

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

-----oo0oo-----

UNITED STATES,

Plaintiff,

v.

MARTIN S. MUNGUIA,

Defendant.

NO. CR-S-04-0384 WBS
CV-S-06-2709 WBS

ORDER

-----oo0oo-----

Defendant Martin Munguia has filed a Motion for Time Reduction, pursuant to 28 U.S.C. § 2255, upon the ground that, because of the fact he is not a citizen of the United States, he has been denied the benefit of a one year reduction of his sentence by way of being placed in a halfway house on early release. He argues that this deprives him of the equal protection of the laws.

Where an immigration detainer has been placed on an inmate, he ineligible for a sentence reduction upon completion of that program. Here, such a detainer would be properly lodged because Munguia was convicted of being an alien who had unlawfully reentered the United States after a prior

1 deportation.

2 The Ninth Circuit has held that this kind of rule
3 excluding prisoners with detainers from sentence reduction
4 eligibility does not violate the Constitution because it is
5 "rationally related to the BOP's legitimate interest in
6 preventing prisoners from fleeing detainers while participating
7 in community treatment programs." McLean v. Crabtree, 173, F.3d
8 1176, 1186 (9th Cir. 1999). Following McLean, Judge Levi denied
9 the petition of a prisoner making a similar claim in United
10 States v. Madrigal-Madrigal, 2005 WL 221930, *1 (E.D. Cal.
11 September 14, 2005).

12 IT IS THEREFORE ORDERED that defendant's Motion for
13 Time Reduction, pursuant to 28 U.S.C. § 2255, be and the same
14 hereby is, DENIED.

15 DATED: December 1, 2006

16
17 

18 WILLIAM B. SHUBB
19 UNITED STATES DISTRICT JUDGE
20
21
22
23
24
25
26
27
28