

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

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MARK R. PETERSEN,

Petitioner,

ORDER

v.

03-C-0088-C

PHIL KINGSTON, Warden, Columbia  
Correctional Institution,

Respondent.

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On February 28, 2003, this court entered an order dismissing petitioner Mark Peterson's petition for a writ of habeas corpus on the ground that the petition sought monetary relief and therefore was not properly brought as a habeas action. Petitioner has now filed a motion to alter the judgment in which he contends that this court overlooked a paragraph in his petition in which he alleged that he was attacking the duration of his custody. Specifically, petitioner asserts that he is attacking his loss of three months of good time credit that resulted from his "straight time" segregation for six months at the Supermax Correctional Institution. Under this type of segregation policy, an inmate does not have the opportunity to have his segregation term shortened for good behavior. For every two days spent in segregation, the inmate's mandatory release is delayed for one day. See Wis. Stat. § 302.11(2)(b).

Petitioner's motion does not provide a basis for altering the judgment. In order to be entitled to habeas corpus relief, petitioner must show that he is in custody in violation of the laws or Constitution of the United States. Notably, petitioner is not attacking the administrative decision that led to his placement in program segregation in the first place, but is attacking the type of segregation in which he was placed. However, as noted in the February 28 order, the state's placement of petitioner in straight-time segregation does not amount to a constitutional violation because all petitioner can show is that it "might" have affected the duration of his sentence. See Zimmerman v. Tribble, 226 F.3d 568, 572 (7th Cir. 2000). Stated differently, it "is not inevitable" that petitioner would have earned his way out of segregation had he been subject to "ordinary" segregation. Id.

Accordingly, petitioner's motion to alter the judgment is DENIED.

Dated this 18th day of March, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge