

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

DONALD SIMMS,

ORDER

Petitioner,

04-C-825-C

v.

WARDEN SCIBANA, F.C.I. Oxford,

Respondent.

On November 8, 2004, I stayed the proceedings in this habeas corpus action pending a decision by the Court of Appeals for the Seventh Circuit in White v. Scibana, 314 F. Supp.2d 834 (W.D. Wis. 2004). On February 17, 2005, the court of appeals issued its mandate, reversing this court's ruling in White and holding that the Bureau of Prisons' interpretation of the statutes governing calculation of good-time credit is entitled to deference. White v. Scibana, 390 F.3d 997 (7th Cir. 2004). This means that petitioner cannot prevail on his claim that he is being subjected to illegal custody because of the manner in which the Bureau of Prisons is calculating his good conduct time.

ORDER

IT IS ORDERED that the stay entered in this action on November 8, 2004 is LIFTED.

Further, IT IS ORDERED that petitioner Donald Simms' petition for a writ of habeas corpus is DISMISSED for his failure to show that he is in custody in violation of the Constitution or laws of the United States.

Entered this 23rd day of February, 2005.

BY THE COURT:

BARBARA B. CRABB
District Judge