

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

CHARLES E. TAYLOR,

Petitioner,

v.

FEDERAL BUREAU OF PRISONS,

Respondent.

ORDER

06-C-416-C

Petitioner Charles E. Taylor is a prisoner at the Federal Correctional Institution in Waseca, Minnesota. He has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 in this court and has paid the \$5 filing fee. In his petition, petitioner contends that he is being held in illegal custody because the Bureau of Prisons has miscalculated his good time credits because they are awarding well-behaved prisoners 54 days of good conduct time after every 365 days of actual custody, in violation of 18 U.S.C. § 3624(b), which requires prisoners to receive 54 days of credit after every 311 days of actual custody.

As an initial matter, it appears that petitioner is not aware that the proper district for a § 2241 habeas corpus petition is the district in which the petitioner is confined at the time he files the petition. Al-Marri v. Rumsfeld, 360 F.3d 707 (7th Cir. 2004). Nevertheless, in

Moore v. Olson, 368 F.3d 757 (7th Cir. 2004), the Court of Appeals for the Seventh Circuit held that the location of the district court in which a federal prisoner brings a petition for a writ of habeas corpus is a matter of venue, subject to waiver and forfeiture, rather than a matter of subject matter jurisdiction. (The court pointed out as well that every district court has subject matter jurisdiction over habeas corpus proceedings under 28 U.S.C. § 1331, as any claim under § 2241 entails a federal question, and that the sufficiency of service of process on a warden outside a judicial district cannot be attacked because Fed. R. Civ. P. 4(i)(2)(A) creates national service for federal employees sued in their official capacities.) Given that the court of appeals has determined that § 2241 is a special venue provision for habeas corpus petitioners that supersedes 28 U.S.C. § 1391(e) to the extent of any conflict, I may consider the merits of petitioner's petition.

I conclude that the petition must be dismissed immediately. Petitioner is raising in this petition the precise claim that petitioner Yancey White made in White v. Scibana, 390 F.3d 997 (7th Cir. 2004). In White, the court of appeals held that the Bureau of Prisons' interpretation of the statutes governing calculation of good-time credit is entitled to deference. Therefore, petitioner's argument that the statute "unambiguously requires the Bureau of Prisons to award well-behaved prisoners 54 days of GCT credit after every 311 days of actual custody" is legally meritless.

ORDER

IT IS ORDERED that this petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2241 is DISMISSED for petitioner's failure to show that he is in custody in violation of the Constitution or laws of the United States.

Entered this 7th day of August, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge