

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

RICHARD HENDERSHOT,
JOSEPH JACKSON and
ERIBERTO GALINDO,

Petitioners,

v.

JOSEPH SCIBANA,
Warden of Oxford Prison Camp,

Respondent.

ORDER

04-C-291-C

This is a petition for a writ of habeas corpus brought under 28 U.S.C. § 2241. Petitioners challenge the Bureau of Prisons' interpretation of 18 U.S.C. § 3621(b), a statute granting the bureau authority to designate a prisoner's placement in penal facilities as excluding designations to a halfway house. The bureau has taken the position that placement in halfway houses is controlled by 18 U.S.C. § 3624(c), which limits the placement to "a reasonable part" of the sentence, "not to exceed six months, or the last 10 per centum of the term." For prisoners serving sentences of fewer than five years, the bureau's interpretation deprives them of the benefit of a full six-month stay in a halfway

house prior to their release.

In an order entered on June 10, 2004, I stayed a decision whether to issue an order to show cause in this action, noting that unless I could locate counsel willing to represent petitioners, I would not allow them to proceed in a group petition. I noted as well that in my view, appointment of counsel was warranted because the legal issues raised in the petition are substantial. Now, Thomas G. Wilmouth, legal counsel with the Federal Defender Services of Wisconsin, Inc., has agreed to represent petitioners.

Accordingly, IT IS ORDERED that Thomas G. Wilmouth is APPOINTED as counsel for petitioners in this case and the stay imposed on June 10, 2004 is LIFTED.

Further, IT IS ORDERED that respondent may have 15 days from the date of service of petitioners' petition upon him in which to show cause why this petition for a writ of habeas corpus should not be granted. Petitioners may have 15 days from the date of service of the response in which to serve and file a traverse. The response and the traverse are to be accompanied by briefs addressing the legal merits of petitioners' claim.

Entered this 30th day of June, 2004.

BY THE COURT:
BARBARA B. CRABB
District Judge