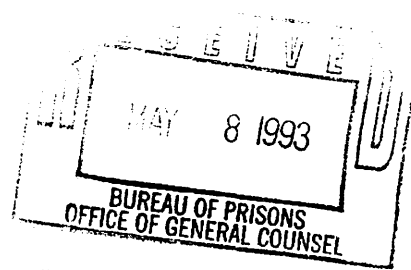


UNITED STATES GOVERNMENT
memorandum

DATE: May 5, 1993
REPLY TO
ATTN OF: John R. Shaw, Regional Counsel
North Central Region
SUBJECT: MONTHLY REPORT - APRIL
TO: Wallace H. Cheney, Assistant Director
General Counsel and Review



PENDING TRIALS/HEARINGS

There were no reports of pending trials or hearings for the month of May 1993 received from the institutions within this region.

DECISIONS/SETTLEMENTS/CASES OF INTEREST

Gladson v. U.S. Penitentiary, 92-3505, D. Kansas, USP Leavenworth. Plaintiff alleges that defendants have improperly withheld medical records which he requested pursuant to the Freedom of Information and Privacy Acts. Institution staff have no record of the inmate's request for medical records. Upon receipt of the inmate's request, access to the releasable portion of his medical file was provided. A Motion to Dismiss or in the alternative for Summary Judgment was filed on March 1, 1993. The Court has given the plaintiff until May 7, 1993 to respond to the Motion for Summary Judgment.

United States v. Kizel, 90-CR-114, E.D. Wisconsin.

Defendant Rick Kizel, a convicted drug dealer incarcerated at FCI Tallahassee, returned to the Eastern District of Wisconsin pursuant to a reduction of sentence motion. In support of the motion, inmate Kizel wrote a seventeen page letter to the Judge complaining of medical treatment by medical staff at the MCC Chicago.

Judge Stadtmueller did not seek a response from the Bureau of Prisons. The AUSA did not object to the accuracy or contents of the letter. The Judge assumed the inmate's comments and allegations were accurate and directed the AUSA to have BOP staff available to provide testimony on the matter in March. The Judge's comments were the topic of several newspaper articles in the Milwaukee area.

In response to the letter and the Judge's comment, MCC Chicago staff prepared and submitted a fifteen page report with the court that established inmate Kizel received appropriate care and treatment while at MCC Chicago. A copy of the report (dated March 1, 1993) and an Executive Summary dated March 2, 1993 was previously submitted to your office.

The Assistant U.S. Attorney informed our office that if the Court desired further information concerning Mr. Kizel, the U.S. Attorney's Office would be contacted by the Judge. At this time neither the U.S. Attorney nor the BOP has received any inquiries from the Court concerning Mr. Kizel. We presume the matter to be closed.

OTHER MATTERS OF INTEREST

Last month we finally were able to log onto the FOI/PA database via modem. We have updated our request files to January 1, 1993 except for those requests received directly from the requestor and processed in this office. These latter requests are from medical institutions or Social Security Disability offices only. Within the next months we will be copying these requests from our files and forwarding the request and a copy of our response to the FOI/PA Section for initial logging.

After utilizing the FOI/PA tracking system for the past month we had a few comments that were conveyed to Yvonne Hinkson by memorandum last week.

STAFF TRAVEL AND LEAVE

John	MAY 3,4,5,6 MAY 12,13 MAY 18,19	Washington, D.C. USP Marion FPC Yankton
Daryl	MAY 12,13 MAY 28	USP Marion Annual Leave
Paul	MAY 3,4,5,6	LEI-Chicago
Gary	MAY 27,28	Annual Leave
Helen	MAY 21,24,25	Annual Leave

memorandum

DATE:

June 5, 1993

REPLY TO
ATTN OF:

SUBJECT:

John R. Shaw, Regional Counsel
North Central Region
MONTHLY REPORT - MAY

TO:

Wallace H. Cheney, Assistant Director
General Counsel and Review

PENDING TRIALS/HEARINGS

There were no reports of pending trials or hearings for the month of June 1993 received from the institutions within this region.

DECISIONS/SETTLEMENTS/CASES OF INTEREST

Gladson v. U.S. Penitentiary, 92-3505, D. Kansas, USP Leavenworth. Plaintiff alleges that defendants have improperly withheld medical records which he requested pursuant to the Freedom of Information and Privacy Acts. Institution staff have no record of the inmate's request for medical records. Upon receipt of the inmate's request, access to the releasable portion of his medical file was provided. A Motion to Dismiss or in the alternative for Summary Judgment was filed on March 1, 1993. The Court gave plaintiff until May 7, 1993 to respond to the Motion for Summary Judgment. As of this date we have no further information in this action.

Gonzalez v. Benson, 93-3166-RDR, D. Kansas, USP Leavenworth.

and

Gonzalez v. Jenkins, 93-3157-RDR, D. Kansas, USP Leavenworth. Petitioner, in 93-3166 alleged staff violated his rights when they denied him food and assaulted him in his cell. In 93-3157 he alleged staff assaulted him on several occasions and that his complaints to the Warden went unanswered.

The Court in each of the above actions dismissed without prejudice to allow the Petitioner an opportunity to exhaust his administrative remedies. The Court held that the Bureau of Prisons had special expertise in the areas of prison management and an interest in promoting internal resolution of inmate complaints and in preserving its authority by preventing the undermining of its authority by unnecessary resort by prisoners to the federal courts. Both actions were dismissed without prejudice on April 30, 1993.

OTHER MATTERS OF INTEREST

Eddie Jones FTCA Administrative claim for wrongful death at the U.S. Medical Center for Federal Prisoners, Springfield, Missouri.

