

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No 04-4620

EDWIN RUIZ

v.

DENNIS M. CALLAHAN

On Appeal From the United States District Court
For the Western District of Pennsylvania
(D.C. Civ. No. 03-cv-00119J)
District Judge: Honorable Kim R. Gibson

Submitted Under Third Circuit L.A.R. 34.1(a)
April 26, 2005

Before: RENDELL, AMBRO and FUENTES, Circuit Judges

(Filed April 29, 2005)

OPINION

PER CURIAM

Edwin Ruiz appeals from the District Court's order denying his habeas corpus petition filed under 28 U.S.C. § 2241. Ruiz challenges the calculation of his good conduct time ("GCT") by the Bureau of Prisons ("BOP"). Because we conclude that the

District Court's order is correct in light of our recent opinion in O'Donald v. Johns, __F.3d__, No. 04-2990, slip op. (3d Cir. Mar. 22, 2005), we will affirm.

Ruiz is currently incarcerated at the Federal Correctional Institution in Fort Dix, New Jersey, serving a sentence of 168 months for drug related charges. Ruiz has been in custody since March 23, 1998, and is currently scheduled for release on May 29, 2010. The BOP calculated the release date pursuant to its reading of 18 U.S.C. § 3624(b). After exhausting administrative remedies, Ruiz filed a petition pursuant to 28 U.S.C. § 2241 on May 28, 2003, claiming specifically that the BOP misinterprets § 3624(b), depriving him of 98 days of GCT. He claims that he is entitled by statute to receive 54 days of GCT for each year of his imposed sentence, rather than the BOP's interpretation that he receives credit only for time actually served. By order entered November 3, 2004, the District Court held that § 3624(b) is not ambiguous, and the BOP's interpretation is correct. Ruiz presents no other claims. He then filed this appeal.¹

We recently decided this precise issue. In O'Donald v. Johns, 402 F.3d 172 (3d Cir. 2005), we held that although § 3624(b) is ambiguous, the BOP's interpretation is reasonable. Id. at 174. We stated in O'Donald, that under Chevron U.S.A., Inc. v. Natural Res. Def. Council, 467 U.S. 837, 844 (1984), we defer to the BOP's interpretation. O'Donald, 402 F3d at 174. Thus, Ruiz's claim must fail.

¹ We have jurisdiction pursuant to 28 U.S.C. §§ 1291 and 2253(a). We exercise plenary review over the District Court's legal conclusions and apply a clearly erroneous standard to its findings of fact. See Ruggiano v. Reish, 307 F.3d 121, 126 (3d Cir. 2002).

In short, in light of our recent opinion in O'Donald v. Johns, the District Court properly denied Ruiz's challenge to the BOP's calculation of his GCT. Accordingly, we will affirm the District Court's order denying his habeas corpus petition.

