

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

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ALEXANDRO MARTINEZ,

Petitioner,

v.

JOSEPH SCIBANA, Warden of  
Oxford Prison Camp,

Respondent.  
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ORDER

04-C-853-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 final decision is expected before the end of this year.

Petitioner Alejandro Martinez is an inmate at the Federal Prison Camp in Oxford, Wisconsin. His petition 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, verified his petition in accordance with 28 U.S.C. § 2242 and exhausted his administrative remedies.

In the time that has passed since 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.

In this case, it appears from the documentation attached to petitioner's petition that neither his release nor pre-release date is imminent and that a stay of the proceedings is warranted. The Bureau of Prisons' sentence monitoring computation sheets attached to petitioner's petition shows that petitioner was sentenced on September 18, 2003, to an 87-

month term of imprisonment. The Bureau of Prisons has projected his good conduct time to be 341 days and his release date to be August 6, 2009. Petitioner alleges that he expects he will be eligible for pre-release placement in a halfway house on or around February 6, 2009. If the Bureau recalculates petitioner's release date in accordance with White, petitioner will be entitled to release approximately 51 days earlier, and his pre-release date may be similarly advanced. I conclude that petitioner will not be irreparably harmed if he is forced to wait until the court of appeals decides White before he can obtain a ruling in his case.

ORDER

IT IS ORDERED that this petition for a writ of habeas corpus is STAYED pending a decision from the Court of Appeals for the Seventh Circuit on the appeal filed in White v. Scibana, No. 04-2410.

Entered this 18th day of November, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge