

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

Petitioner has filed a motion for an enlargement of time in which to file a response to the government's Rule 60(b)(5) motion. The motion will be denied as unnecessary. Once the Court of Appeals for the Seventh Circuit issues its mandate in White v. Scibana, 390 F.3d 997 (7th Cir. 2004), no legal argument petitioner might advance will persuade me that I should deny defendant's motion. The ruling in this case relies entirely on this court's ruling in White, which has now been reversed. Rule 60(b)(5) encompasses the traditional power of a court of equity to modify its decree in light of changed circumstances. Frew ex rel. Frew v. Hawkins, 124 S.Ct. 899 (2004). Here, there is no doubt that circumstances have changed. The court of appeals' order in White is now the law that controls

the decision in this case.

ORDER

IT IS ORDERED that petitioner's motion for an enlargement of time in which to file a response to the government's Rule 60(b)(5) motion is DENIED.

Entered this 29th day of December, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge