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## [Woodley v. Warden Revisited: Time Credits, Prerelease Placement, and Agency Discretion](#)

by

Susan M. Giddings, PhD, Unit Management Section Chief (Retired), Federal Bureau of Prisons

Bruce Cameron MS LPC-S LSOTP-S Federal Bureau of Prisons Ret. South Central Regional Office

It is no secret the Bureau of Prisons (BOP) has a capacity problem in prerelease, community-based programs; this is particularly true in more populated communities. Director Collette Peters very openly discussed this issue during her July 2024 oral testimony to Congress and again in August with her "On the Record" broadcast. While not new, the capacity problem made it to public radar earlier this year after an adverse ruling was issued against the BOP in May by the United States District Court, District of Kansas, followed by a Forbes.com column in June. **The case, Woodley v. Warden, ordered the BOP to transfer Alphonso Woodley**, an incarcerated person, to prerelease custody within 30 days of issuing the order. However, that wasn't the end of the story; **it wasn't even the whole story**. On October 3, 2024, following a new filing by Mr. Woodley, the same Court ruled dismissing Mr. Woodley's new motion and reiterating its previous position regarding the extent of BOP discretion.

In the original case, Mr. Woodley completed the Residential Drug Abuse Program and [earned 365 days](#) of Federal Time Credit toward early release, [advancing his release date from April 2027 to April 2025](#).

Further, [he earned 445 days of time credits toward prerelease placement](#). Prerelease placement [commonly includes halfway house, home confinement, or a combination](#).

A placement request based on Mr. Woodley's Tampa release residence was sent to the Orlando Residential Reentry Management Office. Lacking bed space at the Tampa halfway house, his placement would be **delayed until September 4, 2024**. Mr. Woodley filed suit, and on May 15, 2024, the Hon. **John W. Lungstrum** issued his order for Mr. Woodley to be transferred within 30 days, and on [June 12, 2024, he was transferred to an alternate halfway house in Orlando, Florida](#).

Unfortunately, the Forbes.com column was an opinion piece, not a news article. It chose to focus only on the transfer order portion rather than the very specific language in which the Court both limited the scope of its order and specifically defined the BOP's discretion within the context of the FSA. The second order issued in October highlighted this deficiency even more.

What was in **Judge Lungstrum's** order that was left out of the Forbes.com column? Judge Lungstrum stated, "In this regard, [the Courts notes that while the FSA requires transfer to prerelease custody, the BOP retains the discretion to decide whether to transfer the petitioner to an RRC or home confinement, or even whether to transfer to petitioner to early supervised release](#). [...] Nor does the Court require that petitioner be placed in any particular RRC; [thus, the BOP retains the discretion to choose the particular prerelease in Virginia](#)."

*facility* [emphasis added]." [1] In his October follow-up order, he reiterated this position regarding the discretion the BOP retained twice. Mr. Woodley argued to the Court that "The

Court should enforce its prior order by directing the BOP to release him to home confinement

The Court, however, said the Bureau had complied with the previous order as Mr. Woodley was transferred to prerelease custody. More importantly, Judge Lungstrum stated, "The Court specifically limited the scope of its order by noting that the BOP retained the discretion to decide whether petitioner's prerelease custody involved home confinement or an RRC and the discretion to decide the location of that custody [emphasis added]. This, contrary to the petitioner's claim, the BOP has violated neither the letter nor the spirit of the Court's order." [2]

Woodley v. Warden, both initially and when revisited, highlights one of the statutory flaws in the First Step Act (FSA). The BOP has no discretion to deny or delay transfer to prerelease custody for any reason, including the lack of physical space.

Yet, it retains its discretion regarding the type and location of placement.

Historically, prerelease placement was not merely a means to get out of prison early; it was meant to provide the individual released from prison a transitional space between prison and the community— to find a job and a place to live, connect with local resources, re-establish family and community ties, enter therapeutic relationships with substance abuse and mental health treatment providers, etc.

This historical role meant placing the individual in, or as close to, their release community as possible. When balancing length of placement and proximity to one's home, it makes little sense, when considering the goals of re-entry programming, to place a person hours from their home and community all in the name of a more extended placement.

While indeed it couldn't have been their intent, Congress gutted the real and vital purpose of reentry services.

Yet, that is the real issue and impact of Woodley. For all their talk, Congress failed to include participation in a meaningful prerelease community program as a part of the FSA, literally contradicting the purpose of the Second Chance Act. So, whether an incarcerated person is placed 5, 50, or 500 miles from their home and community, all that matters is that they were transferred.

As stated at the beginning of this piece, it is not a secret the BOP has a capacity problem in its prerelease, community-based programs. However, the solution cannot be to take someone released to Pittsburgh and place them in Cleveland or Detroit because "there's a bed there." Why?

That solution means taking a reentry space from someone released to Cleveland or Detroit and sending them to Chicago, Indianapolis, or Cincinnati.

At some point, Congress will need to untangle the mess they (hopefully) unintentionally created.

1. *Woodley v. Warden, USP Leavenworth*, 24- 3053-JWL (D. Kan. May. 15, 2024). Available at <https://casetext.com/case/woodley-v-warden-usp-leavenworth>, (<https://casetext.com/case/woodley-v-warden-usp-leavenworth>)
2. *Woodley v. Warden, USP Leavenworth*, 24- 3053-JWL (D. Kan. Oct. 3, 2024). Available at <https://casetext.com/case/woodley-v-warden-usp-leavenworth-1>, (<https://casetext.com/case/woodley-v-warden-usp-leavenworth-1>)

Bruce Cameron is a widely known expert, most known in his prior engagements as a federal law enforcement official. He has over 25 years of experience in development, consultation, and assessment for involved individuals. He is the founder of Federal Prison Authority. Bruce has given multiple national and international talks and presentations, authored several publications.

Susan M. Giddings, PhD, Unit Management Section Chief (Retired), Federal Bureau of Prisons Susan and Bruce have co-authored *Unlocking Federal Time Credits: A Guide for Attorneys, Inmates, and Families*, available on Amazon.com.

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### News Media Interview Contact

Name: Bruce Cameron LPC-S LSOTP CPC

Title: Director

Dateline: Dallas, TX United States

Direct Phone: 214-431-2032

Main Phone: 2144312032



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