

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

SAM A. ZAMORA,

ORDER

Petitioner,

04-C-468-C

v.

JOSEPH SCIBANA,

Respondent.

This is a petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2241, in which petitioner alleges that the Bureau of Prisons is acting contrary to 18 U.S.C. § 3624(b) by calculating his good conduct time on the basis of the actual time he has served rather than his imposed sentence. This issue is identical to the issue I decided in White v. Scibana, 314 F. Supp.2d 834 (W.D. Wis. 2004), in which I concluded that the Bureau of Prisons was acting contrary to 18 U.S.C. 3624(b) by calculating good conduct time on the basis of the actual time served. Respondent Scibana has appealed that decision to the Court of Appeals for the Seventh Circuit and has requested expedited treatment of the appeal. The court of appeals has granted the motion for expedited treatment of the appeal and has directed oral argument to be scheduled for sometime in September 2004.

In an order entered in this case on July 19, 2004, I directed petitioner to supplement his petition for a writ of habeas corpus with documentation revealing the date of his sentence and his release date as it is presently calculated by the Bureau of Prisons. I advised petitioner that this information was important to a determination whether he would be prejudiced if I imposed a stay in this action pending a decision by the court of appeals in White. Petitioner has responded to that order. However, the “sentence monitoring good time data” sheet he has submitted does not show when he was sentenced or for how long. Instead, it reveals only that petitioner’s current release date is August 15, 2007 and that, with a projected good time credit of 223 days, petitioner will be entitled to release on February 27, 2007.

Because the documentation petitioner has submitted does not reveal the length of his sentence, I cannot calculate how many days of credit petitioner may be entitled to if his sentence were to be recalculated in accordance with White. Nevertheless, I am confident that there is no possibility that petitioner would be entitled to so many additional days of good time credit that his release or pre-release dates would be imminent. Because petitioner’s release date is not imminent, he will not be prejudiced if I stay issuance of an order to show cause until the Court of Appeals for the Seventh Circuit decides the appeal in White.

ORDER

IT IS ORDERED that a STAY is imposed in this action pending disposition of the appeal in White v. Scibana, case no. 04-C-581-C, except that no later than August 13, 2004, petitioner is to supplement his petition with additional documentation from the Bureau of Prisons showing the date he was sentenced and the term of imprisonment he is serving under that sentence.

Entered this 26th day of July, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge