



**United States Government  
Memorandum**

**Date:** December 9, 1994  
**Reply to Attn. of:** Sherree L. Sturgis, Regional Counsel  
Southeast Region, Bureau of Prisons  
**Subject:** November, 1994 SER Litigation  
**To:** SER CEOs, Regional Administrators  
Institution Paralegals and Attorneys  
Wallace H. Cheney, General Counsel  
Joyce Zoldak, Associate General Counsel

**New Cases**

**1. RICHARD LEE LEWIS v. S. BEAMER**

*Court:* NORTHERN DISTRICT OF GEORGIA  
*Docket No.:* 1:94-CV-2343-ODE  
*Institution:* USP, Atlanta  
*Type of Case:* Personal Liability Action (Bivens)  
*Subject:* INMATE DISCIPLINE AD DETENTION  
*Facts Alleged:* Inmate at ATL in 1994 alleges that he was placed in segregation arbitrarily.  
*Damages Req:* \$40,000; *Special Monitoring:* 0, Not assigned to special monitoring; **SERO: Regional office staff are not alleged to be involved in this case.**  
*Rec'd in Legal:* November 30, 1994; *Due:* -1994  
*Assigned to:* Curtis E. Anderson; Assistant U.S. Attorney, Chief, Civil Division, Atlanta, GA; Mike Bredenberg, Staff Counsel, USP, Atlanta

**2. ROOSEVELT BURGESS, III v. U.S. MARSHALS**

*Court:* NORTHERN DISTRICT OF GEORGIA  
*Docket No.:* 1:94-CV-1880-MHS  
*Institution:* USP, Atlanta  
*Type of Case:* Personal Liability Action (Bivens)  
*Subject:* ASSAULTS  
*Facts Alleged:* Pre-trial detainee alleges that he was assaulted while at ATL in 1994 for a psychiatric examination. Alleges staff and inmates were using drugs.  
*Damages Req:* unspecified; *Special Monitoring:* ID14, Case management may be a problem; **SERO: Regional office staff are not alleged to be involved in this case.**  
*Rec'd in Legal:* November 30, 1994; *Due:* 12-14-1994  
*Assigned to:* Jane W. Swift; Assistant U.S. Attorney, Atlanta, GA; Mike Bredenberg, Staff Counsel, USP, Atlanta

**3. MANUEL HERNANDEZ v. FEDERAL BUREAU OF PRISONS, et al**

*Court:* EASTERN DISTRICT OF TEXAS  
*Docket No.:* 5:94-CV-099  
*Institution:* FCI, Texarkana  
*Type of Case:* Habeas Corpus  
*Subject:* CLASSIFICATION DISCRIMINATION - INMATE  
*Facts Alleged:* Inmate at TEX in 1994 alleges that he was designated out of the Southeast region because of his Cuban nationality.  
*Damages Req:* 0; *Special Monitoring:* 0, Not assigned to special monitoring; **SERO: Regional office staff are not alleged to be involved in this case.**  
*Rec'd in Legal:* November 30, 1994; *Due:* -1994  
*Assigned to:* Ruth Yeager; United States Attorney, Beaumont, TX; Ken Hyle, Attorney/Advisor, SERO

**4. RONALD GREEN v. UNITED STATES**

*Court:* EASTERN DISTRICT OF PENNSYLVANIA  
*Docket No.:* 94-CV-5706  
*Institution:* USP, Atlanta  
*Type of Case:* Federal Tort Claims Act (FTCA)  
*Subject:* ASSAULTS  
*Facts Alleged:* Inmate at ATL in 1992 alleges he was assaulted as a result of BOP negligence because he was housed in the same cell as an inmate with a history of sexual assault.  
*Damages Req:* unspecified; *Special Monitoring:* 0, Not assigned to special monitoring; **SERO: Regional office staff are not alleged to be involved in this case.**  
*Rec'd in Legal:* November 30, 1994; *Due:* 12-21-1994  
*Assigned to:* Michael R. Stiles; U.S. Attorney, Philadelphia, PA; Mike Bredenberg, Staff Counsel, USP, Atlanta

**5. SELBIE MCNAIR-BEY v. FEDERAL BUREAU OF PRISONS, et al**

*Court:* SOUTHERN DISTRICT OF FLORIDA  
*Docket No.:* 94-1979-CIV-GRAHAM  
*Institution:* MCC, Miami  
*Type of Case:* Federal Tort Claims Act (FTCA)  
*Subject:* PROPERTY  
*Facts Alleged:* Inmate at MIA in 1994 alleges that his property was misplaced as a result of being placed in SHU.  
*Damages Req:* \$244.10; *Special Monitoring:* 0, Not assigned to special monitoring; **SERO: Regional office staff are alleged to be involved in this case.**  
*Rec'd in Legal:* November 30, 1994; *Due:* 12-28-1994  
*Assigned to:* Peter Outerbridge; Assistant U.S. Attorney, Miami, FL; Michael Pybas, Senior Attorney Advisor, FDC, MCC, Miami

LITIGATION DIVISION

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OFFICE OF GENERAL COUNSEL  
BUREAU OF PRISONS



**6. GERARDO PEREZ v. BUREAU OF PRISONS, et al**

*Court:* NORTHERN DISTRICT OF FLORIDA

*Docket No.:* 94-40493-MP

*Institution:* FCI, Tallahassee

*Type of Case:* Habeas Corpus

*Subject:* INMATE DISCIPLINE

*Facts Alleged:* TAL inmate TAL in 1994 alleges his due process rights were violated as a result of a disciplinary action for escape. The charge is vague and overbroad.

*Damages Req:* 0; *Special Monitoring:* 0, Not assigned to special monitoring; *SERO:* Regional office staff are not alleged to be involved in this case.

*Rec'd in Legal:* November 30, 1994; *Due:* 01-12-1995

*Assigned to:* Audry A. Butler; Assistant U.S. Attorney, Tallahassee, FL; Dan Rouse, Paralegal Specialist, FCI, Tallahassee

**7. JAIME CARDONA v. J. L. SIVLEY**

*Court:* NORTHERN DISTRICT OF ALABAMA

*Docket No.:* CV-94-HM-2086-E

*Institution:* FCI, Talladega

*Type of Case:* Habeas Corpus

*Subject:* FINES

*Facts Alleged:* Inmate at TDG in 1994 alleges that the BOP has imposed a fine on him in violation of his underlying sentence because the FFLS failed to impose the fine.

*Damages Req:* 0; *Special Monitoring:* 0, Not assigned to special monitoring; *SERO:* Regional office staff are not alleged to be involved in this case.

*Rec'd in Legal:* November 30, 1994; *Due:* 10-26-1994

*Assigned to:* Winfield J. Sinclair; Assistant U.S. Attorney, Birmingham, AL; Kathleen Kenney, Attorney Advisor, FCI, Talladega

**8. JOSEPH J. SCHEPIS, JR. v. FRED STOCK**

*Court:* NORTHERN DISTRICT OF GEORGIA

*Docket No.:* 1:94-CV-2805-RCF

*Institution:* USP, Atlanta

*Type of Case:* Habeas Corpus

*Subject:* AD DETENTION

*Facts Alleged:* Inmate at ATL in 1994 alleges that he was placed in segregation without a proper hearing. The BOP plans to transfer him for no reason.

*Damages Req:* 0; *Special Monitoring:* 0, Not assigned to special monitoring; *SERO:* Regional office staff are not alleged to be involved in this case.

*Rec'd in Legal:* November 30, 1994; *Due:* NONE, NO SHOW CAUSE

*Assigned to:* Curtis E. Anderson; Assistant U.S. Attorney, Chief, Civil Division, Atlanta, GA; Mike Bredenberg, Staff Counsel, USP, Atlanta

**9. WILLIAM ROGER BOONE v. FEDERAL BUREAU OF PRISONS**

*Court:* SOUTHERN DISTRICT OF FLORIDA

*Docket No.:* 94-2182-CIV-WDF

*Institution:* MCC, Miami

*Type of Case:* Habeas Corpus

*Subject:* SENTENCING

*Facts Alleged:* Inmate at MIA in 1994 alleges that the Bureau is not computing his sentence correctly after his parole was revoked.

*Damages Req:* 0; *Special Monitoring:* 0, Not assigned to special monitoring; *SERO:* Regional office staff are not alleged to be involved in this case.

*Rec'd in Legal:* November 30, 1994; *Due:* 11-15-1994

*Assigned to:* Robyn J. Hermann; Assistant U.S. Attorney, Deputy Chief, Civil Division, Miami, FL; Michael Pybas, Senior Attorney Advisor, FDC, MCC, Miami

**10. SELBIE MCNAIR-BEY v. BUREAU OF PRISONS et al**

*Court:* SOUTHERN DISTRICT OF FLORIDA

*Docket No.:* 94-2044-CIV-UNGARO-BENAGES

*Institution:* MCC, Miami

*Type of Case:* Personal Liability Action (Bivens)

*Subject:* MEDICAL TREATMENT

*Facts Alleged:* Inmate at MIA in 1994 alleges that he has not received adequate medical treatment for a foot problem.

*Damages Req:* \$15,000,000; *Special Monitoring:* 0, Not assigned to special monitoring; *SERO:* Regional office staff are not alleged to be involved in this case.

*Rec'd in Legal:* November 30, 1994; *Due:* 12-28-1994

*Assigned to:* Robyn J. Hermann; Assistant U.S. Attorney, Deputy Chief, Civil Division, Miami, FL; Michael Pybas, Senior Attorney Advisor, FDC, MCC, Miami

## Significant Activity on Existing Cases

**ANTHONY EUGENE CASH v. JOSEPH P. CLASS, et al**

*Court:* NORTHERN DISTRICT OF FLORIDA

*Docket No.:* MCA 92-50199/RV; *Type of Case:* Personal Liability Action (Bivens); *Damages Req:* \$200,000

*Subject:* RELIGION *Institution:* FCI, Marianna

*Facts Alleged:* Hebrew Israelite inmate at MNA in 1992 alleges that he has not been allowed to use the institutional chapel for his religious worship.

*Special Monitoring:* 0, Not assigned to special monitoring

*Date Case Filed:* 04-27-1993

*Significant Activity:* 11-30-1994 Appeal to Eleventh Circuit 94-3296.



**TIMOTHY CLARK v. ROGER F. SCOTT, et al**

**Court:** NORTHERN DISTRICT OF ALABAMA  
**Docket No.:** CV 92-B-1414; **Type of Case:** Personal Liability Action (Bivens); **Damages Req:** \$200,000.00  
**Subject:** MEDICAL TREATMENT **Institution:** FCI, Talladega

**Facts Alleged:** TDG inmate claims he fell on greasy floor while working in food service on 03-13-1992 and was not given appropriate medical care.

**Special Monitoring:** 0, Not assigned to special monitoring

**Date Case Filed:** 06-19-1992

**Significant Activity:** Order adopts magistrate's report, dismisses case. 09-01-1994 The magistrate's report recommends dismissal because at most the plaintiff alleges negligence. Individuals cannot be sued in a civil rights action under the theory of respondeat superior. The court mentions, but does not address the defense that the Demko process provides the exclusive remedy in this situation.

**UNITED STATES v. AUGUSTO GUILLERMO FALCON, et al**

**Court:** SOUTHERN DISTRICT OF FLORIDA  
**Docket No.:** 91-6060-CR-MORENO; **Type of Case:** Habeas Corpus; **Damages Req:** 0

**Subject:** ACCESS TO COURTS **Institution:** MCC, Miami

**Facts Alleged:** Inmates at ATL, MIA and a county jail alleges that their access to the courts and their counsel has been hampered by conditions of custody imposed by BOP. This challenge was made via motion filed in their criminal case.

**Special Monitoring:** 0, Not assigned to special monitoring  
**Date Case Filed:** 07-07-1993

**Significant Activity:** 11-23-1994 Magistrate's report recommends denial of motion to dismiss criminal charges because of the long assignment to SHU.

**UNITED STATES v. ROBERT LEE FIELDS, JR.**

**Court:** SOUTHERN DISTRICT OF FLORIDA  
**Docket No.:** 89-8069-CR-ZLOCH; **Type of Case:** Habeas Corpus; **Damages Req:** 0

**Subject:** SENTENCING **Institution:** FCI, Talladega

**Facts Alleged:** Court orders BOP to credit inmate with time spent in a residential treatment center.

**Special Monitoring:** 0, Not assigned to special monitoring

**Date Case Filed:** 01-19-1993

**Significant Activity:** 10-25-1993 Order dismisses case.

**BRETT FENSTER v. HARRY K. SINGLETARY, et al**

**Court:** SOUTHERN DISTRICT OF FLORIDA  
**Docket No.:** 93-1851-CIV-KEHOE; **Type of Case:** Personal Liability Action (Bivens); **Damages Req:** \$22,005,000  
**Subject:** CORRESPONDENCE, ACCESS TO COURTS, LAW LIBRARIES **Institution:** MCC, Miami

**Facts Alleged:** Inmate at MIA in 1993 alleges that while in state detention center, his legal mail was confiscated, the law library was inadequate, he was not allowed to communicate openly with this attorney, and his legal mail was opened.

**Special Monitoring:** 0, Not assigned to special monitoring

**Date Case Filed:** 11-15-1993

**Significant Activity:** 10-19-1994 BOP defendants dismissed.

**VICTOR GONZALEZ v. FRED STOCK, et al**

**Court:** NORTHERN DISTRICT OF GEORGIA  
**Docket No.:** 1:92-CV-1300-JTC; **Type of Case:** Personal Liability Action (Bivens); **Damages Req:** \$150,001  
**Subject:** AD DETENTION **Institution:** USP, Atlanta

**Facts Alleged:** Inmate at ATL in 1993 alleges that he was found guilty of conduct which disrupts, based on information in a memo instead of that in the incident report.

**Special Monitoring:** 0, Not assigned to special monitoring

**Date Case Filed:** 06-02-1993

**Significant Activity:** 11-18-1994 Order dismisses case for failure to effect proper service.

 **KENNETH LINN v. ROBERT MATTHEWS**  
**Court:** NORTHERN DISTRICT OF GEORGIA

**Docket No.:** 1:91-CV-1277-ODE; **Type of Case:** Habeas Corpus; **Damages Req:** 0  
**Subject:** TRANSFERS **Institution:** USP, Atlanta  
**Facts Alleged:** Claims transfer from to MNA to ERE in 1991 in retaliation for cooperation with internal investigation of staff misconduct.

**Special Monitoring:** ID12, Case management may be a problem, Less than 72 hours response time.

**Date Case Filed:** 06-03-1991

**Significant Activity:** 10-19-1994 Order dismisses case as moot because the inmate no longer desired a transfer.



**HERBERT LOUIS MILLER v. DARLEEN MCCLUNG, et al**

*Court:* NORTHERN DISTRICT OF ALABAMA

*Docket No.:* CV-93-HM-0431-NE; *Type of Case:* Personal Liability Action (Bivens); *Damages Req:* \$5000

*Subject:* INMATE DISCIPLINE, ACCESS TO COURTS  
*Institution:* Southeast Region

*Facts Alleged:* Inmate presently detained in local jail was housed at a half-way house in 1993 and states he was disciplined based on false information. He also alleges that his legal materials were confiscated which hampers his pursuit of a pending action, CV 92-7107.

*Special Monitoring:* 0, Not assigned to special monitoring

*Date Case Filed:* 03-05-1993

*Significant Activity:* 09-23-1994 Order adopts magistrate's report, dismisses case. 09-01-1994 The magistrate's report recommends dismissal for failure to state constitutional claims.



**CHARLIE WADE POWELL v. RICHARD C. ERWIN, et al**

*Court:* MIDDLE DISTRICT OF NORTH CAROLINA

*Docket No.:* 6:90CV00171; *Type of Case:* Personal Liability Action (Bivens); *Damages Req:* \$150,000,000

*Subject:* MEDICAL TREATMENT *Institution:* FCI, Talladega

*Facts Alleged:* Assaulted by police during arrest in 1988. Criminal trial judge was prejudiced. Transferred from county jail to BUT in 1989 for evaluation. Unidentified staff at BUT administered involuntary injection which caused infectious disease. USM transported him to TDG in 1989 where he was housed in segregation and refused medication. He was returned to BUT in 1989.

*Special Monitoring:* ID11, Case management may be a problem, Numerous institutions involved

*Date Case Filed:* 04-02-1990

*Significant Activity:* 10-28-1994 Order adopts magistrate's report, dismisses case. 09-22-1994 The magistrate's report recommends dismissal for failure to allege sufficient personal involvement by the defendants. Notice of appeal filed.

**JAMES VERNON SELLERS v. G. E. HURST**

*Court:* NORTHERN DISTRICT OF FLORIDA

*Docket No.:* MCA 94-50155/RV; *Type of Case:* Habeas Corpus; *Damages Req:* 0

*Subject:* SENTENCING, TRANSFERS, CONDITIONS OF CONFINEMENT *Institution:* FCI, Marianna

*Facts Alleged:* Inmate at MNA in 1994 alleges that he was arbitrarily transferred which resulted in loss of good time credit, loss of job in UNICOR, loss of pay grade increase, loss of educational opportunities, and poor conditions of confinement.

*Special Monitoring:* 0, Not assigned to special monitoring

*Date Case Filed:* 07-18-1994

*Significant Activity:* 10-24-1994 Order adopts magistrate's report, dismisses case. 09-28-1994 The magistrate's report recommends dismissal.

**MICHAEL HENRY SMITH v. J. MICHAEL QUINLAN, et al**

*Court:* NORTHERN DISTRICT OF ALABAMA

*Docket No.:* 93-PT-0533-E; *Type of Case:* Personal Liability Action (Bivens); *Damages Req:* \$3000

*Subject:* FOI-PRIVACY *Institution:* FCI, Talladega

*Facts Alleged:* TDG inmate claims requiring IFRP payments is extortion because withholding eligibility for benefits. Information placed in his central file should be removed and the defendants refused to do so.

*Special Monitoring:* 0, Not assigned to special monitoring

*Date Case Filed:* 03-19-1993

*Significant Activity:* 07-27-1994 Appeal to Eleventh Circuit, 94-6694. 02-28-1994 Order adopts 02-09-1994 magistrate's report, dismisses case. 10-26-1994 Appeal dismissed.

**MARVIN YIZAR v. WARDEN R. HONSTED, et al**

*Court:* SOUTHERN DISTRICT OF GEORGIA

*Docket No.:* CV 292-166; *Type of Case:* Personal Liability Action (Bivens); *Damages Req:* \$4,000,212.25

*Subject:* MEDICAL TREATMENT *Institution:* FCI, Jesup

*Facts Alleged:* Inmate formerly at JES complains about housing conditions in ATL in 1990. He also complains about the medical treatment at ASH in 1990 for injury from a fall. Medical condition was not properly treated at JES. He claims a staff member at JES stole money from him and his good time credit was cancelled at JES. He also complains that JES staff has interfered with his mail. Lastly he alleges that the U. S. Marshalls stole some of property during transport to ATL in 1990.

*Special Monitoring:* 0, Not assigned to special monitoring

*Date Case Filed:* 10-14-1992

*Significant Activity:* 10-17-1994 Order denies motion to supplement record, dismisses case.