

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

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RUSSELL ANDERSON,

ORDER

Petitioner,

04-C-421-C

v.

WARDEN SCIBANA, F.C.I. Oxford,

Respondent.  
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In White v. Scibana, \_\_\_ F. Supp. 2d \_\_\_, No. 03-C-581-C, 2004 WL 877606 (W.D. Wis. Apr. 23, 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).

Like White, petitioner Russell Anderson is an inmate at the Federal Correctional Institution in Oxford, Wisconsin. His petition under § 2241 raises the same issue as that in White: he alleges that the bureau is calculating his good conduct time on the basis of time served rather than the sentence imposed. Petitioner has paid the \$5 filing fee.

In the time that has passed since the 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 appeared clear that the petitioner's release date would occur before the Court of Appeals for the Seventh Circuit would decide the issue one way or another.

Here, it is not possible to tell whether an order to show cause is warranted because petitioner's release date is imminent or whether an order to stay the action should be entered. Petitioner alleges that he was sentenced to a 121-month term of imprisonment on September 5, 1996, and that if respondent were to recalculate his good time credits in accordance with the formula set out in White, he would be entitled to a total of 545 days of good time credit. He alleges that he is scheduled to be released to a halfway house on July 29, 2004, but he does not indicate how much of his sentence he is serving in a halfway house. Given the Bureau of Prisons' discretion to grant or deny release to a halfway house, I cannot assume that the July 29 date is a date that would be affected by a change in the calculation of petitioner's good time credits. Nor can I accept without documentary support petitioner's assertion that his new release date should be immediate.

#### ORDER

IT IS ORDERED that a decision whether to issue an order to show cause or enter a

stay in this case 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. Petitioner may have until July 9, 2004, in which to submit documentation revealing his release date as it is presently calculated by the Bureau of Prisons. If petitioner fails to respond to this order by July 9, 2004, I will enter an order staying the action pending a decision in the White appeal.

Entered this 1st day of July, 2004.

BY THE COURT:  
BARBARA B. CRABB  
District Judge