

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTHONY E. DUMAS,

Defendant.

ORDER

08-cr-7-bbc

Defendant Anthony E. Dumas has filed a “motion to dismiss detainer,” in which he asks this court to order the dismissal of the federal detainer lodged on August 19, 2008. Plaintiff says that he is serving a sentence in state court of 12 years that was imposed on him on July 18, 2008. He was sentenced in this court July 21, 2008, to a sentence of 188 months, of which the first 60 months are to run concurrently with his term of state imprisonment. He complains that the existence of the detainer bars him from consideration for minimum security status at the prison and affects other conditions of his confinement, such as opportunities to participate in programs available to other prisoners and the chance to be housed closer to his family.

In support of his motion, defendant has cited a number of older cases in which courts ruled on various legal aspects of detainers lodged against prisoners. E.g., Word v. North Carolina, 406 F.2d 352 (4th Cir. 1969) (concluding that federal habeas corpus provides a

present remedy for state prisoner seeking to attack conviction in another state that underlies detainer filed with his custodian); Reddin v. Israel, 455 F. Supp. 1215 (E.D. Wis. 1978) (holding that petitioner inmate challenging effects of detainer had no liberty interest in being considered for minimum security classification or participation in rehabilitative programs, but finding that prison's practice of automatically treating prisoners with detainees as more dangerous than other prisoners bore no rational relationship to legitimate governmental purpose); Lawrence v. Blackwell, 298 F. Supp. 708 (D.C. Ga. 1969) (holding that federal penitentiary must remove restrictions flowing from detainees if states involved had not made diligent efforts to bring prisoners to trial within reasonable time). Those cases have no application to defendant's case. He is not seeking to attack a prior conviction as in Word; he is not seeking to require another sovereign to bring him to trial as in Lawrence; and he cannot rely on Reddin because a subsequent Supreme Court case, Sandin v. Conner, 515 U.S. 472, 484 (1995), holds that a prison inmate's liberty interest under the Fourteenth Amendment extends only to actions that imposes "atypical and significant hardships on the inmate in relation to the ordinary incidents of prison life." This holding overrules the holding in Redding.

Harsh as it must seem to defendant that he is not permitted to be reclassified as minimum security, to be transferred to a prison closer to his home or to participate in prison programs available to other prisoners, the Supreme Court has held that these deprivations are not the kind of atypical, significant deprivation that creates a liberty interest protected under the Fourteenth Amendment, whether they are considered individually or as a whole.

ORDER

IT IS ORDERED that defendant Anthony E. Dumas's motion to dismiss the detainer lodged against him in state prison is DENIED for defendant's failure to show that the detainer is illegal in any respect.

Entered this 24th day of August, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge