

UNITED STATES DISTRICT COURT

FILED

FEB 06 2003

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JASON YAEGER
(Petitioner)

01108-4020

WRIT OF HABEAS CORPUS

CASE:4:03 CR 3034

vs.

J.D. WHITEHEAD (Warden)
(Respondent)

Jurisdiction;

The District Court for the District of South Dakota has jurisdiction over this action pursuant to U.S.C. 2241. The petitioner is a federal prisoner at Yankton South Dakota whoms statutory and due process rights are being violated by the damnifying disposition of the Bureau of Prisons. Petitioner, comes before the court with "**Extraordinary and Compelling Reasons**" that placate, due process and consideration by the Bureau of Prisons.

Procedural Background;

On or around June 2004, Jason Yaeger pled guilty to one count of conspercy in the District Court for the District of Nebraska. The court sentenced him to serve 66 months in prison followed by 5 years of super-vised release.

Preliminary Statement;

Petitioner urges the District Courts divine intervention into this this "time sensitive" matter of LIFE BEFORE DEATH. Petitioners 10 year old daughter, Jayci Yaeger is suffering from **Cerebral Neuroblastoma**, (an aggressive cancer). In September 2007, it was determined Jayci symptoms of pain, weakness, speech impairment and lethargy. Per Jayci's Doctors, there is little in the way of treatment that can be offered. Any therapy given at this time would be intended to give symptomatic relief. Regrettably, Jayci illness is TERMINAL.

Exhibit-A: Letter from Chidrens Hospital, October 1st, 2007

Exhibit-B: Jason Yaeger, Denied relief from BOP, January 18th, 2008

Extraordinary Justification;

(II) Is the BOP's "extraordinary justification" requirement consistent with the holdings of **Fults V. Sanders** and **Elwood V. Jeter** as well satisfying the mandates of 18 U.S.C. 3621(b) and 3625(c)?

(A) The BOP's extraordinary justification requirements before transfer to a CCC earlier than 180 days adds an additional factor to 18 U.S.C. 3621(b), not intended by case precedent:

Lopez V. Davis US 230, 244 (2001)

Fults V. Sanders, 442 F.3D 1088 (8th Cir. 2006)

Goldings V. Winn, 383 F. 3D 17 (1st Cir. 2004)

Levine V. Apker, 455 F. 3D 71 (2nd Cir. 2004)

Woodall V. Fed. Bureau of Prisons, 432 F. 3D 235 (3rd Cir. 2005)

The BOP fails to acknowledge the courts recognition of the qualitative differences between 3621(b) and 3624(c). In **Elwood**, this court stated "under 3621(b), THE BOP **MAY** place a prisoner in a CCC for **six months or more**. Under 3624(c) the BOP **MUST** formulate a plan of pre-release conditions. **Elwood**, 386 F. 3D at 847 Section 3621(b) speaks to how the BOP is to determine CCC placement and 3624(c) speaks to the duty to facilitate the CCC placement.

Conclusion;

Petitioners current transfer date to a CCC facility is August 2008. Petitioners reasonable request to be transferred some six months earlier to a CCC facility, whereby placing him on home confinement. This would afford him to care and comfort his daughter in her final days. Case precedent law shall therefore deem justificative cause for, extraordinary and compelling reasons to grant petitioner relief.

RESPECTFULLY SUBMITTED this February 5th, 2008



**Jason Yaeger, Pro-Se Petitioner
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