

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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GARY CARNELL TUCKER SR.,

Petitioner,

v.

UNITED STATES PAROLE COMM;  
R.L. STIFF, Warden, F.C.I. Oxford  
Wisconsin,

Respondents.  
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ORDER

01-C-544-C

This is a petition for a writ of habeas corpus. Petitioner, an inmate at the Federal Correctional Institution at Oxford, Wisconsin, claims that he is in custody in violation of the laws or Constitution of the United States. 28 U.S.C. § 2241. On October 3, 2001, I granted petitioner's request for an enlargement of time to October 26, 2001, in which to pay the \$5 filing fee. On October 23, 2001, petitioner informed the court that he would be unable to submit the \$5 filing fee by October 26, 2001, because of problems he was experiencing withdrawing funds from his inmate account with the Bureau of Prisons. Petitioner submitted evidence of a withdrawal request he made to the Bureau of Prisons on October 12, 2001, authorizing payment to the court of the \$5 filing fee. Petitioner's request

to the Bureau of Prisons went unfulfilled. Because it appears that petitioner's inability to pay the \$5 filing fee may be the result of administrative problems at the prison, rather than any neglect on petitioner's part, and in order to avoid further unwarranted delays, petitioner will be allowed to proceed in forma pauperis.

In addressing any pro se litigant's pleading, the court must construe it liberally. Haines v. Kerner, 404 U.S. 519, 521 (1972). Petitioner's arguments in support of his petition are nearly incomprehensible. Petitioner appears to allege that he has been forced illegally to serve various sentences consecutively rather than concurrently and that his parole eligibility date has been miscalculated. These arguments are essentially identical to ones presented by petitioner and rejected by this court in Tucker v. O'Brien, 00-C-332-C, slip op. 3-7 (order entered August 31, 2000). In that case, I noted that petitioner's sentencing orders indicate that his sentences are to be served consecutively; that it does not appear that the sentencing judge misapplied the sentencing guidelines; that in any case, such challenges to his sentence could not be raised in this court, but had to be raised in the sentencing court; that the Bureau of Prisons had not caused petitioner's parole eligibility date to be miscalculated; and that the United States Parole Commission did not illegally delay petitioner's release on parole. To the extent petitioner's current petition is intelligible, it appears to raise no new issues. I will not sift through 32 single-spaced pages of recycled, incomprehensible allegations in the hope of spotting a diamond in the rough that petitioner

has not already raised before this court. If petitioner has new grounds upon which to challenge his confinement, he is free to bring them to the court's attention in a petition that is free of rehashed claims already rejected by the court in clear terms.

ORDER

IT IS ORDERED that this petition for a writ of habeas corpus is DISMISSED for petitioner's failure to show that he is in custody in violation of the Constitution or laws of the United States.

Entered this 4th day of December, 2001.

BY THE COURT:

BARBARA B. CRABB  
District Judge