

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

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JOSE VELAZQUEZ-MORAN,

Petitioner,

v.

JOSEPH SCIBANA, Warden,

Respondent.  
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ORDER

04-C-558-C

On August 24, 2004, I granted petitioner Jose Velazquez-Moran'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 August 26, 2004. Now petitioner has filed a "motion for sanctions under Rule 11 or alternatively an order for Velazquez to go to home confinement," which I construe as a motion to enforce the August 26 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 and, if there is no room for him in the halfway house that the Bureau of

Prisons has selected for him, he is entitled to be released to home confinement. Petitioner is wrong.

In this court's order of August 24, 2004, I addressed the precise issue petitioner is raising now. Because petitioner may not have read this paragraph 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 send petitioner to a halfway house.

ORDER

IT IS ORDERED that petitioner Jose Velazquez-Moran's motion to enforce the judgment entered in this case on August 26, 2004, is DENIED.

Entered this 4th day of October, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge