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	SUBJECT: LEGAL A	CTIVITIES	REPORT,	NORTHEAST	REGION		SEP 1 2 1995	
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SETTLEMENTS AND AWARDS:

GRANT V. BUREAU OF PRISONS, CIVIL NO. 95-172 (W.D.PA.)

MATE GABRIEL GRANT, 24094-053, FILED THIS FTCA ACTION REQUESTING \$130.15 FOR PROPERTY ALLEGEDLY LOST WHEN HE WAS PLACED IN SPECIAL HOUSING AT FCI MCKEAN. RECORDS SUPPORTED THE CLAIM OF LOST PROPERTY. GRANT REFUSED AN OFFER OF \$45 TO HIS ADMINISTRATIVE TORT CLAIM. CASE SETTLED FOR \$80.

SIGNIFICANT CASES:

1. MALIK V. HERSHBERGER, 93 CIV. 4396 (S.D.N.Y.)

THIS CASE WAS DISCUSSED IN PRIOR MONTHLY REPORTS.

INMATE ABDEL-JABBOR MALIK, 80768-054, BROUGHT THIS BIVENS ACTION AGAINST THEN FCI OTISVILLE WARDEN HERSHBERGER ALLEGING CONSTITUTIONAL INFRINGEMENT OF HIS ATTORNEY VISITS DURING HIS CRIMINAL TRIAL. IN RULING ON A MOTION FOR SUMMARY JUDGEMENT, JUDGE PRESKA HELD THAT AN ALLEGATION THAT THE CORRECTIONAL OFFICERS WERE POSITIONED BY THE WARDEN TO HEAR HIS ATTORNEY CLIENT MEETING MUST PROCEED TO TRIAL. "TRIAL" TO COMMENCE SEPTEMBER 13, HANK SADOWSKI WILL ATTEND THE TRIAL. 1995.

ROSARIO V. HORVATITS, CIVIL NO. 90-80 (W.D.PA) 2.

THIS CASE WAS ALSO DISCUSSED IN PRIOR MONTHLY REPORTS. INMATE GREGORIO ROSARIO, 16973-038, BROUGHT THIS BIVENS ACTION AGAINST FORMER FCI MCKEAN CORRECTIONAL OFFICER, DANIEL HORVATITS, ALLEGING THAT HE WAS ASSAULTED AND DRAGGED 75 FEET BY THE DEFENDANT ON JANUARY 23, 1990. THE EVIDENTIARY HEARING WAS HELD ON JULY 10, 1995. JOYCE HORIKAWA ASSISTED AT THE TRIAL. ON AUGUST 3, 1995, THE MAGISTRATE JUDGE ISSUED A PEPORT RECOMMENDING A DECISION IN FAVOR OF BUREAU STAFF.

US V. (JUVENILE) CRIM.NO. 94-1047 (E.D.N.Y.)

THIS CASE WAS DISCUSSED IN LAST MONTH'S REPORT. THIS IS A CONTEMPT OF COURT CASE ARISING FROM A DISPUTE OVER PRIMARY JURISDICTION BETWEEN STATE AND FEDERAL SENTENCES. THE FEDERAL JUDGE ISSUED AN ORDER TO SHOW CAUSE WHY DIRECTOR HAWK, DEPUTY ASST DIR. FANELLO AND HANK SADOWSKI SHOULD NOT BE HELD IN CONTEMPT FOR FAILURE TO TAKE THE JUVENILE INTO FEDERAL CUSTODY. A HEARING BEFORE THE FEDERAL SENTENCING JUDGE ON JULY 19, 1995 DID NOT RESOLVE THE CONTEMPT PROCEEDING. ON SEPTEMBER 1, 1995, THE STATE JUDGE ISSUED AN ORDER RELEASING THE JUVENILE ON HIS OWN RECOGNIZANCE. THIS CAUSED PRIMARY CUSTODIAL JURISDICTION TO SHIFT TO FEDERAL AUTHORITIES. THE JUVENILE HAS NOW BEEN DESIGNATED TO SERVE HIS FEDERAL SENTENCE AT THE CONTRACT FACILITY RECOMMENDED BY THE FEDERAL SENTENCING JUDGE. THE US MARSHALS ARE MAKING SPECIAL ARRANGEMENTS FOR HIS TRANSPORTATION. AS SOON AS THE JUVENILE IS MOVED BY THE MARSHALS, THE AUSA WILL NOTIFY THE FEDERAL SENTENCING JUDGE AND REQUEST DISMISSAL OF THE CONTEMPT PROCEEDINGS.

UNITED STATES V. PAPPAS, CR 95-368-01 (E.D.N.Y.) 4.

THIS CASE WAS DISCUSSED IN LAST MONTH'S REPORT.

PRETRIAL DETAINEE DENNIS PAPPAS, 45783-053, FILED A MOTION WITH CRIMINAL TRIAL JUDGE ALLEGING MEDICAL PROBLEMS REQUIRE HIS RELEASE TO HOSPITAL. THE JUDGE REFERRED THE MOTION TO MAGISTRATE JUDGE ORENTSTEIN FOR A HEARING. THE HEARING WAS HELD ON AUGUST 1 & 2, 1995, AFTER WHICH, THE MAGISTRATE JUDGE DECIDED THAT HOSPITAL PLACEMENT WAS NOT NECESSARY, BUT ORDERED THE MCC NY TO DO A SERIES OF IMPRACTICAL THINGS IF THE INMATE COMPLAINS OF



CHEST PAINS. THE MOST ONEROUS IS TO CALL 911 AND REMOVE HIM FROM THE MCC WHENEVER HE COMPLAINS. DOMINIQUE RAIA ATTENDED THE HEARING AND, THROUGH AUSA, FILED AN APPEAL TO THE TRIAL JUDGE. THE JUDGE GRANTED RELIEF HELD THAT THE "ORDER" FROM THE MAGISTRATE JUDGE SHOULD BE TREATED BY .E WARDEN AS A RECOMMENDATION.

5. MF V. REISH, CIVIL NO. 95-4904 (S.D.N.Y.)

WITSEC INMATE AT MCC NY FILED A BIVENS ACTION WHICH REQUESTED INJUNCTIVE RELIEF. INMATE IS CHALLENGING CONDITIONS AT WITSEC UNIT AT MCC NY. ON SEPTEMBER 17, 1995, JUDGE SHEINDLIN HELD A HEARING TO CONSIDER INJUNCTIVE REQUESTS RELATING TO QUESTIONS RAISED ON MEDICAL CARE AND SECURITY (MF COMPLAINED DOCUMENTS WERE COPIED AT A COPIER MACHINE OUTSIDE THE UNIT). THE JUDGE FOUND NO GROUND TO GRANT RELIEF ON THESE ALLEGATIONS: AT THE HEARING, INMATE RAISED ADDITIONAL ISSUE CONCERNING CONTAMINATION OF WITSEC FOOD BY OTHER INMATES. THE JUDGE REQUESTED ADDITIONAL BRIEFING ON THIS ISSUE. DOMINIQUE RAIA ASSISTED THE AUSA AT THE HEARING.

RELIGIOUS CASES **NEW RELIGIOUS CASES RECEIVED IN AUGUST:

1. DAVIDSON V. WARDEN, CIVIL NO. 95-732 -- IN THIS BIVENS ACTION, INMATE ALLEGES THAT STAFF AT USP LEWISBURG DENIED HIM ACCESS TO RELIGIOUS MATERIALS AFTER HIS PLACEMENT IN SPECIAL HOUSING. INMATE DOES NOT CITE RFRA AS THE BASIS FOR THIS CLAIM. CASE ASSIGNED TO MIKE TAFELSKI.

**THE FOLLOWING IS A SUMMARY OF PENDING RELIGIOUS CASES:

1. COOPER V. TIPPY, CIVIL NO. 94-758 (N.D.N.Y.)--IN THIS BIVENS CASE, A JEWISH INMATE ALLEGED THAT THE COMMON FARE PROGRAM AT FCI RAY BROOK DID NOT COMPLY WITH BUREAU POLICY AND DID NOT MEET HIS RELIGIOUS NEEDS. HIS PLAINTS CENTERED ON SPECIFIC FOOD ITEMS AND THE ALLEGED FAILURE TO P SEPARATE UTENSILS. INMATE WAS RELEASED IN JULY 1994. MOTION FOR SUMMARY JUDGMENT PENDING SINCE OCTOBER 1994. NO NEW INFORMATION.

2. KARRIEM V. RIGGS, CIVIL NO. 93-0224 (DDC) --MUSLIM INMATE AND NON-INMATE MINISTER FILED FOR INJUNCTION TO REQUIRE BOP TO RECOGNIZE A RIGHT TO HAVE A SPECIAL RELIGIOUS FEAST FOR RAMADAN IN DECEMBER, 1993, NOT IN NINTH LUNAR MONTH AS IS RECOGNIZED AT PRESENT. THE CASE WAS ORDERED TRANSFERRED TO MDPA WHERE INMATE HAD BEEN HOUSED. HOWEVER, THE INMATE APPEALED THE TRANSFER ORDER WHICH STAYED THE TRANSFER PENDING APPEAL. NO ACTION IN CASE SINCE JULY 6, 1993. NO ACTION SINCE LAST REPORT.

3. MUHAMMAD V. REICH, 95-2318 (S.D.N.Y.)

PRETRIAL DETAINEE ABDUL-SHAHID FARRAKHAN MUHAMMAD, 36641-054, FILED THIS BIVENS ACTION ALLEGING THAT THE WARDEN AT MCC NY DID NOT SAFEGUARD THE RELIGIOUS INTERESTS OF THE NATION OF ISLAM. HE ALLEGES A DENIAL OF ACCESS TO MINISTERS OF HIS FAITH AND DENIAL OF ACCESS TO A DECEMBER FAST. RFRA IS NOT CITED IN THE COMPLAINT. NO NEW INFORMATION.

4. WILLIAMS-BEY V. RENO, 95-734 (M.D.PA.)

RELYING ON RFRA, INMATE HAYWOOD WILLIAMS, 20232-083, BROUGHT THIS BIVENS TYPE ACTION CHALLENING A HOST OF RELIGIOUS ISSUES AT USP ALLENWOOD. THE INMATE STATES HE BELONGS TO THE MOORISH SCIENCE TEMPLE OF AMERICA, AND ALLEGES THE BUREAU HAS INTERFERED WITH AN INTRAFAITH DISPUTE, FORCING HIM TO ACCEPT THE LEADERSHIP OF ONE GRAND SHIEK AND NOT ANOTHER. HE ALSO



ALLEGES THAT EACH FEDERAL INSTITUTION HAS CAUCASIAN CHRISTIAN MINISTERS, BUT DOES NOT EMPLOY ANY OF HIS RELIGION. HE ALSO COMPLAINS ABOUT HEADGEAR, D, JEWELRY, AND USE OF RELIGIOUS SURNAME. HOPE MORO IS ASSIGNED.

RAVEL AND LEAVE SCHEDULE

DAVE ESSIG -TRAVEL--SEPTEMBER 11-13 CAPTAIN'S CONFERENCE, DALLAS, TX SEPTEMBER 19-20 STAFF ASSIST, DANBURY, CT ANNUAL LEAVE--NONE SCHEDULED

HANK SADOWSKI -TRAVEL--SEPTEMBER 13-14 MALIK TRIAL, S.D.N.Y. ANNUAL LEAVE--SEPTEMBER 7

JOYCE HORIKAWA -TRAVEL--SEPTEMBER 21-22 REHAB TRIAL, E.D.N.Y. ANNUAL LEAVE--NONE SCHEDULED

RON HILL -

TRAVEL--NONE SCHEDULED ANNUAL LEAVE--SEPTEMBER 15-22

ON SEPTEMBER 5, 1995, LAW CLERK M. TERESA CRUSE, HAS JOINED OUR STAFF IN THE REGIONAL LEGAL OFFICE, AS THE HONORS ATTORNEY SELECTION. PARALEGAL SPECIALIST JIM VOGEL (RECENT RECIPIENT OF AWARD AS LEAD GRADUATE OF THIS YEAR PARALEGAL TRAINING SCHOOL) IS REPORTING TO MCC NY ON SEPTEMBER 18, 1995. WE WISH HIM WELL.



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	10-05-1995 UNITED STATES GOV	VERNMENT MEMORANDU	м
	WALLACE H. CHENEY, GENERAL COUNSEL, FEDERAL BUR WASHINGTON, D.C. 20534		
V	FROM: DAVE ESSIG, REGIONAL COUNSEL, NORTHEAST REGIO FEDERAL BUREAU OF PRISONS, PHILADELPHIA, PA.	ON 19106	6 199 5
	SUBJECT: LEGAL ACTIVITIES REPORT, NORTHEAST REGION		
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SETTLEMENTS AND AWARDS:

BATTLE V. UNITED STATES, CIVIL NO. 94-228 (W.D.PA.)

MATE STANLEY BATTLE, 40245-133, FILED THIS FTCA ACTION ALLEGING MEDICAL ALPRACTICE CAUSED THE AMPUTATION OF ALL 10 OF HIS TOES. THE ISSUE WAS THE FAILURE TO DIAGNOSE HIM AS A DIABETIC. CASE SETTLED FOR \$170,000 SINCE CASE WAS PROCEEDING TO TRIAL WITH CONSIDERABLE EXPOSURE TO U.S.

2. SITTON V. UNITED STATES, 95-272 (W.D.PA.)

INMATE DWAYNE SITTON, 04752-068, FILED FTCA ACTION ALLEGING HIS PROPERTY WAS LOST AFTER PLACEMENT IN SPECIAL HOUSING AT FCI ALLENWOOD. INMATE REQUESTED DAMAGES OF \$191.65. RELEVANT INVENTORY FORM COULD NOT BE FOUND. CASE SETTLED FOR \$107.

SIGNIFICANT CASES:

1. MALIK V. HERSHBERGER, 93 CIV. 4396 (S.D.N.Y.)

THIS CASE WAS DISCUSSED IN PRIOR MONTHLY REPORTS. TRIAL HELD ON SEPT. 13 THROUGH 15, 1995 ON BIVENS ACTION BROUGHT BY ABDEL-JABBOR MALIK, 80768-054 ALLEGING FORMER OTISVILLE WARDEN HAD STAFF EAVESDROP ON HIS CONVERSATIONS WITH HIS ATTORNEY. THE JURY RETURNED A VERDICT FOR WARDEN HERSHBERGER & FOUND THAT STAFF HAD NOT EAVESDROPPED ON THE ATTORNEY CLIENTS VISITS.

2. ROSARIO V. HORVATITS, CIVIL NO. 90-80 (W.D.PA)

THIS CASE WAS ALSO DISCUSSED IN PRIOR MONTHLY REPORTS. INMATE GREGORIO ROSARIO, 16973-038, BROUGHT THIS BIVENS ACTION AGAINST FORMER FCI MCKEAN CORRECTIONAL OFFICER, DANIEL HORVATITS, ALLEGING THAT ROSARIO HAD BEEN SAULTED AND DRAGGED 75 FEET BY THE DEFENDANT ON JANUARY 23, 1990. THE DENTIARY HEARING WAS HELD ON JULY 10, 1995. JOYCE HORIKAWA ASSISTED THE TRIAL. ON SEPTEMBER 15, 1995, THE DISTRICT COURT ENTERED JUDGMENT FOR THE DEFENDANT. THE INMATE FILED AN APPEAL.

