

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

JOHN R. CALDWELL,

Petitioner,

v.

JOSEPH SCIBANA, Warden,

Respondent.

ORDER

04-C-342-C

Petitioner has filed an objection to this court's order of June 4, 2004, imposing a stay in the proceedings of this case until counsel can be appointed in Perry v. Scibana, 04-C-332-C, a case raising an issue identical to the one that petitioner raises in his case. I construe petitioner's objection as a motion for reconsideration of the June 4 decision. That motion will be denied.

As I have already explained to petitioner, after this court granted Yancey White's petition for a writ of habeas corpus in White v. Scibana, ___ F.Supp. 2d ___, No. 03-C-581-C, 2004 WL 877606 (W.D. Wis. Apr. 23, 2004), a number of prisoners at the Federal Correctional Institution at Oxford filed identical petitions. This is because the issue in White is one affecting every prisoner at the Oxford institution. It is my expectation that once counsel is appointed in the Perry case, a motion for class certification will be filed so that the final decision in that case can be applied to the class. It is intended that this

procedure conserve judicial resources and dramatically reduce the costs incurred by the court, the parties and the government were each case to be litigated separately.

Petitioner appears to be concerned that if his claim is combined with those of other inmates at the Oxford institution, it will be litigated too slowly to obtain his release by January 5, 2005, the date he has calculated he would be entitled to release if he is granted habeas corpus relief. Petitioner's concern is unfounded. The only impediment to petitioner's receiving a decision on his claim prior to January 5, 2005 will be if the Court of Appeals for the Seventh Circuit grants a motion for a stay of all proceedings related to White until it decides the issue on appeal. Otherwise, I can conceive of no reason why a decision on the issue would need to be delayed beyond the end of this year.

ORDER

IT IS ORDERED that petitioner's motion for reconsideration of the order of June 4, 2004, staying the proceedings in this case pending appointment of counsel and class certification in Perry v. Scibana, 04-C-332-C, is DENIED.

Entered this 11th day of June, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge