

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

BRIAN HARDRICK,

Petitioner,

v.

JOSEPH SCIBANA, Warden,

Respondent.

ORDER

04-C-458-C

Petitioner is an inmate at the Federal Correctional Institution in Oxford, Wisconsin. He has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 in which he raises the same issue as that in White v. Scibana, 314 F. Supp. 2d 834 (W.D. Wis. 2004): 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 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 appears clear that the petitioner's release date will occur

before the Court of Appeals for the Seventh Circuit will decide the issue one way or another. On June 30, 2004, the court of appeals granted 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 warranted. The Bureau of Prisons sentence computation sheet attached to petitioner's petition shows that petitioner was sentenced on June 27, 2000 to a 120-month term of imprisonment. The Bureau of Prisons has calculated his good conduct time to be 470 days. If the Bureau recalculates petitioner's release date in accordance with White, petitioner will be entitled to release 70 days earlier. This would give him a projected release date in late 2008. I am satisfied that petitioner's release date is not immediate 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.

Entered this 14th day of July, 2004.

BY THE COURT:
BARBARA B. CRABB
District Judge