3. BOUTRON V. MORTON, 93-CR-1018 (E.D.N.Y.)

INMATE EFRAIN BOUTRON, 28212-053, A PRETRIAL DETAINEE AT MDC BROOKLYN, FILED FOR AN ORDER COMPELLING THE BUREAU OF PRISONS TO AFFORD THE INMATE A SECOND NEUROLOGICAL EXAM BY AN OUTSIDE DOCTOR. JUDGE PLATT HELD A HEARING ON SEPTEMBER 22, 1995. AZZMEIAH VAZQUEZ REPRESENTED THE BUREAU. THE CLINICAL DIRECTOR AT MDC BROOKLYN CONDUCTED A FULL NEUROLOGICAL EXAM WHICH YIELDED NORMAL RESULTS. THUS, THE BUREAU DID NOT REQUEST AN OUTSIDE CONSULTANT. THE JUDGE DENIED THE MOTION BUT REQUESTED THE BUREAU TO OBTAIN A SECOND OPINION FROM A BUREAU NEUROLOGIST. AZZMEIAH AGREED TO THE JUDGE'S REQUEST.

RELIGIOUS CASES **NEW RELIGIOUS CASES RECEIVED IN SEPTEMBER: NONE

****THE FOLLOWING IS A SUMMARY OF PENDING RELIGIOUS CASES:**

1. COOPER V. TIPPY, CIVIL NO. 94-758 (N.D.N.Y.)--IN THIS BIVENS CASE, A JEWISH INMATE ALLEGED THAT THE COMMON FARE PROGRAM AT FCI RAY BROOK DID NOT COMPLY WITH BUREAU POLICY AND DID NOT MEET HIS RELIGIOUS NEEDS. HIS COMPLAINTS CENTERED ON SPECIFIC FOOD ITEMS AND THE ALLEGED FAILURE TO



KEEP SEPARATE UTENSILS. INMATE WAS RELEASED IN JULY 1994. MAGISTRATE JUDGE RECOMMENDED AGAINST GRANT OF SUMMARY JUDGMENT DUE TO CONTESTED FACTS KOSHER MARKINGS AND SEPARATE UTENSILS. DISCOVERY IS EXPECTED.

KARRIEM V. RIGGS, CIVIL NO. 93-0224 (DDC) --MUSLIM INMATE AND NON-...MATE MINISTER FILED FOR INJUNCTION TO REQUIRE BOP TO RECOGNIZE A RIGHT TO HAVE A SPECIAL RELIGIOUS FEAST FOR RAMADAN IN DECEMBER, 1993, NOT IN NINTH LUNAR MONTH AS IS RECOGNIZED AT PRESENT. THE CASE WAS ORDERED TRANSFERRED TO MDPA WHERE INMATE HAD BEEN HOUSED. HOWEVER, THE INMATE APPEALED THE TRANSFER ORDER WHICH STAYED THE TRANSFER PENDING APPEAL. NO ACTION IN CASE SINCE JULY 6, 1993. NO ACTION SINCE LAST REPORT.

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DAVIDSON V. WARDEN, CIVIL NO. 95-732 -- IN THIS BIVENS ACTION, INMATE EGES THAT STAFF AT USP LEWISBURG DENIED HIM ACCESS TO RELIGIOUS ATERIALS AFTER HIS PLACEMENT IN SPECIAL HOUSING. INMATE DOES NOT CITE RFRA AS THE BASIS FOR THIS CLAIM. ASSIGNED TO MIKE TAFELSKI.

TRAVEL AND LEAVE SCHEDULE FOR OCTOBER, 1995

DAVE ESSIG -TRAVEL--NONE SCHEDULED ANNUAL LEAVE--OCTOBER 6, 10-18

HANK SADOWSKI -TRAVEL--NONE SCHEDULED ANNUAL LEAVE--NONE SCHEDULED

JOYCE HORIKAWA -TRAVEL--NONE SCHEDULED ANNUAL LEAVE--OCTOBER 20

RON HILL -

TRAVEL--OCTOBER 12-13 FOIA TRAINING, DOJ, WASHINGTON, DC ANNUAL LEAVE--NONE SCHEDULED

TERESA CRUSE -TRAVEL--NONE SCHEDULED ANNUAL LEAVE--NONE SCHEDULED

