

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

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TYRIS M. SHEPARD,

Petitioner,

v.

CAROL HOLINKA, Warden,

Respondent.  
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ORDER

11-cv-355-bbc

Petitioner Tyris Shepard, a prisoner at the Federal Correctional Institution in Oxford, Wisconsin, has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241. He has paid the \$5 filing fee. He contends that the Bureau of Prisons should transfer him to a halfway house authorized by the Second Chance Act of 2007, enacted as 18 U.S.C. § 3624(c), 12 months before his release because his “unit team” recommended that he be approved for a 12-month placement in a halfway house.

I cannot consider the merits of the petition because petition concedes that he has not exhausted his administrative remedies. Although § 2241 does not include an exhaustion rule, the Court of Appeals for the Seventh Circuit applies one under common law. Sanchez v. Miller, 792 F.2d 694, 697 (7th Cir. 1986). Petitioner contends that he does not need to use the administrative grievance process because his unit team at the prison recommended

him for placement under the Second Chance Act and it is the Community Corrections Management department of the Bureau of Prisons that refuses to approve his placement. However, regardless whether it is his unit team or another department that is denying plaintiff additional halfway house time, plaintiff is required to exhaust his administrative remedies set forth in 28 C.F.R. §§ 542.10-19 before filing suit. Shoumake v. Holinka, 2010 WL 1372315, \*1-2 (W.D. Wis. Mar. 31, 2010) (dismissing habeas petition regarding rights under Second Chance Act for petitioner's failure to exhaust administrative grievance procedure); Harris v. Holinka, 2009 WL 4110380, \*1 (W.D. Wis. Nov. 20, 2009) (same).

Petitioner's projected release date is September 12, 2012. If he begins the grievance process now, he has nearly three months to complete the grievance process before September 12, 2011, when the 12-month halfway house period would begin.

#### ORDER

IT IS ORDERED that the petition for a writ of habeas corpus filed by Tyris Shepard under 28 U.S.C. § 2241 is DISMISSED for petitioner's failure to exhaust his administrative remedies.

Entered this 22d day of June, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge