

11/09/1992 13:11:04 =====

FEDERAL BUREAU OF PRISONS
MID-ATLANTIC REGIONAL OFFICE

SUBJECT: OCTOBER MONTHLY REPORT DATE: NOVEMBER 6, 1992

TO: WALLACE H. CHENEY FROM: BILL BURLINGTON
 GENERAL COUNSEL REGIONAL COUNSEL

LITIGATION SUMMARY:

10 NEW CASES WERE OPENED DURING THE MONTH. 6 OF THE NEW CASES WERE HC;
3 NEW BIV; AND 1 EEO.

36 CASES WERE CLOSED DURING THE MONTH. 11 HC; 2 FTC; 22 BIV; AND
1 BIV/FTC WERE CLOSED.

13 ANSWERS COMPLETED.

ADMINISTRATIVE REMEDIES:

67 APPEALS WERE ACCEPTED DURING THE MONTH. INCLUDED IN THE 67 WERE

11/09/1992 13:11:07 =====

13 DHO; 1 SPH; 3 MED; 4 MH; 2 LEG; AND 2 FD.

85 APPEALS WERE CLOSED WITH 17 BEING GRANTED AND 68 DENIED. 44 APPEALS
WERE PENDING AT THE END OF OCTOBER.

TORT CLAIMS:

A TOTAL OF 38 NEW CLAIMS WERE RECEIVED. 33 PP; 4 P1; AND 1 PPP1.

A TOTAL OF 44 CLAIMS WERE CLOSED DURING THE MONTH. 144 WERE PENDING AT
THE END OF THE MONTH.

TRAVEL AND LEAVE:

BILL BURLINGTON: FCI, LEXINGTON 11-9 & 11-10, STAFF ASSISTANCE VISIT.
REGIONAL OFFICE 11-16 & 17, ETHICS TRAINING.
STRATEGIC PLANNING SESSION 11-18 WITH NANCY REDDING
AT MARO.
USP, TERRE HAUTE 11-30, ETHICS TRAINING.
ANNUAL LEAVE 11-27.

11/09/1992 13:11:12 =====

MARIAN CALLAHAN: NO TRAVEL PLANNED. ANNUAL LEAVE SCHEDULED FOR
11-25 AND 11-27.

MICHAEL PYBAS: ANNUAL LEAVE 11-12 & 13.
USP, TERRE HAUTE 11-30, ETHICS TRAINING.

MARY WILBURN: ANNUAL LEAVE 11-8 & 9.
FT. MCHENRY ON 11-12 FOR AFFIRMATIVE ACTION COMMITTEE

TRAINING.

MICHAEL SULLIVAN: ANNUAL LEAVE 11-6. NO TRAVEL SCHEDULED.
*WE ARE STILL CELEBRATING MICHAEL'S GRADUATION WITH
HONORS FROM GLYNCO*

MILT WILLIAMS: ANNUAL LEAVE 11-27. NO TRAVEL SCHEDULED.

KATHY HARRIS: NEW PARALEGAL TRAINEE SCHEDULED TO REPORT WEEK OF
11-29.

11/09/1992 13:11:16 =====

TRIALS AND HEARINGS:

MADISON V. USA, SD/IL (USP, TERRE HAUTE)--TRIAL SCHEDULED FOR NOVEMBER
3RD WAS STRICKEN TO BE RESCHEDULED, MOST LIKELY EARLY IN 1993. JUDGE
STIEHL HAS TRANSFERRED THE CASE TO JUDGE GILBERT'S DOCKET. THIS IS AN
FTCA RENAL FAILURE CASE ALLEGING FAILURE TO DIAGNOSE KIDNEY PROBLEMS
WHILE THE PLAINTIFF WAS INCARCERATED AT USP, TERRE HAUTE IN EARLY 1980'S.
PLAINTIFF, WHO HAS LOST THE FUNCTION OF BOTH KIDNEYS, IS SEEKING \$1.5
MILLION IN DAMAGES.

OTHER CASES OF INTEREST:

PETERSON V. BOGAN, ED/MI (FCI, MILAN)--THE ADVERSE DECISION OF THE
COURT ORDERING THAT AN INMATE'S MARRIAGE TO A FORMER CONTRACT TEACHER BE
ALLOWED HAS BEEN CHALLENGED BY THE FILING OF A MOTION TO RECONSIDER AND
FOR A STAY. THE REQUEST TO MARRY HAD BEEN DENIED BY THE WARDEN DUE TO
SERIOUS SECURITY CONCERNS, PARTICULARLY THE "RIPPLE EFFECT" SUCH MARRIAGE
COULD HAVE ON EFFORTS TO PREVENT IMPROPER STAFF-INMATE RELATIONSHIPS FROM
FORMING IN THE FUTURE. IF THE COURT DENIES RELIEF, WE ANTICIPATE THE
FILING OF AN IMMEDIATE APPEAL AND STAY REQUEST WITH THE SIXTH CIRCUIT.

11/09/1992 13:11:20 =====

HIGDON V. USA, ND/WVA (FCI, MORGANTOWN)--FTCA SUIT ALLEGING DELAY IN TREAT
MENT RESULTED IN LOSS OF EYESIGHT IN ONE EYE. AFIP REPORT ON CASE
QUESTIONS THE STANDARD OF CARE PROVIDED. AUTHORIZATION WAS RECEIVED FROM
CENTRAL OFFICE 10-30-92 TO SETTLE CASE UP TO \$15,000.

BENSON V. USDOJ, ED/KY (FCI, LEXINGTON)--CORRECTIONAL OFFICER ALLEGES
GENDER BASED DISCRIMINATION AS CAUSE OF HER REMOVAL FROM ELECTRONICS
CABLE FOREMAN TRAINEE POSITION TO CORRECTIONAL OFFICER. SHE APPROXIMATES
LOSS OF WAGES AND BENEFITS AT \$75,000 AND ASKS \$25,000 FOR MENTAL ANGUISH.
PLAINTIFF IS REPRESENTED BY COUNSEL.

11/09/1992 13:13:21 =====

11-09-1992

UNITED STATES GOVERNMENT MEMORANDUM

TO: WALLACE H. CHENEY, GENERAL COUNSEL, FEDERAL BUREAU OF PRISONS
WASHINGTON, D.C. 20534

FROM: DAVE ESSIG, REGIONAL COUNSEL, NORTHEAST REGION
FEDERAL BUREAU OF PRISONS, PHILADELPHIA, PA. 19106

SUBJECT: LEGAL ACTIVITIES REPORT, NORTHEAST REGION - *OCT*

ADMINISTRATIVE LEGAL ACTIVITIES--SUMMARY REPORT

1992	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
ADMINISTRATIVE REMEDIES												
# PENDING ON FIRST	31	32	45	60	70	63	30	81	70	72		
# RECEIVED IN MONTH	49	67	115	117	70	78	109	111	108	86		
# ANSWERED IN MONTH	48	54	100	107	77	111	58	122	106	96		
# PENDING END OF MO	32	45	60	70	63	30	81	70	72	62		
# OVER 30 DAYS	0	0	0	0	0	0	0	0	0	0		

11/09/1992 13:13:25 =====

TORT CLAIMS (1992)	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# PENDING ON FIRST	148	159	143	151	142	113	128	141	170	210		
# RECEIVED IN MONTH	45	38	54	52	47	73	60	79	81	66		
# ANSWERED IN MONTH	34	54	46	61	76	58	47	50	41	80		
# PENDING END OF MO	159	143	151	142	113	128	141	170	210	196		
# OVER 6 MONTHS	0	0	0	0	0	0	0	0	0	0		

FOI/PRIVACY (1992)	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# PENDING ON FIRST	66	59	63	76	72	76	102	97	98	106		
# RECEIVED IN MONTH	27	43	61	47	16	88	37	45	29	36		
# ANSWERED IN MONTH	34	39	48	51	12	62	42	44	21	12		
# PENDING END OF MO	59	63	76	72	76	102	97	98	106	130		
# OVER 30 DAYS	44	42	36	47	63	46	60	72	87	98		

TORT CLAIM INVESTIGATION STATUS: AS OF 10/31/1992	ALW	DAN	FAI	LEW	LOR	MCK	NYM	OTV	RBK	SCH	LSCI
# PENDING	4	7	30	60	18	12	26	14	13	11	0
# INV OVER 60 DAYS	0	0	6	2	1	1	1	0	0	0	0

11/09/1992 13:13:28 =====

LITIGATION ACTIVITY, 1992, NORTHEAST REGION

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# CASES OPEN	247	253	259	264	273	278	296	312	322	281		

# NEW CASES RECD	10	11	17	12	20	21	30	26	18	20
# LIT REP DONE	11	6	11	8	23	16	21	20	22	18
# CASES CLOSED	12	5	11	7	11	15	12	10	8	61
# HABEAS CORPUS	1	5	7	3	12	5	7	9	6	6
# FTCA	2	2	0	1	0	1	0	3	2	4
# BIVENS	4	1	5	2	4	8	13	6	4	9
# OTHER	3	3	5	6	3	7	10	6	5	1
# BIVENS & FTCA	0	0	0	0	1	0	0	2	1	0

LITIGATION OF NOTE:

1. IN RE BRYANT, CASE NO: 92-CAA-4 (ALJ OCT. 23, 1992)

INMATE AT USP LEWISBURG FILED COMPLAINT WITH DEPT. OF LABOR ASSERTING HARASSMENT IN HIS WORK ASSIGNMENT IN UNICOR. THE INMATE REQUESTED "WHISTLEBLOWER" PROTECTION UNDER THE CLEAN AIR ACT AND THE TOXIC SUBSTANCE CONTROL ACT. THE ALJ HELD THAT THE INMATE IS NOT AN EMPLOYEE UNDER THE ACTS.

11/09/1992 13:13:33 =====

2. YARDEN V. COOKSEY, CIVIL NO. 92-4321 (DNJ)

INMATE AT FCI FAIRTON WAS SCHEDULED FOR TRANSFER TO FCI OAKDALE FOR INS DEPORTATION HEARING. ATTORNEY FILED PETITION FOR HABEAS CORPUS AND MOTION FOR RESTRAINING ORDER TRYING TO BLOCK TRANSFER. PETITION ASSERTED THAT DEPORTATION HEARING NEEDED TO BE HELD NEAR BOSTON, NOT IN LOUISIANA. ON OCTOBER 9, 1992, JUDGE IRENAS HELD EMERGENCY HEARING. ON OCT. 14, 1992, JUDGE IRENAS DISMISSED PETITION AND DENIED MOTION FOR RESTRAINING ORDER.

3. CARDIFF CIRCLE V. UNITED STATES, 92 CV 4323 (DNJ)

FTCA COMPLAINT HAS NOW BEEN FILED STEMMING FROM 4/92 FCI FAIRTON SORT TEAM EXERCISE. SMOKE BOMBS USED BY SORT TEAM ACCIDENTALLY CAUSED ABANDONED BUILDING TO BURN DOWN. BUILDING HAD BEEN USED BY LOCAL POLICE FOR THEIR TRAINING EXERCISES. PRIVATE OWNER REJECTED SETTLEMENT OFFER OF \$10,000 UNDER ADMINISTRATIVE TORT CLAIM. THE MAIN ISSUE IN THE LITIGATION WILL BE THE VALUE OF THE DESTROYED BUILDING.

SETTLEMENTS AND AWARDS

1. MARGIOTTA V. U.S. BUREAU OF PRISONS, 91-228E (WDPA)

11/09/1992 13:13:37 =====

FTCA CASE FOR PROPERTY LOST ON TRANSFER FROM FCI MCKEAN TO FCI OXFORD IN OCTOBER 1990. INMATE SOUGHT DAMAGES OF \$545.95. ORIGINAL POSTURE IN ANSWER TO COMPLAINT WAS THAT INMATE RECEIVED ALL PROPERTY AT OXFORD. ADDITIONAL EVIDENCE SURFACED THAT ONE BOX OF PROPERTY WAS SENT BY FCI MCKEAN, BUT NOT RECEIVED AT FCI OXFORD. ALTHOUGH BOP COULD HAVE SHIFTED BLAME TO POST OFFICE, THE AUSA AND I FELT IT BEST TO SETTLE FOR \$150.

TRAVEL AND LEAVE SCHEDULE FOR NOVEMBER 1992:

DAVE ESSIG -
TRAVEL--NONE SCHEDULED

ANNUAL LEAVE--NOV. 25 & 27

HANK SADOWSKI
TRAVEL--NONE SCHEDULED

ANNUAL LEAVE--NONE SCHEDULED

TERESA HUGHES
TRAVEL--NONE SCHEDULED

11/09/1992 13:13:41 =====

ANNUAL LEAVE--NOV. 23-30

AZZMEIAH VAZQUEZ-SPICER
TRAVEL--NOV. 2-20 - BASIC TRAINING - GLYNCO
ANNUAL LEAVE--NONE SCHEDULED

✓ REMARKS: TERESA HUGHES HAS BEEN SELECTED FOR THE PARALEGAL POSITION AT
FT. DIX AND IS EXPECTED TO TRANSFER IN MID-JANUARY, 1993.

MAR0

Joyce

12/16/1992 07:22:04 =====

FEDERAL BUREAU OF PRISONS
MID-ATLANTIC REGIONAL OFFICE

SUBJECT: NOVEMBER MONTHLY REPORT DATE: DECEMBER 15, 1992

TO: WALLACE H. CHENY FROM: BILL BURLINGTON
 GENERAL COUNSEL REGIONAL COUNSEL

LITIGATION SUMMARY:

16 NEW CASES WERE OPENED DURING THE MONTH. 9 OF THE NEW CASES WERE HC;
3 NEW BIV; AND 4 OTH.

35 CASES WERE CLOSED DURING THE MONTH. 18 HC; 10 BIV; 2 FTC; 2 FTC/BIV;
AND 3 OTH.

13 ANSWERS WERE COMPLETED.

ADMINISTRATIVE REMEDIES:

91 APPEALS WERE ACCEPTED DURING THE MONTH. INCLUDED IN THE ACCEPTED

12/16/1992 07:22:30 =====

APPEALS WERE 17 DHO; 0 SPH; 6 MED; 1MH; 6 LEG; AND 0 FD.

72 APPEALS WERE CLOSED WITH 17 BEING GRANTED; 54 DENIALS; AND 1 OTHER.
66 APPEALS WERE PENDING AT THE END OF NOVEMBER.

TORT CLAIMS:

A TOTAL OF 48 CLAIMS WERE RECEIVED DURING THE MONTH. 34 PP; 10 PI;
1PPPI; AND 3 REFERRALS.

A TOTAL OF 35 CLAIMS WERE CLOSED DURING THE MONTH. 3 OFFERS OF SETTLEMENT
WERE MADE. 157 CLAIMS WERE PENDING AT END OF MONTH.

TRAVEL AND LEAVE:

BILL BURLINGTON: USP, TERRE HAUTE 12-1 & 2, ETHICS TRAINING
REGIONAL COUNSEL FPC, SEYMOUR JOHNSON 12-4, ETHICS TRAINING
FCI, ESTILL 12-7 & 8, ETHICS TRAINING
MCFP, SPRINGFIELD, 12-14, WITNESS TRAVEL
ANNUAL LEAVE, 12-28 & 29.

12/16/1992 07:23:12 =====

MARIAN CALLAHAN: ANNUAL LEAVE 12-4
ASST. R.C. FCI, PETERSBURG 12-10 & 11, ETHICS TRAINING.
FCI, LEXINGTON 12-15 & 16, ETHICS TRAINING.

MICHAEL PYBAS: USP TERRE HAUTE 12-1 & 2, ETHICS TRAINING
ASST. R.C. FCI ASHLAND 12-9 & 10 ETHICS TRAINING
FCI MANCHESTER 12-14 & 15, ETHICS TRAINING
ANNUAL LEAVE 12-28 THRU 12-31.

MARY WILBURN: NO SCHEDULED A/L OR TRAVEL FOR MONTH.
ASST. R.C.

MICHAEL SULLIVAN: ANNUAL LEAVE 12-3 THROUGH 12-11.
LEAVE 12-17 & 18.

MILT WILLIAMS: NO SCHEDULED A/L OR TRAVEL.
PARALEGAL

KATHY HARRIS: FOIA TRAININIG NERO 12-8 & 9.
ANNUAL LEAVE 12-23 & 24.

12/16/1992 07:23:27 =====

TRIALS AND HEARINGS:

US V. ADCOX (CRIMINAL) (SD/IN)

TRIAL IS SCHEDULED TO BEGIN ON DECEMBER 7, 1992 CONCERNING THE MURDER OF AN INMATE AT USP-TERRE HAUTE ON JULY 6, 1991. THIS IS A REHEARING DUE TO FIRST TRIAL ENDING IN A MISTRIAL. DEFENDANT IS ACTING AS HIS OWN COUNSEL WITH A COURT APPOINTED ATTORNEY. THE TRIAL IS EXPECTED TO LAST AT LEAST THREE DAYS.

OTHER CASES OF INTEREST:

MARTIN V. BARR (ED/KY)

AFRICAN AMERICAN FMC/LEX RECREATION SPECIALIST ALLEGES DISCRIMINATION BASED ON RACE OCCURRED WHEN WARDEN SELECTED LESS QUALIFIED WHITE MALE FOR PROMOTION. DOJ ADMINISTRATIVE DECISION HELD AGENCY JUSTIFIED IN SELECTING THE LESS QUALIFIED APPLICANT OVER PLAINTIFF.

YOUNG V. USA (ED/KY)

FTCA & BIVENS MEDICAL MALPRACTICE CASE CONCERNING FMC LEXINGTON.

12/16/1992 07:23:40 =====

PLAINTIFF ALLEGES NEGLIGENCE IN FAILURE TO PERFORM MANDATORY TESTS WHICH WOULD HAVE DISCLOSED OVARIAN OR ENDOMETRIAL CANCER BEFORE DISEASE REACHED TERMINAL STATE. THE MRR ENTERED NOVEMBER 16, 1992 RECOMMENDS THAT BIVENS CLAIMS AGAINST INDIVIDUALS BE DISMISSED AND THAT CASE PROCEED AS FTCA ONLY AGAINST USA.

HIGDON V. USA, ND/WVA (FCI, MORGANTOWN) -- FTCA SUIT ALLEGING DELAY IN TREATMENT RESULTED IN LOSS OF EYESIGHT IN ONE EYE. AFIP REPORT ON CASE QUESTIONS THE STANDARD OF CARE PROVIDED. AUTHORIZATION WAS RECIEVED FROM CENTRAL OFFICE 1030-92 TO SETTLE UP TO \$15,00. AUSA REPORTED THAT SETTLEMENT AGREEMENT REACHED IN THE AMOUNT OF 12,000. AUSA IS PROCESSING SETTLEMENT.

CAMERON V. DUBOIS, (USP, TERRE HAUTE) (SD/IN)

BIVENS MEDICAL TREATMENT CASE. PLAINTIFF ALLEGES THAT DEFENDANTS VIOLATED HIS CONSTITUTIONAL RIGHTS BY DENYING HIM A MEDICALLY PRESCRIBED, LOW-SALT, LOW-FAT DIET WHILE AT TERRE HAUTE. A CASE WITH THE SAME CLAIM AND FACTS

WAS DISMISSED IN THE FDCD AND IS CURRENT ON APPEAL IN CADC, CASE NO. 91-5055. SD/IN COURT DISMISSED CASE WITH PREJUDICE ON BASIS OF ISSUE AND CLAIM PRECLUSION.

06/04/1992 10:04:26 =====

CC for D's
return to Mr.

FEDERAL BUREAU OF PRISONS
MID-ATLANTIC REGIONAL OFFICE

SUBJECT: MAY MONTHLY REPORT

DATE: JUNE 3, 1992

TO: WALLACE H. CHENEY
GENERAL COUNSEL

FROM: CAROLYN A. SABOL
REGIONAL COUNSEL

10 NEW CASES FILED THIS MONTH. 4 CASES CLOSED.

TRAVEL:

CAROLYN SABOL: ANNUAL LEAVE 6/4 TO 6/5
TO ALEXANDRIA 6/12 FOR HEARING IN REED.
TO WARDEN'S CONFERENCE 6/22 - 6/27 (BILL BURLINGTON ACTIN
REGIONAL DIRECTOR AND REGIONAL COUNSEL)

AL MUNGIA HAS REPORTED TO LEXINGTON AS THE NEW ATTORNEY.

06/04/1992 10:04:31 =====

JEFF TOENGES: LAST DAY 6/26

TRAILS AND HEARINGS:

A HEARING WAS HELD 5/18 IN BARRY V. WHELAN. THE COURT WAS MOST INTERESTED
IN ISSUE REGARDING THE DISCIPLINARY ACTION AND APPEARED CONVINCED OF THE
PROCEDURAL DEFENSES RAISED ON BEHALF OF THE DEFENDANTS OTHER THAN THE
DHO. THE PLAINTIFF ALSO DISMISSED WITH PREJUDICE THE SUIT AGAINST
WARDEN WHELAN.

THE HEARING SCHEDULED FOR MAY 18 IN TOMLIN V. U.S WAS CANCELLED AFTER W
MR. TOMLIN WAS REDESIGNATED FROM BIG SPRING TO THE MAIN INSTITUTION IN
ASHLAND. THIS SEEM TO SATISFY JUDGE WILHOIT.

A HEARING IS SCHEDULED ON JUNE 12 IN REED V. BRAXTON, AN EASTERN DISTRICT
OF VIRGINIA CASE INVOLVING SENTENCE COMPUTATION. THE INMATE WAS SERVING
A D.C. SENTENCE WHEN HE THEN RECEIVED A FEDERAL CCCA SENTENCE. HE WAS
TRANSFERRED TO OTISVILLE WITH ONLY THE FEDERAL J & C AND HE WAS TOLD
HE HAD SERVED THAT SENTENCE. WHEN HE WAS THEN TRANSFERRED TO A ASHLAND
THE SENTENCE COMPUTATION REVIEW FOUND THE D.C. J & C AND REALIZED THE

06/04/1992 10:04:37 =====

FEDERAL SENTENCE SHOULD HAVE BEEN SERVED CONSECUTIVELY. THE INMATE IS
ALLEGING HE HAS A RIGHT TO RELY ON OUR INITIAL DETERMINATION THAT HE SERVED
SERVED HIS FEDERAL SENTENCE AND HE NEED NOT SERVE THE FOURTEEN MONTHS
AFTER COMPLETION OF HIS D.C. SENTENCE. I WILL BE ARGUING THE CASE FOR THE
GOVERNMENT.

06/10/1992 15:00:46 =====

5/92

06-10-1992

UNITED STATES GOVERNMENT MEMORANDUM

TO: WALLACE H. CHENEY, GENERAL COUNSEL, FEDERAL BUREAU OF PRISONS
WASHINGTON, D.C. 20534

FROM: DAVE ESSIG, REGIONAL COUNSEL, NORTHEAST REGION
FEDERAL BUREAU OF PRISONS, PHILADELPHIA, PA. 19106

SUBJECT: LEGAL ACTIVITIES REPORT, NORTHEAST REGION

ADMINISTRATIVE LEGAL ACTIVITIES--SUMMARY REPORT

1992	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
ADMINISTRATIVE REMEDIES												
# PENDING ON FIRST	31	32	45	60	70							
# RECEIVED IN MONTH	49	67	115	117	70							
# ANSWERED IN MONTH	48	54	100	107	77							
# PENDING END OF MO	32	45	60	70	63							
# OVER 30 DAYS	0	0	0	0	0							

06/10/1992 15:00:50 =====

TORT CLAIMS (1992)	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# PENDING ON FIRST	148	159	143	151	142							
# RECEIVED IN MONTH	45	38	54	52	47							
# ANSWERED IN MONTH	34	54	46	61	76							
# PENDING END OF MO	159	143	151	142	113							
# OVER 6 MONTHS	0	0	0	0	0							

FOI/PRIVACY (1992)	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# PENDING ON FIRST	66	59	63	76	72							
# RECEIVED IN MONTH	27	43	61	47	16							
# ANSWERED IN MONTH	34	39	48	51	12							
# PENDING END OF MO	59	63	76	72	76							
# OVER 30 DAYS	44	42	36	47	63							

TORT CLAIM INVESTIGATION STATUS: AS OF 5/31/1992	ALW	DAN	FAI	LEW	LOR	MCK	NYM	OTV	RBK	SCH
# PENDING	1	7	15	18	9	9	18	18	6	8
# INV OVER 60 DAYS	0	0	0	0	0	1	6	3	0	0

06/10/1992 15:00:53 =====

LITIGATION ACTIVITY, 1992, NORTHEAST REGION	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# CASES OPEN	247	253	259	264	273							
# NEW CASES RECD	10	11	17	12	20							
# LIT REP DONE	11	6	11	8	23							
# CASES CLOSED	12	5	11	7	11							

# HABEAS CORPUS	1	5	7	3	12
# FTCA	2	2	0	1	0
# BIVENS	4	1	5	2	4
# OTHER	3	3	5	6	3
# BIVENS & FTCA	0	0	0	0	1

LITIGATION OF NOTE:

1. U.S. V. WILLIAM MOTTO, 85-CR-214-2 (EDPA)

INMATE, NOW AT FCI DANBURY, SERVING OLD LAW SENTENCE OF 13 YEARS, FILED RULE 35 MOTION TO REDUCE AFTER A RESENTENCING IN OCTOBER 1991. JUDGE SHAPIRO HAS SCHEDULED A HEARING FOR JUNE 17, 1992. INMATE HAS MANDATORY

06/10/1992 15:01:05 =====

RELEASE DATE FOR FEBRUARY 5, 1993. INMATE WANTS SENTENCE REDUCTION BECAUSE BOP DENIED CCC PLACEMENT FOR 60 DAYS AND BECAUSE OF MEDICAL PROBLEMS. HANK SADOWSKI WILL REPRESENT BOP AT THE HEARING.

SETTLEMENTS AND AWARDS:

1. COA-PENA V. UNITED STATES, CIVIL NO. 90-0160 (EDPA)

FTCA CASES FILED BY INMATE AT USP LEWISBURG ALLEGING PROPERTY LOSS ON TRANSFER FROM FCI RAY BROOK TO USP LEWISBURG. INMATE REQUESTED \$431.60. LEW PARALEGAL JEFF FROMME GOT INMATE TO SETTLE CASE FOR SIX PAIR OF CONFISCATED SNEAKERS.

2. PEREZ V. UNITED STATES, CIVIL NO. 91-CV-7264 (WDPA)

FTCA CASE ALLEGING MEDICAL MALPRACTICE AT FCI LORETTO. INMATE HAD OUT-PATIENT SURGERY FOR SINUSITIS. CONSULTANT DOCTOR DIRECTED HE BE RETURNED WITHIN 3 DAYS. INMATE NOT RETURNED AS DIRECTED. 40 DAYS AFTER SURGERY, INMATE COMPLAINS OF FUNNY SMELL, HEADACHES, AND BLOCKAGE IN NOSE. 17 DAYS LATER, IT WAS DISCOVERED THAT A TEFLA PAD WAS LEFT IN HIS NOSE FROM THE ORIGINAL SURGERY. CASE SETTLED FOR \$12,000.

06/10/1992 15:01:16 =====

TRAVEL AND LEAVE SCHEDULE FOR JUNE 1992:

DAVE ESSIG

TRAVEL - NONE SCHEDULED
ANNUAL LEAVE-- JUNE 1-5

HANK SADOWSKI

TRAVEL--JUNE 15 - FCI DANBURY - (ASBESTOS LITIGATION)
ANNUAL LEAVE--JUNE 29 - JULY 2

TERESA HUGHES--ANNUAL LEAVE AND TRAVEL - NONE SCHEDULED

MIKE TAFELSKI

TRAVEL--JUNE 5 - USP LEWISBURG - (CONFERENCE WITH WITNESSES)
ANNUAL LEAVE--NONE NOTED.

. . . MIKE TAFELSKI IS SCHEDULED TO REPORT FOR REASSIGNMENT TO USP LEWISBURG
ON JUNE 29, 1992.

PARALEGAL PATTY GOTTS REPORTED TO FCI, DANBURY ON MONDAY, JUNE 8.

07/06/1992 14:48:38 =====

CC 52
Return *man*

FEDERAL BUREAU OF PRISONS
MID-ATLANTIC REGIONAL OFFICE

SUBJECT: JUNE MONTHLY REPORT

DATE: JULY 6, 1992

TO: WALLACE H. CHENEY
GENERAL COUNSEL

FROM: CAROLYN A. SABOL
REGIONAL COUNSEL

12 NEW CASES FILED THIS MONTH.

TRAVEL:

MARY WILBURN: ANNUAL LEAVE 7/6 TO 7/10

MARIAN CALLAHAN: ANNUAL LEAVE 7/2 THROUGH 7/6

BILL BURLINGTON: TO MORGANTOWN ICP 7/27 TO 7/30.

07/06/1992 14:48:44 =====

TRAILS AND HEARINGS:

A HEARING WAS HELD ON JUNE 12 IN REED V. BRAXTON, AN EASTERN DISTRICT OF VIRGINIA CASE INVOLVING SENTENCE COMPUTATION. THE INMATE WAS SERVING A D.C. SENTENCE WHEN HE THEN RECEIVED A FEDERAL CCA SENTENCE. HE WAS TRANSFERRED TO OTISVILLE WITH ONLY THE FEDERAL J & C AND HE WAS TOLD HE HAD SERVED THAT SENTENCE. WHEN HE WAS THEN TRANSFERRED TO A ASHLAND THE SENTENCE COMPUTATION REVIEW FOUND THE D.C. J & C AND REALIZED THE FEDERAL SENTENCE SHOULD HAVE BEEN SERVED CONSECUTIVELY. THE INMATE IS ALLEGED HE HAD A RIGHT TO RELY ON OUR INITIAL DETERMINATION THAT HE SERVED HIS FEDERAL SENTENCE AND HE NEED NOT SERVE THE FOURTEEN MONTHS AFTER COMPLETION OF HIS D.C. SENTENCE. THE COURT DISAGREED AND RULED FROM THE BENCH THAT OUR ACTIONS WERE APPROPRIATE IN LIGHT OF THE FEDERAL COURT RULING OF A CONSECUTIVE SENTENCE. THE INMATE HAS ALREADY FILED HIS NOTICE IN THE COURT OF APPEALS.

OPINION FILED:

07/06/1992 14:48:52 =====

THE COURT RULED IN BARRY V. WHALEN THAT ALL THE DEFENDANTS WERE DISMISSED ON QUALIFIED IMMUNITY GROUNDS AND ON FAILURE TO STATE A CONSTITUTIONAL CLAIM. THE COURT DID GIVE BARRY LEAVE TO AMEND THE COMPLAINT WITH REGARD TO THE ALLEGATION THAT THE DHO HAD HIS MIND MADE UP BEFORE THE HEARING. THE COURT STATED ~~SPECIFIC FACTS WERE NECESSARY AND NOT JUST A GENERAL ALLEGATION.~~ ALTHOUGH IT IS TWO WEEKS TODAY SINCE THE RULING, NO SUCH AMENDMENT HAS BEEN FILED. THE COURT GAVE BARRY 10 DAYS TO FILE SUCH AN AMENDMENT.

08/05/1992 07:08:54 =====

FEDERAL BUREAU OF PRISONS
MID-ATLANTIC REGIONAL OFFICE

SUBJECT: JULY MONTHLY REPORT

DATE: AUGUST 4, 1992

TO: WALLACE H. CHENEY
GENERAL COUNSEL

FROM: BILL BURLINGTON
REGIONAL COUNSEL

11 NEW CASES FILED THIS MONTH. 10 CASES CLOSED.

TRAVEL AND LEAVE:

BILL BURLINGTON: HOUSEHUNTING 7-31 THROUGH 8-5.
ANTICIPATE REPORTING AT FCI-BUTNER 8-17

MICHAEL PYBAS: REPORTED TO MARO FROM NCRO ON 7-19
TRAINING AT FCI-PETERSBURG 8-6
ICP AT FCI-MILAN 8-24 THROUGH 8-27

08/05/1992 07:08:59 =====

MARY WILBURN: TO DC TORTS BRANCH ON FLECHSIG V. US 8-3
TO ALEXANDRIA, VA ON THOMAS V. WHALEN MOTIONS 8-7

MARIAN CALLAHAN: TO DC TORTS BRANCH ON FLECHSIG V. US 8-3
ANNUAL LEAVE 8-27 THROUGH 9-11

MILT WILLIAMS: ANNUAL LEAVE 8-2 THROUGH 8-14

KATHRYN SIMPSON: LEGAL INTERN TRAINING AT USP-LEWISBURG 8-4

MICHAEL SULLIVAN, HONORS ATTORNEY, ANTICIPATED REPORT DATE 8-23

TRIALS AND HEARINGS:

JURY TRIAL WAS HELD ON 7-8 AND 7-9 IN TERRE HAUTE, INDIANA IN THE
CASE OF EVANS V. CAPT. WOLFE, LT. RARDIN, AND THE U.S., A BIVENS/FTCA
CASE. AFTER FOUR HOURS OF DELIBERATIONS, THE JURY RETURNED ITS
VERDICT IN FAVOR OF THE DEFENDANTS AND THE COURT ENTERED JUDGMENT
IN FAVOR OF THE UNITED STATES ON THE TORT CLAIM. THE CASE AROSE
FROM A CLAIM OF RETALIATORY ASSAULT BY STAFF UPON THE INMATE IN
1987 AFTER THE INMATE HAD ASSAULTED A FEMALE PSYCHOLOGIST. THE
COURT AND THE JURY FOUND THAT STAFF DID NOT ASSAULT THE INMATE,

08/05/1992 07:09:04 =====

FINDING THE INMATE NOT CREDIBLE.

ON 7-7, INMATE RICHARD DANIELS WAS CONVICTED BY A FEDERAL JURY IN
THE NORTHERN DISTRICT OF WEST VIRGINIA OF ASSAULT WITH A DANGEROUS
WEAPON ARISING FROM AN INMATE ON INMATE ASSAULT AT FCI-MORGANTOWN.
SENTENCING IS EXPECTED IN SIX TO EIGHT WEEKS.

CAROLYN SABOL, DEPUTY GENERAL COUNSEL, WILL ARGUE THE GOVERNMENT'S

POSITION BEFORE THE SIXTH CIRCUIT IN CINCINNATI ON 8-10 IN FLECHSIG V. UNITED STATES, A TORT CLAIM INVOLVING THE EXTENT OF THE LIABILITY OF THE UNITED STATES AND RELATED SCOPE OF EMPLOYMENT ISSUES UNDER THE FTCA WHEN STAFF IS ALLEGED TO HAVE ASSAULTED AN INMATE.

MARY WILBURN WILL PRESENT THE GOVERNMENT'S POSITION IN THOMAS V. WHALEN ON 8-7 IN ALEXANDRIA, VA. THE CASE CONCERNS AGGREGATION OF DISTRICT OF COLUMBIA AND FEDERAL SENTENCES.

ON 7-9, HEARING WAS HELD ON PRELIMINARY MOTIONS IN PETERSON V. BOGAN IN DETROIT, A CASE ARISING FROM A FORMER CONTRACT TEACHER'S REQUEST FOR VISITATION AND AUTHORIZATION TO MARRY AN FCI-MILAN INMATE WHICH WAS DENIED DUE TO SERIOUS SECURITY CONCERNS. THE COURT HAS TAKEN THE MOTIONS UNDER ADVISEMENT.

08/05/1992 07:09:14 =====

TRIAL PREPARATION IS CURRENTLY UNDERWAY IN MADISON V. U.S.A., AN FTCA RENAL FAILURE CASE ALLEGING FAILURE TO DIAGNOSE KIDNEY PROBLEMS WHILE THE PLAINTIFF WAS INCARCERATED AT USP-TERRE HAUTE IN THE EARLY 1980'S. THE CASE IS SCHEDULED FOR TRIAL 9-8 IN EAST ST. LOUIS, ILLINOIS. SETTLEMENT NEGOTIATIONS ARE CURRENTLY UNDERWAY.

IN AN UNUSUAL MATTER, FPC-ALDERSON HAS BEEN NOTIFIED THAT IT IS A MEMBER OF THE SETTLEMENT CLASS EXPECTED TO SHARE IN A CIVIL RICO SETTLEMENT FUND IN BANE V. COCA-COLA BOTTLING CO. OF ROANOKE. THE SETTLEMENT WILL BE BASED UPON THE VOLUME OF PRODUCTS PURCHASED FROM THE COMPANY DURING THE PERIOD 1976--1987. THIS CIVIL CLASS ACTION SUIT FOLLOWED IN THE WAKE OF THE COMPANY'S CONVICTION FOR PRICE FIXING.

CC: PATTY BORTZ, AURORA, TRAINING CENTER

09/08/1992 08:31:33 =====

Joyce

FEDERAL BUREAU OF PRISONS
MID-ATLANTIC REGIONAL OFFICE

SUBJECT: AUGUST MONTHLY REPORT

DATE: SEPTEMBER 3, 1992

TO: WALLACE H. CHENEY
GENERAL COUNSEL

FROM: BILL BURLINGTON
REGIONAL COUNSEL

8 NEW CASES FILED THIS MONTH. 18 CASES CLOSED.

TRAVEL AND LEAVE:

BILL BURLINGTON: -REPORTED TO NEW OFFICE AT FCI-BUTNER ON 8-17
-SPECIAL CLAIMS OFFICE, MIAMI, 9-8 THROUGH 9-11
-NEW ATTORNEY TRAINING, ANNAPOLIS, MARYLAND,
9-14 THROUGH 9-18
-9-21 & 9-22, PORTLAND, OREGON; MEETING WITH
STATE CORRECTIONAL OFFICIALS TO FACILITATE
PLACEMENT OF FEDERAL PSYCHIATRIC INMATES IN

09/08/1992 08:32:56 =====

STATE FACILITIES (ALONG WITH DR. COWELL &
DR. JOHNSON).

MARY WILBURN: -CONSTITUTIONAL LAW TRAINING, WASHINGTON, D.C., 9-11

MARIAN CALLAHAN: -ANNUAL LEAVE 8-27 THROUGH 9-11

MILT WILLIAMS: - ANNUAL LEAVE 9-8 THROUGH 9-11

MICHAEL SULLIVAN: - REPORTED TO MARO ON 8-23
-SPECIAL CLAIMS OFFICE, MIAMI, 9-8 THROUGH 9-11
-NEW ATTORNEY TRAINING, ANNAPOLIS, MARYLAND,
9-14 THROUGH 9-18
-GLYNCO TRAINING, 9-28 THROUGH 10-16

TRIALS AND HEARINGS:

ON 7-31 A FEDERAL COURT CONVICTED INMATE RONNIE S. CEBALLOS OF
ASSAULT ON A FEDERAL EMPLOYEE RESULTING FROM AN ATTACK ON LAUNDRY
PLANT FOREMAN JAMES MICHAEL HODGE AT FCI-PETERSBURG LAST
FEBRUARY. TWO INMATES TESTIFIED FOR THE GOVERNMENT. THE AUSA
PROSECUTING THE CASE STATED THAT THEY WERE THE MOST COOPERATIVE

09/08/1992 08:33:01 =====

INMATE WITNESSES HE HAD ENCOUNTERED IN TWENTY YEARS OF LITIGATING
FCI CASES. SENTENCING IS SCHEDULED FOR SEPTEMBER 30TH.

ON 8-7 IN ALEXANDRIA, VIRGINIA, IN THE CASE OF THOMAS V. WHALEN,
THE DISTRICT COURT RULED AT THE CLOSE OF ORAL ARGUMENT THAT THE
BUREAU'S COMPUTATION OF SENTENCE WAS PROPER. MARY WILBURN ARGUED
THE CASE FOR THE GOVERNMENT. THE CASE CONCERNED AGGREGATION OF
DISTRICT OF COLUMBIA AND FEDERAL SENTENCES FOR A PAROLE VIOLATOR.

ON 8-6, A MAGISTRATE'S REPORT AND RECOMMENDATION WAS ISSUED IN PETERSON V. BOGAN, EASTERN DISTRICT OF MICHIGAN, A CASE ARISING FROM A FORMER CONTRACT TEACHER'S REQUEST FOR VISITATION AND AUTHORIZATION TO MARRY AN FCI-MILAN INMATE. THE REQUEST HAD BEEN DENIED AT FCI-MILAN DUE TO SERIOUS SECURITY CONCERNS. THE MAGISTRATE RECOMMENDED THAT A PRELIMINARY INJUNCTION BE GRANTED ALLOWING THE MARRIAGE AND VISITATION. OBJECTIONS HAVE BEEN PREPARED AND FILED AND ARE CURRENTLY PENDING.

TRIAL PREPARATION CONTINUES IN MADISON V. USA, AN FTCA RENAL FAILURE CASE ALLEGING FAILURE TO DIAGNOSE KIDNEY PROBLEMS WHILE THE PLAINTIFF WAS INCARCERATED AT USP-TERRE HAUTE IN THE EARLY 1980'S. THE CASE WAS SCHEDULED FOR TRIAL ON 9-8, BUT HAS BEEN

09/08/1992 08:33:13 =====

RESCHEDULED FOR 11-3 IN EAST ST. LOUIS, ILLINOIS. SETTLEMENT NEGOTIATIONS ARE CURRENTLY UNDERWAY.

JURY TRIAL SCHEDULED FOR 9-21 HAS BEEN POSTPONED IN EVANS V. EDWARDS, A BIVENS ACTION ALLEGING DELIBERATE INDIFFERENCE BY MEDICAL STAFF AFTER THE PLAINTIFF INMATE HAD ASSAULTED A STAFF PSYCHOLOGIST AT USP-TERRE HAUTE IN 1987. REGIONAL DIRECTOR CALVIN EDWARDS REMAINS A DEFENDANT IN THIS CASE. THE DISTRICT JUDGE HAS INDICATED THE CASE WILL BE TRIED IN MARCH, 1993. THIS IS ONE OF THREE REMAINING EVANS CASES STEMMING FROM THE AFTERMATH OF THAT INCIDENT. LAST MONTH A JURY FOUND IN FAVOR OF OUR STAFF IN A RELATED EVANS LAWSUIT.

CC: PATTY BORTZ, AURORA TRAINING CENTER
ANDY STINNETT, GLYNCO

yojce

10/15 ✓

10/13/1992 08:56:14 =====

FEDERAL BUREAU OF PRISONS
MID-ATLANTIC REGIONAL OFFICE

SUBJECT: SEPTEMBER MONTHLY REPORT

DATE: OCTOBER 9, 1992

TO: WALLACE H. CHENEY
GENERAL COUNSEL

FROM: BILL BURLINGTON
REGIONAL COUNSEL

9 NEW CASES OPENED THIS MONTH. 4 CASES CLOSED. 30 NEW ADMINISTRATIVE
TORT CLAIMS RECEIVED THIS MONTH. 26 TORT CLAIMS CLOSED.

TRAVEL AND LEAVE:

BILL BURLINGTON: -IN REGIONAL OFFICE 10-5 THROUGH 10-7 FOR NEW
WARDENS' BRIEFING AND STAFF MEETINGS.
-FCI-PETERSBURG, STAFF ASSISTANCE VISIT AND
TRANSITIONAL CARE UNIT, 10-15
-ETHICS TRAINING FOR TRAINERS, 10-19 & 10-20
DENVER, COLORADO.

10/13/1992 08:56:18 =====

MICHAEL PYBAS: -ETHICS TRAINING FOR TRAINERS, 10-19 & 10-20,
DENVER, COLORADO.

MARY WILBURN: -EMPLOYEE DEVELOPMENT TRAINING, 10-28, BETHESDA, MD.

MARIAN CALLAHAN: -ETHICS TRAINING FOR TRAINERS, 10-19 & 10-20,
DENVER, COLORADO
-EMPLOYEE DEVELOPMENT TRAINING, 10-28, BETHESDA, MD.

MILT WILLIAMS: -NO LEAVE OR TRAVEL PLANNED.

MICHAEL SULLIVAN: -GLYNCO TRAINING, THROUGH 10-16

ON OCTOBER 27TH, THE MID-ATLANTIC REGIONAL OFFICE WILL BE HOSTING A DOJ
LEGAL EDUCATION INSTITUTION VIDEOTAPED COURSE ON "LITIGATION MANAGEMENT
AND ORGANIZATION."

TRIALS AND HEARINGS:

PETERSON V. BOGAN, ED MICHIGAN (FCI-MILAN)--THE MAGISTRATE'S
REPORT AND RECOMMENDATION WAS ADOPTED BY THE COURT IN THIS CASE
ARISING FROM A FORMER CONTRACT TEACHER'S REQUEST TO MARRY AND VISIT

10/13/1992 08:56:24 =====

WITH AN FCI-MILAN INMATE. THE REQUEST TO MARRY HAD BEEN DENIED BY
THE WARDEN DUE TO SERIOUS SECURITY CONCERNS, PARTICULARLY THE
"RIPPLE EFFECT" SUCH MARRIAGE COULD HAVE ON EFFORTS TO PREVENT
IMPROPER STAFF-INMATE RELATIONSHIPS FROM FORMING IN THE FUTURE.
THE COURT HAS NOW ORDERED THAT A PRELIMINARY INJUNCTION BE GRANTED
ALLOWING THE MARRIAGE AND VISITATION. MOTIONS TO RECONSIDER AND FOR
A STAY HAVE BEEN FILED, AND EFFORTS ARE UNDERWAY TO APPEAL THE MATTER
TO THE SIXTH CIRCUIT IF NECESSARY.

MADISON V. USA, SD ILLINOIS (USP-TERRE HAUTE)--TRIAL PREPARATION CONTINUES IN THIS FTCA RENAL FAILURE CASE ALLEGING FAILURE TO DIAGNOSE KIDNEY PROBLEMS WHILE THE PLAINTIFF WAS INCARCERATED AT USP-TERRE HAUTE IN THE EARLY 1980'S. PLAINTIFF, WHO HAS LOST THE FUNCTION OF BOTH KIDNEYS, IS SEEKING \$1.5 MILLION IN DAMAGES. ADDITIONAL WITNESSES HAVE BEEN INTERVIEWED AND EXPERTS HAVE BEEN DEPOSED. AT THIS TIME THE CASE IS SCHEDULED FOR TRIAL ON 11-3 IN EAST ST. LOUIS, ILLINOIS. THE CASE IS EXPECTED TO TAKE AT LEAST TWO WEEKS TO TRY.

DUPARD V. JARVIS, ED MICHIGAN (FCI-MILAN)--INMATE DUPARD WAS GRANTED LEAVE BY THE COURT TO AMEND HIS COMPLAINT TO ALLEGE A CONSPIRACY BETWEEN THE FORMER WARDEN AT FCI-MILAN AND STATE OF WASHINGTON OFFICIALS TO REVOKE HIS REAL ESTATE LICENSE. HE ALSO ALLEGES DENIAL OF ACCESS TO

10/13/1992 08:56:29 =====

THE COURTS BECAUSE THE BOP FAILED TO PROVIDE HIM STATE LAW MATERIALS FROM THE STATE OF WASHINGTON TO ENABLE HIM TO CONTEST HIS REAL ESTATE LICENSE REVOCATION.

US V. DANIELS, ND WEST VIRGINIA (FCI-MORGANTOWN)--CRIMINAL JURY TRIAL WAS HELD IN JULY RESULTING IN A FINDING OF GUILT AGAINST INMATE DANIELS FOR ASSAULTING ANOTHER INMATE WITH A PIPE AT FCI-MORGANTOWN. SENTENCING IS PENDING. THE INMATE WHO WAS ASSAULTED HAS FILED AN ADMINISTRATIVE TORT CLAIM ALLEGING FAILURE TO PROTECT.

US V. GALLO, ED KENTUCKY (FMC-LEXINGTON)--INMATE LOURDES GALLO, A 32 YEAR OLD FEMALE MARIEL CUBAN DETAINEE, WAS FOUND GUILTY AFTER CRIMINAL TRIAL IN PROSECUTION FOR ASSAULT ON A FEDERAL EMPLOYEE. THE INMATE PUNCHED A PHS NURSE IN THE HEAD AT FMC-LEXINGTON CAUSING BRUISES. THE DISTRICT COURT IMPOSED A FOUR MONTH SENTENCE ON SEPTEMBER 24.

PARKER V. GREENWELL, SD INDIANA (USP-TERRE HAUTE)--JUDGMENT WAS ENTERED ON AUGUST 25TH IN FAVOR OF BOP OFFICIALS WHO HAD BEEN SUED BY AN INMATE WHO FELL INTO A VAT AND SUSTAINED INJURIES IN A UNICOR OPERATION AT USP-TERRE HAUTE IN 1980. HE WAS RELEASED IN 1984 AND NEVER FILED AN INMATE ACCIDENT COMPENSATION ACT CLAIM.

10/13/1992 08:56:33 =====

THE COURT FOUND NO EIGHTH AMENDMENT OR BIVENS LIABILITY, AND HELD THAT WHILE THERE MAY HAVE BEEN NEGLIGENCE IN THE ASSIGNMENT OF THE INMATE, HIS EXCLUSIVE REMEDY AGAINST THE UNITED STATES WAS UNDER THE INMATE ACCIDENT COMPENSATION ACT.

CC: PATTY BORTZ, AURORA TRAINING CENTER
ANDY STINNETT, GLYNCO

memorandum

DATE: February 1, 1993

Mid-Atlantic Regional Office, Annapolis Junction, MD 20701

REPLY TO

ATTN OF: *Bill Burlington*
 Bill Burlington, Regional Counsel
 Mid-Atlantic Region

SUBJECT: Quarterly Report - October thru December 1992

TO: Nancy Redding, Executive
 Office of General Counsel

The following is our quarterly report for the first quarter of fiscal year 1993.

Torts

NUM	PROP	PI	PPPI	WD	MED	SET	AMT	PEND	DEN	OD	A/O	A/P
161	106	35	9	0	5	3 ¹	2841	191	57	15	31	104

Litigation

NUM	HC	FTC	BIV	OTH	ANS	PEN	CLD	H/T	SET	AWD
40	20	4	10	6	40	209	108	2	2	0

Administrative Remedies

NUM	DHO	SPH	MED	MH	LEG	FD	GRT	DEN	PEN	OD
263	54	5	14	5	8	2	47	196	89	0

Trials and Hearings

U.S. v. Adcox (Criminal) SD/IN (Terre Haute)

Trial began on December 7, 1992 concerning the murder of an inmate at USP, Terre Haute on July 6, 1991. This was a rehearing due to the first trial ending in a mistrial. Defendant, who acted as his own counsel with the assistance of a court appointed attorney, was convicted for the murder. On January 6, 1993, Defendant was sentenced to life without parole.

¹Although the dbase reflects 3 claims settled during the quarter for a total amount of \$2841, the more accurate reflection is the number of offers made. Including the 3 SET, there were 33 offers made totalling \$5,046.27.

MXR Quarterly Report

page 2

U.S. v. Jackson (Criminal) ED/KY (Ashland)

Inmate Dewayne Jackson received a six month sentence, consecutive to his current sentence, for his assault on a recreation specialist. Inmate Jackson hit the recreation specialist repeatedly with a golf club. Luckily, the staff member was not seriously injured. However, he did receive some scars on his back. The maximum penalty was six months, and the government recommended the maximum sentence be imposed. Magistrate Peggy Patterson imposed the sentence on December 12, 1992.

Settlements

Higdon v. USA, 91-0031-E, ND/WVA (Morgantown)

FTCA suit alleging delay in treatment resulted in loss of eyesight in one eye. Independent report questioned the standard of care provided. Authorization was received from Central Office 10-30-92 to settle up to \$15,000. Settlement was reached in the amount of \$12,000.

¶ Madison v. USA, SD/IL (Terre Haute)

This FTCA renal failure case alleged failure to diagnose kidney problems while at Terre Haute in the early 1980's. Plaintiff, who had lost both kidneys, was seeking \$1.5 million in damages. Authority was granted to settle up to \$30,000 linked to a proposed kidney transplant. The offer was rejected with a counter of \$30,000 cash settlement. After Central Office approval, Plaintiff was subsequently offered a cash settlement of \$10,000 and accepted the offer. The trial, which had been scheduled for February, was estimated at costing well over \$30,000 in expert witness fees, travel and other litigation expenses.

Young v. USA, ED/KY, (Lexington)

FTCA & Bivens medical malpractice case concerning FMC, Lexington. Plaintiff alleges negligence in failure to perform mandatory tests which would have disclosed ovarian or endometrial cancer before disease reached terminal state. The Bivens portion of the suit has been dismissed by the court and the action is proceeding as an FTCA case only. Approval was received from the Central Office to settle case for up to \$100,000. (No settlement agreement has been reached.)