

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

WILLARD M. RICE,

Petitioner,

v.

JOSEPH SCIBANA, Warden,

Respondent.

ORDER

04-C-317-C

In an order entered in this case on June 24, 2004, I stayed all proceedings in this case pending a decision by the Court of Appeals for the Seventh Circuit in White v. Scibana, No. 04-2410, unless otherwise ordered by this court. Now petitioner has moved to lift the stay and order his immediate release. The motion will be denied.

As I understand petitioner's argument in support of his motion, he believes that the recent decision in Blakley v. Washington, 2004 WL 1402697 (June 24, 2004), entitles him to a lower sentence. If he were to be resentenced in accordance with Blakely and his good conduct time recalculated in accordance with White, he would be entitled to immediate release. Unfortunately, petitioner overlooks the fact that he has not obtained a ruling from the court that sentenced him that he is entitled to a reduced sentence under Blakely. Until

he does so, it is pure speculation that he would be entitled to immediate release.

Because petitioner has shown no reason why the stay imposed in this case should not remain intact, his motion to lift the stay is DENIED.

Entered this 12th day of July, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge