

Dist

02/22/1993 07:12:19 =====

02-22-1993

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

1993 JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC
ADMINISTRATIVE REMEDIES

PENDING ON FIRST 40
RECEIVED IN MONTH 78
ANSWERED IN MONTH 55
PENDING END OF MO 63
OVER 30 DAYS 0

02/22/1993 07:12:30 =====

TORT CLAIMS (1993) JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

PENDING ON FIRST 188
RECEIVED IN MONTH 52
ANSWERED IN MONTH 78
PENDING END OF MO 162
OVER 6 MONTHS 0

FOI/PRIVACY (1993) JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

PENDING ON FIRST 96
RECEIVED IN MONTH 16
ANSWERED IN MONTH 14
PENDING END OF MO 98
OVER 30 DAYS 83

TORT CLAIM INVESTIGATION STATUS: AS OF 01/31/1993
ALW DAN FAI LEW LOR MCK NYM OTV RBK SCH ALF FTD

PENDING 13 10 20 39 11 9 33 6 7 14 0 0
OVER 60 DAYS 0 0 1 18 2 0 4 1 0 0 0 0

02/22/1993 07:12:37 =====

LITIGATION ACTIVITY, 1993, NORTHEAST REGION
JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

CASES OPEN 227
NEW CASES RECD 17
LIT REP DONE 14
CASES CLOSED 5
HABEAS CORPUS 5
FTCA 1
BIVENS 7
OTHER 2
BIVENS & FTCA 2

LITIGATION OF NOTE:

→ 1. U. S. V. FRANK SMITH, 90 CR 504 (EDNY JAN. 29, 1993)

INMATE SMITH, 38273-019, WAS SERVING A NEW YORK STATE SENTENCE AND BROUGHT INTO FEDERAL CUSTODY VIA WRIT AD PROS. IN JULY 1992 FEDERAL JUDGE IMPOSED 3 YEAR SENTENCE CONSECUTIVE TO THE STATE TERM. THE COURT PROVIDED IN THE SENTENCE AND IN THE RECOMMENDATION THAT THE FEDERAL SENTENCE BE SERVED FIRST, THEN SMITH IS TO BE RETURNED TO STATE CUSTODY. BY LETTER, WE

2/22/1993 07:12:45 =====

NOTIFIED THE COURT THROUGH THE U.S ATTORNEY'S OFFICE THAT WE COULD NOT COMPLY BECAUSE THE STATE SENTENCE CONTINUED TO RUN. DEFENSE COUNSEL MOVED TO REDUCE SENTENCE UNDER OLD RULE 35(A). IN THE PLEA BARGAIN, AUSA AGREED

NOT TO OPPOSE REQUEST FOR SERVICE OF FEDERAL SENTENCE FIRST. HANK SADOWSKI APPEARED BEFORE JUDGE GLASSER AT A JANUARY 4, 1993 HEARING. ON JAN. 29, 1993, JUDGE GLASSER ISSUED AN OPINION GRANTING OUR REQUEST TO RETURN SMITH TO STATE CUSTODY. THE DECISION IS AN EXCELLENT OVERVIEW OF THE INTERACTION OF STATE AND FEDERAL SENTENCING WHEN THE STATE HAS PRIMARY JURISDICTION. THE DECISION HAS BEEN SUBMITTED FOR PUBLICATION. THIS DECISION WILL ASSIST IN ENSURING THAT STATE INMATES LOANED FOR FEDERAL PROSECUTION ARE RETURNED TO STATE CUSTODY AFTER FEDERAL PROSECUTION HAS BEEN COMPLETED.

2. BOURGEOIS V. UNITED STATES, 3:CV-91-197 (MDPA)

FTCA CASE BROUGHT BY INMATE AT USP LEWISBURG REQUESTING DAMAGES FOR A SLIP AND FALL DOWN STEPS IN SEPTEMBER 1990. INMATE LOUIS BOURGEOIS, 39165-066, ALLEGED THAT HE SLIPPED AND FELL ON APPLE SCRAPS AND BANANA PEELS ON AN OUTSIDE STAIRWAY AT USP LEWISBURG. TRIAL IS SCHEDULED TO COMMENCE BEFORE MAGISTRATE JUDGE THOMAS BLEWITT ON FEBRUARY 22, 1993. MEDICAL MALPRACTICE CLAIM HAS BEEN DISMISSED. DUE TO GOVERNMENT MOTION TO BIFURCATE, THE TRIAL WILL ADDRESS ONLY LIABILITY. HOPE MORO, LEWISBURG ATTORNEY WILL

02/22/1993 07:12:57 =====

ASSIST AUSA AT TRIAL. PLAINTIFF'S THEORY IS THAT USP LEWISBURG KNEW ABOUT THE TRASH ON THE STEPS AND FAILED TO CLEAN. OUR POSITION APPEARS STRONG. PLAINTIFF HAS PROVIDED SEVERAL CONFLICTING VERSIONS OF THE ACCIDENT.

A SIDE ISSUE HAS DEVELOPED IN THIS CASE. THE TRIAL HAS SCHEDULED TO BE HELD AT USP LEWISBURG. BOURGEOIS HAS MOVED THE COURT TO HAVE THE HEARING IN A FEDERAL COURT BECAUSE HE WANTS A PUBLIC TRIAL. THE MAGISTRATE JUDGE WILL HEAR ARGUMENT ON THIS ISSUE ON FEB. 22, 1993 PRIOR TO COMMENCEMENT OF TRIAL.

3. CALDWELL V. FELLIN, 3:CV-90-1231 (MDPA)

Handwritten initials: K. J. with
INMATE LAWRENCE CALDWELL, 38277-131, BROUGHT THIS BIVENS ACTION AGAINST THE EDUCATION TECHNICIAN AT USP LEWISBURG. PARTIAL SUMMARY JUDGMENT WAS GRANTED ON MOST OF THE CLAIMS. TWO ISSUES REMAIN: (1) FELLIN ALLEGEDLY REFUSED A REQUEST BY CALDWELL FOR LEGAL MATERIALS WHEN CALDWELL WAS HELD IN SPECIAL HOUSING; AND (2) FELLIN ALLEGEDLY DID NOT ACT IN AN IMPARTIAL MANNER SINCE HE CITED CALDWELL FOR AN INCIDENT REPORT WHEN OTHER INMATES WHO COMMITTED THE SAME BEHAVIOR WERE NOT SO CITED BY FELLIN. BECAUSE THIS CASE WILL TURN ON RESOLUTION OF FACTUAL DISPUTES, THERE IS SOME POTENTIAL FOR LIABILITY. JURY SELECTION IS SCHEDULED FOR MARCH 2, 1993 AND TRIAL BEFORE JUDGE MUIR IS SCHEDULED AROUND MARCH 16, 1993. HOPE MORO

02/22/1993 07:13:10 =====

WILL ASSIST AUSA AT TRIAL.

4. WORTHINGTON V. BUREAU OF PRISONS, CIVIL NO 89-7048 (SDNY)

FTCA CASE FOR MEDICAL MALPRACTICE BROUGHT BY FORMER INMATE ALLEGING IMPROPER TREATMENT AT FCI OTISVILLE. INMATE WAS RECEIVED AT FCI OTISVILLE IN JANUARY 1987 WITH ADVANCED GLAUCOMA IN LEFT EYE. HE LOST HIS VISION IN LEFT EYE LATER THAT YEAR. EXTENDED SETTLEMENT CONFERENCE HELD ON JAN. 21, 1993, AT WHICH EACH SIDE SUMMARIZED BEST CASE. HANK SADOWSKI ATTENDED SETTLEMENT CONFERENCE. THERE IS POTENTIAL FOR TORT LIABILITY. INMATE SHOULD HAVE BEEN REFERRED TO OPHTHAMOLOGIST AT AN EARLIER DATE. WE HAVE ASSERTED THAT PLAINTIFF WAS CONTRIBUTORILY NEGLIGENT SINCE HIS MEDICAL HISTORY PRIOR TO INCARCERATION SHOWS HE REPEATEDLY FAILED TO FOLLOW DOCTOR ORDERS. IN ADDITION, WE HAVE ASSERTED THAT PLAINTIFF WOULD HAVE LOST VISION IN HIS EYE EVEN IF IT IS ASSUMED THAT HE DID NOT RECEIVE PROPER CARE AFTER INCARCERATION. MAGISTRATE JUDGE IS PUTTING PRESSURE ON BOTH PARTIES TO SETTLE. FEB. 16, 1993 SETTLEMENT CONFERENCE WAS POSTPONED UNTIL A DATE TO BE SET IN EARLY MARCH 1993. HANK SADOWSKI WILL PROBABLY ATTEND IF PARTIES DO NOT AGREE TO SETTLEMENT FIGURE PRIOR TO CONFERENCE.

02/22/1993 07:14:16 =====

SETTLEMENTS AND AWARDS

1. PAYTON V. UNITED STATES, 3:CV-91-0649 (MDPA)

FTCA CASE FILED BY STEPHEN PAYTON, 85320-132, IN WHICH HE ALLEGES THAT A GOLD CROSS AND CHAIN WERE LOST ON HIS TRANSFER FROM USP LOMPOC TO USP LEWISBURG IN NOVEMBER 1989. INMATE REQUESTED \$400 IN DAMAGES. THERE WAS EVIDENCE THAT THE INMATE HAD A CROSS AND CHAIN IN HIS POSSESSION PRIOR TO

1989. CASE SETTLED FOR \$125 TO SPARE COSTS OF ANTICIPATED TRIAL.

TRAVEL AND LEAVE SCHEDULE FOR FEBRUARY 1993

DAVE ESSIG -

TRAVEL--FEB. 2-4 FCI DANBURY - DINO ROMANO INQUIRY

FEB. 16-18, EAST ST. LOUIS, MO; SELLERS TRIAL (CANCELLED)

ANNUAL LEAVE--NONE SCHEDULED

HANK SADOWSKI

TRAVEL--FEB. 9 - JOB FAIR FOR LOCAL LAW SCHOOLS - PHILA., PA

FEB. 16 - MCC NY - MEETING WITH DOMINIQUE RAIA

ANNUAL LEAVE--NONE SCHEDULED

02/22/1993 07:14:27 =====

AZZMEIAH VAZQUEZ-SPICER

TRAVEL--FEB. 22-26 MCC NY - TRAINING WITH DOMINIQUE RAIA

ANNUAL LEAVE--FEB. 12

# FTCA	1	1
# BIVENS	7	7
# OTHER	2	4
# BIVENS & FTCA	2	2

LITIGATION OF NOTE:

1. BOURGEOIS V. UNITED STATES, 3:CV-91-197 (MDPA)

FTCA CASE BROUGHT BY INMATE AT USP LEWISBURG REQUESTING DAMAGES FOR A SLIP AND FALL DOWN STEPS IN SEPTEMBER 1990. INMATE LOUIS BOURGEOIS, 39165-066, ALLEGED THAT HE SLIPPED AND FELL ON APPLE SCRAPS AND BANANA PEELS ON AN OUTSIDE STAIRWAY AT USP LEWISBURG. CASE DISCUSSED IN LAST MONTH'S REPORT. TRIAL WAS TO COMMENCE ON FEBRUARY 22, 1993 AT USP LEWISBURG. TRIAL POST-

03/16/1993 13:11:01 =====

PONED DUE TO WEATHER. INMATE FILED FOR A PUBLIC TRIAL TO HAVE PERSONS FROM THE LEWISBURG PRISON PROJECT ATTEND THE TRIAL. WE WERE NOT WILLING TO OPEN HEARING AT THE PENITENTIARY TO PUBLIC. WE DID NOT OPPOSE MOVING TRIAL TO U.S. COURTHOUSE. TRIAL WILL BE RESCHEDULED AT LATER DATE IN SCRANTON, PA.

2. CALDWELL V. FELLIN, 3:CV-90-1231 (MDPA)

CASE DISCUSSED IN LAST MONTH'S REPORT. TRIAL SCHEDULED FOR MARCH 16, 1993 MAY BE POSTPONED BECAUSE OF SNOW STORM. BIVENS CASE BROUGHT BY LEWISBURG INMATE LAWRENCE CALDWELL, 38277-131, AGAINST EDUCATION TECHNICIAN FOR (1) REFUSING REQUEST BY CALDWELL FOR LEGAL MATERIALS WHEN CALDWELL WAS HELD IN SPECIAL HOUSING; AND (2) ALLEGEDLY NOT ACTING IN AN IMPARTIAL MANNER SINCE HE CITED CALDWELL FOR AN INCIDENT REPORT WHEN OTHER INMATES WHO COMMITTED THE SAME BEHAVIOR WERE NOT SO CITED. HOPE MORO WILL ASSIST AUSA AT TRIAL.

3. WORTHINGTON V. BUREAU OF PRISONS, CIVIL NO 89-7048 (SDNY)

FTCA CASE FOR MEDICAL MALPRACTICE BROUGHT BY FORMER INMATE ALLEGING IMPROPER TREATMENT AT FCI OTISVILLE. INMATE WAS RECEIVED AT FCI OTISVILLE IN JANUARY 1987 WITH ADVANCED GLAUCOMA IN LEFT EYE. HE LOST HIS VISION IN

03/16/1993 13:11:42 =====

LEFT EYE LATER THAT YEAR. EXTENDED SETTLEMENT CONFERENCE HELD ON JAN. 21, 1993, AT WHICH EACH SIDE SUMMARIZED BEST CASE. HANK SADOWSKI ATTENDED SETTLEMENT CONFERENCE. CASE DISCUSSED IN LAST MONTH'S REPORT. JUDGE WANTS PARTIES TO SETTLE. TWO SETTLEMENT CONFERENCES HAVE BEEN POSTPONED BY PLAINTIFF'S ATTORNEY. AT THE EARLIER SETTLEMENT CONFERENCE, THERE WAS A DISPUTE BETWEEN PLAINTIFF AND HIS ATTORNEY. THE POSTPONEMENTS APPEAR TO BE CAUSED BY PLAINTIFF TRYING TO GET A SECOND LEGAL OPINION. THE NEXT CONFERENCE IS EXPECTED TO BE SCHEDULED IN EARLY APRIL. HANK SADOWSKI IS PLANNING TO ATTEND.

4. U.S. V. GAMBINA, CRIM. NO CR-92-0093 (MDPA)

CRIMINAL TRIAL COMMENCED MARCH 1, 1993 AGAINST RALPH GAMBINA, 12508-116 AND HIS WIFE, JULIE GAMBINA, WHO ARE CHARGED WITH PLANNING TO KIDNAP USP LEWISBURG WARDEN AND HIS FAMILY TO EFFECTUATE ESCAPE OF RALPH GAMBINA FROM CUSTODY. INMATE GAMBINA HAS NOW FIRED HIS COURT APPOINTED ATTORNEY AND IS REPRESENTING HIMSELF. A NUMBER OF SUBPOENAS HAVE BEEN ISSUED FOR STAFF WITNESSES AND RECORDS. HOPE MORO, USP LEWISBURG ATTORNEY IS

COORDINATING THE BUREAU'S RESPONSE TO THE SUBPOENAS. IF ANY OTHER REGION RECEIVES SUBPOENAS IN THIS CASE, PLEASE CONTACT HOPE.

3/16/1993 13:12:00 =====

DECISIONS OF INTEREST:

1. JEAN-LOUIS V. BOLLINGER, 91-0620 (MDPA FEB. 16, 1993).

IN A SHORT DECISION, JUDGE MCCLURE GRANTS SUMMARY JUDGMENT IN FAVOR OF NUMEROUS USP LEWISBURG SORT TEAM MEMBERS. THE INMATE HAD ALLEGED EXCESSIVE USE OF FORCE IN A FORCED CELL MOVE IN FEBRUARY 1990. THE JUDGE RELIED HEAVILY ON THE VIDEOTAPE EVIDENCE OF THE CELL MOVE. THE JUDGE FOUND THE TAPE WAS "IRREFUTABLE EVIDENCE THAT DEFENDANTS DID NOT VIOLATE PLAINTIFF'S EIGHTH AMENDMENT RIGHTS." THIS CASE UNDERSCORES THE IMPORTANCE OF VIDEOTAPE EVIDENCE IN DEFENDING USE OF FORCE CASES.

2. SMALL V. SKEDZIELEWSKI, 92-3945 (DNJ FEB. 26, 1993)

INMATE SMALL, 12377-056, BROUGHT BIVENS ACTION AGAINST SUPERVISOR OF EDUCATION AND WARDEN AT FCI FAIRTON. INMATE ALLEGED THAT HE WAS REFUSED PARTICIPATION IN PELL GRANTS BECAUSE OF AN INS DETAINER AGAINST HIM. THE INMATE ALLEGED VIOLATION OF EQUAL PROTECTION. JUDGE SIMANDLE DISMISSED COMPLAINT AND HELD: (1) ILLEGAL ALIEN WITHOUT POSSIBILITY OF RESIDENT ALIEN STATUS IS NOT ELIGIBLE FOR PELL GRANT; (2) BOP DOES NOT DECIDE WHO RECEIVES PELL GRANT; & (3) INMATE DOES NOT HAVE THE RIGHT TO COLLEGE EDUCATION.

3/16/1993 13:12:23 =====

SETTLEMENTS AND AWARDS

NONE

TRAVEL AND LEAVE SCHEDULE FOR MARCH 1993

DAVE ESSIG -

TRAVEL--MAR. 30 THRU APRIL 2 STAFF ASSIST VISIT WITH CARLOS RIVERA
AT FCI, MCKEAN COUNTY

ANNUAL LEAVE--MAR 2-5

HANK SADOWSKI

TRAVEL--NONE SCHEDULED

ANNUAL LEAVE--NONE SCHEDULED

AZZMEIAH VAZQUEZ-SPICER

TRAVEL--NONE SCHEDULED

ANNUAL LEAVE--MAR. 18-19

3/16/1993 13:12:33 =====

WEEKLY ITINERARY FOR DAVE ESSIG, REGIONAL COUNSEL

WEEK OF: MARCH 22-26, 1993

MONDAY STATUS: IN OFFICE
03/22 LOCATION:
CONTACT PERSON AND TELEPHONE NUMBER:
ACTING REGIONAL COUNSEL:
REQUESTOR OF TRAVEL:
PAYOR OF TRAVEL:

TUESDAY STATUS: ANNUAL TRAINING
03/23 LOCATION: REGIONAL OFFICE
CONTACT PERSON AND TELEPHONE NUMBER:
ACTING REGIONAL COUNSEL:
REQUESTOR OF TRAVEL:
PAYOR OF TRAVEL:

WEDNESDAY STATUS: ANNUAL TRAINING
03/24 LOCATION: REGIONAL OFFICE
CONTACT PERSON AND TELEPHONE NUMBER:

03/16/1993 13:12:45 =====

ACTING REGIONAL COUNSEL:
REQUESTOR OF TRAVEL:
PAYOR OF TRAVEL:

