

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

FLOYD BAKER,

Petitioner,

v.

JOSEPH SCIBANA, Warden,

Respondent.

ORDER

04-C-392-C

This is a petition for a writ of habeas corpus brought by petitioner, who is confined at the Federal Correctional Institution in Oxford, Wisconsin. In his petition, petitioner alleges that he will be forced to serve a longer duration of confinement because the Bureau of Prisons has computed his good time credits in a manner that is contrary to the dictates of 18 U.S.C. § 3624(b). I decided this precise question on its merits in White v. Scibana, 314 F. Supp.2d 834 (W.D. Wis. 2004). I concluded that the Bureau of Prisons was acting contrary to 18 U.S.C. 3624(b) by calculating petitioner Yancey White's good conduct time on the basis of the actual time he had served rather than his imposed sentence. I granted White's petition for a writ of habeas corpus under 28 U.S.C. § 2241 and ordered the warden to recalculate White's good conduct time in accordance with § 3624(b).

In the time that has passed since the White decision was issued, several inmates at the Oxford institution have filed habeas corpus petitions seeking the relief granted in White. On June 4, 2004, in Perry v. Scibana, 04-C-332-C, I stayed a number of these individual actions, pending appointment of counsel who would be willing to investigate the propriety of moving for class certification. On June 18, 2004, I appointed Michael Gonring, Emily Feinstein and Adrienne Olson to represent the petitioners in the Perry case. If a class is certified, the court will be able to dispose of the issue in one case, sparing the government, petitioners and the court the costs of multiple identical lawsuits. There appears to be no reason not to issue a stay in this case as well. Petitioner's release date is sufficiently distant that he will not be prejudiced if he is required to wait for a determination whether his claims should be litigated by counsel in a class action.

ORDER

IT IS ORDERED that the decision whether to issue an order to show cause in this action is STAYED pending a determination whether a class should be certified in Perry v. Scibana, 04-C-332-C. Assuming a class is certified, I will dismiss this case and set an

expedited schedule in the class suit for respondent to file a response and petitioners to file a traverse.

Entered this 22nd day of June, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge