



LITIGATION BRANCH

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

**OFFICE OF GENERAL COUNSEL
BUREAU OF PRISONS**

Kansas City, KS 66101-2492

August 4, 1995

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

FROM: JOHN R. SHAW, Regional Counsel

SUBJECT: MONTHLY REPORT (June 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	12	39					
	40	76	92	104	116	155					
Pending				783							

ADMINISTRATIVE CLAIMS:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
58	55	57	67	86	67	70					
	113	170	237	323	390	460					
Pending				192							

ADMINISTRATIVE REMEDIES:

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

ADVERSE DECISIONS:

None

SETTLEMENTS OR JUDGMENTS:

None.

DECISIONS OF INTEREST:

Sims v. Scott, et al., Case No. 94-3175-RDR, District of Kansas, USP Leavenworth.

In this personal liability action plaintiff alleged that, while confined at the USP Leavenworth his constitutional rights were violated by virtue of his continued and improper confinement in the segregation unit. Plaintiff's allegations concerned this protracted segregation confinement, medical care, and access to the courts. Inmate Sims requested declaratory, injunctive relief as well as punitive and compensatory damages in the amount of \$1000000.00.

Records and other facts before the Court indicated plaintiff was properly confined in segregation for legitimate security concerns and therefore no due process claims and issues were implicated. Additionally, the record documents plaintiff's regular contact with medical staff where his medical complaints were addressed. Finally, plaintiff enjoyed access to the courts in that he had access to a basic law library, was able to request additional legal materials through the Education Department, and was allowed access to the administrative remedy procedure.

Summary Judgment entered May 1, 1995.

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.

Weeks v. USA, Case No. 94-3381-RDR, District of Kansas, USP Leavenworth

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.

RELIGIOUS FREEDOM RESTORATION ACT CASES:

None

CRIMINAL MATTERS

None

ADMINISTRATIVE CLAIMS OF INTEREST

Luciano Paolone, 03368-089, T-NCR-95-227, Personal Injury-\$1,000,000.00, FCI Oxford.

In this administrative claim inmate Paolone alleges he was the victim of an assault by other inmates and that subsequent to the assault the Bureau of Prisons failed to render time and appropriate medical care resulting in permanent injuries to his eye.

The institution investigation substantiates inmate Paolone was injured as alleged. Further, segregation and medical records reflect the inmate made numerous requests and complaints regarding an eye injury sustained in the assault. The record tends to indicate the claimant may not have been provided timely diagnosis or care for his injuries and that delay in diagnosis and treatment made any attempt to subsequently treat his eye injury more difficult and less likely to be successful.

Due to the potentially negligent acts of staff in this claim it was referred to the Central Office, for further review and disposition.

STAFF TRAVEL AND LEAVE

John	None Planned
Daryl	None Planned
Matt	August 1-4 House Hunting Trip to Memphis
Dan	August 21-24, Annual Leave
Gwen	None Planned
Gary	None Planned
Cindy	None Planned August 28, Transfers to Coleman
Janet	None Planned
Rick	None Planned

Note: FTCA backup disk mailed to Mary Rose Hagan on August 1, 1995.
Legal Conference August 14-18