

05/11/1992 07:11:06 =====

4/92

05-07-1992 STU, PATTY FYI - MIKE P. U.S. 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
# RECEIVED IN MONTH	49	67	115	117
# ANSWERED IN MONTH	48	54	100	107
# PENDING END OF MO	32	45	60	70
# OVER 30 DAYS	0	0	0	0

05/11/1992 07:11:11 =====

TORT CLAIMS (1992) JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

# PENDING ON FIRST	148	159	143	151
# RECEIVED IN MONTH	45	38	54	52
# ANSWERED IN MONTH	34	54	46	61
# PENDING END OF MO	159	143	151	142
# OVER 6 MONTHS	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
# RECEIVED IN MONTH	27	43	61	47
# ANSWERED IN MONTH	34	39	48	51
# PENDING END OF MO	59	63	76	72
# OVER 30 DAYS	44	42	36	47

TORT CLAIM INVESTIGATION STATUS: AS OF 4/30/1992

	ALW	DAN	FAI	LEW	LOR	MCK	NYM	OTV	RBK	SCH
# PENDING	4	12	17	24	7	12	30	24	6	7
# INV OVER 60 DAYS	0	0	0	0	0	0	5	0	0	0

05/11/1992 07:11:17 =====

LITIGATION ACTIVITY, 1992, NORTHEAST REGION

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# CASES OPEN	247	253	259	264								
# NEW CASES RECD	10	11	17	12								
# LIT REP DONE	11	6	11	8								
# CASES CLOSED	12	5	11	7								

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

LITIGATION OF NOTE:

1. PAZIENZA V. PERRILL, 90-CV-18 (APR. 7, 1992) (NDNY)

FIVE HABAES CORPUS CASES WERE CONSOLIDATED SINCE EACH CHALLENGED THE BOP REGULATIONS CONCERNING REFUSAL TO PROVIDE URINE SAMPLE. INMATES WERE AT FCI RAY BROOK AT TIME ACTIONS WERE COMMENCED. CHIEF JUDGE MCCURN

05/11/1992 07:11:22 =====

APPROVED US MAGISTRATE REPORT. THE DECISION DISMISSED THE CONSTITUTIONAL CHALLENGE TO THE URINE TESTING REGULATIONS. THE COURT ALSO UPHELD THE REBUTTABLE PRESUMPTION FOUND AT 28 C.F.R. 550.30(C) THAT AN INMATE IS UNWILLING IF A SAMPLE IS NOT PROVIDED WITHIN THE ALOTTED TIME PERIOD. TH COURT REVIEWED THE DISCIPLINARY RECORD IN EACH OF THE 5 CASES AND GRANTED RELIEF FOR ONE PETITIONER (PAZIENZA) WHO, THE COURT HELD, ADEQUATELY REBUTTED THE PRESUMPTION OF WILLFULNESS THROUGH MEDICAL INFORMATION. AB-SENT THIS PRESUMPTION, THE COURT HELD THAT THERE WAS INSUFFICIENT EVIDENC TO SUPPORT THE FINDING. THE COURT ORDERED EXPUNCTION OF THE SHOT. THE COURT HELD THAT REQUEST FOR RESTORATION OF GOOD TIME WAS MOOTED BY THE PAROLE RELEASE OF PAZIENZA. NO APPEAL IS RECOMMENDED SINCE THE DECISION IS FAVORABLE EXCEPT FOR THIS ONE FACTUAL ISSUE. THE RECORD BEFORE THE DH SHOWED MEDICAL PROBLEMS IN URINATION AND PROVIDES SUPPORT FOR THE COURT'S RULING.

SETTLEMENTS AND AWARDS:

1. BAILEY V. UNITED STATES, CIVIL NO. 90-2065 (WDPA)

FTCA MEDICAL MALPRACTICE CASE OUT OF FCI LORETTO WENT TO TRIAL FROM APRIL 13 THROUGH APRIL 16, 1992 BEFORE JUDGE ZIEGLER. ON APRIL 23, 1992, JUDGE

05/11/1992 07:11:29 =====

FOUND U.S. LIABLE. INMATE SUFFERED HEART ATTACK AT FCI LORETTO. THERE WAS A 12 HOUR DELAY IN REFERRING INMATE TO HOSPITAL. INMATE HAD A STROKE A WEEK LATER AND IS PERMANENTLY DISABLED. COURT AWARDED DAMAGES IN THE AMOUNT OF \$243,000. NO APPEAL RECOMMENDED AS NO GROUNDS TO APPEAL ARE PRESENT. AMOUNT AWARDED WERE HALF WHAT WAS EARLIER ANTICIPATED.

TRAVEL AND LEAVE SCHEDULE FOR MAY 1992:

DAVE ESSIG

TRAVEL - MAY 19-22 OGC STRATEGIC PLANNING, ANNAPOLIS, MD ??
ANNUAL LEAVE-- NONE

HANK SADOWSKI

TRAVEL--NONE
ANNUAL LEAVE--NONE

TERESA HUGHES--ANNUAL LEAVE AND TRAVEL - NONE SCHEDULED

MIKE TAFELSKI

TRAVEL--NONE

ANNUAL LEAVE--PATERNITY LEAVE PROBABLE DURING THE WEEK OF MAY 11.