

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

CHARLES L. RYAN,

Petitioner,

v.

JOSEPH SCIBANA, Warden,

Respondent.

ORDER

04-C-391-C

Petitioner Charles L. Ryan is an inmate at the Federal Correctional Institution in Oxford, Wisconsin. In this petition for a writ of habeas corpus brought under 28 U.S.C. § 2241, petitioner contends that the Federal Bureau of Prisons is calculating his good conduct time erroneously. He relies on White v. Scibana, 314 F. Supp. 2d 834 (W.D. Wis. 2004), in which I concluded that 18 U.S.C. § 3624(b) required the bureau to calculate good conduct time on the basis of the inmate's imposed sentence rather than the actual time he had served. In an order entered on November 3, 2004, I directed respondent to show cause why petitioner's petition should not be granted. In addition, I noted that petitioner's petition had not been verified as required under 28 U.S.C. § 2242 and I directed petitioner to cure this defect.

On November 12, 2004, petitioner filed a copy of his petition in which he declares

under penalty of perjury that the factual assertions made in the petition are true and correct. Respondent has now filed his response to the petition.

In his response, respondent notes that petitioner has not exhausted his administrative remedies as he is required to do under Sanchez v. Miller, 792 F.2d 694, 699 (7th Cir. 1986). However, in the October 25, 2004 order, I waived the requirement that petitioner exhaust his administrative remedies, because any delay in granting relief could cause petitioner substantial prejudice and because respondent and the bureau have predetermined the issue. Gonzalez v. O'Connell, 355 F.3d 1010, 1016 (7th Cir. 2004). Therefore, I will consider petitioner's petition on its merits.

Also in the response, respondent states that petitioner was sentenced on March 20, 2003, to a 24-month term of imprisonment.¹ Under the Bureau of Prisons' method of calculating petitioner's good conduct time, petitioner is projected for release on December 6, 2004. If his good time credit is recalculated in accordance with White, he will be eligible for release approximately 14 days earlier. Accordingly, I will grant the petition and order respondent to recalculate petitioner's good conduct time on the basis of his sentence.

¹Actually, there is a typographical error in the response. Respondent shows petitioner's sentencing date as March 20, 2004. However, the Bureau of Prisons' sentence monitoring good time data sheet attached to petitioner's petition reveals that the sentencing date is March 10, 2003, and that is the date I have accepted as the correct date.

ORDER

IT IS ORDERED that petitioner Charles L. Ryan's petition for a writ of habeas corpus is GRANTED. Respondent Joseph Scibana is directed to recalculate petitioner's good conduct time on the basis of each year of his sentence rather than on time actually served.

Entered this 17th day of November, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge