

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

JOSHUA G. BELK,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS,

Defendant.

ORDER

07-C-301-C

Plaintiff Joshua Belk brought this action under the Administrative Procedures Act, contending that defendant Federal Bureau of Prisons was violating 18 U.S.C. § 3621(b) by refusing to consider him for transfer to a halfway house until the last 10% of his sentence. In an order dated September 24, 2007, I granted plaintiff's motion for a preliminary injunction and directed defendant to consider plaintiff for transfer to a halfway house using the criteria listed in 18 U.S.C. § 3621(b).

Plaintiff has filed a motion "for rule to show cause," which I construe as a motion to enforce the injunction. In its response to plaintiff's motion, defendant concedes that it has not made a decision whether to transfer plaintiff to halfway house right now; instead, it deferred consideration of such a transfer until April 2008. This is contrary to the September

24 order, which directed defendant to make a determination by October 22, 2007. In deferring the decision, defendant says it relied on Program Statement 7310.04, but if defendant believed there was other authority to defer a decision, it should have moved to modify the order, not simply make a unilateral decision to disregard it.

Accordingly, IT IS ORDERED that plaintiff's motion to enforce the injunction is GRANTED. Defendant may have until December 20, 2007, to file a submission with the court confirming that it will transfer plaintiff to a halfway house now or explaining why he does not qualify for such a transfer under § 3621(b) or other relevant authority. Plaintiff may have until January 3, 2008, to file a response, if he believes one is necessary.

Entered this 5th day of December, 2007.

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