

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

MICHAEL E. RELERFORD,

Petitioner,

v.

ROCK COUNTY SHERIFF'S
DEPT. and ERIC RUAAS,

Respondents.

OPINION and ORDER

06-C-613-C

This is a petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2241. Petitioner Michael Relerford is a former federal prisoner and apparent former prisoner of the Rock County jail. While in federal custody at a halfway house, petitioner was accused of violating a term of his supervision and was placed for a time at the Rock County jail in Janesville, Wisconsin. While at the jail, petitioner wrote and filed this petition, in which he contends that the jail violated his right to due process by not providing him with a mechanism for challenging the loss of good time credit. Petitioner has paid the \$5 fee for filing his petition. Because it appears that petitioner may have received the relief he has requested in his petition and because it is not clear how his rights may have been violated,

I will stay a decision on the petition and require petitioner to show cause why his petition should not be dismissed.

I draw the following factual allegations from the petition.

FACTUAL ALLEGATIONS

On April 18, 2006, petitioner Michael Relerford was released from federal prison and placed in a halfway house in Janesville, Wisconsin. Under the terms of petitioner's original release plan, he was supposed to stay at the halfway house until October 14, 2006, when he would be released from correctional supervision. However, things did not go as planned.

On July 26, 2006, the clinical services director of the halfway house where petitioner was living told petitioner that he needed to have a mental health assessment. Because this court did not order petitioner to complete a mental health assessment when it sentenced him in 2000, petitioner objected to participating in any assessment. At approximately the same time, petitioner was fired from his job. Because employment was a condition of petitioner's participation in the halfway house program, he was terminated from the program. On August 1, 2006, United States Marshals transferred petitioner from the halfway house to the Rock County jail in Janesville, Wisconsin, where he was detained temporarily.

As a result of petitioner's termination from the halfway house program, he lost 10 days' good time credit. The decision to take away petitioner's good time was made on

August 4, 2006; however, petitioner was not notified of the decision until September 19, 2006, by which time his deadline for appealing the decision had passed. Moreover, petitioner was unable to challenge the loss of his good time credit because the Rock County jail did not have the mandatory forms on which federal prisoners must write their grievances. Without those forms, petitioner was unable to pursue his administrative remedies. Without the good time credit, petitioner's release was scheduled for November 10, 2006.

Another federal prisoner, Kevin Lyte, was evicted from the halfway house at the same time as petitioner and was placed in the Rock County jail with him. Lyte filed a petition for a writ of habeas corpus and was released. Petitioner was not.

OPINION

A prisoner may bring a petition for a writ of habeas corpus under 28 U.S.C. § 2241(b)(3) when he is being held in federal custody in violation of the Constitution or laws of the United States. In this case petitioner alleges that although he was incarcerated at a county jail, he was held there under federal authority. A review of publicly-available Bureau of Prisons records confirms that petitioner is currently under the supervision of the Bureau of Prisons' Office of Community Corrections in Chicago, Illinois and that his projected "release" date is November 10, 2006. (It is not clear whether his release will be a release from custody or a release from community supervision.)

These facts raise several questions, chief among them whether the petition is moot. Although it is not entirely clear, it appears that petitioner may be no longer confined at the Rock County jail, but on parole release in Chicago, Illinois. If this is so, then petitioner's request for a writ of habeas corpus is moot because he has secured the release he wants.

Even if petitioner remains confined at the Rock County jail, it appears from his petition and the information on the Bureau of Prison's Inmate Locator database that he will be released on November 10, 2006. Assuming these dates are correct (and because petitioner pleaded them, I must assume that they are), if I were to issue an order to show cause in this case, respondents would not be required to file a response until after petitioner's release date. That, too, would render his petition moot.

In addition, it is not clear how petitioner believes his due process rights have been violated. He does not appear to contend that he was evicted from the halfway house wrongfully or that the Bureau of Prisons was not authorized to revoke his ten days' good time credit. He complains that he was unable to challenge the decision to revoke his good time, but does not indicate why he believed he had a reasonable basis for doing so. In short, assuming petitioner remains confined, it is impossible to see how his custody violates the Constitution or other federal law.

Nevertheless, out of an abundance of caution, I will stay a decision on petitioner's request for a writ of habeas corpus and give petitioner until November 9, 2006, in which to

show cause why his petition should not be dismissed as moot. By November 9, 2006, petitioner should inform the court whether he has been released from the Rock County jail or is scheduled for release on November 10, 2006. If petitioner does not respond or if his release has occurred or is imminent, his petition will be denied as moot. If petitioner remains confined and expects his detention to continue past November 10, 2006, he should inform the court more clearly why he believes his confinement violates the Constitution or federal law.

ORDER

IT IS ORDERED that

1. A decision on petitioner Michael Relerford's petition for a writ of habeas corpus is STAYED.

2. Petitioner may have until November 9, 2006, in which to show cause why his petition should not be dismissed as moot. If petitioner does not respond to this order by November 9, 2006, his

petition will be dismissed.

Entered this 1st day of November, 2006.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge