

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

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GREGORY L. TYRER,

ORDER

Petitioner,

04-C-703-C

v.

JOSEPH SCIBANA, Warden of  
Oxford Prison Camp,

Respondent.  
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Petitioner Gregory L. Tyrer is an inmate at the Federal Prison Camp in Oxford, Wisconsin. In this petition for a writ of habeas corpus brought under 28 U.S.C. § 2241, petitioner contends that the Federal Bureau of Prisons is calculating his good conduct time erroneously. He relies on White v. Scibana, 314 F. Supp. 2d 834 (W.D. Wis. 2004), in which I concluded that 18 U.S.C. § 3624(b) required the bureau to calculate good conduct time on the basis of the inmate's imposed sentence rather than the actual time he had served.

In an order entered on September 30, 2004, I directed respondent to show cause why petitioner's petition should not be granted. In addition, I noted that petitioner's petition had not been verified as required under 28 U.S.C. § 2242 and I directed petitioner to cure this defect.

On October 7, 2004, petitioner filed proof of service of his petition upon the respondent and a verified copy of his petition.<sup>1</sup> Respondent has now filed his response to the petition.

In his response, respondent notes that petitioner has exhausted his administrative remedies as he is required to do under Sanchez v. Miller, 792 F.2d 694, 699 (7th Cir. 1986). In addition, respondent concedes that petitioner was sentenced on November 18, 2003, to a 12-month and 1-day term of imprisonment. Under the Bureau of Prisons' method of calculating petitioner's good conduct time, petitioner is scheduled for release on December 3, 2004. If his good time credit is recalculated in accordance with White, he will be eligible for release approximately 7 days earlier. Accordingly, I will grant the petition and order respondent to recalculate petitioner's good conduct time on the basis of his sentence.

#### ORDER

IT IS ORDERED that petitioner Gregory L. Tyrer's petition for a writ of habeas corpus is GRANTED. Respondent Joseph Scibana is directed to recalculate petitioner's good

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<sup>1</sup>The verification petitioner supplied is not positioned at the end of his pleading. Rather, petitioner swore to the truthfulness of the factual assertions made in an affidavit attached to the petition and marked "Exhibit 1." Ordinarily, a petitioner makes factual assertions in the body of his petition. It is the factual assertions that require verification. In this case, petitioner's only factual assertions are made in his "affidavit," which I am accepting as having been incorporated into the petition. Thus, I consider that petitioner has satisfied the requirements of 28 U.S.C. § 2242.

conduct time on the basis of each year of his sentence rather than on time actually served.

Entered this 26th day of October, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge