

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

STEVEN J. FAIRFIELD,

Petitioner,

v.

JOSEPH SCIBANA, Warden,
Federal Correctional Institution at
Oxford, Wisconsin,

Respondent.

ORDER

04-C-812-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 held on September 9, 2004, and a decision is expected before the end of this year.

Like White, Steven Fairfield 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's 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 has not submitted documentation from the Bureau of Prisons to show his current release and pre-release preparation dates or how much good time he has earned and been disallowed, if any. Therefore, it is not possible to tell whether an order to show cause is warranted because petitioner's release or halfway house eligibility dates are imminent or whether an order to stay the action should be entered pending the appeal in White.

ORDER

IT IS ORDERED that petitioner may have until November 15, 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 November 15, 2004, I will enter an order staying the action pending resolution of the White appeal.

Entered this 4th day of November, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge