

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

CARLTON EUGENE MARTIN,
Petitioner,

ORDER

04-C-716-C

v.

JOSEPH SCIBANA, Warden,
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).

Like White, petitioner Carlton Eugene Martin is an inmate at the Federal Correctional Institution in Oxford, Wisconsin. His petition 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 support of his petition, petitioner has submitted a sentence computation data sheet

prepared by the Bureau of Prisons from the year 2002. According to the Bureau's computation of petitioner's sentence, he was scheduled for release on March 20, 2002. Although petitioner does not allege directly that he was released in March of 2002, it appears from a copy of his "Request for Administrative Remedy," which is attached to his petition, that petitioner is presently serving a 6-month sentence for violating the terms of his supervised release. Unfortunately for petitioner, this means he is not entitled to any good conduct time. Under 18 U.S.C. § 3624(b), an inmate is not eligible to earn good conduct time unless he is serving a sentence of more than one year. As a result, the holding in White does not apply to him.

ORDER

IT IS ORDERED that petitioner Carlton Eugene Martin's petition for a writ of habeas corpus under 28 U.S.C. § 2241 is DISMISSED.

Entered this 1st day of October, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge