.3d 990, 996 (11th Cir. 2020).

Figueroa has met his burden as to the three elements. As to injury, he alleged that, were it not for his “‘ineligible’ status,” his participation in a “plethora” of eligible programs and activities would earn him “more than half a year’s worth of ‘[t]ime [c]redits.’” These programs and activities included the “necessary” classes recommended to him by the Bureau; his current educational

work assignment, which also “count[ed] as a ‘productive activity’”; and “more than a year’s worth of ‘qualified programming.’”

The injury was traceable to the Bureau’s decision to deny him credits for early release. *See* 18 U.S.C. § 3632(d)(4)(A), (C). And his injury would be redressed if the district court declared that the exclusionary provision was unconstitutional and Figueroa was entitled to the credits. “A declaratory judgment in [Figueroa’s] favor would accordingly redress his injury by removing the allegedly unconstitutional barrier [that the Act] erected between [Figueroa] and the requested [credits].” *See Gutierrez v. Saenz*, 606 U.S. 305, 319 (2025).

The government makes two points in response. First, it argues that Figueroa’s injury isn’t redressable because Figueroa hasn’t alleged that he met all the requirements of the Bureau’s individual needs plan.¹ But Figueroa alleged compliance with the Bureau’s requirements, and his individual needs plan supports that allegation. At the pleading stage, we accept these allegations as true. *See Chiles v. Thornburgh*, 865 F.2d 1197, 1201 (11th Cir. 1989)

¹ Eligible prisoners “must be ‘successfully participating’ in [recidivism reduction] [p]rograms or [productive activities] to earn . . . [t]ime [c]redits for those [recidivism reduction] [p]rograms or [productive activities].” 28 C.F.R. § 523.41(c)(1). “‘Successful participation’ requires a determination by Bureau staff that an eligible [prisoner] has participated in the [recidivism reduction] programs or [productive activities] that the Bureau has recommended based on the [prisoner]’s individualized risk and needs assessment, and has complied with the requirements of each particular [recidivism reduction] [p]rogram or [productive activity].” *Id.* § 523.41(c)(2).

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(stating that, for standing purposes, we accept the truthfulness of the plaintiff's allegations).

Second, the government contends that the path to awarding credit time is speculative because, even if Figueroa completed all the requirements, “other contingencies”—like a hospital stay or transfer to a non-Bureau facility—could prevent him from receiving enough credits to earn early release. Redressability, however, “need only be likely, not certain,” *Alabama-Tombigbee Rivers Coal. v. Norton*, 338 F.3d 1244, 1258 (11th Cir. 2003) (citation modified), and speculation about possible contingencies does not make Figueroa's eligibility for the credits unlikely.

B. Merits

With standing out of the way, we turn to whether Figueroa stated a claim. First, we'll consider the procedural-due-process claim. Then, we'll review his equal-protection claim.²

1. Procedural-Due-Process Claim

Beginning with Figueroa's procedural-due-process claim, the Due Process Clause of the Fifth Amendment provides that “[n]o person shall . . . be deprived of life, liberty, or property, without due process of law.” U.S. Const. Amend. V. “In order to

² Because exhaustion is not jurisdictional, we need not decide it before turning to the merits of Figueroa's claims. See *Santiago-Lugo v. Warden*, 785 F.3d 467, 475 (11th Cir. 2015); see also *White v. Lemma*, 947 F.3d 1373, 1376 (11th Cir. 2020).

establish a violation of the Due Process Clause, a petitioner must have been deprived of a liberty or property interest protected under the Fifth Amendment,” *Cook v. Wiley*, 208 F.3d 1314, 1322 (11th Cir. 2000), and he must also allege state action and a constitutionally-inadequate process, *Grayden v. Rhodes*, 345 F.3d 1225, 1232 (11th Cir. 2003).

Figueroa did not make out a procedural-due-process claim because he was not deprived of a liberty or property interest in the early-release credits. Under the Act, only eligible prisoners are entitled to earn early-release credits. See 18 U.S.C. § 3632(d)(4)(A), (D). But Figueroa was never eligible to earn early-release credits because he was convicted of a crime that made him ineligible—attempted child sex trafficking. Figueroa cannot have a liberty interest in credits he was never eligible to earn in the first place. See *Cruz v. Skelton*, 543 F.2d 86, 89 (5th Cir. 1976) (“At the constitutional level, there is a clear distinction between the loss of a statutory privilege once obtained and the denial of that same privilege, never given.” (quoting *Brown v. Lundgren*, 528 F.2d 1050, 1052–53 (5th Cir. 1976))); see also *White v. Warden of Fed. Corr. Inst. - Cumberland*, 164 F.4th 326, 334 (4th Cir. 2026) (“Although awarding [First Step Act] time credits is mandatory *if* the prisoner qualifies for and earns them, those conditions, which are solely determinative of the right to credits, indicate that the prisoner cannot legitimately expect that he has *a right* to them.”); *Cheng v. United States*, 132 F.4th 655, 659 (2d Cir. 2025) (per curiam) (determining that a noncitizen prisoner with a final order of removal had no protected interest in earned-time credits).

Section 3632(a)(5)(C) of the Act is not to the contrary. That section requires the Attorney General to develop a risk-assessment system to ensure that “all prisoners are able to successfully participate” in anti-recidivism programs and productive activities. *See* 18 U.S.C. § 3632(a)(5)(C). Figueroa is certainly entitled to a risk assessment so he can participate in anti-recidivism programs and productive activities. And he has one and has participated. But section 3632(a)(5)(C) doesn’t require that he earn credits for participating in the programs and activities. *See id.*

Figueroa argues that the Act’s “mandatory language”—that prisoners “shall earn” credits which “shall” be applied—creates a “liberty interest” in the credits. *See id.* § 3632(d)(4)(A), (C); *see also id.* § 3632(a) (directing the Attorney General to develop a risk-assessment system). But he leaves out the critical part of the Act. Prisoners “shall earn” credits under the Act other than “ineligible prisoner[s] under subparagraph (D).” *See id.* § 3632(d)(4)(A). Figueroa is an ineligible prisoner under subparagraph (D) because he was convicted of attempted child sex trafficking. *See id.* § 3632(d)(4)(D)(xxvii). Thus, the Act offers Figueroa no “legitimate[] expect[ation]” that he’ll earn credits. *See White*, 164 F.4th at 334.

Figueroa also contends that the Act’s exclusion of certain offenses like attempted child sex trafficking from earning credits is based on a “false” premise or presumption that ineligible prisoners are “irredeemable,” a premise that he has no “reasonable” and “individualized” opportunity to rebut. But this contention is a

substantive attack on the Act, challenging the wisdom of the law in categorically excluding certain sex traffickers from earning credits for early release. *See Conn. Dep't of Pub. Safety v. Doe*, 538 U.S. 1, 7 (2003) (“[T]hat [the respondent] [was] not currently dangerous” was “of no consequence” because “the law’s requirements turn[ed] on an offender’s conviction alone.”). Figueroa was emphatic that he brought a “procedural”-due-process claim. We take him at his word.

Under the procedural component of the Due Process Clause, he is only entitled to constitutionally adequate process if he was deprived of a liberty or property interest. *See Grayden*, 345 F.3d at 1232. Because he had no interest in the credits, his procedural-due-process right was not violated.

2. Equal-Protection Claim

Next is Figueroa’s equal-protection claim. Equal-protection principles provide that the government shall not deny to any person within its jurisdiction the equal protection of the laws. U.S. Const. Amend. V. To state an equal-protection claim, Figueroa must allege that he “was treated differently than similarly situated persons.” *Morrissey v. United States*, 871 F.3d 1260, 1270 (11th Cir. 2017) (quoting *Strickland v. Alderman*, 74 F.3d 260, 264 (11th Cir. 1996)).

