

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

PAUL TAPPER,

Petitioner,

v.

JOSEPH SCIBANA,
Warden, Oxford Prison Camp,

Respondent.

ORDER

04-C-770-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. Oral argument was heard on September 9, 2004 and a decision is expected before the end of the year.

Paul Tapper is an inmate at the Federal Prison Camp 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. However, his petition is defective in two respects.

First, § 2242 requires that an application for a writ of habeas corpus be signed and verified by the person for whose relief it is intended. Petitioner's petition is not signed and petitioner has not declared or verified under penalty of perjury that the assertions of fact made in the petition are true and correct. Until these defects are cured, the court cannot enter an order requiring respondent to show cause why the petition should not be granted.

Second, even if petitioner signs his petition and verifies the truthfulness of the factual assertions made in the petition, I cannot issue an order to show cause unless (1) petitioner submits a sentence computation from the Bureau of Prisons showing his term of imprisonment, the good conduct time that he has both earned and been disallowed and his 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 has filed with his petition an unsigned "Motion for Emergency Injunction." Attached to this document is a Bureau of Prisons "Sentence Monitoring Good Time Data" sheet that fails to reveal his term of imprisonment and his current pre-release

preparation date. Without this information, I cannot tell whether, if petitioner's good conduct time were to be recalculated in accordance with White, he would be eligible for imminent release to a halfway house.

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 October 28, 2004, in which to submit a copy of his petition that has been signed and verified in accordance with 28 U.S.C. § 2242, as well as documentation revealing the date he was sentenced, his term of imprisonment 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 October 28, 2004, I will dismiss his petition for his failure to submit a petition in the form required by the relevant statute.

Entered this 18th day of October, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge