

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

In an order dated June 22, 2004, I granted petitioner Charles Ryan's request for leave to proceed in forma pauperis in this habeas corpus action, on the condition that he pay \$2.26 toward the \$5 filing fee. Petitioner has paid this amount. The next step is to consider whether to issue an order directing respondent to show cause why the petition should not be granted.

As I noted in the June 22 order, petitioner is an inmate at the Federal Correctional Institution in Oxford, Wisconsin. His petition raises the same issue as that in White v. Scibana, 314 F. Supp. 2d 834 (W.D. Wis. 2004): he alleges that the bureau is calculating his good conduct time on the basis of time served rather than the sentence imposed.

In the time that has passed since Yancey White's petition was granted, several other prisoners at the Oxford facility have filed habeas corpus petitions challenging the Bureau of

Prisons's method of calculating their good time credits. I have stayed the proceedings in most of these actions pending a decision on the appeal filed in White's case. I have issued orders to show cause only where it appears clear that the petitioner's release date will occur before the Court of Appeals for the Seventh Circuit will decide the issue one way or another. On June 30, 2004, the court of appeals granted the respondent's motion to expedite the White appeal.

In this case, it appears from petitioner's allegations that his release date is not imminent and that a stay of the proceedings is warranted. Although petitioner does not say when he was sentenced, he alleges that he is serving a two-year sentence and would be released on November 23, 2004, if his release date is recalculated in accordance with White. Although petitioner will have to submit documentary evidence to support his assertions about his present sentence computation before any final relief can be ordered in this case, I am satisfied that his release date is not imminent and that he will not be prejudiced by a stay of the proceedings pending the court of appeals's decision in White.

ORDER

IT IS ORDERED that this petition for a writ of habeas corpus is STAYED pending a decision from the Court of Appeals for the Seventh Circuit on the appeal filed in White v. Scibana, 03-C-581. However, petitioner may have until July 13, 2004, in which to submit documentation revealing his release date as it is presently calculated by the Bureau of Prisons

so as to complete his file.

Entered this 6th day of July, 2004.

BY THE COURT:
BARBARA B. CRABB
District Judge