

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

ERIBERTO GALINDO,
Petitioner,

ORDER

04-C-418-C

v.

JOSEPH SCIBANA, Warden of
Oxford Prison Camp,

Respondent.

In an order entered in this case on June 23, 2004, I imposed a stay of all proceedings pending a decision by the Court of Appeals for the Seventh Circuit in White v. Scibana, No. 04-2410. Now petitioner has filed a motion to lift the stay.

When I imposed the stay in this case, I had not yet ruled in Caldwell v. Scibana, 04-C-342-C (copy attached), that I would 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.

Petitioner asserts in his motion to lift the stay that his mandatory relief date “without any halfway house credit would be January 14, 2005 and his six month halfway house date would be November 19, 2004, if his good time credits are recalculated in accordance with White. However, petitioner’s assertions are not borne out by the Bureau of Prisons’ sentence computation data sheets that petitioner filed at the time he filed his petition. Petitioner’s documentation reveals that he was sentenced on January 10, 2002 to a term of 48 months of imprisonment. Under the Bureau's current computation of petitioner's good time credits at 188 days, his projected release date is June 17, 2005, and his projected "six month/10% date" is February 11, 2005. If petitioner's good conduct time were to be recalculated in accordance with White, his projected release would be shortened by approximately 28 days, which may render him eligible for pre-release to a half way house by mid-January, 2005, I expect that by mid-January, the Court of Appeals for the Seventh Circuit will have ruled on White.

Because petitioner has shown no reason why he will be prejudiced if the stay in this case is not lifted, petitioner’s motion to lift the stay will be denied.

ORDER

IT IS ORDERED that petitioner Eriberto Galindo's motion to lift the stay imposed in this case on June 23, 2004, is DENIED.

Entered this 30th day of September, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge