

particular regulation or statute. The Court concluded that this sort of analysis encouraged prisoners to comb regulations in search of mandatory language on which to base entitlements to various state-conferred privileges. *Id.* at 481. The Court held:

States may under certain circumstances create liberty interests which are protected by the Due Process Clause. But these interests will be generally limited to freedom from restraint which, while not exceeding the sentence in such an unexpected manner as to give rise to protection by the Due Process Clause of its own force, nonetheless imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.

Id. at 483-84 (citations omitted); *see also Thompson v. Cockrell*, 263 F.3d 423, 425 (5th Cir. 2001).

As a general rule, only sanctions which result in loss of good conduct time credits for inmates who are eligible for release on mandatory supervision, or which otherwise directly and adversely affect release on mandatory supervision will impose upon a liberty interest. *See Teague v. Quarterman*, 482 F.3d 769, 776-77 (5th Cir. 2007) (holding that the mandatory supervision scheme in effect after September 1, 1996 creates a constitutional expectancy of early release); *Malchi v. Thaler*, 211 F.3d 953, 956 (5th Cir. 2000) (holding that the mandatory supervision statute in effect prior to September 1, 1996, created a constitutional expectancy of early release for earned good time credits); *Orellana v. Kyle*, 65 F.3d 29, 31-33 (5th Cir. 1995), *cert. denied*, 516 U.S. 1059 (1996) (“Although *Sandin* cites with approval cases in which it was held that state law could create a constitutional liberty interest in good-time credits, or release on parole, it is difficult to see that any other deprivations in the prison context . . . will henceforth qualify for constitutional ‘liberty’ status.”) (citations omitted).

Because he was convicted of aggravated robbery, petitioner is not eligible for mandatory supervision. As a result, the sanctions imposed in this case do not present an atypical or significant

hardship, such that petitioner was entitled to due process before the sanctions could be imposed. Therefore, the petition for writ of habeas corpus should be denied.

Conclusion

This petition for writ of habeas corpus should be denied. A final judgment will be entered in accordance with this memorandum opinion.

SIGNED this the **25** day of **March, 2010**.

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield
United States District Judge