IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

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EDWARD J. PIECHOCKI,   ORDER

                Petitioner,
                                              04-C-466-C

        v.

JOSEPH SCIBANA, Warden,

                Respondent.

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In an order entered in this case on July 16, 2004, I imposed a stay of all proceedings pending a decision by the Court of Appeals for the Seventh Circuit in <u>White v. Scibana</u>, No. 04-2410. Now petitioner has filed a motion to lift the stay.

When I imposed the stay in this case, I had not yet ruled in <u>Caldwell v. Scibana</u>, 04-C-342-C (July 19, 2004) (copy attached), that I would not impose a stay in cases raising the claim raised in <u>White v. Scibana</u>, 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

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imminent halfway house placement after his good conduct time is recalculated in accordance with White.

Plaintiff's motion to lift the stay is supported by documentation that reveals that he was sentenced on February 17, 2000 to a term of 77 months of imprisonment. Under the Bureau's current computation of petitioner's good time credits at 301days, his projected release date is February 12, 2005, and his projected pre-release date is August 12, 2004. If petitioner's good conduct time were to be recalculated in accordance with <u>White</u>, his projected release would be shortened by approximately 45 days, 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 <u>in</u> <u>forma</u> <u>pauperis</u>, 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

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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 three copies of his petition, his motion to lift the stay and this court's orders of July 27 and today. Because the court cannot grant petitioner any relief until his petition is served, he should move quickly to obtain certified mail stickers from the proper prison authorities and mail his petition to the individuals listed above. Pursuant to Fed. R. Civ. P. 4(l), petitioner is requested to submit proof to the court that he served his petition by certified mail. A copy of the postmarked certified mail receipt for each of the individuals to whom the petition was sent will constitute proof of service.

ORDER

IT IS ORDERED that the stay imposed in this case on July 16, 2004, is LIFTED. Respondent Joseph Scibana may have until August 5, 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 30th day of July, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge