

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

ERIBERTO GALINDO,
Petitioner,

ORDER

04-C-418-C

v.

JOSEPH SCIBANA, Warden of
Oxford Prison Camp,

Respondent.

Petitioner Eriberto Galindo 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 16, 2004, I directed respondent to show cause why petitioner's petition should not be granted. In addition, I directed petitioner to serve his petition on the respondent and submit proof of service as soon as he had such proof. On

November 24, 2004, petitioner submitted proof of service of the petition upon the respondent. Respondent has now filed his response to the petition.

In his response, respondent notes that petitioner has exhausted his administrative remedies as he is required to do under Sanchez v. Miller, 792 F.2d 694, 699 (7th Cir. 1986). From the verified petition and the response, I find that petitioner was sentenced on January 10, 2002, to a 48-month term of imprisonment. Under the Bureau of Prisons' method of calculating petitioner's good conduct time, petitioner's release date is projected as June 17, 2005 and his "sixmonth/10% date" is projected as February 11, 2005. If his good time credit is recalculated in accordance with White, he will be eligible for release approximately 28 days earlier and his prerelease date may be adjusted similarly. Accordingly, I will grant the petition and order respondent to recalculate petitioner's good conduct time on the basis of his sentence.

I emphasize, however, that I cannot order respondent to place petitioner in a halfway house on a particular date. Under 18 U.S.C. § 3624(c), the Bureau of Prisons is required, when it is "practicable," to allow inmates to spend a "reasonable part" of their sentence learning to prepare for release. However, the statute grants the bureau discretion to decide how the inmate is to be prepared for release and how much time the inmate needs to prepare. Therefore, I express no opinion on the question whether or when petitioner should be transferred to a halfway house.

ORDER

IT IS ORDERED that petitioner Eriberto Galindo'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 1st day of December, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge