

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

MARTY L. SLABAUGH,)
)
 Petitioner,)
)
 v.)
)
 SUPERINTENDENT, WESTVILLE)
 CORRECTIONAL FACILITY,)
)
 Respondent.)

Cause No. 3:09 CV 0077 PS

OPINION AND ORDER

On May 30, 2008, a prison disciplinary hearing board found Marty Slabaugh guilty of violating the state law against identity theft in case WCC 08-05-0303. Slabaugh brought this habeas corpus petition challenging his 365 day loss of earned credit time and his demotion to a lower credit time earning classification in that proceeding. The court ordered the respondent to show cause why the court should not grant the petition. In response, the respondent filed a motion to dismiss the petition as moot after the Indiana Department of Correction’s Final Reviewing Authority rescinded the sanctions on August 3, 2009. I have waited for a reply from Slabaugh, but he has not responded to the motion to dismiss. Because the time for doing so has passed, I will now address the motion.

A prison disciplinary action can only be challenged in a habeas corpus proceeding where it results in the lengthening of the duration of confinement. *Hadley v. Holmes*, 341 F.3d 661, 664 (7th Cir. 2003). Because the deprivation of earned credit time and demotion to a lower credit time earning classification at issue in this case have already been restored, Slabaugh has already obtained the maximum relief available in this proceeding. Therefore the motion to dismiss is well taken and will be granted.

For the foregoing reasons, the motion to dismiss (DE 8) is **GRANTED** and this case is **DISMISSED**.

SO ORDERED.

ENTERED: September 8, 2009

/s Philip P. Simon
PHILIP P. SIMON, JUDGE
UNITED STATES DISTRICT COURT