THURSDAY STATUS: IN OFFICE
03/25 LOCATION:
CONTACT PERSON AND TELEPHONE NUMBER:
ACTING REGIONAL COUNSEL:
REQUESTOR OF TRAVEL:
PAYOR OF TRAVEL:

FRIDAY STATUS:
03/26 LOCATION:
CONTACT PERSON AND TELEPHONE NUMBER:
ACTING REGIONAL COUNSEL:
REQUESTOR OF TRAVEL:
PAYOR OF TRAVEL:

REMARKS:

# FTCA	1	1	3
# BIVENS	7	7	12
# OTHER	2	4	2
# BIVENS & FTCA	2	2	1

LITIGATION OF NOTE:

1. BOURGEOIS V. UNITED STATES, 3:CV-91-197 (MDPA)

FTCA CASE BROUGHT BY INMATE AT USP LEWISBURG REQUESTING DAMAGES FOR A SLIP AND FALL DOWN STEPS IN SEPTEMBER 1990. INMATE LOUIS BOURGEOIS, 39165-066, ALLEGED THAT HE SLIPPED AND FELL ON APPLE SCRAPS AND BANANA PEELS ON AN OUTSIDE STAIRWAY AT USP LEWISBURG. CASE DISCUSSED IN LAST MONTH'S REPORT. TRIAL IS SCHEDULED TO COMMENCE ON APRIL 14, 1993 BEFORE US MAGISTRATE

04/15/1993 11:19:55 =====

JUDGE BLEWITT IN SCRANTON, PA. LEWISBURG ATTORNEY HOPE MORO WILL ASSIST AUSA AT THE TRIAL.

2. CALDWELL V. FELLIN, 3:CV-90-1231 (MDPA)

CASE DISCUSSED IN LAST MONTH'S REPORT. TRIAL HELD FROM MARCH 30 - APRIL 6 BEFORE JUDGE MUIR IN WILLIAMSPORT, PA. BIVENS CASE BROUGHT BY LEWISBURG INMATE LAWRENCE CALDWELL, 38277-131, AGAINST EDUCATION TECHNICIAN FOR (1) REFUSING REQUEST BY CALDWELL FOR LEGAL MATERIALS WHEN CALDWELL WAS HELD IN SPECIAL HOUSING; AND (2) ALLEGEDLY NOT ACTING IN AN IMPARTIAL MANNER SINCE HE CITED CALDWELL FOR AN INCIDENT REPORT WHEN OTHER INMATES WHO COMMITTED THE SAME BEHAVIOR WERE NOT SO CITED. HOPE MORO ASSISTED AUSA AT TRIAL. JURY RETURNED VERDICT FOR DEFENDANT ON APRIL 6.

3. WORTHINGTON V. BUREAU OF PRISONS, CIVIL NO 89-7048 (SDNY)

FTCA CASE FOR MEDICAL MALPRACTICE BROUGHT BY FORMER INMATE ALLEGING IMPROPER TREATMENT AT FCI OTISVILLE. INMATE WAS RECEIVED AT FCI OTISVILLE IN JANUARY 1987 WITH ADVANCED GLAUCOMA IN LEFT EYE. HE LOST HIS VISION IN LEFT EYE LATER THAT YEAR. CASE DISCUSSED IN PRIOR LEGAL REPORTS. NEXT SETTLEMENT CONFERENCE SCHEDULED FOR APRIL 22, 1993. ATTEMPT WILL BE MADE TO HAVE DISCUSSION WITH HANK SADOWSKI, AUSA AND DEFENSE ATTORNEY PRIOR TO

04/15/1993 11:19:59 =====

CONFERENCE TO SEE IF SETTLEMENT IS REALISTIC.

4. U.S. V. GAMBINA, CRIM. NO CR-92-0093 (MDPA)

CRIMINAL TRIAL COMMENCED MARCH 1, 1993 AGAINST RALPH GAMBINA, 12508-116 AND HIS WIFE, JULIE GAMBINA, WHO ARE CHARGED WITH PLANNING TO KIDNAP USP LEWISBURG WARDEN AND HIS FAMILY TO EFFECTUATE ESCAPE OF RALPH GAMBINA FROM CUSTODY. CASE DISCUSSED IN PRIOR REPORT. TRIAL TO LAST THROUGH APRIL 1993. A NUMBER OF DEFENSE SUBPEONAS ISSUED AGAINST BOP EMPLOYEES, INCLUDING REGIONAL DIRECTOR, G.C. WILKINSON.

DECISIONS OF INTEREST:

1. UNITED STATES V. HILLSTROM, NO. 92-7237 (3D CIR. MARCH 12, 1993)

THE THIRD CIRCUIT HAS REMANDED FOR ADDITIONAL INFORMATION CONCERNING THE APPROPRIATE SENTENCING GUIDELINE TO BE USED AFTER A CONVICTION FOR AN ESCAPE FROM FEDERAL PRISON CAMP - ALLENWOOD. THE ISSUE IS WHETHER AN

ESCAPE FROM THE PRISON CAMP IS TO BE ASSESSED AS A WALKAWAY FROM A CCC OR TO BE TREATED AS AN ESCAPE FROM A SECURE FACILITY. THE THIRD CIRCUIT DID NOT FOLLOW SEVERAL CIRCUITS WHICH HELD THAT FEDERAL PRISONS CAMPS WERE NOT TO BE EQUATED WITH CCC'S. THE THIRD CIRCUIT HELD THE DISTRICT COURT MUST

04/15/1993 11:20:03 =====

CONSIDER WHETHER FPC ALLENWOOD IS SUFFICIENTLY SIMILAR TO A CCC IN ITS PURPOSE AND IN ITS SECURITY AND SAFETY CONSIDERATIONS. INFORMATION HAS BEEN SUPPLIED TO THE AUSA, BUT WE FEAR THAT THE COURT WILL HOLD THAT FPC ALLENWOOD IS SUFFICIENCY SIMILAR TO A CCC TO TREAT AN ESCAPE FROM THE CAMP AS A WALKAWAY FROM A CCC. THE THIRD CIRCUIT APPEARS TO REQUIRE A SEPARATE ANALYSIS FOR EACH FEDERAL PRISON CAMP.

SETTLEMENTS AND AWARDS

1. OLIVEIRA V. UNITED STATES, CIVIL NO. 3:CV-92-1194 (MDPA MAR. 24, 1993).

INMATE SERGIO OLIVEIRA, 84925-011, BROUGHT FTCA ACTION TO RECOVER THE VALUE OF 167 STAMPS LOST FROM HIS PROPERTY ON HIS TRANSFER FROM USP LEWISBURG AFTER COMPLETION OF HIS HOLDOVER STATUS IN AUGUST 1991. WE OFFERED INMATE \$17.40, THE VALUE OF THE 60 STAMPS HE WAS PERMITTED TO HAVE UNDER USP LEWISBURG POLICY. INMATE REFUSED TO SETTLE FOR LESS THAN FULL CLAIM. ON MARCH 24, 1993, JUDGE KOSIK ENTERED JUDGMENT FOR INMATE IN FULL AMOUNT OF \$48.43 (VALUE OF 167 STAMPS). DURING PREPARATION OF MOTION TO AMEND, IT WAS LEARNED THAT STAFF WAS AWARE THAT INMATE HELD EXCESS POSTAGE AND THAT STAFF WOULD NOT HAVE CONFISCATED AS CONTRABAND. ACCORDINGLY, NO ADDITIONAL MOTION WAS FILED AND NO APPEAL IS RECOMMENDED.

04/15/1993 11:20:08 =====

2. YOUNG V. QUINLAN, CIVIL NO. 88-1445 (MDPA)

THIS WAS THE BIVENS CASE REMANDED BY THE THIRD CIRCUIT' (960 F.2D 351). AN ATTORNEY BEGAN REPRESENTATING INMATE KENNETH MCCLURE YOUNG, 39831-080 ON REMAND. ATTORNEY FILED AMENDED COMPLAINT INCLUDING AN FTCA COUNT WHICH WAS INCLUDED IN ORIGINAL COMPLAINT. SETTLEMENT DISCUSSIONS COMMENCED BETWEEN ATTORNEY AND AUSA FRED MARTIN. CASE SETTLED ON FTCA COUNT FOR \$8000. AMOUNT REACHED ON BASIS OF ANTICIPATED COSTS AND INCONVENIENCE TO BOP FOR DISCOVERY AND TRIAL. SETTLEMENT INCLUDES DISMISSAL OF BIVENS COUNTS.

TRAVEL AND LEAVE SCHEDULE FOR APRIL 1993

DAVE ESSIG -

TRAVEL--APRIL 1-2 ANNUAL TRAINING - NER

APRIL 20-23 MANAGEMENT ASSESSMENT MEETING - GENERAL COUNSEL

ANNUAL LEAVE--APRIL 9

HANK SADOWSKI -

TRAVEL--APRIL 1 RUTGERS SCHOOL OF LAW - CAMDEN, NJ - RECRUIT LAW STUDENTS FOR VOLUNTEER POSITIONS (WORKING FOR LAW SCHOOL CREDITS)

04/15/1993 11:20:11 =====

ANNUAL LEAVE--APRIL 15-16

AZZMEIAH VAZQUEZ-SPICER -

TRAVEL--APRIL 1-2 ANNUAL TRAINING - NER
ANNUAL LEAVE--APRIL 26-28

# FTCA	1	1	3	2
# BIVENS	7	7	12	12
# OTHER	2	4	2	1
# BIVENS & FTCA	2	2	1	0

LITIGATION OF NOTE:

1. BOURGEOIS V. UNITED STATES, 3:CV-91-197 (MDPA)

FTCA CASE BROUGHT BY INMATE AT USP LEWISBURG REQUESTING DAMAGES FOR A SLIP AND FALL DOWN STEPS IN SEPTEMBER 1990. INMATE LOUIS BOURGEOIS, 39165-066, ALLEGED THAT HE SLIPPED AND FELL ON APPLE SCRAPS AND BANANA PEELS ON AN OUTSIDE STAIRWAY AT USP LEWISBURG. CASE DISCUSSED IN PRIOR LEGAL REPORTS. TRIAL HELD FROM APRIL 14-20, 1993 BEFORE US MAGISTRATE JUDGE BLEWITT IN

05/21/1993 14:44:52 =====

SCRANTON, PA. LEWISBURG ATTORNEY HOPE MORO ASSISTED AUSA AT TRIAL. THE JUDGE HAS NOT YET ISSUED A DECISION.

2. WORTHINGTON V. BUREAU OF PRISONS, CIVIL NO 89-7048 (SDNY)

FTCA CASE FOR MEDICAL MALPRACTICE BROUGHT BY FORMER INMATE ALLEGING IMPROPER TREATMENT AT FCI OTISVILLE. INMATE WAS RECEIVED AT FCI OTISVILLE IN JANUARY 1987 WITH ADVANCED GLAUCOMA IN LEFT EYE. HE LOST HIS VISION IN LEFT EYE LATER THAT YEAR. CASE DISCUSSED IN PRIOR LEGAL REPORTS. NEXT SETTLEMENT CONFERENCE SCHEDULED FOR MAY 26, 1993. DISCUSSIONS BETWEEN HANK SADOWSKI, AUSA AND DEFENSE ATTORNEY NARROWED GAP IN POSSIBLE SETTLEMENT. ONE LAST ATTEMPT AT SETTLEMENT WILL OCCUR AT THIS CONFERENCE.

3. U.S. V. GAMBINA, CRIM. NO CR-92-0093 (MDPA)

CRIMINAL TRIAL COMMENCED MARCH 1, 1993 AGAINST RALPH GAMBINA, 12508-116 AND HIS WIFE, JULIE GAMBINA, WHO ARE CHARGED WITH PLANNING TO KIDNAP USP LEWISBURG WARDEN AND HIS FAMILY TO EFFECTUATE ESCAPE OF RALPH GAMBINA FROM CUSTODY. CASE DISCUSSED IN PRIOR REPORT. JURY ACQUITTED THE DEFENDANTS ON ALL COUNTS.

05/21/1993 14:44:55 =====

DECISIONS OF INTEREST:

1. UNITED STATES V. HILLSTROM, NO. 92-7237 (3D CIR. MARCH 12, 1993)

THIS REMAND FROM THE THIRD CIRCUIT WAS DISCUSSED IN LAST MONTH'S REPORT. THIS CASE INVOLVES THE SENTENCING GUIDELINE TO BE USED AFTER CONVICTION OF ESCAPE FROM FEDERAL PRISON CAMP - ALLENWOOD. THE ISSUE IS WHETHER AN ESCAPE FROM THE PRISON CAMP IS TO BE ASSESSED AS A WALKAWAY FROM A CCC OR TO BE TREATED AS AN ESCAPE FROM A SECURE FACILITY. THE RESENTENCING HEARING HAS BEEN POSTPONED.

IN A SIMILAR CASE, U.S. V. PETRO, 4:CR-92-242 (MDPA), JUDGE MUIR HELD A HEARING BECAUSE OF HILLSTROM. FPC ALLENWOOD EXECUTIVE ASST PETER WELD TESTIFIED AT THE HEARING ON APRIL 29, 1993. JUDGE MUIR HELD THAT FPC ALLENWOOD IS SUFFICIENCY DISTINCT FROM A CCC TO USE THE GUIDELINE FOR ESCAPE FROM A SECURE FACILITY. THIS RULING WAS ENTERED ON MAY 10, 1993.

2. LEVELT V. SCHRADER, NO. 92-6857 (E.D.PA APRIL 15, 1993)

BIVENS ACTION WAS FILED BY INMATE FRANCOIS LEVELT, 14584-083, CHALLENGING THE DECISION OF FCI SCHUYLKILL NOT TO PERMIT HIM TO POSSESS A VIDEOTAPE SENT BY A CORRESPONDENCE LAW SCHOOL. JUDGE VAN ANTWERPEN GRANTED SUMMARY

5/21/1993 14:44:59 =====

JUDGMENT IN FAVOR OF BOP DEFENDANTS. THE COURT FOUND THAT THE DECISION NOT TO PERMIT INMATES TO POSSESS VCR TAPES WAS REASONABLE AND ESSENTIAL TO INSTITUTIONAL SECURITY SINCE CONTRABAND MAY BE COMCEALED WITHIN THE TAPES. THE COURT ALSO NOTED THAT THE EDUCATION DEPT. WAS ABLE TO OBTAIN AN ALTER-NATE LIST OF NON-VIDEO STUDY MATERIALS FROM THE CORRESPONDENCE SCHOOL.

3. FIGUEROA V. COOKSEY, NO. 9203894 (D.N.J. APRIL 23, 1993)

INMATE BROUGHT HABEAS CORPUS CASE CHALLENGING CDC HEARING FOR USE OF DRUGS AT CCC. JUDGE SIMANDLE GRANTED WRIT BECAUSE AN AVAILABLE WITNESS WAS NOT CALLED. THE CDC CHAIRMAN DENIED A WITNESS WHO WAS A FELLOW WORKER AT THE OUTSIDE JOB OF THE INMATE. THE CDC CHAIRMAN HELD THIS WITNESS'S TESTIMONY WOULD BE REPETITIVE TO A WRITTEN STATEMENT BY THE EMPLOYER. THE CDC CHAIRMAN DID NOT QUESTION THE WITNESS OR OBTAIN A WRITTEN STATEMENT. THE REASON GIVEN TO DENY THIS WITNESS WAS NOT IN CONFIRMANCE WITH POLICY SINCE THE TESTIMONY OF A WITNESS CAN BE DEEMED TO BE REPETITIVE ONLY TO TESTIMONY OF ANOTHER WITNESS, NOT TO A WRITTEN STATEMENT. WE DEFENDED THE CASE BY ARGUING HARMLESS ERROR AND BY ARGUING AN ALTERNATE REASON FOR DENIAL. THE COURT HELD THAT THE EVIDENCE WOULD HAVE BEEN SUFFICIENT BUT THE INMATE WAS ENTITLED TO HAVE A NEW HEARING WITH THAT WITNESS. SINCE THE REQUESTED WITNESS COULD NOT NOW BE LOCATED, THE COURT ORDER REQUIRED THE INCIDENT REPORT BE VACATED. I AM RECOMMENDING AGAINST APPEAL.

5/21/1993 14:45:02 =====

SETTLEMENTS AND AWARDS - NONE

TRAVEL AND LEAVE SCHEDULE FOR MAY 1993

DAVE ESSIG -

TRAVEL--MAY 10-15 STAFF ASSISTANCE - FPC MCKEAN & ALLENWOOD COMPLEX
MAY 21 - MEETING WITH WARDEN HERSHBERGER, FDC BROOKLYN

ANNUAL LEAVE--MAY 5

HANK SADOWSKI -

TRAVEL--MAY 19 - STAFF ASSISTANCE - FPC SCHUYLKILL
MAY 26 - U.S. DIST. COURT - SDNY - WORTHINGTON SETTLEMENT

ANNUAL LEAVE--NONE SCHEDULED

AZZMEIAH VAZQUEZ-SPICER -

TRAVEL--MAY 21 - MEETING WITH WARDEN HERSHBERGER - FDC BROOKLYN

ANNUAL LEAVE--MAY 24

06/17/1993 13:09:32 =====

06-17-1993

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

1993 JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC
ADMINISTRATIVE REMEDIES

# PENDING ON FIRST	40	63	31	57	67						
# RECEIVED IN MONTH	78	67	110	106	80						
# ANSWERED IN MONTH	55	99	84	96	95						
# PENDING END OF MO	63	31	57	67	52						
# OVER 30 DAYS	0	0	0	0	0						

06/17/1993 13:09:36 =====

TORT CLAIMS (1993) JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

# PENDING ON FIRST	188	162	184	162	185						
# RECEIVED IN MONTH	52	63	69	57	57						
# RECONSID. REC'D	0	4	0	4	3						
# ANSWERED IN MONTH	78	45	91	38	26						
# PENDING END OF MO	162	184	162	185	219						
# OVER 6 MONTHS	0	0	0	0	0						

FOI/PRIVACY (1993) JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

# PENDING ON FIRST	96	98	129	112	137						
# RECEIVED IN MONTH	16	41	30	41	63						
# ANSWERED IN MONTH	14	10	47	16	17						
# PENDING END OF MO	98	129	112	137	183						
# OVER 30 DAYS	83	89	85	96	123						

TORT CLAIM INVESTIGATION STATUS: AS OF 05/31/1993

	ALW	DAN	FAI	LEW	LOR	MCK	NYM	OTV	RBK	SCH	ALF	FTD
# PENDING	5	4	16	14	0	6	13	18	3	6	2	0
# OVER 60 DAYS	0	0	0	2	0	2	1	6	0	0	1	0

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LITIGATION ACTIVITY, 1993, NORTHEAST REGION

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# CASES OPEN	227	244	254	265	272							
# NEW CASES RECD	17	24	26	21	24							
# LIT REP DONE	14	17	28	20	20							
# CASES CLOSED	5	7	16	10	17							
# HABEAS CORPUS	5	10	8	6	7							

# FTCA	1	1	3	2	3
# BIVENS	7	7	12	12	11
# OTHER	2	4	2	1	3
# BIVENS & FTCA	2	2	1	0	0

LITIGATION OF NOTE:

1. UNITED STATES V. SALAMEH, S3 93 CR. 0180 (SDNY JUNE 10, 1993).

THREE PRETRIAL DETAINEES INDICTED FOR THE BOMBING OF THE WORLD TRADE CENTER IN NEW YORK FILED MOTIONS CONCERNING CONDITIONS OF PRETRIAL CUSTODY AT MCC NY. THE DETAINEES CHALLENGED THEIR CONTINUED PLACEMENT IN ADMIN. DETENTION AND ALSO ALLEGED DENIAL OF EXERCISE, ADEQUATE CLOTHES, BEDDING, SOCIAL PHONE CALLS, LACK OF ACCESS TO COUNSEL, AND INABILITY TO WORSHIP

06/17/1993 13:09:44 =====

WITH FELLOW MOSLEMS. JUDGE DUFFY DENIED THE MOTION IN A 19 PAGE DECISION. THE COURT FOUND REASONABLE THE WARDEN'S SECURITY CONCERN BASED UPON THE POSSIBILITY OF RETALIATION FROM OTHER INMATES. THE COURT ALSO REJECTED ALL ALLEGATIONS CONCERNING CONDITIONS OF CONFINEMENT.

2. WORTHINGTON V. BUREAU OF PRISONS, CIVIL NO 89-7048 (SDNY)

FTCA CASE FOR MEDICAL MALPRACTICE BROUGHT BY FORMER INMATE ALLEGING IMPROPER TREATMENT AT FCI OTISVILLE. INMATE WAS RECEIVED AT FCI OTISVILLE IN JANUARY 1987 WITH ADVANCED GLAUCOMA IN LEFT EYE. HE LOST HIS VISION IN LEFT EYE LATER THAT YEAR. CASE DISCUSSED IN PRIOR LEGAL REPORTS. TWO SETTLEMENT CONFERENCES WERE HELD ON MAY 26, 1993 AND JUNE 2, 1993. DESPITE CONSIDERABLE PRESSURE FROM MAGISTRATE JUDGE, PLAINTIFF WAS UNWILLING TO MOVE FROM HIS LAST DEMAND FOR \$150,000. MAGISTRATE JUDGE WILL RECOMMEND THE DISTRICT JUDGE SCHEDULE FOR TRIAL.

3. CALDWELL V. CLARK, 3:CV-90-1471 (MDPA)

ON JUNE 1, 1993, MAGISTRATE JUDGE SMYSER HELD A HEARING IN THE ABOVE CASE BROUGHT BY THREE USP LEWISBURG INMATES ALLEGING UNICOR DUMPED TOXIC SUBSTANCES INTO A CREEK. THE INMATES ALSO ALLEGED THAT THE CLEAN AIR ACT WAS VIOLATED BY UNICOR. THE INMATES REQUESTED AN INJUNCTION SHUTTING DOWN

06/17/1993 13:09:48 =====

UNICOR AT USP LEWISBURG. AFTER THE INMATES BEGAN SUBMITTING THEIR EVIDENCE THEY REQUESTED ADDITIONAL TIME TO FILE A MOTION TO SUPPLEMENT THE ISSUES TO BE PRESENTED AT THE HEARING. THE MOTION WAS GRANTED AND THE HEARING WAS ADJOURNED. USP LEWISBURG MIKE TAFELSKI ASSISTED THE AUSA AT THE HEARING.

DECISIONS OF INTEREST:

1. UNITED STATES V. MOORE & JOHNSON, 4:CR-92-322 (MDPA)

INMATES RON MOORE, 04135-045 AND CARLOS JOHNSON, 69084-012 WERE CONVICTED ON JUNE 14, 1993 OF FIRST DEGREE MURDER ON ANOTHER INMATE HARRY MCDONALD, 29710-120. THE MURDER WAS COMMITTED AT USP LEWISBURG ON JULY 17, 1990. SENTENCING IS SCHEDULED FOR LATE AUGUST 1993.

SETTLEMENTS AND AWARDS - NONE

TRAVEL AND LEAVE SCHEDULE FOR JUNE 1993

DAVE ESSIG -

TRAVEL--ALLENWOOD LSCI, CHARACTER PROFILE INTERVIEWS
TUES JUNE 21 - FRI JUNE 26

5/17/1993 13:09:53 =====

ANNUAL LEAVE--JUNE 1, 3, 21

HANK SADOWSKI -

TRAVEL--JUNE 2 - US DISTRICT COURT - SDNY WORTHINGTON SETTLEMENT
JUNE 7 - 10 - PRISON LITIGATION SEMINAR, DENVER, COLO.

ANNUAL LEAVE--JUNE 28

AZZMEIAH VAZQUEZ-SPICER -

TRAVEL--JUNE 21-25 - TRAINING - USP LEWISBURG

ANNUAL LEAVE--NONE SCHEDULED

00

07-16-1993

UNITED STATES GOVERNMENT MEMORANDUM

TO: WALLACE H. CHENEY, GENERAL COUNSEL, FEDERAL BUREAU OF PRISONS
WASHINGTON, D.C. 20534

*Monthly ?
Quarterly*

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

1993 JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC
ADMINISTRATIVE REMEDIES

# PENDING ON FIRST	40	63	31	57	67	52						
# RECEIVED IN MONTH	78	67	110	106	80	106						
# ANSWERED IN MONTH	55	99	84	96	95	101						
# PENDING END OF MO	63	31	57	67	52	57						
# OVER 30 DAYS	0	0	0	0	0	0						

TORT CLAIMS (1993) JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

# PENDING ON FIRST	188	162	184	162	185	219						
# RECEIVED IN MONTH	52	63	69	57	57	50						
# RECONSID. REC'D	0	4	0	4	3	2						
# ANSWERED IN MONTH	78	45	91	38	26	49						
# PENDING END OF MO	162	184	162	185	219	222						
# OVER 6 MONTHS	0	0	0	0	0	0						

FOI/PRIVACY (1993) JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

# PENDING ON FIRST	96	98	129	112	137	183						
# RECEIVED IN MONTH	16	41	30	41	63	40						
# ANSWERED IN MONTH	14	10	47	16	17	80						
# PENDING END OF MO	98	129	112	137	183	143						
# OVER 30 DAYS	83	89	85	96	123	110						

TORT CLAIM INVESTIGATION STATUS: AS OF 06/30/1993

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

PENDING	1	11	13	1	12	11	15	5	6	3	0	1	1	2	0
OVER 60 DAYS	0	0	0	0	3	2	4	0	0	0	0	0	0	0	0

LITIGATION ACTIVITY, 1993, NORTHEAST REGION

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# CASES OPEN	227	244	254	265	272	267						
# NEW CASES RECD	17	24	26	21	24	14						
# LIT REP DONE	14	17	28	20	20	17						
# CASES CLOSED	5	7	16	10	17	19						
# HABEAS CORPUS	5	10	8	6	7	2						
# FTCA	1	1	3	2	3	2						
# BIVENS	7	7	12	12	11	7						
# OTHER	2	4	2	1	3	3						
# BIVENS & FTCA	2	2	1	0	0	0						

SETTLEMENTS AND AWARDS:

1. CARDIFF CIRCLE ASS'N V. U.S., 92CV4323 (DNJ)

THIS FEDERAL TORT CLAIMS ACT COMPLAINT WAS FILED AS A RESULT OF ACCIDENTAL FIRE DAMAGE TO PROPERTY BY FCI FAIRTON SORT TEAM IN APRIL 1992. SORT TEAM WAS CONDUCTING TACTICAL EXERCISES ON PRIVATE PROPERTY. SORT TEAM TOSSED SMOKE GRENADES INTO ABANDONED BUILDING. THIS CAUSED THE BUILDING TO BE COMPLETELY DESTROYED BY FIRE. A WARNING ON THE SMOKE GRENADES STATED THAT GRENADES WERE FOR OUTDOOR USE ONLY AND THAT GRENADES COULD CAUSE FIRES. PLAINTIFF SOUGHT DAMAGES OF \$63,500. CASE SETTLED FOR \$25,000.

2. SHEPTIN V. UNITED STATES, ET AL., 93-CV-34 (WDPA)

INMATE LOUIS SHEPTIN FILED COMBINATION BIVENS AND FTCA CASE ALLEGING THAT HE WAS DENIED HIS SEIZURE MEDICATION BY FCI MCKEAN MEDICAL STAFF ON HIS RETURN FROM WRIT IN FEBRUARY 1992. ON THE FIFTH DAY WITHOUT HIS MEDICATION SHEPTIN SUFFERED A GRAND MAL SEIZURE AND WAS TAKEN TO AN OUTSIDE HOSPITAL. SHEPTIN ALLEGES THAT HE SUFFERED INJURIES TO HIS HEAD AND SHOULDER AS A RESULT OF A FALL CAUSED BY HIS SEIZURE. RECORDS SUPPORTED SHEPTIN'S CLAIM THAT HE REQUESTED SEIZURE MEDICATION FOR 5 DAYS AND WAS NOT PROVIDED IT. CASE SETTLED FOR \$3500, \$500 OF WHICH WILL OFFSET HIS SPECIAL ASSESSMENT.

3. SMITH V. LAM, 92 CIV. 1876 (SDNY)

THIS IS A BIVENS CASE FILED BY A WITSEC INMATE AGAINST THE FORMER UNICOR FOREMAN OF THE GLOVE FACTORY. IN JANUARY 1991 INMATE SEWED THROUGH HIS FINGER ON A SEWING MACHINE IN THE GLOVE FACTORY. INMATE ALLEGES THAT FOREMAN KNEW SAFETY GUARDS SHOULD HAVE BEEN ON MACHINE, BUT WERE NOT. CASE SETTLED FOR \$100.

4. SALAMI V. BRENNAN, CIVIL NO. 93-0459 (MDPA)

FEDERAL TORT CLAIM CASE FILED BY OSCAR SALAMI, 36430-053 ALLEGING HIS SNEAKERS WERE STOLEN BY ANOTHER INMATE, RECOVERED BY USP LEWISBURG STAFF, AND THEN LOST. CASE SETTLED FOR ONE PAIR OF SNEAKERS.

GOVERNMENT REPRESENTATION REQUESTS NOT APPROVED:

1. SCHAFFER V. STEWART, NO. 93-214 (PA COURT OF COMMON PLEAS)

TWO STAFF MEMBERS AT USP LEWISBURG WERE INVOLVED IN A CAR ACCIDENT IN THE PARKING LOT AT USP LEWISBURG. NEITHER STAFF WAS ON DUTY. SCHAFFER BROUGHT SUIT AGAINST STEWART FOR DAMAGES FROM THIS ACCIDENT. STEWART MADE A REQUEST FOR GOVERNMENT REPRESENTATION. THIS OFFICE RECOMMENDED AGAINST GOVERNMENT REPRESENTATION BECAUSE STEWART ADMITTED THAT HE WAS NOT ON DUTY AND WAS NOT DRIVING HIS CAR AS PART OF GOVERNMENT EMPLOYMENT.

2. ABECASSIS V. MASLANSKY, ET AL., 93-CV-0215 (SDNY)

INMATE BROUGHT BIVENS CASE AGAINST CONTRACT DOCTOR AND AGAINST MCC NY EMPLOYEE ALLEGING IMPROPER MEDICAL CARE. CONTRACT DOCTOR MADE REQUEST FOR GOVERNMENT REPRESENTATION. WE RECOMMENDED AGAINST GOVERNMENT REPRESENTATION FOR CONTRACT DOCTOR SINCE HIS EMPLOYMENT CONTRACT SPECIFIED THAT HE WAS NOT UNDER BUREAU SUPERVISION AND THAT HE WAS SOLELY RESPONSIBLE FOR HIS ACTIONS.

TRAVEL AND LEAVE SCHEDULE FOR JULY 1993

DAVE ESSIG -

TRAVEL--JULY 27-29 FCI ALLENWOOD SHAKEDOWN
ANNUAL LEAVE--JULY 9

K SADOWSKI -

TRAVEL--NONE SCHEDULED
ANNUAL LEAVE--JULY 6-9

AZZMEIAH VAZQUEZ-SPICER -

TRAVEL--NONE SCHEDULED
ANNUAL LEAVE--JULY 16, 19