

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

RICHARD HENDERSHOT,

Petitioner,

v.

JOSEPH SCIBANA , Warden of
Oxford Prison Camp,

Respondent.

ORDER

04-C-415-C

On September 15, 2004, I granted petitioner Richard Hendershot's petition for a writ of habeas corpus and directed respondent to recalculate petitioner's good conduct time on the basis of his imposed sentence rather than the actual time he had served. Judgment closing the case was entered on September 16, 2004. Now petitioner has filed a "motion for injunction," which I construe as a motion to enforce the September 15 judgment.

In his motion, petitioner does not contend that respondent failed to recalculate his good time credits as this court ordered. Rather, petitioner appears to believe that because he has been credited with additional good conduct time, he is entitled to earlier release to a halfway house. He complains that prison officials are making only a "half-hearted"

attempt to place him in a halfway house.

In this court's order of September 15, 2004, I addressed the question whether my ruling should be read to impose any obligation on respondent Scibana or the Bureau of Prisons to arrange petitioner's prompt transfer to a halfway house. Because petitioner may not have read this section of my opinion carefully, I will repeat it here.

I emphasize, however, that I cannot order respondent to place petitioner in a halfway house on a particular date. Under 18 U.S.C. § 3624(c), the Bureau of Prisons is required, when it is "practicable," to allow inmates to spend a "reasonable part" of their sentence learning to prepare for release. However, the statute grants the bureau discretion to decide how the inmate is to be prepared for release and how much time the inmate needs to prepare. Although it appears that the bureau's practice is to transfer most inmates to halfway houses for the last six months of their sentence, Monahan v. Winn, 276 F. Supp. 2d 196, 199 (D. Mass. 2003), this practice is not required by statute. Therefore, I express no opinion on the question whether or when petitioner should be transferred to a halfway house.

Because I did not order the Bureau of Prisons to move petitioner to a halfway house at any particular time, petitioner cannot prevail on his claim that respondent has violated the judgment by failing to arrange for his transfer.

ORDER

IT IS ORDERED that petitioner Richard Hendershot's motion to enforce the judgment entered in this case on September 15, 2004, is DENIED.

Entered this 13th day of October, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge