

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

MARIO YOUNG,

Petitioner,

v.

JOSEPH SCIBANA, Warden,

Respondent.

ORDER

04-C-585-C

In White v. Scibana, 314 F. Supp. 2d 834 (W.D. Wis. 2004), I concluded that the Bureau of Prisons was acting contrary to 18 U.S.C. 3624(b) by calculating petitioner Yancey White's good conduct time on the basis of the actual time he had served rather than his imposed sentence. I granted White's petition for a writ of habeas corpus under 28 U.S.C. § 2241 and ordered the warden to recalculate White's good conduct time in accordance with § 3624(b). Respondent has appealed that decision and the Court of Appeals for the Seventh Circuit has granted respondent's motion for expedited treatment of the appeal and directed that oral argument be scheduled during the month of September.

Like White, petitioner Mario Young is an inmate at the Federal Correctional Institution in Oxford, Wisconsin. His petition under § 2241 raises the same issue as that in White: he alleges that the bureau is calculating his good conduct time on the basis of time

served rather than the sentence imposed. Petitioner has paid the \$5 filing fee.

In the time that has passed since the Yancey White's petition was granted, several other prisoners at the Oxford facility have filed habeas corpus petitions challenging the Bureau of Prisons' method of calculating their good time credits. I have stayed the proceedings in most of these actions pending a decision on the appeal filed in White's case. I have decided to issue orders to show cause 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 transfer after his good conduct time is recalculated in accordance with White.

Here, petitioner alleges that on April 16, 2004, he was sentenced to a 24-month term of imprisonment. He states that if respondent were to recalculate his good time credits in accordance with the formula set out in White, he would be entitled to a total of 108 days of good time credit instead of 94 days, which the Bureau of Prisons has calculated under its current policy. Petitioner states that this would mean he is eligible for release on December 7, 2004. He does not indicate whether he is eligible for pre-release to a halfway house and, if so, when his pre-release date is. Although petitioner states that he has attached to his petition a Bureau of Prisons Sentencing Monitoring Computation Data Sheet and Sentence Monitoring Good Time Data Sheet, he did not submit these attachments. Without

documentary support, I cannot determine whether petitioner's would be harmed by imposition of a stay in this case.

ORDER

IT IS ORDERED that a STAY is imposed on the question whether the court should issue an order to show cause or enter a stay in this case pending resolution of the appeal in White v. Scibana, No. 04-2410. Petitioner may have until September 6, 2004, in which to submit documentation revealing the date he was sentenced, his term of imprisonment, any good conduct time that has been earned and disallowed, and his current release and pre-release preparation dates as they are presently calculated by the Bureau of Prisons. If petitioner fails to respond to this order by September 6, 2004, I will enter an order staying the action pending resolution of the White appeal.

Entered this 24th day of August, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge