

UNITED STATES GOVERNMENT
memorandum

Date: November 5, 2001

Reply to Sherree L. Sturgis, Regional Counsel, Southeast Region
Attn of: Federal Bureau of Prisons, Atlanta, GA 30331

Subject: Monthly Report - October 2001

To: Christopher Erlewine, Assistant Director/General Counsel
Federal Bureau of Prisons
Washington, D.C. 20534

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Tort Claims - 2001

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1 st | 155 | 138 | 140 | 105 | 113 | 112 | 136 | 146 | 166 | 147 | | |
| Rec'd in month | 35 | 21 | 30 | 40 | 32 | 54 | 50 | 60 | 51 | 55 | | |
| Recons. rec'd | 4 | 2 | 1 | 0 | 1 | 3 | 1 | 3 | 2 | 0 | | |
| Ans'd in month | 62 | 38 | 50 | 61 | 64 | 55 | 42 | 45 | 64 | 91 | | |
| Pending at end | 138 | 140 | 105 | 113 | 112 | 136 | 146 | 162 | 151 | 133 | | |
| Over 180 days | 28 | 54 | 10 | 9 | 9 | 9* | 17* | 15* | 20* | 16* | | |

* OIA Referrals -7

Pending Settlement, Settlement Authority, OQM and/or AFIP Referral-6
from Inst.-3

Pending Info

B. Tort Claim Investigation Status: As of November 1, 2001

| | ATL | COL | EDG | EG L | EST | GUA | JES | MIA | MIM | MNA | MON | PE N | TAL | TDG | YAZ | SEO |
|-------------|-----|-----|-----|---------|-----|-----|-----|-----|-----|-----|-----|---------|-----|-----|-----|-----|
| PENDING | 57 | 6 | 6 | 2 | 2 | 11 | 8 | 8 | 2 | 4 | 3 | 1 | 3 | 3 | 4 | 13 |
| >60 DAYS | 15 | 0 | 0 | 0 | 0 | 0 | 3 | 3 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 7 |

C. FOI/Privacy Act Requests - 2001

SER Monthly Report -October 2001

Page 2

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1 st | 6 | 21 | 23 | 29 | 25 | 17 | 19 | 20 | 15 | 30 | 19 | |
| Rec'd in month | 29 | 37 | 39 | 25 | 28 | 28 | 32 | 31 | 35 | 32 | | |
| Ans'd in month | 19 | 33 | 29 | 31 | 37 | 37 | 31 | 37 | 20 | 49 | | |
| Pending at end | 21 | 23 | 29 | 25 | 17 | 17 | 20 | 15 | 30 | 19 | | |
| Over 30 days | 0 | 0 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 1* | | |

D. FOIA Requests for records: As of October 2001

| | ATL | COL | EGL | EST | GUA | JES | MIA | MIM | MNA | MON | PE N | TAL | TDG | YAZ | EDG |
|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|---------|-----|-----|-----|-----|
| PENDING | 2 | 2 | 0 | 2 | 5 | 1 | 1 | 0 | 0 | 0 | 3 | 1 | 0 | 1 | 1 |
| >30 DAYS | 0 | 0 | 0 | 1* | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

*Awaiting records from Archives.

E. Administrative Remedies 2001

| JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 133 | 136 | 211 | 178 | 272 | 182 | 155 | 221 | 261 | 186 | | |

II. LITIGATION ACTIVITY - 2001 SOUTHEAST REGIONA. Summary Report

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|---------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Cases Open | 310 | 212 | 213 | 222 | 231 | 236 | 217 | 234 | 231 | 234 | | |
| New Cases | 12 | 11 | 19 | 20 | 19 | 20 | 30 | 25 | 17 | 23 | | |
| Habeas Corpus | 5 | 6 | 14 | 8 | 16 | 13 | 21 | 16 | 11 | 18 | | |
| FTCA | 0 | 0 | 0 | 1 | 0 | 1 | 2 | 2 | 0 | 1 | | |
| Bivens | 5 | 5 | 5 | 9 | 3 | 5 | 5 | 6 | 6 | 4 | | |
| Other | 2 | 0 | 0 | 2 | 0 | 1 | 2 | 1 | 0 | 0 | | |
| Bivens/FTCA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | |
| Lit Reports | 6 | 5 | 1 | 1 | 5 | 5 | 10 | 14 | 10 | 5 | | |
| Cases Closed | 110 | 10 | 10 | 11 | 14 | 39 | 13 | 28 | 14 | 10 | | |

B. Settlements and Awards: None reportedC. Significant Cases, Trials, Hearings, Other:1. NEW CASES:

- a. Juan Garcia v United States, 5:01-cv-301-00-10GRJ (FFLM)
Habeas Corpus Petition. FCC Coleman. Plaintiff alleges inaccurate

SER Monthly Report -October 2001

Page 3

information contained in his Central File prohibits his ability to participate in certain FBOP programs or to be paroled. AUSA not yet assigned.

- b. Samuel Ingram v. R. D. Swope, 5:01-cv-260-Oc-10GRJ (FFLM)
Habeas Corpus Petition. FCC Coleman. Petitioner alleges all of his federal sentences should be aggregated together. AUSA has not yet been assigned.
- c. United States v. Ahmad Ajaj, MA:01-108 (FSC)
Motion in a Criminal Case. FCI Edgefield. Petitioner declared a hunger strike on October 10, 2001. Due to the inmate's refusal to be medically examined, FBOP petitioned the court to force feed the Petitioner. AUSA is Barbara Bowen.
- d. Gordon R. Der Weer v. United States, 2001/0118 (FDCVI)
FTCA Complaint. MDC Guaynabo. Plaintiff complains that staff failed to properly diagnose and treat his syphilis while at MDC. Plaintiff alleges that he did not receive medical treatment for three and a half years. AUSA is Ernest Batenga.
- e. Darrell Hufstetler v. D. L. Hobbs, 201-147 (FGAS)
Habeas Corpus Petition. FCI Jesup. Petitioner alleges the incident report he received for Possession of a Weapon is insufficient. AUSA has not yet been assigned.
- f. Gloria P. McGlamry v. Kathleen Hawk Sawyer, 01-7306-CIV (Dimitrouleas) (FFLS)
Habeas Corpus Petition. FCI Jesup. Inmate's wife and daughter filed a lawsuit arguing the new 300 minute telephone limitation has violated their First Amendment right to have contact with their husband and father, respectively. AUSA is Barbara Patras.
- g. Herbert Patterson v. D. L. Hobbs, CV201-39 (FGAS)
Habeas Corpus Petition. FCI Jesup. Petitioner alleges he did not receive credit toward his federal sentence for time served in state custody on a similar charge. AUSA is Amy Copeland.
- h. Julio Bermudez v. Kathleen Hawk, no number (FFLS)
Bivens Complaint. FCI Miami. Plaintiff alleges he is being harassed by staff. Specifically, Plaintiff alleges he is being verbally abused, his property confiscated for no reason, placed in SHU, and forced to live in substandard conditions. AUSA has not yet been assigned.

SER Monthly Report -October 2001

Page 4

- i. United States v. Daa Mohsen, 01-8087-CIV-Graham (FFLS)
Motion In a Criminal Case. FDC Miami. Defendant alleges that he has been placed in Administrative Detention and prohibited access to discovery materials due to some unspecified threat he poses. AUSA is Rolondo Garcia.
- j. Lyle Ryman v. Archie Longley, et al., 01-4164-CIV-Moreno (FFLS)
Bivens/FTCA Complaint. FCI Miami. Plaintiff alleges he agreed to provide "substantial assistance" to the FBOP concerning corrupt employees and inmates at FCI Miami in exchange for a sentence reduction. Plaintiff alleges he provided the assistance, but was never given sentence reduction. AUSA is William Healy.
- k. Thomas Amador v. United States, 5:01cv90MMP/MD (FFLN)
Habeas Corpus Petition. FCI Marianna. Petitioner alleges the FBOP abused its authority by denying him early release consideration due a state conviction for involuntary sexual battery. AUSA is Mike Finney.
- l. Daryl Fulton v. Mark Henry, CV201-39 (FGAS)
Habeas Corpus Petition. FCI Marianna. Petitioner alleges he did not receive credit for time served. AUSA is Mike Finney.
- m. Terry Dennis v. Ron Wiley , CV-01-PT-2431-E (FALN)
Habeas Corpus Petition. FCI Talladega. Petitioner alleges the FBOP has denied him early release under the criteria outlined in 18 U.S.C. § 3621(e). AUSA is Winfield Sinclair.
- n. Willie L. Porter v. Ron Wiley, CV-01-J-1813-E (FALN)
Habeas Corpus Petition. FCI Talladega. Petitioner alleges the FBOP has "unconstitutionally" retroactively applied a new regulation to an already settled expectations of earl release under the criteria outlined in 18 U.S. C. § 3621(e). AUSA is Winfield Sinclair.
- o. Walter Williams v. Ron Wiley, et al., CV-01-PT-1815-E (FALN)
Habeas Corpus Petition. FCI Talladega. Petitioner alleges the FBOP has "unconstitutionally" retroactively applied a new regulation to already settled expectations of early release under the criteria outlined in 18 U.S.C. § 3621(e). AUSA is Winfield Senclair.
- p. Prentiss Mitchell v. Khurshid Z. Yusuff, 5:01-cv47BrS (FMSS)
Bivens complaint. FCI Yazoo City. Plaintiff alleges that his privacy rights

SER Monthly Report -October 2001

Page 5

were violated by the failure to maintain accurate records. Please note that by "Order" dated September 21, 2001, Judge Bramlette dismissed all individual defendants. AUSA is Bob Anderson.

- q. Robert M. Wolfe v. Khurshid Yusuff, 5:01-cv 127BrS (FMSW)
Habeas Corpus Petition. FCI Yazoo City. Petitioner alleges his state and federal sentences were ordered to run concurrently by the State court. However, the FBOP refuses to honor the plea agreement in this matter. AUSA is Cindy Elridge.
- r. Alvin Kendall v. BOP, 01-CV-2278-JTC (FNGA)
Habeas Corpus Petition. USP Atlanta. Petitioner alleges the Inmate Financial Program is unconstitutional. Petitioner also seeks a declaration that he does not have to participate in the program. AUSA has not yet been assigned.
- s. Kimball v. BOP, 5:01-CV-257-OC-10GRJ (FMDFL)
Habeas Corpus Petition. FCC Coleman. Inmate claims that he is receiving inadequate medical care in the Low and seeks injunctive relief from the district court. AUSA is not yet assigned.
- t. United States v. Pena, Raised in the Criminal Trial context (FPR)
Motion in a Criminal Case. MDC Guanaybo. Petitioner is a former police officer who contends that his constitutional rights have been violated while in the SHU. A hearing was held in this matter and the AUSA explained to the court that the police officers in this case will be released to general population in groups of four. The Court was not satisfied with this procedure and issued an order indicating that this procedure is not fair and that she would issue a report to the USDJ stating the same. She asked the AUSA to set a date for a hearing to discuss MDC procedures.

2. HEARINGS:

- a. U.S. v. Maximiliano Amparo, Cr. No.: 01-050 (FPR)
MDC Guanaybo. Defendant raises issues concerning his safety while at MDC Guaynabo. Specifically, he contends that his placement in sHU violates his rights regarding telephone calls and social visits and that his life is in danger. Information was provided to the AUSA concerning the allegations.
- b. U.S. v. Ivan Vazquez Alomar, Cr. No.: 00-692

SER Monthly Report -October 2001

Page 6

Motion in a Criminal Case. MDC Guaynabo. Defendant complained about his placement in Administrative Detention. He contended that he was not able to use the telephone or have access to counsel. The defendant failed to exhaust administrative remedies. The Court found that defendant's request was unreasonable.

3. TRIALS: None Reported
4. OTHER: None Noted.

SER Monthly Report -October 2001

Page 7

5. CLOSED CASES

- a. Grayson v. U.S. (FCI Yazoo City)
Civil Action Number 5:00cv247BrS
Dismissed with prejudice
September 5, 2001

- b. Scaff-Martinez v. Khurshid Z. Yusuff (FCI Yazoo City)
Civil Action Number 5:00cv238BrS
Dismissed Without Prejudice
September 26, 2001

- c. Tom Kiracofe v. McGuinness (FCI Yazoo)
Civil Action Number 5:00cv180BrS
Failure to prosecute.
September 27, 2001

- d. Schulze v. Vazquez (FCI Eglin)
Civil Action Number 01-CV-86
Dismissed
October 1, 2001

- e. King v. Houston et al. (FCI Eglin)
Civil Action Number 5:99cv140-ws
Petition Granted
July 31, 2001

- f. Hernandez v. Serrano, et al. (FCI Miami)
Civ. Action No. 00-cv-1010
Dismissed
September 9, 2001

- h. Goliday v. Hobby (FCI Jesup)
Civil Action Number 01-cv-38
Judgement for Defendant
August 1, 2001

- i. Gieseke v. Vazquez (FCI Eglin)
Civil Action Number 3:01cv165/LAC/MD
Petition Denied
October 22, 2001

SER Monthly Report -October 2001

Page 8

j. Chico-Polo vs Wiley (FCI Yazoo City)
Civil Action Number 00-S-2670-E
Dismiss with prejudice
September 28, 2001

k. United States v. Ajaj (FCI Edgefield)
Cr 8:01-108
FBOP request to force feed granted
September 21, 2001

D. RELIGIOUS CASES: None Reported

E. ENSIGN AMENDMENT CASES: None Reported.

F. PLRA 1915 DISMISSALS: None Reported.

III CRIMINAL CASES: No significant reporting.

IV TRAVEL SCHEDULE FOR OCTOBER 2001: None to report for October.

V MISCELLANEOUS:

UNITED STATES GOVERNMENT
memorandum

Date: November 10, 2001

Reply to: Sherree L. Sturgis, Regional Counsel, Southeast Region
Attn of: Federal Bureau of Prisons, Atlanta, GA 30331

Subject: Monthly Report - November 2001

To: Christopher Erlewine, Assistant Director/General Counsel
Federal Bureau of Prisons
Washington, D.C. 20534

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Tort Claims - 2001

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1 st | 155 | 138 | 140 | 105 | 113 | 112 | 136 | 146 | 166 | 147 | 133 | 102 |
| Rec'd in month | 35 | 21 | 30 | 40 | 32 | 54 | 50 | 60 | 51 | 55 | 48 | |
| Recons. rec'd | 4 | 2 | 1 | 0 | 1 | 3 | 1 | 3 | 2 | 1 | 0 | |
| Ans'd in month | 62 | 38 | 50 | 61 | 64 | 55 | 42 | 45 | 64 | 91 | 81 | |
| Pending at end | 138 | 140 | 105 | 113 | 112 | 136 | 146 | 162 | 151 | 133 | 100 | |
| Over 180 days | 28 | 54 | 10 | 9 | 9 | 9* | 17* | 15* | 20* | 16* | 17* | |
| | | | | | | | | | | | | |

* OIA Referrals -6

Pending Settlement, Settlement Authority, OQM and/or AFIP Referral-11

Pending
Info from
Inst.-0

B. Tort Claim Investigation Status: As of November 30, 2001

| | ATL | COL | EDG | EG L | EST | GUA | JES | MIA | MIM | MNA | MO N | PE N | TA L | TDG | YAZ | SEO |
|-------------|-----|-----|-----|---------|-----|-----|-----|-----|-----|-----|---------|---------|---------|-----|-----|-----|
| PENDING | 46 | 3 | 5 | 0 | 2 | 2 | 3 | 7 | 1 | 3 | 3 | 1 | 4 | 2 | 4 | 14 |
| >60 DAYS | 12* | 0 | 0 | 0 | 0 | 1 | 0 | 3 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 9 |

II. LITIGATION ACTIVITY - 2001 SOUTHEAST REGION

A. Summary Report

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|---------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Cases Open | 310 | 212 | 213 | 222 | 231 | 236 | 217 | 234 | 231 | 234 | 247 | 251 |
| New Cases | 12 | 11 | 19 | 20 | 19 | 20 | 30 | 25 | 17 | 23 | 21 | |
| Habeas Corpus | 5 | 6 | 14 | 8 | 16 | 13 | 21 | 16 | 11 | 18 | 13 | |
| FTCA | 0 | 0 | 0 | 1 | 0 | 1 | 2 | 2 | 0 | 1 | 0 | |
| Bivens | 5 | 5 | 5 | 9 | 3 | 5 | 5 | 6 | 6 | 4 | 7 | |
| Other | 2 | 0 | 0 | 2 | 0 | 1 | 2 | 1 | 0 | 0 | 2 | |
| Bivens/FTCA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Lit Reports | 6 | 5 | 1 | 1 | 5 | 5 | 10 | 14 | 10 | 5 | 21 | |
| Cases Closed | 110 | 10 | 10 | 11 | 14 | 39 | 13 | 28 | 14 | 10 | 18 | |
| | | | | | | | | | | | | |

B. Settlements and Awards: None reported

C. Significant Cases, Trials, Hearings, Other:

1. NEW CASES:

- a. Abul Hakeem Afiz v. U.S. Penitentiary Warden, 1:01-cv-2032-CC (FGAN) Bivens Case. USP Atlanta. Inmate claiming exposure to second-hand smoke as a result of being housed with inmates who smoke. AUSA not yet assigned.
- b. Larry Coley v. U.S., 1:01-cv-1466-BBM (FGAN) Bivens Case. USP Atlanta. Plaintiff alleges his medically indicated surgery was delayed from a year and that following the surgery, he was denied pain medication. AUSA has not yet been assigned.
- c. Roland Gomes v. R.D. Swope, 5:01-cv-357-Oc10GrJ (FFLM) Habeas Petition. FCC Coleman. Petitioner alleges the FBOP has computed his sentence incorrectly. Petitioner alleges his sentence should be computed as parole eligible. AUSA has not yet been assigned.

- d. Lucious Scott v. U.S., 5:01-cv-126-Oc-10GRJ (FFLM)
FTCA Case. FCC Coleman. Plaintiff alleges he did not received appropriate medical treatment for an injury to his finger he sustained playing football. AUSA Alonzo Long.
- e. Kelvin Stephens v. R. D. Swope, 5:01-cv-321-Oc-10GRJ (FFLM)
Habeas Corpus Petition. FCC Coleman. Petitioner challenges a disciplinary report issued to him. He indicates the report is false and was written because he was attempting to find another job. AUSA not yet assigned.
- f. Jesus Coronado v. Jose Vazquez, 3:01cv336/LAC/SMN (FFLN)
Habeas Corpus Petition. FCI Eglin. Petitioner alleges FBOP has computed his sentence incorrectly. Petitioner also alleges the U.S. Parole Commission has failed to provide him a Parole Hearing. AUSA Michael Finney.
- g. Jeffrey Mendoza v. Khursid Yusuff, 5:01-cv-208BrS (FMSS)
Habeas Corpus Petition. FCI Eglin. Petitioner challenges an incident report he received for being in an unauthorized area with a member of the opposite sex. AUSA Cindy Eldridge.
- h. United States v. Julio Scott, CR400-45 (FGAS)
Motion in a Criminal Case. SERO. Defendant is requesting a *nunc pro tunc* designation to a state facility to serve his federal sentence. AUSA Charlie Bourne.
- i. Darrell McCord v. J. L. Sivley, cv-99-PWG-1742-E (FALN)
Bivens Case. FCI Talladega. Plaintiff alleges he has permanent blurred vision, soreness, and redness due to some drops being placed in his eyes. AUSA Winfield Sinclair.
- j. Eric Molden v. Ron Wiley, CV 01-TMP-1816-E (FALN)
Habeas Petition. FCI Talladega. Petitioner alleges FBOP improperly and unconstitutionally retroactively applied a new regulation to an already settled expectation of early release pursuant to 18 U.S.C § 3621(e). AUSA not yet assigned.
- k. Benjamin Tillman v. J L Sivley, CV-99-P-0504-E (FALN)
Bivens Case. FCI Talladega. Plaintiff alleges he was assaulted when he refused to accept a particular cellmate. Plaintiff also alleges that he did not

receive appropriate medical care for his injuries. AUSA Winfield Sinclair.

- l. Earnest Conrod v. Angel Simmons, 5:01-cv-313-BrS (FMSS) Bivens Case. FCI Yazoo City. Petitioner alleges he was accorded unfair and unjust sanctions and that staff retaliated against him. AUSA Cindy Eldridge.
- m. United States of America v. Sedrick Jackson, 981-10018-001. (FLAW) Motion in a Criminal Case. FCI Yazoo City. Defendant requests credit for time served in state custody toward his federal sentence. AUSA Cristina Walker.
- n. Faundsworth B. Jones v. Khurshid Yuseff, no docket number Habeas Corpus Petition. FCI Yazoo City. Petitioner alleges that he should not be made to pay restitution through the IFRP based on the erroneous information contained in his PSI. AUSA is not yet assigned.
- o. Harry Schreiber v. Warden Yusuff, no docket number (FMSS) Habeas Corpus Petition. FCI Yazoo City. Petitioner challenges 300 minute telephone limitation has violated his First and Sixth Amendment rights to have contact with his family and impedes his access to courts. AUSA Cindy Eldridge.

2. HEARINGS:

- a. United States v. Pena, CR-01-616 (FPR) Motion in a criminal case. During a hearing in a criminal trial, this former police officer alleged that during his housing in SHU his rights were violated. Specifically, he alleged that he did not receive clothing, telephone calls, and was required to sleep on a mattress on the floor. Although failure to exhaust administrative remedies was argued by the AUSA, the court urged that exhaustion would be futile in this case. This inmate is one of 32 former police officers arrested on drug conspiracy charges. The AUSA explained to the court that the inmates were going to be released to general population four at a time, but the Judge suggested the inmate could be placed in general population. The court has set a hearing on this issue for December 7, 2001.

3. TRIALS: None Reported

4. OTHER: None Noted.

5. CLOSED CASES

- a. Callaway v. Warden Wiley (FCI Talladega)
Civil Action Number 00-J-2616-E
Dismissed without prejudice
October 23, 2001
- b. Harper v. Ms. Cook (FCI Talladega)
CV 00-PT-0574-E
Summary Judgment
October 25, 2001
- c. Richardson v. Officer Lemon, (USP Atlanta)
1:00-CV-0052-JEC
Motion for Reconsideration denied
October 24, 2001
- d. Speer v. Attorney General for The State of Alabama (FPC Montgomery)
01-PT-1941-E
Dismissed
November 6, 2001
- e. Kilpatrick v. Houston, (FCI Miami)
99-10862-HH
Appeal Denied
- f. Valdes v. United States (FCI Edgefield)
97-732-CIV-Lenard/Brown
Summary Judgment
November 19, 2001
- g. Abbott v. U.S. (MDC Guanaybo)
Civ No: 98-2216 (JAG)
Dismissed
November 8, 2001
- h. Kendall v. BOP, (USP Atlanta)
01-CV-2278-JTC
Dismissed
October 11, 2001

D. RELIGIOUS CASES: None Reported

E. ENSIGN AMENDMENT CASES: None Reported.

F. PLRA 1915 DISMISSALS: None Reported.

III CRIMINAL CASES: No significant reporting.

IV TRAVEL FOR NOVEMBER 2001



b6

V MISCELLANEOUS:

UNITED STATES GOVERNMENT
memorandum

Date: January 10, 2002

Reply to Sherree L. Sturgis, Regional Counsel, Southeast Region
Attn of: Federal Bureau of Prisons, Atlanta, GA 30331

Subject: Monthly Report - December 2001

To: Christopher Erlewine, Assistant Director/General Counsel
Federal Bureau of Prisons
Washington, D.C. 20534

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Tort Claims - 2001

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1 st | 155 | 138 | 140 | 105 | 113 | 112 | 136 | 146 | 166 | 147 | 133 | 102 |
| Rec'd in month | 35 | 21 | 30 | 40 | 32 | 54 | 50 | 60 | 51 | 55 | 48 | 55 |
| Recons. rec'd | 4 | 2 | 1 | 0 | 1 | 3 | 1 | 3 | 2 | 1 | 0 | 1 |
| Ans'd in month | 62 | 38 | 50 | 61 | 64 | 55 | 42 | 45 | 64 | 91 | 81 | 37 |
| Pending at end | 138 | 140 | 105 | 113 | 112 | 136 | 146 | 162 | 151 | 133 | 100 | 112 |
| Over 180 days | 28 | 54 | 10 | 9 | 9 | 9* | 17* | 15* | 20* | 16* | 17* | 16* |
| | | | | | | | | | | | | |

* OIA Referrals -6

Pending Settlement, Settlement Authority, OQM and/or AFIP Referral-9

Pending
Info from
Inst.-1

B. Tort Claim Investigation Status: As of January 7, 2002

| | ATL | COL | EDG | EG L | EST | GUA | JES | MIA | MIM | MN A | MO N | PE N | TA L | TDG | YAZ | SEO |
|-------------|-----|-----|-----|---------|-----|-----|-----|-----|-----|---------|---------|---------|---------|-----|-----|-----|
| PENDING | 40 | 10 | 11 | 0 | 1 | 2 | 0 | 6 | 2 | 4 | 3 | 1 | 5 | 4 | 4 | 15 |
| >60 DAYS | 11 | 0 | 0 | 0 | 0 | 1 | 0 | 3 | 0 | 2 | 2 | 0 | 1 | 0 | 0 | 12* |

II. LITIGATION ACTIVITY - 2001 SOUTHEAST REGION

A. Summary Report

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC | Tot |
|---------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Cases Open | 310 | 212 | 213 | 222 | 231 | 236 | 217 | 234 | 231 | 234 | 247 | 251 | |
| New Cases | 12 | 11 | 19 | 20 | 19 | 20 | 30 | 25 | 17 | 23 | 21 | 25 | 242 |
| Habeas Corpus | 5 | 6 | 14 | 8 | 16 | 13 | 21 | 16 | 11 | 18 | 13 | 16 | |
| FTCA | 0 | 0 | 0 | 1 | 0 | 1 | 2 | 2 | 0 | 1 | 0 | 0 | |
| Bivens | 5 | 5 | 5 | 9 | 3 | 5 | 5 | 6 | 6 | 4 | 7 | 8 | |
| Other | 2 | 0 | 0 | 2 | 0 | 1 | 2 | 1 | 0 | 0 | 2 | 1 | |
| Bivens/FTCA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Lit Reports | 6 | 5 | 1 | 1 | 5 | 5 | 10 | 14 | 10 | 5 | 21 | 9 | |
| Cases Closed | 110 | 10 | 10 | 11 | 14 | 39 | 13 | 28 | 14 | 10 | 18 | 9 | |
| | | | | | | | | | | | | | |

B. Settlements and Awards: None reported

C. Significant Cases, Trials, Hearings, Other:

1. NEW CASES:

- a. Bradshaw v. Dove, 2:01-4236-22AJ (FSC)
Habeas Corpus Petition. FCI Edgefield. Inmate challenges a DHO hearing held at FCI Miami. AUSA Barbara Bowens.
- b. Knoth v. Dove, 2:01-3979-11AJ (FSC)
Habeas Petition. FCI Edgefield. Inmate challenges the decision of ICC staff from Usp Lewisburg to not allow him to participate in the ICC program at the satellite camp at USP Lewisburg. AUSA Barbara Bowens.
- c. Robinson v. Dove, 2:01-3589-8AJ (FSC)
Habeas Corpus Petition. FCI Edgefield. Inmate seeks the court to regain telephonic use of Inmate Telephone Service (ITS) System for monitored legal telephone call only. AUSA Barbara Bowens.
- d. U.S. v. Pena, CR No. 01-614 (PG) (FPR)
Motion in the Criminal Case. MDC Guaynabo. Inmate filed a motion

seeking his release from administrative detention and seeking credit toward any future disciplinary sanction for the time he spent in administrative detention. This defendant is one of 34 police officers who were placed in an administrative detention status pending placement in the general population.

- e. U.S. v. Diaz, CR 01-737 (CCC) (FPR)
Motion in the Criminal Case. MDC Guaynabo. Inmate was housed at the institution with numerous medical problems, but he routinely refused medical treatment for these conditions. The inmate's medical condition deteriorated to a point where he needed to be seen at an outside hospital. [REDACTED] b5 Once at the hospital, the inmate refused medical treatment and was returned to the institution. A motion was filed to transfer the inmate to a medical center, which was granted.
- f. Blue v. Scott, 01-CV-2389-JEC (FGAN)
Habeas Corpus Petition. USP Atlanta. Inmate challenges a DHO hearing and sanctions. AUSA Pat Stout.
- g. Scott v. Lopez, 1:01-CV-2115 (FGAN)
Bivens Case. USP Atlanta/SERO CLC. Plaintiff alleges he did not receive appropriate medical treatment for a sore on his penis. Plaintiff was ultimately diagnosed with cancer and required surgery. AUSA David Powell.
- h. Torres v. Warden, USP Atlanta, 1:01-cv-1240-JOF (FGAN)
Bivens Case. USP Atlanta/SERO CLC. Plaintiff alleges he did not receive adequate medical treatment for a nose bleed and a breathing problem. He also alleges that he was placed in four point restraints for four days for trying to seek medical attention and that his medical problems were exacerbated by placement in restraints. AUSA not yet assigned.
- i. Garcia v. BOP, 01-4745-Civ-Highsmith (FFLS)
FOIA/PA Case. FCC Coleman/SERO CLC. Plaintiff challenges the accuracy of information contained in his Central File. Plaintiff alleges this information has denied him certain BOP benefits. AUSA not yet assigned.
- j. Kiernan v. Vazquez, No Number (FFLN)
Habeas Corpus Petition. FPC Eglin/Miami CLC. Petitioner challenges the

retroactive application of the Lopez decision, which resulted in him being eligible for early release via 18 U.S.C. § 3621(e). AUSA not yet assigned.

- k. U.S. v. Beltran, CR H-94-248-02 (FTXH)
Motion in a Criminal Case. FCI Estill/Edgefield CLC. Inmate filed a motion contesting his participation in the IFRP.
- l. Carter v. Correctional Officer Abdel, 01-4350-Civ-Gold (FFLS)
Bivens Case. FCI Miami/Miami CLC. Plaintiff alleges when he urinated in the law library, officers wanted to fight him during his movement to a cell. AUSA not yet assigned.
- m. MClair v. Gonzalez, 01-4065-Civ-Seitz (FFLS)
Habeas Corpus Petition. FCI Miami/Miami CLC. Petitioner alleges he is entitled to early release pursuant to 18 U.S.C. § 3621(e) and the Lopez decision was retroactively applied to him. AUSA is not yet assigned.
- n. Hickey v. Rosado, 01-1597-CIV-Moreno (FFLS)
Bivens Case. FCI Miami/Miami CLC. Plaintiff alleges inadequate medical treatment for his foot. Plaintiff alleges FCI Miami medical staff did not follow the recommendations of the outside specialist. AUSA not yet assigned.
- o. Ross v. Gonzalez, 01-3604-Civ-SGold (FFLS)
Habeas Corpus Petition. FCI Miami/Miami CLC. Petitioner alleges he received inappropriate medical treatment for sores on his scalp. AUSA is not yet assigned.
- p. Comer v. Henry, 5:01-cv300/MMP/MD (FFLN)
Habeas Corpus Petition. FCI Mariana/Miami CLC. Petitioner alleges his release date has been miscalculated. AUSA is not yet assigned.

2. HEARINGS:

- a. United States v. Pena, CR-01-616 (FPR)
Motion in a criminal case. During a hearing in a criminal trial, this former police officer alleged that during his housing in SHU his rights were violated. Specifically, he alleged that he did not receive clothing, telephone calls, and was required to sleep on a mattress on the floor. Although failure to exhaust administrative remedies was argued by the AUSA, the

court urged that exhaustion would be futile in this case. This inmate is one of 32 former police officers arrested on drug conspiracy charges. The AUSA explained to the court that the inmates were going to be released to general population four at a time, but the Judge suggested the inmate could be placed in general population. The court has set a hearing on this issue for December 7, 2001. At the hearing, the Court took the testimony of three of the police officers and accepted their testimony as being truthful. The Court was very concerned about this situation and advised that it was going to continue the hearing so other inmates could testify. On the date of the second hearing, defense counsels, AUSA, and the Attorneys for MDC Guaynabo met with the judge in chambers and discussed the status of inmate housing. The Court was advised that room was being made to place the inmates in a general population housing unit and the judge continued the hearing for a week. By the time of the third hearing, all inmates had been placed in a general population housing unit.. The Court to the testimony of two additional inmates and staff advised the Court that the allegations raised by the inmates would be referred to the Office of Internal Affairs.

3. TRIALS: None Reported

4. OTHER:

a. Inmate Mazen Al-Najjar, Register Number 35673-019

Dan Echart has been working with USP Coleman executive staff regarding Al-Najjar's conditions of confinement. Al-Najjar is currently in SHU, but had received visits from his family and attorney. CNN recently attempted to interview Al-Najjar without prior approval. The inmate filed a petition for Habeas Corpus in the Southern District of Florida, but FCC Coleman has not obtained a copy. Once the U.S. Attorney's Office is served and a copy is forwarded to the FCC, more information will be able.

b. Inmate Roy Ageloff, Register Number 57431-053

Inmate Ageloff was discovered speaking to his attorney about scheduling a meeting with three other people in order to assign stock, movie rights, and other business interests. After the inmate was placed in SHU, Dan Eckhart advised the attorney he could not assist inmates with conducting a business. The attorney claimed all proceeds of the sale were going to satisfy the inmates \$80 million dollar restitution order. As a result of this disclosure, the prosecuting U.S. Attorney's Office has expressed a willingness to travel to FCC and become a party to the transaction.

5. CLOSED CASES

- a. Pollock v. Hobbs (FCI Jesup)
DC DKT No.: 00-00107 CV-AAA-2 (11 Cir.)
Affirmed
November 29, 2002

- c. Proenza v. Matthews (FCI Talladega)
CV 98-PT-3116-E
Motion Denied
November 2, 2001

- d. Bravo v. Wiley, (FCI Talladega)
CV 00-PT-1005-E
Dismissed With Prejudice
December 3, 2001

- d. Del Sol v. INS (FCI Talladega)
00-G-2492-E
Dismissed as Moot
December 3, 2001

- e. Enlow v. USA, (USP ATL)
1-01-CV-2165
Dismissed Without Prejudice
November 16, 2001

- f. Mohwish v. Yusuff (FCI Yazoo City)
5Civil action No.: 98CV174BrS
Dismissed With Prejudice
August 15, 2001

- g. Roberts v. Wiley (FCI Talladega)
Civ No: 00-PT-0737-E
Petition Denied
November 28, 2001

- h. Schreiber v. Yusuff (FCI Yazoo City)
Civ. Act. No.: 5:01cv350BrS
Dismissed With Prejudice

December 7, 2001

- i. Wright v. Vasquez (FCI Eglin)
Civ. Act. No.: 3:01cv273/RV/SMN
Dismissed With Prejudice
December 3, 2001
- j. Smith v. Ray (FCI Edgefield)
Civ. Act. No.:25:01-239-18AJ
Summary Judgement
December 14, 2001
- k. Minnis v. U.S. (USP Atlanta)
Civ. Act. No.: 01-CV-2800-JEC
Dismissed
December 13, 2001

D. RELIGIOUS CASES: None Reported

E. ENSIGN AMENDMENT CASES: None Reported.

F. PLRA 1915 DISMISSALS: None Reported.

III CRIMINAL CASES: No significant reporting.

IV TRAVEL FOR DECEMBER 2001

[REDACTED] b6

V MISCELLANEOUS:

[REDACTED] b6