



U.S. Department of Justice
Federal Bureau of Prisons

Office of the Regional Counsel

Dublin, California 94588

April 20, 1999

**MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/
GENERAL COUNSEL, GENERAL COUNSEL & REVIEW**

FROM:


Harlan W. Penn, Regional Counsel

SUBJECT:

Quarterly Report (January 1 through March 31, 1999)

Hearings/Trials

Kurtz v. U.S. (SHE) FTCA action alleging the BOP was negligent in failing to prevent inmate from attempting to commit suicide by hanging. Inmate is permanently impaired and received compassionate release on November 18, 1998. Trial held January 26 & 27, 1999. Judge ruled from bench finding no negligence on the part of BOP.

Nelson v. Lathers (SDC) Habeas petition, CCC inmate tested positive for methamphetamine, returned to closer custody and lost 3621(e) date. Judge released inmate on "appeal bond" after indicating he believed inmate had been disciplined for use of "Vicks" inhaler. Response filed by San Diego USAO who appeared at hearing on February 26, 1999. Court refused to return inmate to custody.

Awards

None to report.

Settlements

Mota v. U.S. (SDC) FTCA action regarding alleged injury during escorted trip. Bench trial originally set for January 26, 1999, gave way to settlement negotiations. A settlement of \$7,500 was reached on the eve of trial.

Mawhinney v. U.S. (LOS) FTCA action alleging slip and fall from stool while accessing top bunk. Los Angeles USAO asked for \$250,000 settlement authority; BOP authorized \$100,000. Plaintiff agreed to accept 125,000 at settlement conference. Settlement of \$125,000 approved by Director March 3, 1999.

LITIGATION - WXR Second QUARTER REPORT (January 1 - March 31, 1999)

LOC	NUM	HC	FTC	BIV	OTH	ANS	PEN	CLD	H/T	AWD	SET	AWD/SET
MXR												\$
NCR												\$
NER												\$
SCR												\$
SER												\$
WXR	58	50	2	6	0	43	398	16	2	0	2	\$ 132,500
CO												\$
TOT												\$

DEFINITIONS

- LOC - Location
- NUM - Total Number of Lawsuits Filed in Quarter
- HC - Number of Habeas Corpus Actions Filed in Quarter
- FTC - Number of FTCA Actions Filed in Quarter
- BIV - Number of Bivens Actions Filed in Quarter
- OTH - Other Actions Filed in Quarter
- ANS - Number of Litigation Reports Completed
- PEN - Number of Actions Pending
- CLD - Number of Actions Closed
- H/T - Number of Hearings or Trials (Narrative Analysis Follows)
- AWD - Number of Awards (Narrative Analysis Follows)
- SET - Number of Settlements (Narrative Analysis Follows)
- AWD/SET - Amount of Settlements and Awards

LITIGATION ANALYSIS

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U.S. Department of Justice

Federal Bureau of Prisons

Office of the Regional Counsel

Dublin, California 94568

July 20, 1999

MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/
GENERAL COUNSEL, GENERAL COUNSEL & REVIEW

FROM: *Harlan W. Penn*
Harlan W. Penn, Regional Counsel

SUBJECT: Quarterly Report (April 1 through June 30, 1999)

Litigation

NUM	HC	FTC	BIV	OTH	ANS	PEN	CLD	H/T	AWD	SET	AWD/SET
45	34	2	9	0	43	374	37	3	0	0	0

Definitions

- LOC Location
- NUM Total Number of Lawsuits Filed in Quarter
- HC Number of Habeas Corpus Petitions Filed in Quarter
- FTC Number of FTCA Actions Filed in Quarter
- BIV Number of Bivens Actions Filed in Quarter
- OTH Other Actions Filed
- ANS Number of Litigation Reports Completed
- PEN Number of Actions Pending
- CLD Number of Actions Closed
- H/T Number of Hearings or Trials (Narrative Follows)
- AWD Number of Awards (Narrative Follows)
- SET Number of Settlements (Narrative Follows)
- AWD SET Amount of Settlements and Awards

FOIA/PA

NUM	PROC	PEND	OD	M/OD	M/P	CA
95	91	15	0	0	7	0

Definitions

- LOC Location
- NUM Number Filed in Quarter
- PROC Processed
- PEND Pending
- OD Overdue
- M/OD Median Number of Days Overdue
- M/P Median Length of Time to Process
- CA Civil Actions Filed Under FOI/PA Acts

Narrative

Hearings/Trials

U.S. v. Dahkowsky, (SHE) Inmate convicted April 1, 1999, of assault with a deadly weapon and assault resulting in serious bodily injury (victim was other inmate). Sentencing scheduled for June 4, 1999. Inmate received 84 month sentence.

U.S. v. Simmons, (LOM) Case involved assault on correctional officer that occurred December 14, 1997. Inmate sentenced May 13, 1999, to 84 months incarceration with 3 years supervised release to follow.

U.S. v. Hillard, (LOM) Case involved assault of two correctional officers on October 22, 1995, during October 1995 disturbances. On June 4, 1999, inmate received four month sentence.

Awards

None to report.

Settlements

None to report.



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 FEDERAL BUREAU OF PRISONS

U.S. Department of Justice
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Office of the Regional Counsel

Dublin, California 94568

October 6, 1999

**MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/
 GENERAL COUNSEL, GENERAL COUNSEL & REVIEW**

FROM:

Meri Stewart Atkinson
 Harlan W. Penn, Regional Counsel

SUBJECT:

⁴⁴¹
 Third Quarter Report (July 1, 1999 through September 30, 1999)

Litigation

NUM	HC	FTC	BIV	OTH	ANS	PEN	CLD	H/T	AWD	SET	AWD/SET
62	46	4	8	4	53	352	91 ¹	0	0	2	\$242,000

Definitions

LOC	Location	ANS	Number of Litigation Reports Completed
NUM	Total Number of Lawsuits Filed in Quarter	PEN	Number of Actions Pending
HC	Number of Habeas Corpus Petitions Filed in Quarter	CLD	Number of Actions Closed
FTC	Number of FTCA Actions Filed in Quarter	H/T	Number of Hearings or Trials (Narrative Follows)
BIV	Number of Bivens Actions Filed in Quarter	AWD	Number of Awards (Narrative Follows)
OTH	Other Actions Filed	SET	Number of Settlements (Narrative Follows)
		AWD SET	Amount of Settlements and Awards

FOIA/PA

NUM	PROC	PEND	OD	M/OD	M/P	CA
106	105	16	0	0	13	0

Definitions

LOC	Location	OD	Overdue
NUM	Number Filed in Quarter	M/OD	Median Number of Days Overdue
PROC	Processed	M/P	Median Length of Time to Process
PEND	Pending	CA	Civil Actions Filed Under FOI/PA Act

¹ Comprehensive audit was conducted July 6-9, 1999, resulting in an adjustment to number of cases pending. At end of this quarter, 352 cases are pending.

Narrative

Hearings/Trials

None to report.

Awards

None to report.

Settlements

Applegate v. United States, (DUB) Former inmate's FTCA suit alleging sexual battery, harassment, and forced oral copulation by staff in 1995 dismissed upon settlement of \$90,000.

Estate of Wayne Crosser v. United States, (SDC) Parties agreed to settle FTCA action for \$152,000. (Pending signature of plaintiff's counsel.)

Federal Bureau of Prisons

Office of the Regional Counsel

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File Quarterly Report
Why? I may have already given this to you
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**MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/
 GENERAL COUNSEL, GENERAL COUNSEL & REVIEW**

FROM: Harlan W. Penn, Regional Counsel

SUBJECT: Quarterly Report (October 1 through December 31, 1999) REVISED

Litigation

NUM	HC	FTC	BIV	OTH	ANS	PEN	CLD	H/T	AWD	SET	AWD/SET
43	33	2	8	0	43	379	16	0	0	0	\$0

Definitions

NUM	Total Number of Lawsuits Filed in Quarter	ANS	Number of Litigation Reports Completed
HC	Number of Habeas Corpus Petitions Filed in Quarter	PEN	Number of Actions Pending
FTC	Number of FTCA Actions Filed in Quarter	CLD	Number of Actions Closed
BIV	Number of Bivens Actions Filed in Quarter	H/T	Number of Hearings or Trials (Narrative Follows)
OTH	Other Actions Filed	AWD	Number of Awards (Narratives Follows)
		SET	Number of Settlements (Narrative Follows)
		AWD/SET	Amount of Settlements and Awards

FOIA/PA

NUM	PROC	PEND	OD	M/OD	M/P	CA
76	67	25	3 ¹	10	19	0

Definitions

NUM	Number Filed in Quarter	OD	Overdue
PROC	Processed	M/OD	Median Number of Days Overdue
PEND	Pending	M/P	Median Length of Time to Process
		CA	Civil Actions Filed Under FOI/PA Acts

¹ Total of 3 overdue during this quarter. One overdue caused by waiting for records from contract facility. Two requests were received from Central Office within 5 days of due date.

Hearings/Trials

None to report.

Awards

None to report.

Settlements

Romero vs. United States (PHX) FTCA wrongful death action previously reported as settled by AUSA without BOP settlement authority is revived. Plaintiff in this case, the companion of and mother of decedent's children, originally accepted the offer to settle but now has rejected the offer. AUSA is proceeding with motion to dismiss.

Two FCI Dublin FTCA administrative claims (Bazin and Wylde) currently being processed for settlement at \$45,000 and \$55,000 respectively.