

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

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MARC CLARK,

Petitioner,

v.

JOSEPH SCIBANA, Warden,

Respondent.

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ORDER

04-C-511-C

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). Respondent has appealed that decision and the Court of Appeals for the Seventh Circuit has granted respondent's motion for expedited treatment of the appeal and directed that oral argument be scheduled during the month of September.

Like White, Marc Clark 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 decided to issue orders to show cause 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 imminent halfway house transfer after his good conduct time is recalculated in accordance with White.

Here, it is not possible to tell whether an order to show cause is warranted because petitioner's release or halfway house eligibility dates are imminent or whether an order to stay the action should be entered pending the appeal in White. Petitioner alleges that he is entitled to 544 days of good time credit on his 121-month sentence. However, he does not say when he was sentenced.

#### ORDER

IT IS ORDERED that a STAY is imposed on the question whether the court should issue an order to show cause or enter a stay in this case pending resolution of the appeal in

White v. Scibana, No. 04-2410. Petitioner may have until August 14, 2004, in which to submit documentation revealing the date he was sentenced, his term of imprisonment, any good conduct time that has been earned and disallowed, and his current release and pre-release preparation dates as they are presently calculated by the Bureau of Prisons. If petitioner fails to respond to this order by August 14, 2004, I will enter an order staying the action pending resolution of the White appeal.

Entered this 28th day of July, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge