

11-04-1994

UNITED STATES GOVERNMENT MEMORANDUM

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

1994 JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC
ADMINISTRATIVE REMEDIES

# PENDING ON FIRST	89	80	119	136	111	120	89	86	114	88		
# RECEIVED IN MONTH	83	87	128	119	133	130	124	135	129	150		
# ANSWERED IN MONTH	92	48	111	144	124	161	127	107	155	131		
# PENDING END OF MO	80	119	136	111	120	89	86	114	88	107		
# OVER 30 DAYS	0	27	11	15	12	0	0	0	0	0		

TORT CLAIMS (1994) JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

# PENDING ON FIRST	318	328	373	356	405	389	385	355	330	280		
# RECEIVED IN MONTH	75	76	83	83	70	82	52	83	81	69		
# RECONSID. REC'D	2	0	0	3	0	4	9	6	8	10		
# ANSWERED IN MONTH	67	31	100	37	86	86	91	114	139	76		
# PENDING END OF MO	328	373	356	405	389	385	355	330	280	283		
# OVER 6 MONTHS	0	8	50	61	26	0	0	1	0	0		

PRIVACY (1994) JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

# PENDING ON FIRST	231	244	256	275	284	197	173	155	129	126		
# RECEIVED IN MONTH	24	47	28	33	27	71	31	51	42	44		
# ANSWERED IN MONTH	11	35	8	24	114	95	49	77	45	42		
# PENDING END OF MO	244	256	275	284	197	173	155	129	126	128		
# OVER 30 DAYS	209	211	247	253	161	108	125	81	93	84		

TORT CLAIM INVESTIGATION STATUS: AS OF 10/31/1994

ALW DAN FAI LEW LOR MCK NYM OTV RBK SCH ALF FTD ALP BRN ALM

PENDING	3	8	4	20	2	12	10	5	5	7	9	6	13	0	8
OVER 60 DAYS	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0

LITIGATION ACTIVITY, 1994, NORTHEAST REGION

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# CASES OPEN	304	310	322	332	342	354	367	371	412	424		
# NEW CASES RECD	15	18	25	23	21	28	30	25	51	22		
# LIT REP DONE	11	10	15	13	12	18	16	28	22	25		
# CASES CLOSED	14	12	13	13	11	16	17	21	10	10		
# HABEAS CORPUS	4	7	7	9	5	6	10	11	15	7		
# FTCA	3	1	3	1	2	2	2	1	6	2		
# BIVENS	4	6	7	8	11	15	11	10	19	11		
# OTHER	4	4	6	5	3	5	7	2	11	2		
# BIVENS & FTCA	0	0	2	0	0	0	0	1	0	0		

SETTLEMENTS AND AWARDS:

CRAVEIRO V. LUTHER, CIVIL NO. 93-154 (WDPA)

INMATE JOSEPH CRAVEIRO, 02630-070, FILED A FTCA COMPLAINT ALLEGING THAT HE LOST \$367 IN PROPERTY WHEN AN OFFICER AT FCI MCKEAN ALLOWED ANOTHER INMATE TO ASSIST IN PACKING OF THE PROPERTY. THE CASE COULD NOT BE RESOLVED BY SUMMARY JUDGMENT DUE TO GENUINE ISSUES OF FACT. CASE WAS PROCEEDING TO DISCOVERY AND INMATE REQUESTED DEPOSITIONS OF VARIOUS STAFF. CASE SETTLED FOR \$150 TO AVOID TIME AND COST OF DEPOSITION AND TRIAL.

SIGNIFICANT CASES:

1. ROSARIO V. HORVATITS, CIVIL ACTION NO. 90-80 (WDPA)

INMATE GREGORIO ROSARIO, 16973-038, FILED THIS BIVENS ACTION AGAINST OFFICER HORVATITS ALLEGING EXCESSIVE USE OF FORCE. ROSARIO CLAIMED THAT IN JANUARY 1990 AT FCI MCKEAN, THE OFFICER DRAGGED HIM 75 FEET BY PULLING AND TWISTING HIS HANDCUFFS, RESULTING IN INJURIES TO HIS HANDS AND HEAD. ON JUNE 6, 1990, THE DISTRICT COURT DISMISSED THE COMPLAINT AS FRIVOLOUS WITHOUT A RESPONSE FROM THE GOVERNMENT. ON APPEAL, THE THIRD CIRCUIT REVERSED AND REMANDED THE CASE. THE THIRD CIRCUIT HELD IN AN UNPUBLISHED OPINION THAT THE ALLEGATIONS WERE SUFFICIENT, IF TRUE, TO REQUIRE THE COMPLAINT TO BE SERVED AND AN ANSWER FILED BY THE DEFENDANT.

WE MOVED FOR SUMMARY JUDGMENT, FILING DECLARATIONS ATTESTING THAT THE INMATE HAD REFUSED TO ENTER HIS CELL AND WHEN THE OFFICERS ATTEMPTED TO ESCORT HIM, THE INMATE KICKED OFFICER HORVATITS. HORVATITS AND THE OTHER ESCORTING OFFICER GRABBED THE INMATE AND FORCED HIM TO THE FLOOR. ANOTHER OFFICER ASSISTED TO CONTROL THE INMATE. AFTER STAFF REGAINED CONTROL, A LOCAL EXAMINATION OF THE INMATE REVEALED ONLY A LIGHT BUMP TO HIS HEAD. INMATE OPPOSED THE MOTION FOR SUMMARY JUDGMENT, AND ASSERTED THAT THE FACTS IN THE OFFICER'S DECLARATIONS WERE FALSE. THE COURT DENIED OUR MOTION, FINDING MATERIAL FACTS AT ISSUE. A HEARING HAS BEEN SCHEDULED FOR NOVEMBER 30, 1994.

OUR SENSE IS THAT THE COURT WANTED TO BE SURE TO RESOLVE THIS CASE WITHOUT THE CHANCE OF AN ADDITIONAL REMAND FROM THE THIRD CIRCUIT. OUR EVIDENCE IS SOLID. ASSISTANT REGIONAL COUNSEL JOYCE HORIKAWA WILL ASSIST AT THE HEARING.

2. MAZIARZ V. NYE, CIVIL NO. 94-1468 (EDPA)

THIS CASE HAS BEEN LISTED FOR TRIAL ON NOVEMBER 28-29, 1994.

FORMER INMATE JON MAZIARZ, 90212-038, FILED A BIVENS ACTION AGAINST STAFF AT THE CAMP AT FCI SCHUYLKILL, ALLEGING THAT HE WAS DENIED HIS MEDICATION ON ADMISSION ON FEBRUARY 10, 1994 FOR SERVICE OF HIS 4 MONTH SENTENCE. STAFF PROPERLY CONFISCATED FOUR MEDICATIONS THE INMATE HAD WHEN HE ARRIVED AT THE CAMP. THE INMATE PRESENTED A HISTORY OF ARTHRITIS, DEPRESSION, AND HERNIATED DISKS. ON FEB 14, 1994, THE DOCTOR PERMITTED THE INMATE TO RESUME ONE OF HIS MEDICATIONS, AN ANTI-INFLAMMATORY STEROID. ON FEB 24, THE DOCTOR PERSONALLY EVALUATED THE INMATE AND PLACED HIM BACK ON HIS ANTI-SEIZURE MEDICATION AND SUBSTITUTED A DIFFERENT ANTI-DEPRESSANT. THE DOCTOR DID NOT APPROVE THE LAST MEDICATION (VALIUM) BECAUSE OF ITS ADDICTIVE NATURE.

A MOTION FOR SUMMARY JUDGMENT IS PENDING, NEVERTHELESS, THE COURT HAS PLACED THIS CASE ON ITS TRIAL CALENDAR FOR NOVEMBER 25, 28-29, 1994. HANK SADOWSKI AND SCHUYLKILL PARALEGAL ANGIE BUEGE WILL ASSIST AT TRIAL.

TRAVEL AND LEAVE SCHEDULE

DAVE ESSIG -

TRAVEL--NOVEMBER 14-18 NEW ATTORNEY TRAINING & GENERAL COUNSEL'S MEETING IN AURORA, COLORADO.

ANNUAL LEAVE--NOVEMBER 23, 25

HANK SADOWSKI -

TRAVEL--NOVEMBER 28-29 MAZIARZ TRIAL, ALLENTOWN, PA

ANNUAL LEAVE--NOVEMBER 7-10, 21

JOYCE HORIKAWA -

TRAVEL--NOVEMBER 30 - ROSARIO TRIAL, ERIE, PA

ANNUAL LEAVE--NOVEMBER 25

STEVE WAGNER - PASSED THE BAR IN INDIANA AND WILL BE SWORN IN SOON.

TRAVEL - NOVEMBER 14-18 NEW ATTORNEY TRAINING, DENVER, CO

ANNUAL LEAVE - NOVEMBER 4

RON HILL -

TRAVEL - NONE SCHEDULED

ANNUAL LEAVE - NOVEMBER 25

12-06-1994

UNITED STATES GOVERNMENT MEMORANDUM

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

1994 JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC
ADMINISTRATIVE REMEDIES

# PENDING ON FIRST	89	80	119	136	111	120	89	86	114	88	107
# RECEIVED IN MONTH	83	87	128	119	133	130	124	135	129	150	180
# ANSWERED IN MONTH	92	48	111	144	124	161	127	107	155	131	145
# PENDING END OF MO	80	119	136	111	120	89	86	114	88	107	142
# OVER 30 DAYS	0	27	11	15	12	0	0	0	0	0	0

FORT CLAIMS (1994) JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

# PENDING ON FIRST	318	328	373	356	405	389	385	355	330	280	283
# RECEIVED IN MONTH	75	76	83	83	70	82	52	83	81	69	83
# RECONSID. REC'D	2	0	0	3	0	4	9	6	8	10	15
# ANSWERED IN MONTH	67	31	100	37	86	86	91	114	139	76	79
# PENDING END OF MO	328	373	356	405	389	385	355	330	280	283	302
# OVER 6 MONTHS	0	8	50	61	26	0	0	1	0	0	0

PRIVACY (1994) JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

# PENDING ON FIRST	231	244	256	275	284	197	173	155	129	126	128
# RECEIVED IN MONTH	24	47	28	33	27	71	31	51	42	44	40
# ANSWERED IN MONTH	11	35	8	24	114	95	49	77	45	42	32
# PENDING END OF MO	244	256	275	284	197	173	155	129	126	128	136
# OVER 30 DAYS	209	211	247	253	161	108	125	81	93	84	93

FORT CLAIM INVESTIGATION STATUS: AS OF 11/30/1994

ALW DAN FAI LEW LOR MCK NYM OTV RBK SCH ALF FTD ALP BRN ALM

PENDING	4	3	5	8	3	10	7	4	5	9	7	6	8	0	4
OVER 60 DAYS	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0

LITIGATION ACTIVITY, 1994, NORTHEAST REGION

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# CASES OPEN	304	310	322	332	342	354	367	371	412	424	428	
# NEW CASES RECD	15	18	25	23	21	28	30	25	51	22	21	
# LIT REP DONE	11	10	15	13	12	18	16	28	22	25	27	
# CASES CLOSED	14	12	13	13	11	16	17	21	10	10	17	
# HABEAS CORPUS	4	7	7	9	5	6	10	11	15	7	10	
# FTCA	3	1	3	1	2	2	2	1	6	2	4	
# BIVENS	4	6	7	8	11	15	11	10	19	11	5	
# OTHER	4	4	6	5	3	5	7	2	11	2	2	
# BIVENS & FTCA	0	0	2	0	0	0	0	1	0	0	0	

SETTLEMENTS AND AWARDS: NONE

SIGNIFICANT CASES:

1. ROSARIO V. HORVATITS, CIVIL ACTION NO. 90-80 (WDPA)

THIS CASE WAS DISCUSSED IN LAST MONTH'S REPORT. THIS IS A USE OF FORCE BIVENS CASE FILED BY INMATE GREGORIO ROSARIO, 16973-038. A HEARING WAS SCHEDULED FOR NOVEMBER 30, 1994. INMATE IS NOW IN STATE CUSTODY. THE US MARSHALS DID NOT RECEIVE SUFFICIENT NOTICE TO ENABLE INMATE TO BE BROUGHT TO HEARING. HEARING HAS BEEN POSTPONED UNTIL SPRING.

2. MAZIARZ V. NYE, CIVIL NO. 94-1468 (EDPA)

THIS CASE WAS ALSO DISCUSSED IN LAST MONTH'S REPORT. THIS CASE WAS A BIVENS ACTION FILED BY INMATE JON MAZIARZ, ALLEGING STAFF AT THE CAMP AT FCI SCHUYLKILL DENIED HIM HIS MEDICATION ON ADMISSION. AT A PRETRIAL CONFERENCE WITH THE JUDGE, THE ATTORNEY FOR THE INMATE AGREED TO WITHDRAW THIS COMPLAINT WITHOUT PREJUDICE TO FILE A CLAIM AGAINST THE UNITED STATES UNDER FTCA. (THIS IS WHAT THE AUSA WAS SUGGESTING TO THE ATTORNEY FOR MONTHS.) THE TRIAL WAS CANCELLED AND WE ARE AWAITING RECEIPT OF THE ADMINISTRATIVE TORT CLAIM.

3. OLIVEIRA V. BYERLY, CIVIL NO. 94-1665 (MDPA)

THIS HABEAS PETITION FILED BY INMATE SERGIO OLIVEIRA, 84925-011, RESULTED IN AN ADVERSE DECISION. THE INMATE HAD BEEN UNDER INVESTIGATION FOR MISCONDUCT COMMITTED WITH A STAFF MEMBER. THE INVESTIGATION TOOK A LONG TIME BEFORE CHARGES WERE FILED. THE ANNIVERSARY DATE FOR GOOD CONDUCT TIME ARRIVED AND GCT WAS GIVEN TO THE INMATE. CHARGES WERE FILED THE SAME DAY THE GCT WAS AWARDED. THE DHO FOUND HIM GUILTY AND ORDERED THAT PART OF THE GCT AWARDED FOR THE YEAR IN WHICH THE OFFENSE WAS COMMITTED BE TAKEN. ON NOVEMBER 7, 1994, THE DISTRICT COURT HELD THAT BUREAU POLICY DID NOT PERMIT THE DISALLOWANCE OF GCT ALREADY AWARDED. THE COURT DID NOT REACH THE ISSUE OF WHETHER THE STATUTE, 18 USC 3624(B), PRECLUDED DISALLOWANCE. WE RECOMMEND AGAINST APPEAL AND PROPOSE TO REVISE BUREAU POLICY TO SPECIFICALLY PROVIDE FOR THIS CIRCUMSTANCE. THIS CASE WAS DISCUSSED WITH CENTRAL OFFICE DHA BOBBY LEWIS, WHO IS WORKING ON THE REVISIONS.

4. UNITED STATES V. FIORELLI, CRIMINAL NO. 94-146 (EDPA)

DEFENDANT JOSEPH FIORELLI WAS CONVICTED OF RACKETEERING AND EXTORTION CHARGES RELATING TO UNION ACTIVITIES, AND OF STEALING UNION FUNDS. THE DEFENDANT HAS A 21 YEAR OLD GRANDDAUGHTER WHO SUFFERS FROM CELEBRAL PALSY. THE DEFENDANT ALLEGES THAT HE AND HIS WIFE REMOVE HER EVERY WEEK FROM A PRIVATE HOME AND CARE FOR HER AT THEIR HOME. THE SENTENCING JUDGE IS CONCERNED THAT LONG TERM INCARCERATION WILL IMPACT THE GRANDDAUGHTER AND WANTS TO SENTENCE THE DEFENDANT TO INCARCERATION WITH RELEASE ON WEEKENDS. DEFENDANT IS FACING 10 YEARS. THE AUSA HAS OPPOSED AND ASKED FOR BUREAU ASSISTANCE. A HEARING IS SCHEDULED FOR DECEMBER 6, 1994. HANK SADOWSKI IS ASSISTING THE AUSA.

5. BILGRAMI V. TURNER, CIVIL NO 93-1223 (MDPA)

ON NOVEMBER 18, 1994, THE DISTRICT COURT ORDERED THE BUREAU TO AFFORD PRIOR CUSTODY CREDIT OF 621 DAYS TO AKBAR BILGRAMI, 08830-018. BILGRAMI WAS A DEFENDANT IN THE BCCI CASE. HE REQUESTED CREDIT FOR TIME SPENT ON BAIL RELEASE IN AN APARTMENT WITH ELECTRONIC MONITORING. OFF-DUTY POLICE

OFFICERS, AT BCCI EXPENSE, PROVIDED AROUND THE CLOCK SECURITY. THE COURT APPLIED THE NEW DECISION ON KORAY V. SIZER AND HELD THAT THIS AMOUNTED TO CONDITIONS APPROXIMATING JAIL TYPE CONDITIONS. THE BUREAU HAS GRANTED CREDIT RESERVING THE RIGHT TO VOID THE CREDIT IF THE ORDER IS VACATED AND WILL PROBABLY BE DEPORTED. THE CASE HAD BEEN REMANDED FROM THE THIRD CIRCUIT COURT OF APPEALS. THE AUSA HAS REQUESTED A STAY OF PROCEEDINGS BEFORE THE COURT OF APPEALS PENDING RESOLUTION OF THE KORAY CASE, WHICH IS BEFORE THE SUPREME COURT ON A PETITION FOR CERTIORARI.

TRAVEL AND LEAVE SCHEDULE

DAVE ESSIG -

TRAVEL--DECEMBER 5-14 DHO TRAINING, AURORA, COLO

ANNUAL LEAVE--DECEMBER 19-23

HANK SADOWSKI -

TRAVEL--DECEMBER 7 FCI FORT DIX, ASSIST AT SENTENCE COMP TRAINING

ANNUAL LEAVE--DECEMBER 27-30

JOYCE HORIKAWA -

TRAVEL--DECEMBER 6-8 USP LEWISBURG, AFTER ACTION WORK FORCE ON ATTEMPTED ESCAPE

ANNUAL LEAVE--NONE SCHEDULED

STEVE WAGNER -

TRAVEL - DECEMBER 6-8 FCI FORT DIX - SENTENCE COMP TRAINING

ANNUAL LEAVE - DECEMBER 22-23

RON HILL -

TRAVEL - NONE SCHEDULED

ANNUAL LEAVE - DECEMBER 23, 27, 29-30

01-05-1995

Joyce Z.

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

1994 JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC
ADMINISTRATIVE REMEDIES

# PENDING ON FIRST	89	80	119	136	111	120	89	86	114	88	107	142
# RECEIVED IN MONTH	83	87	128	119	133	130	124	135	129	150	180	113
# ANSWERED IN MONTH	92	48	111	144	124	161	127	107	155	131	145	206
# PENDING END OF MO	80	119	136	111	120	89	86	114	88	107	142	49
# OVER 30 DAYS	0	27	11	15	12	0	0	0	0	0	0	0

TORT CLAIMS (1994) JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

# PENDING ON FIRST	318	328	373	356	405	389	385	355	330	280	283	302
# RECEIVED IN MONTH	75	76	83	83	70	82	52	83	81	69	83	56
# RECONSID. REC'D	2	0	0	3	0	4	9	6	8	10	15	8
# ANSWERED IN MONTH	67	31	100	37	86	86	91	114	139	76	79	74
# PENDING END OF MO	328	373	356	405	389	385	355	330	280	283	302	292
# OVER 6 MONTHS	0	8	50	61	26	0	0	1	0	0	0	0

FOI/PRIVACY (1994) JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

# PENDING ON FIRST	231	244	256	275	284	197	173	155	129	126	128	136
# RECEIVED IN MONTH	24	47	28	33	27	71	31	51	42	44	40	31
# ANSWERED IN MONTH	11	35	8	24	114	95	49	77	45	42	32	37
# PENDING END OF MO	244	256	275	284	197	173	155	129	126	128	136	130
# OVER 30 DAYS	209	211	247	253	161	108	125	81	93	84	93	95

TORT CLAIM INVESTIGATION STATUS: AS OF 12/31/1994

ALW DAN FAI LEW LOR MCK NYM OTV RBK SCH ALF FTD ALP BRN ALM

PENDING	3	12	7	15	4	18	4	7	7	15	7	10	11	3	8
OVER 60 DAYS	0	0	0	0	1	0	0	0	1	0	3	0	2	0	1

LITIGATION ACTIVITY, 1994, NORTHEAST REGION

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# CASES OPEN	304	310	322	332	342	354	367	371	412	424	428	432
# NEW CASES RECD	15	18	25	23	21	28	30	25	51	22	21	25
# LIT REP DONE	11	10	15	13	12	18	16	28	22	25	27	21
# CASES CLOSED	14	12	13	13	11	16	17	21	10	10	17	21
# HABEAS CORPUS	4	7	7	9	5	6	10	11	15	7	10	7
# FTCA	3	1	3	1	2	2	2	1	6	2	4	4
# BIVENS	4	6	7	8	11	15	11	10	19	11	5	9
# OTHER	4	4	6	5	3	5	7	2	11	2	2	5
# BIVENS & FTCA	0	0	2	0	0	0	0	1	0	0	0	0

SETTLEMENTS AND AWARDS: NONE

SIGNIFICANT CASES:

GILHOOLY V. HAWK, (NO CIVIL NUMBER ASSIGNED) (EDNY)

INMATE EDWARD GILHOOLY, 29645-053, AN INMATE AT FMC ROCHESTER, FILED A MOTION WITH HIS SENTENCING JUDGE (JUDGE WEXLER) REQUESTING THE COURT ORDER THE DIRECTOR TO FILE A MOTION FOR COMPASSIONATE RELEASE UNDER 18 USC 3582. GILHOOLY ALSO REQUESTED THE COURT TO ORDER HIM RELEASED ON FURLOUGH SO HE CAN RECEIVE PRIVATE MEDICAL CARE AT HIS EXPENSE. GILHOOLY WAS FOUND TO HAVE CANCER AND WILL PROBABLY REQUIRE REMOVAL OF HIS LARYNX. JUDGE WEXLER GAVE THE AUSA 48 HOURS TO RESPOND AND SCHEDULED A HEARING FOR DECEMBER 22, 1994. A REQUEST FOR A MOTION FOR COMPASSIONATE RELEASE WAS DENIED BY THE WARDEN AND BY THE REGIONAL DIRECTOR IN NCRO. THE REQUEST WAS YET TO BE SUBMITTED TO THE GENERAL COUNSEL. WE CHALLENGED THE JURISDICTION OF THE COURT TO ENTERTAIN THE MOTIONS AND AT THE SAME TIME, SET FORTH IN A SHORT DECLARATION FROM FMC ROCHESTER, GILHOOLY'S PRESENT MEDICAL STATUS. THE COURT HELD FROM THE BENCH THAT HE DID NOT HAVE JURISDICTION TO GRANT THE RELIEF REQUESTED. THIS WAS ESPECIALLY SATISFYING SINCE THE SAME JUDGE HAD ISSUED TWO PRIOR ORDERS RELEASING OTHER INMATES FOR THE PURPOSE OF RECEIVING PRIVATE MEDICAL CARE. GILHOOLY'S ATTORNEY SAID THEY WILL APPEAL.

2. STANKIWICZ V. BOP, CIVIL NO. 94-2-24; CRIM. NO. 93-171 (WDPA)

INMATE STANLEY STANKIWICZ, 04956-068, BROUGHT THIS HABEAS PETITION BEFORE THE SENTENCING JUDGE (JUDGE MCCUNE), CHALLENGING THE DECISION OF THE CCM TO REMOVE HIM FROM A CCC AND PLACE HIM AT FCI MORGANTOWN. THE INMATE WAS A DIRECT COURT COMMITMENT SERVING A 12 MONTH SENTENCE AT THE CCC. HE WAS FOUND GUILTY OF VIOLATING A CONDITION OF A COMMUNITY PROGRAM - HE WAS AT A LOCATION WHICH WAS NOT AUTHORIZED BY HIS WORK RELEASE PASS. THE CCM ORDERED HIM REMOVED FROM THE CCC. PETITIONER WAS TAKEN TO FCI MORGANTOWN. SENTENCING JUDGE ORDERED A HEARING ON THE PETITION FOR DECEMBER 22, 1994. THE COURT ASKED THE AUSA TO TRY TO GET THE INMATE RETURNED TO THE CCC. THE ACTING CCM ADVISED THAT HE FELT THAT THE INMATE WAS SANCTIONED SUFFICIENTLY AND THE CCM WAS WILLING TO ACCEPT HIM BACK. THE CCM ARRANGED FOR THE INMATE TO RETURN TO THE CCC EFFECTIVE DECEMBER 23, 1994. THIS EFFECTIVELY MOOTED THE PETITION.

3. MERUELO V. LAMER, CIVIL NO. 94-1822 (MDPA)

INMATE HOMERO MERUELO, 27893-048, THROUGH HIS ATTORNEY, FILED A HABEAS CORPUS ACTION CHALLENGING ACTIONS AGAINST HIM AT THE INTENSIVE CONFINEMENT CENTER, LEWISBURG. THE INMATE HAD REPORTED FOR HIS CLASS ONE DAY AFTER A & O WAS COMPLETED AND WAS PLACED IN THE NEXT CLASS, TWO MONTHS LATER. AFTER STARTING HIS CLASS, HE HAD BEEN FOUND GUILTY BY THE UDC OF LYING TO STAFF. THE UDC ORDERED HIM MOVED TO THE NEXT CLASS AT THE ICC. HIS ATTORNEY FILED THIS HABEAS ACTION CHALLENGING EACH OF THESE DECISIONS. MAGISTRATE JUDGE SMYSER GRANTED THE ATTORNEY'S REQUEST FOR A HEARING, PRESENTLY SCHEDULED FOR JANUARY 6, 1995. *Magist Judge rec'd dismissal*

ON DECEMBER 20, 1994, THE INMATE RECEIVED ANOTHER INCIDENT REPORT FOR LYING TO STAFF AND MISUSE OF THE TELEPHONE. THE UDC FOUND HIM GUILTY AND THE ICC ADMINISTRATOR REMOVED HIM FROM THE ICC PROGRAM. THE ATTORNEY HAS AMENDED HIS PETITION, CHALLENGING THE UDC ACTION AND ALLEGING THE INCIDENT REPORT WAS RETALIATORY. USP LEWISBURG ATTORNEY MIKE SULLIVAN IS ASSISTING THE AUSA AT THE HEARING.

NERO

4. CONNELL V. HOLLAND, CIVIL NO. 94-1170 (MDPA)

INMATE TIMOTHY CONNELL, 02819-050, NOW AT USP ALLENWOOD, FILED A PETITION FOR HABEAS CORPUS REQUESTING EXTRA GOOD TIME CREDIT UNDER REPEALED 18 USC 3602 FOR WORK HE PERFORMED IN STATE CUSTODY. CONNELL WAS SERVING CURRENT FEDERAL AND STATE SENTENCES IN STATE INSTITUTION IN NEW JERSEY. CONNELL'S FEDERAL CONCURRRENT 25 YEAR SENTENCE COMMENCED IN JUNE 1983. HE COMPLETED HIS NEW JERSEY STATE SENTENCE IN OCTOBER 1993 AND HE WAS DESIGNATED TO USP ALLENWOOD. THE REGIONAL INMATE SYSTEMS ADMINISTRATOR DECIDED TO GIVE PETITIONER EXTRA GOOD TIME FOR THE PERIOD FROM NOVEMBER 1989 THROUGH OCTOBER 1993. INFORMATION FROM THE STATE OF NEW JERSEY HAD BEEN RECEIVED SHOWING THAT THE INMATE HAD WORKED IN THAT TIME PERIOD. THE INMATE FILED THIS PETITION TO REQUEST THE COURT TO ORDER ADDITIONAL EXTRA GOOD TIME FOR THE PERIOD FROM JUNE 1983 THROUGH NOVEMBER 1989. WE HAVE BEEN UNABLE TO OBTAIN FROM THE STATE OF NEW JERSEY ANY ADDITIONAL WORK INFORMATION PRIOR TO NOVEMBER 1989. MAGISTRATE JUDGE SMYSER ORDERED A HEARING, SUGGESTING HE WANTED A CLARIFICATION OF THE SENTENCE COMPUTATION. THE HEARING IS SCHEDULED FOR JANUARY 13, 1995. ALLENWOOD COMPLEX ATTORNEY HOPE MORO IS ASSISTING THE AUSA. SINCE HANK SADOWSKI ATTEMPTED TO OBTAIN ADDITIONAL INFORMATION FROM NEW JERSEY, HANK WILL ATTEND THE HEARING AS A FACT WITNESS.

TRAVEL AND LEAVE SCHEDULE

DAVE ESSIG -

TRAVEL--JANUARY 9-13 -- DOJ MED MALPRACTICE SEMINAR, SAN ANTONIO, TX
JANUARY 25-28 -- INTERACTIVE VIDEO WORK GROUP, AURORA, COLO

ANNUAL LEAVE--NONE SCHEDULED

HANK SADOWSKI -

TRAVEL--JANUARY 13 - CONNELL HEARING, HARRISBURG, PA

ANNUAL LEAVE--NONE SCHEDULED

JOYCE HORIKAWA -

TRAVEL--NONE SCHEDULED

ANNUAL LEAVE--NONE SCHEDULED

STEVE WAGNER -

TRAVEL - JANUARY 17-FEBRUARY 3 -- GLYNCO

ANNUAL LEAVE - NONE SCHEDULED

RON HILL -

TRAVEL - NONE SCHEDULED

ANNUAL LEAVE - JANUARY 3-4