

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

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JOHN D. BARNES,

Petitioner,

v.

JOSEPH SCIBANA,

Respondent.

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ORDER

04-C-406-C

This is a petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2241 in which petitioner contends that the Federal Bureau of Prisons is violating 18 U.S.C. § 3624(b) by calculating his good conduct time on the basis of the time he has served rather than on his imposed sentence. In an order entered in this case on June 24, 2004, I stayed a decision whether to issue an order to show cause or enter a stay pending a decision by the Court of Appeals for the Seventh Circuit in White v. Scibana, No. 04-2410, a case raising the identical issue. I advised petitioner that if, by July 12, 2004, he submitted documentation to show that release date would be imminent if he were to obtain the relief granted to White, I would order respondent to show cause why his petition should not be granted. Otherwise, I would enter an order staying the action pending a decision by the court of appeals in White.

Petitioner has responded to the June 24 order. The documentation he has submitted reveals that he was sentenced to a term of 84 months on May 26, 2000. His projected release date is September 24, 2005. If he were to be granted habeas corpus relief, he would be entitled to 378 days of good conduct time instead of 329 days, as the Bureau of Prisons has calculated his credit. This would mean his projected release date would be in August 2005, 49 days earlier than it is presently projected. I am satisfied that petitioner will not be prejudiced by a stay of the proceedings pending the court of appeals's decision in White.

ORDER

IT IS ORDERED that this petition for a writ of habeas corpus is STAYED pending a decision from the Court of Appeals for the Seventh Circuit on the appeal filed in White v. Scibana, No. 04-2410.

Entered this 7th day of July, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge