

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 05-2470

MAURICE PRIMROSE

v.

RONALD R. HOLT, Warden of FCI-Schuylkill

On Appeal From the United States District Court
For the Middle District of Pennsylvania
(D.C. Civ. No. 04-cv-02717)
District Judge: Honorable William W. Caldwell

Submitted For Possible Summary Action
Under Third Circuit L.A.R. 27.4 and I.O.P. 10.6
October 6, 2005

Before: SLOVITER, MCKEE AND FISHER, Circuit Judges.

(Filed: October 27, 2005)

OPINION

PER CURIAM

Maurice Primrose appeals from the District Court's order denying his habeas corpus petition filed pursuant to 28 U.S.C. § 2241. In his habeas petition, Primrose challenges the calculation of his good conduct time (GCT) by the Bureau of Prisons

(BOP). Because we conclude that Primrose's appeal presents no substantial question, we will summarily affirm the District Court's order.

Primrose is currently incarcerated at the Federal Correctional Institution-Schuylkill in Minersville, Pennsylvania, serving a federal sentence of 274 months imposed in 1990. According to the BOP, Primrose is eligible under the applicable statute, 18 U.S.C. § 3624(b), to earn up to 1188 days of GCT. The BOP's calculation of GCT is based on the time Primrose will actually serve in prison, not on the entire 274-month sentence imposed. The BOP projects Primrose's release date as June 7, 2010.

After administratively challenging the BOP's calculation of his GCT, Primrose filed a § 2241 habeas corpus petition in the District Court. In his habeas petition, Primrose argues that the BOP's calculation of his GCT deprives him of the amount to which he is entitled by statute. Primrose asserts that § 3624(b) allows him to earn up to 54 days per year based on the term of sentence imposed, not 54 days per year based on time actually served as the BOP's calculation provides. The District Court rejected Primrose's position and denied his habeas petition. Primrose appeals.¹

We will affirm the District Court's order. We resolved this issue in O'Donald v. Johns, 402 F.3d 172 (3d Cir. 2005). In O'Donald, we held that the meaning of § 3624(b) is ambiguous and thus deferred to the BOP's reasonable interpretation of the statute. See

¹We 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).

id. at 174. Primrose's challenge, identical to the one raised and rejected in O'Donald, is unavailing.

In short, we conclude that Primrose's appeal is controlled by O'Donald and thus presents no substantial question. Accordingly, we will summarily affirm the District Court's order. See Third Circuit L.A.R. 27.4, I.O.P. 10.6.