

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

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CHARLES L. RYAN,

Petitioner,

v.

JOSEPH SCIBANA, Warden,

Respondent.  
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ORDER

04-C-391-C

In an order entered in this case on July 6, 2004, I imposed a stay of all proceedings pending a decision by the Court of Appeals for the Seventh Circuit in White v. Scibana, No. 04-2410. Now petitioner has filed a motion to lift the stay.

When I imposed the stay in this case, I had not yet ruled in Caldwell v. Scibana, 04-C-342-C (copy attached), that I would not impose a stay in cases raising the claim raised in White v. Scibana, 314 F. Supp. 2d 834 (W.D. Wis. 2004), if (1) the petitioner submits a sentence computation from the Bureau of Prisons showing the inmate's term of imprisonment, good conduct time that has been both earned and disallowed, current release date and pre-release preparation date; and (2) I can conclude on the basis of that information that the petitioner would be entitled to imminent release or eligible for an imminent halfway house placement after his good conduct time is recalculated in accordance

with White.

Petitioner's motion to lift the stay is supported by documentation showing that on July 20, 2004, the Johnson County, Texas court dismissed a charge against petitioner that the Bureau of Prisons had been considering in denying petitioner's transfer to a halfway house. Petitioner's documentation also includes a copy of an "Inmate Request to Staff" dated August 12, 2004, in which petitioner's case manager advises petitioner that now that the Texas charge has been dismissed, petitioner "is currently being considered for CCC placement and [his] paperwork is being processed."

Although petitioner has shown that he is eligible for an imminent halfway house placement, it appears that the Bureau of Prisons is moving promptly to arrange for petitioner's transfer and that it is entirely unnecessary to lift the stay in this case in order to achieve this end. Perhaps petitioner is concerned that once he is transferred, this court will lose jurisdiction over his petition. This is not the case. Petitioner's transfer will not deprive this court of jurisdiction to hear his petition. Ross v. Mebane, 536 F.2d 1199 (7th Cir. 1976) (jurisdiction attaches at time of filing). However, I will remind petitioner that once he is transferred, he should be sure to advise the court and respondent's counsel of his whereabouts. His failure to keep the court and opposing counsel apprised of his address may result in the dismissal of his petition for failure to prosecute.

ORDER

IT IS ORDERED that petitioner's motion to lift the stay in this action is DENIED.

Entered this 27th day of August, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge