

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

JOSEPH LOCKETT,

Petitioner,

v.

JOSEPH SCIBANA,

Respondent.

ORDER

04-C-372-C

In an order dated June 25, 2004, I stayed a decision whether to issue an order to show cause in this petition for a writ of habeas corpus so that petitioner could submit documentation of the date of his sentence and his release date as it is presently calculated by the Bureau of Prisons. I advised petitioner that unless he submitted the documentation and it showed that his release date was imminent, I would enter a stay pending a determination by the Court of Appeals for the Seventh Circuit in White v. Scibana, No. 04-2410. Now, however, I have decided in Caldwell v. Scibana, 04-C-342-C, (copy attached), that I will not impose a stay in cases raising the claim raised in White v. Scibana, 314 F. Supp.2d 834 (W.D. Wis. 2004), if: (1) the petitioner submits a sentence computation from the Bureau of Prisons showing the inmate's term of imprisonment, good conduct time that has been both earned and disallowed, current release date and pre-release preparation date;

and (2) I can conclude on the basis of that information that the petitioner would be entitled to imminent release or eligible for an imminent halfway house placement after his good conduct time is recalculated in accordance with White.

On July 1, 2004, petitioner submitted the documentation requested in the June 25 order. His sentence monitoring computation data sheet shows that he was sentenced on October 29, 2001 to a term of 51 months. Under the Bureau's current computation of petitioner's good time credits, his projected release date is November 27, 2004, and his projected "pre-release preparation date" is July 12, 2004. A search of the Federal Bureau of Prisons's Inmate Locator page on the Internet reveals that petitioner may already have been transferred to a community correctional facility at 522 N. Central, #227, Phoenix, AZ. 85004. If petitioner's good conduct time were to be recalculated in accordance with White v. Scibana, 314 F. Supp.2d 834 (W.D. Wis. 2004), his projected release date would be shortened by approximately 28 days, to late October, 2004. By then, it is expected that the Court of Appeals for the Seventh Circuit will have had a chance to decide the appeal that has been filed in White. Because it appears that petitioner already has been released to a halfway house, he does not stand to lose any immediate or imminent benefit by imposition of a stay.

ORDER

IT IS ORDERED that the stay imposed in this case on June 25, 2004 is LIFTED.

However, a new stay is imposed pending a determination by the Court of Appeals for the Seventh Circuit of the appeal in White v. Scibana, No. 04-2410, unless otherwise ordered by this court.

Entered this 20th day of July, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge