

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

RALPH A. SCANGA,

Petitioner,

v.

JOSEPH SCIBANA, Warden,

Respondent.

ORDER

04-C-397-C

In an order dated June 24, 2004, I entered a stay of the proceedings in this petition for a writ of habeas corpus, pending a determination by the Court of Appeals for the Seventh Circuit in White v. Scibana, No. 04-2410. Now, however, I have decided in Caldwell v. Scibana, 04-C-342-C, (copy attached), that I will lift stays previously imposed 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. This is a case in which petitioner already has made such a showing. He has attached to his petition a Bureau of Prisons sentence computation sheet showing that he was sentenced on November 5, 1999 to a term of 92 months. Under the Bureau's current computation of good time credits, petitioner's projected release date is March 17, 2005, and his projected "pre-release preparation date" is September 17, 2004. If petitioner's good conduct time were to be recalculated in accordance with White, he would be credited with 54 additional days of good time, which may render him immediately eligible for pre-release to a half way house. Therefore, I will lift the stay previously imposed in this case.

Petitioner should note that because he is not proceeding in forma pauperis, it is his obligation to serve the petition on the respondent. Pursuant to Fed. R. Civ. P. 81, the rules governing service of process in civil actions are applicable to this proceeding because no specific rules governing service of process in § 2241 habeas corpus actions exist elsewhere in a statute or in the Rules Governing Section 2254 and 2255 cases. The rule governing service of process in civil actions brought against a federal official in his official capacity is Fed. R. Civ. P. 4(i). According to this rule, petitioner's petition must be sent with a copy of this court's order by certified mail to: 1) the respondent; 2) the United States Attorney for the Western District of Wisconsin; and 3) the Attorney General in Washington, D.C. The

address for the United States Attorney in this district is: The Hon. J.B. Van Hollen, 660 W. Washington Ave., Madison, WI, 53703. The address for the Attorney General in Washington, D.C. is: The Hon. John Ashcroft, United States Attorney General, 950 Pennsylvania Ave., N.W., Rm. 5111, Washington, DC 20530. Enclosed to petitioner with a copy of this order are the extra copies of his petition and this court's orders of June 24 and today.

ORDER

IT IS ORDERED that the stay imposed in this case on June 24, 2004, is LIFTED. Respondent Joseph Scibana may have until August 3, 2004, in which to show cause why this petition for a writ of habeas corpus should not be granted on petitioner's claim that the Bureau of Prisons is calculating his good time credits in violation of 18 U.S.C. § 3624(b)(1). There is no need for a traverse.

Entered this 19th day of July, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge