

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

EUGENE WALKER,

ORDER

Petitioner,

04-C-429-C

v.

JOSEPH SCIBANA, Warden of
Oxford Prison Camp,

Respondent.

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).

Petitioner Eugene Walker is an inmate at the Federal Prison Camp 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' 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. On June 30, 2004, the court of appeals granted the respondent's motion to expedite the White appeal.

In this case, it appears from petitioner's allegations that his release date is not imminent and that a stay of the proceedings is not warranted. Petitioner alleges that he was sentenced in May 2002 to a 70-month term of imprisonment. He alleges that he is scheduled to be released to a halfway house in January 2006 and that if his good time credit is recalculated in accordance with White, he will be entitled to release to the halfway house 45 days earlier. Although petitioner will have to submit documentary evidence to support his assertions about his present sentence computation before any final relief can be ordered in this case, I am satisfied that his release date is not looming and that he will not be prejudiced by a stay of the proceedings pending the court of appeals's decision in White.

ORDER

IT IS ORDERED that this petition for a writ of habeas corpus 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. However, petitioner may have until July 10, 2004, in which to submit documentation revealing his release date as it is presently calculated by the Bureau of Prisons so as to complete his file.

Entered this 6th day of July, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge