

memorandum

DATE: January 8, 1999 Mid-Atlantic Regional Office, Annapolis Junction, MD 20701

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

SUBJECT: December 1998 Monthly Report

TO: Wallace H. Cheney, General Counsel

ATTN: Amy Whalen Risley, Executive Assistant

ADMINISTRATIVE REMEDIES	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Received	135	187	229	160	168	200	214	225	191	212	179	169
Answered	143	181	178	201	174	194	156	195	254	268	170	198

TORT CLAIMS	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	230	195	179	190	191	195	154	138	149	166	171	188
# Received	68	54	75	62	42	49	45	47	59	53	68	61
# Answered	91	71	58	60	38	83	67	30	40	43	34	47
# Pending Over Six Month	195	179	190	191	195	154	138	149	166	171	188	215
to C.O. with recommended settlement memo	0	0	0	0	0	1	0	1	1	1	1*	1

FOI/PRIVACY	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	13	23	12	23	24	18	35	30	26	37	19	38
# Received	43	24	54	54	36	47	52	52	54	32	55	48
# Answered	34	34	41	53	42	32	57	56	43	50	36	54
# Pending Over 20 Working Days	23	12	23	24	18	35	30	26	37	19	38	32
	1	2*	0	0	4**	2*	3*	1*	2	1*	1*	2

*File has been requested from archives. **One file requested from archives; another request archives sent wrong file.

LITIGATION	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Cases Pending	338	331	329	314	273	261	261	272	281	284	287	296
New Cases Received	7	16*	4*	11	16	13	36	17	17	18	12	13
Habeas Corpus	4	7	4	3	6	7	11	5	8	10	8	10
Bivens	1	5*	0*	6	5	5	3	5	3	3	1	2
FTCA	1	2	0	1	2	1	2	3	1	2	1	0
Other	1	2	0	1	3	0	20	4	5	3	2	1
Cases Closed	14	19	21	62	28	12	25	10	15		15	0
Cases Pending	331	329	314	273	261	261	272	281	284	287	296	306
Lit Reports Completed	15	12	14	8	13	21	7	8	12	19	12	9
/Hearings or Trials	2	2	1	4	0	0	0	1	0	0	1	0
Settlements/Awards	1	2	0	1	2	0	0	0	0	0	0	0
Settlements/Awards	\$147.7	\$52.0	0		\$13.9*	\$9.0	0	0	0	0	0	0

(\$ in Thousands)
*Corrected figures

SIGNIFICANT DECISIONS OR ADVERSE DECISIONS:

FCI Memphis - Sheets v. DOJ (Title VII case: sexual harassment, sex discrimination, retaliation and constructive discharge). On Wednesday, November 25, 1998, the jury returned a verdict in favor of the Plaintiff awarding her \$25,000 for disparate treatment/sex discrimination, \$75,000 for sexual harassment, \$100,000 for retaliation and \$116,000 in back pay. On December 18, 1998, the AUSA filed a Renewed Motion for Judgment after Trial pursuant to Rule 50(b) of the Federal Rules of Civil Procedure.

FCI Manchester - Moore v. Chandler - The Court found the Orr decision applies in this early release case. Respondent was allowed to amend their response.

SETTLEMENTS:

FCI Butner - Previously reported efforts by the U.S. Attorney's Office in Colorado to settle four cases pending in Colorado filed by inmate Dee Farmer. The Bureau has decided to call off settlement negotiations and the cases will proceed to trial.

FCI Memphis - Littrell v. United States (failure to diagnose throat cancer case). A settlement conference has been scheduled for Friday, January 15, 1999. To date, the AUSA has not received the report from our expert (an oncologist at the VA in Nashville) concerning how the medical treatment would have been different had the cancer been diagnosed sooner.

UPDATE ON CASES, TRIALS OR HEARINGS, ETC. NOTED IN PRIOR REPORTS:

FCI Beckley - Depew v. Hawk - This inmate originally filed suit in Massachusetts (later transferred to S.D. West Virginia) because his right to receive privileged written communications from his attorney had been restricted for one year. The inmate's Attorney, Mel Dahl, was disbarred as a result of his resignation (in light of pending disciplinary charges). The Court has ordered that Mel Dahl be removed as the inmate's attorney in the matter and has ordered the inmate to file an Application to proceed in forma pauperis, if the inmate wants the action continued.

FCI Petersburg - Jabari Zakiya v. Janet Reno, et al. In this fourth habeas petition Douglas Ross seeks immediate release from custody of BOP because his sentence expired on 2-19-96. He will not sign an installment agreement form pursuant to the requirement of 18 U.S.C. § 3621(e). A response to dismiss as successive and abuse of writ was filed December 16, 1998.

before Judge Brinkema (who dismissed his third petition which is now on appeal to the 4th Circuit). Ross' attorney from the DC case, Thomas Ruffin, Jr. entered an appearance *pro hac vice* on December 21, 1998, labeling Zakiya, "a political prisoner at the Federal Correctional Institution in Petersburg, Virginia."

FCI Petersburg - U.S. v. Charles Porter, WD PA - On December 7th Chief Judge Donald Ziegler in Pittsburgh ordered the Marshals Service or the Bureau of Prisons to transport FCI Cumberland Inmate Charles Porter to a Pittsburgh hospital for a deathbed visit with his mother. Porter is a convicted organized crime "underboss" tied to extreme violence with almost 16 years remaining on his sentence and classified as a "high escape risk." The Warden opposed an escorted trip and the Marshals refused to move the inmate (referring to the Memorandum of Understanding between BOP and USMS). After consultation with the Northeast Region, our Regional Director elected to formally object to the order. According to the AUSA handling the matter, while expressing anger and frustration with the Bureau, the Judge nevertheless granted our Motion to Vacate.

FCI Petersburg - U.S. v. Bong Park, WD PA - On December 21st Chief Judge Ziegler ordered the Bureau of Prisons to immediately release FCI-Petersburg Inmate Bong Park to attend his mother-in-law's funeral in Baltimore, and not be required to report back until a week later on December 28th. The inmate was not furlough eligible due to alienage and pending deportation by INS, and policy does not provide for an escorted funeral trip involving in-laws. After consultation with the Northeast Region, both Regional Directors elected to formally object to the order despite the Court's anticipated reaction. On December 24th, the Judge granted our Motion to Vacate, but not without expressing what was described by the AUSA as "way beyond" being upset.

[REDACTED]

[REDACTED] Legal staff were not consulted and the order was signed without U.S. Attorney agreement.

[REDACTED]

FCI Memphis- A hearing is scheduled for Friday, January 8, in Alfred Lee Mauldin v. Mark Luttrell, et al., which inmate Mauldin filed in the local state Chancery Court.

FCI Manchester - Stevenson v. Pennington Plaintiff alleges abuse by a staff member and that other staff failed to protect him from continuing abuse. The staff member resigned in lieu

Page 5
MXR Monthly Report

of discipline action.

NEW RFRA CASES AND UPDATES ON PREVIOUSLY REPORTED CASES: None

CRIMINAL MATTERS:

FCI Beckley - Christopher Gibson, Reg. No. 28880-037 - This inmate was indicted on December 2, 1998 for Possessing Contraband (Heroin). He was arraigned December 18, 1998, and trial is set for February 3, 1999.

FCI Beckley - Brian Andrews, Reg. No. 04844-030 - This inmate was indicted on December 2, 1998 for Possessing Contraband (Heroin). He was arraigned December 18, 1998, and trial is set for February 9, 1999.

FCI Elkton - Sentencing hearing in United States v. Dumersier is scheduled for January 21, 1999.

FCI Manchester - U.S. v. Clark This case was tried to a jury on December 7, 1998, in London, Kentucky. Defendant was found not guilty of assault upon another inmate and guilty of possession of a prohibited object (a knife).

SITUATION OF INTEREST, CONTACT WITH FEDERAL BENCH, HAZARDOUS WASTE SITES, ETC.:

FCI Butner - The North Carolina Department Of Health and Natural Resources has referred the notice of violation and assesment of fines concerning failure to obtain permits for generators and boilers to the U.S. Environmental Protection Agency EPA). We have been notified of a conference with EPA in Atlanta currently scheduled for January 14, 1999. (We are currently in compliance with all permitting regulations. We are still awaiting comment from the state agency on our remedial efforts.

FCI Petersburg - On December 18, 1998, Warden Stephen M. Dewalt, along with Ken Kepley, SIA, and Milt Williams, Paralegal met with Jim Comey, Chief of Richmond Criminal Division, USAO; Robert Heinzman, Special Agent, Richmond FBI, and Jim Stanton, Supervisory DUSM, Richmond Office, to discuss interagency cooperation and criminal referrals. MR. Comey indicated a willingness to prosecute escapes or walk aways from the camp; and a positive understanding was reached on the types of assaults the USAO would be willing to prosecute. It was a very postive meeting.

PERSONNEL ISSUES

FCI Milan - [REDACTED]

ble



New Litigation Cases by Institution and Type
Received During the Month of December 1998

	ALD	ASH	BEC	BUT*	CUM	ELK	LEX	MAN	MEM	MIL	MRG	PET	SEY	THA	TOT
BIV	0	0	0	0	0	0	1	0	0	0	0	0	0	1	2
FTCA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
HC	0	0	1	0	0	3	0	1	0	1	1	1	0	2	10
OTH	0	0	1	0	0	0	0	0	0	0	0	0	0	0	1
TOT	0	0	2	0	0	3	1	1	0	1	1	1	0	3	13

*Represents both the FCI and LSCI

New Litigation Cases by Institution and Type

Received Calendar Year to Date

	ALD♦	ASH	BEC♦	BUT*	CUM	ELK●	LEX	MAN	MEM	MIL	MRG●	PET	SEY	THA	TOT
BIV	0	1	1	5	4	4	7	1	1	3	2	3	0	7	39
FTCA	1	0	0	1	2	0	2	2	1	3	0	0	0	4	16
HC	3	2	4	5	16	6	2	3	7	10	7	6	1	11	83
OTH	0	0	5	25	2	4	1	1	1	1	0	0	0	2	42
TOT	4	3	10	36	24	14	12	7	10	17	9	9	1	24	180

*BUT represents both the FCI and the LSCI ●Corrected figure (case counted twice) ♦Case counted for BEC should have been ALD.