If he does, we then ask what level of scrutiny applies. If a challenged classification is designated as “suspect” (e.g., those based on race or national origin) or burdens a fundamental right, we apply heightened scrutiny. *City of Cleburne v. Cleburne Living*

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Ctr., Inc., 473 U.S. 432, 440–41 (1985) (stating that strict scrutiny applies to state statutory classifications based on race, alienage, or national origin; state laws that impinge on personal rights protected by the Constitution also require “[s]imilar oversight by the courts”; and “[l]egislative classifications based on [sex] . . . call for a heightened [intermediate] standard of review”). If not, we apply rational basis review, meaning we presume the constitutionality of the challenged classification and require only that it be rationally related to a legitimate government interest. See *City of New Orleans v. Dukes*, 427 U.S. 297, 303 (1976) (per curiam). “[I]n assessing whether Congress had such a rational basis for passing the challenged law, ‘we must assume that, if a state of facts could exist that would justify such legislation, it actually did exist when’ Congress passed the challenged law.” *United States v. Green*, 152 F.4th 1239, 1243–44 (11th Cir. 2025) (first quoting *Munn v. Illinois*, 94 U.S. 113, 132 (1876); then citing *Williamson v. Lee Optical of Okla., Inc.*, 348 U.S. 483, 487–90 (1955); and then citing *FCC v. Beach Commc’ns, Inc.*, 508 U.S. 307, 313 (1993)).

“Because [Congress] [is] not required to articulate reasons for the enactment of a statute, ‘it is entirely irrelevant for constitutional purposes whether the conceived reason for the challenged distinction actually motivated [Congress].’” See *Panama City Med. Diagnostic Ltd. v. Williams*, 13 F.3d 1541, 1546 (11th Cir. 1994) (footnote omitted) (quoting *Beach Commc’ns*, 508 U.S. at 315). “Therefore, in evaluating the rational basis for a statute, it is entirely permissible to rely on rationales that were not contemplated by [Congress] at the time of the statute’s passage.” See *id.* (citing *Cash Inn*

of *Dade, Inc. v. Metro. Dade Cnty.*, 938 F.2d 1239, 1242 (11th Cir. 1991)). “Only if ‘no state of circumstances could exist to justify’ the statute at issue ‘may [we] declare’ it ‘void.’” *Green*, 152 F.4th at 1244 (quoting *Munn*, 94 U.S. at 132).

Since child sex traffickers aren’t a suspect class, rational basis review applies. See *Doe v. Moore*, 410 F.3d 1337, 1346 (11th Cir. 2005); see also *Eknes-Tucker v. Governor of Ala.*, 80 F.4th 1205, 1220 (11th Cir. 2023) (“[L]aws that do not burden the exercise of a fundamental right (and do not discriminate against a suspect class . . .) are subject to rational basis review . . .”). So, even assuming Figueroa is similarly situated to other prisoners not covered by the exclusionary provision, the government “may discriminate on the basis of [his conviction] without offending [equal-protection principles] if the . . . classification in question is rationally related to a legitimate [government] interest.” See *Eknes-Tucker*, 80 F.4th at 1230 (quoting *Kimel v. Fla. Bd. of Regents*, 528 U.S. 62, 83 (2000)).

Here, the exclusionary provision is rationally related to a legitimate government interest. “Denying [credits] to prisoners based on their criminal record is rationally related to the [government]’s interest in preventing the early release of serious offenders.” See *Cook*, 208 F.3d at 1323 (quoting *Conlogue v. Shinbaum*, 949 F.2d 378, 380 (11th Cir. 1991)). “The sexual abuse of a child is a most serious crime and an act repugnant to the moral instincts of a decent people.” *Ashcroft v. Free Speech Coal.*, 535 U.S. 234, 244 (2002). “The prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing

importance.” *New York v. Ferber*, 458 U.S. 747, 757 (1982); *see also United States v. Irey*, 612 F.3d 1160, 1214 (11th Cir. 2010) (en banc) (“Studies and reports in this field are consistent with what judicial decisions show: pedophiles who have sexually abused children are a threat to continue doing so, and age does not remove the threat.”); *Smith v. Doe*, 538 U.S. 84, 103 (2003) (recognizing “grave concerns over the high rate of recidivism among convicted sex offenders and their dangerousness as a class”); *McKune v. Lile*, 536 U.S. 24, 33–34 (2002) (plurality opinion) (calling sex offenders’ risk of recidivism “frightening and high,” finding that “[w]hen convicted sex offenders reenter society, they are much more likely than any other type of offender to be rearrested for a new rape or sexual assault”). Denying early-release credits to child sex traffickers like Figueroa serves the government’s interest in protecting children by keeping sex offenders in prison and by deterring others. Since there are “plausible reasons for Congress’ action, our [equal-protection] inquiry is at an end.” *See Moore*, 410 F.3d at 1346 (quoting *Beach Commc’ns*, 508 U.S. at 313).

Despite our inquiry ending, Figueroa offers two responses. First, he points to other prisoners who, he says, are similarly situated and treated more favorably since the Act allows them to earn credits: “prisoner[s] [who] have served a previous sentence for a disqualifying offense, be[en] released, then return[ed] under a new sentence for an eligible offense.” But a statute is not unconstitutional because it is underinclusive. Rational basis review does not require that the statute be perfectly tailored to the government’s legitimate interest or even that it be a good fit. All that’s needed is

a plausible reason, and, here, Congress had a good reason to deny child sex traffickers early release. *See Moore*, 410 F.3d at 1346; *Cook*, 208 F.3d at 1323.

Second, Figueroa contends that the exclusionary provision is not rational since it was motivated by animus. In support, he cites two sources: (1) the comments of an individual senator; and (2) a report from the Senate Judiciary Committee.

The first source is an article by Senator Tom Cotton about the First Step Act. In it, he wrote that, “[i]n reality, early release is *always* a risky proposition, because one of the best predictors of committing a crime in the future is having committed a crime in the past.” Tom Cotton, *Cotton Op-Ed in National Review ‘Fix the First Step Act and Keep Violent Criminals behind Bars’*, Tom Cotton: Senator for Arkansas (Dec. 17, 2018), <https://www.cotton.senate.gov/news/op-eds/cotton-op-ed-in-national-review-and-145fix-the-first-step-act-and-keep-violent-criminals-behind-bars-and-146> [<https://perma.cc/G4DD-8TQ9>]. Those convicted of “certain kinds of child molestation and sex trafficking, assaults on law-enforcement officers, violent bank robberies, carjackings, and hate crimes,” he continued, should not be allowed early release to “protect public safety.” *Id.* We don’t read this as a statement of animus. But even if we did, “the statement of a single . . . senator [cannot be said] to impute discriminatory intent to the entire [Congress].” *See Shen v. Comm’r, Fla. Dep’t of Agric. & Consumer Servs.*, 158 F.4th 1227, 1258 (11th Cir. 2025).

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In the second statement, the Senate Judiciary Committee reported that the Act “[r]enders violent and high-risk criminals convicted of certain serious offenses ineligible for the pre-release custody program, including dangerous sexual offenders, murderers, and others. . . . Offenders who have committed serious crimes against children will not be able to shorten their sentences.” *The Revised First Step Act of 2018* (S.3649), S. Comm. on the Judiciary (Nov. 15, 2018), <https://www.judiciary.senate.gov/imo/media/doc/2018-11-15%20-%20Revised%20First%20Step%20Act%20-%20Summary.pdf> [<https://perma.cc/8PZP-66EZ>]. But this is a statement of fact about the Act. The Act does make sex offenders ineligible for early release. It is not an expression of animus toward sex offenders.

IV. CONCLUSION

For these reasons, we affirm the dismissal of Figueroa’s habeas petition.

AFFIRMED.