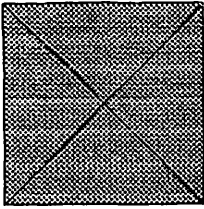


JAZ



**U.S. Department of Justice
Federal Bureau of Prisons
North Central Region**

Kansas City, KS 66101-2492

September 8, 1995

MEMORANDUM FOR WALLACE H. CHENEY, ASSISTANT DIRECTOR
GENERAL COUNSEL & REVIEW

FROM: JOHN R. SHAW, Regional Counsel

SUBJECT: MONTHLY REPORT (August 1995)

LITIGATION AND RELATED ISSUES

STATISTICS: Line 1 = New Cases Filed Line 2 = Total New Cases in Year

LITIGATION:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV
DEC										
25	15	36	16	12	1239	28				
	40	76	92	104	116	155	183			
Pending				799						

ADMINISTRATIVE CLAIMS:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV
DEC										
58	55	57	67	86	6770	66				
	113	170	237	323	390	460	526			
Pending				188						

ADMINISTRATIVE REMEDIES:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV
DEC										
155	125	143	125	152	150	136	173			
	280	423	548	700	850	992	1165			

ADVERSE DECISIONS:

John M. McCarthy v. USA, et al, Case No. 95-Z-320, District of Colorado, ADX Florence.

Magistrate Judge Borchers has recommended denying the government's motion to dismiss this action for equitable relief only. Plaintiff McCarthy alleges the BOP practice of not providing access to state law materials has impeded his access to the courts. McCarthy, convicted under the Armed Career Criminal provisions of 18 USC 924 (e), requested Florida state material for the purpose of challenging state convictions which had been used to enhance his federal sentencing. ADX legal staff provided inmate McCarthy with several avenues for obtaining state legal materials. Magistrate Borchers relied on the Tenth Circuit's decision of Petrick v. Maynard, 11 F.3d 991 (10th Cir. 1993) in finding the BOP had some obligation to assist inmate McCarthy in obtaining the state law materials. I recently forwarded to Joyce Zoldak and Jeff Shorba a memorandum outlining my concerns and proposed action alternatives to deal with this continuing Tenth Circuit problem. Objections will be filed.

SETTLEMENTS OR JUDGMENTS:

After extensive consultation with the U.S. Attorney's Office and the Office of General Counsel, we offered settlement, under the administrative claims section of the FTCA, to inmates Dixon, Weeks and Barnett for injuries they allegedly suffered at USP Leavenworth in June, 1993. Barnett (Barnett v. FBOP, et al, Case No. 95-299-JR, District of Columbia and subsequently transferred to the District of Kansas) accepted an offer of \$1000.00 and Weeks (Weeks v. USA, Case No. 94-3381-RDR, District of Kansas, USP Leavenworth) accepted an offer of \$1,500.00. Dixon, who is represented by counsel, rejected an offer of \$1,500.00.

PENDING CASES OF INTEREST:

Dixon v. USA, et al., Case No. 94-3309-RDR, District of Kansas, USP Leavenworth.

There has been no formal decision from the DOJ Torts Branch regarding representation for the

named defendants in this hybrid FTCA\Bivens case. The NCRO provided the Torts Branch with a supplemental memorandum justifying representation for the defendants. The AUSA who was defending the action withdrew from the case and a new AUSA has made an entry of appearance.

The AUSA who was defending the Weeks action was reluctant to respond on behalf of the United States until the DOJ Torts Branch makes a decision regarding representation in the Dixon action. After motioning for a further 30 day extension, she withdrew from the case and a new AUSA made an entry of appearance.

Farmer v. Brennan: Seventh Circuit Case No. 94-3787, Case No. 91-C-716 S, Western District of Wisconsin) Following remand from the Supreme Court, the defendants renewed their motion for summary judgment which was granted by the trial court. Inmate Farmer appealed. The Court of Appeals has appointed counsel to represent Farmer. Oral argument is scheduled for Wednesday, September 27, 1995 in Chicago, Illinois.

RELIGIOUS FREEDOM RESTORATION ACT CASES:

Wa'il Mansur Muhanned v. Reno, et al, Case No. 94-N-2234, District of Colorado, USP Florence.

The plaintiff has sued seeking to compel the BOP to refer to him by his adopted religious name which has been legally changed by a state court. plaintiff has a similar action pending in the District of Arizona (Muhanned v. Floyd, et al, Case No. CIV-94-1077-PHX-RCB). The U.S. Attorney's Office made a motion to transfer the Colorado case to Arizona and combine the two into one action. Mr. Muhanned has moved the court in Colorado to dismiss his Colorado action without prejudice.

CRIMINAL MATTERS

None

ADMINISTRATIVE CLAIMS OF INTEREST

None.

STAFF TRAVEL AND LEAVE

John

Sept. 26 - 27, 1995
Chicago, Farmer Oral Argument
September 28, 1995

USP Marion
September 29, 1995
FCI Greenville

Daryl

None Planned

Matt

September 1, Last Day In NCRO

Dan

September 1 - 8, 1995
Gaither v. Reno trial in Abilene, TX.

Gwen

None Planned

Gary

September 5-8, 14,15 Annual Leave

Janet

None Planned

Rick

September 5-8, 11-15, Institution

Note: FTCA backup disk mailed to Mary Rose Hagan on August 31, 1995.