OPTIONAL FORM NO. 10
(REV. 1-80)
GSA FPMR (41 CFR) 101-11.6
5010-114

This claim is due for a response on June 3, 1993. However, at this juncture, the claimant has not provided our previously requested evidence of adoption. In our most recent correspondence to the attorney for the claimant we have reasserted our need for the above information prior to making any determination in the claim.

We continue to struggle with FOI/PA. We find that several problems are recurring and are in need of some form of remedial action. We have listed these concern in a seperate memorandum to you.

STAFF TRAVEL AND LEAVE

John	JUNE 7-10	Denver
Daryl	JUNE 4	Annual Leave
	JUNE 7-10	Denver
	JUNE 18	Annual Leave
	JULY 1,2	Annual Leave
Paul	JUNE 25	Annual Leave
	JULY 1-6	Annual Leave
Gary	JUNE 7-10	Denver
Helen	JUNE 14-22	Annual Leave
Sonya	JUNE 16-25	House Hunting Trip Washington D.C.
Jackie	JUNE 22-25	Annual Leave
Erv	JUNE 1	Annual Leave
Amy	JUNE 4	Annual Leave


memorandum

North Central Regional Office Kansas City, MO 64153

DATE: July 7, 1993

REPLY TO

ATTN OF: John R. Shaw, Regional Counsel

SUBJECT: MONTHLY REPORT/QUARTERLY REPORT

TO: Wallace H. Cheney, Assistant Director
General Counsel and ReviewPENDING TRIALS/HEARINGS

Duarte v. U.S.A., Civil Number 92-509-WDS, FILS, USP Marion. In this action the inmate alleged the loss of personal property in his placement in administrative detention at USP Leavenworth and his subsequent transfer to USP Marion. Claimant asserted a loss in the amount of \$884.30. Our review of the administrative claim and subsequent suit disclosed a possible loss of a few minor items of personal property. Accordingly, the inmate was offered \$54.00 in settlement of his claim, but refused the offer.

A bench trial is scheduled for Friday, July 9, 1993, at the USP Marion Courtroom.

There were no other reports of pending trials or hearings received from the institutions within this region.

DECISIONS/SETTLEMENTS/CASES OF INTEREST

Gladson v. U.S. Penitentiary, 92-3505, D. Kansas, USP Leavenworth. Plaintiff alleges that defendants have improperly withheld records which he requested pursuant to the Freedom of Information and Privacy Acts. Specifically, he claims that certain medical records were never released to him. Institution staff were never informed of the inmate's request for medical records and, upon notice of the inmate's request, provided him access to the releasable portion of his medical file.

On June 2, 1993, the Court dismissed this action on the basis the inmate failed to pursue his administrative remedies and mootness when he was provided access to releasable medical files.

Sellars v. Carlson, 80-4038, Southern District of Illinois, USP Marion. This action relates to the inmate's complaint of ineffective medical treatment for his diabetic condition. The case was appealed following a dismissal and subsequently reopened. The court has appointed counsel for the inmate and is considering whether to allow discovery. At this point we have heard nothing regarding discovery in this case. We note that, while inmate Sellars was pro se, he was allowed extensive discovery.

Bellecourt v. USA, 92-1818MN and 92-2002MN, 8th Cir. Court of Appeals, FMC Rochester. Plaintiff appealed the District Court's dismissal of his medical malpractice action. The basis of Plaintiff's appeal is whether a grossly negligent misdiagnosis is a form of deliberate indifference prohibited by the Eighth Amendment of the United States Constitution, even where a physician states a personal belief that he has followed a reasonable course of treatment. Dr. Wynn, a defendant, was a government contractor. He cross-appealed the trial court's conclusion that he was an independent contractor rather than an employee.

The Court of Appeals affirmed the trial court finding (1) the plaintiff has not proven presentment of an administrative claim, (2) the contract physician was not deliberately indifferent, and (3) the trial court properly dismissed the pendant state action for medical malpractice because the plaintiff failed to file a timely notice of expert review. Dr. Wynn's cross-appeal was dismissed as moot

FTCA ADMINISTRATIVE CLAIMS

The FTCA administrative claim concerning the alleged wrongful death of Eddie Bishop Jones is pending response. We continue to research this matter and collect further information regarding the law and factual issues in this claim. Our focus at this point is in determining whether the claimant, Mrs. Jones, is actually the mother of the deceased inmate and whether she was timely (for purposes of the FTCA claim) appointed the legal representative of the estate.

STAFF TRAVEL AND LEAVE

Daryl	JULY 1,2, & 6	Annual Leave
Paul	JULY 1,2, & 6	Annual Leave
Sonya	JULY 1 & 2	Annual Leave
Gary	JULY 15, 16, 19, 20, & 21	Annual Leave
AMY	July 2	Annual Leave

LITIGATION

LOC	NUM	HC	FTC	BIV	OTH	ANS	PEN	CLD	H/T	SET	AWD
MXR											
NER											
SER											
NCR	72	22	12	24	14		573	40	0	0	0
SCR											
WXR											
CO											
TOT											

NARRATIVE ANALYSIS**DEFINITIONS**

LOC - LOCATION

NUM - NUMBER OF TOTAL LAWSUITS FILED IN QUARTER

HC - NUMBER OF HABEAS CORPUS ACTIONS FILED

FTC - NUMBER OF FTCA ACTIONS FILED

BIV - NUMBER OF BIVENS ACTIONS FILED

OTH - OTHER ACTIONS FILED

ANS - NUMBER OF LITIGATION REPORTS COMPLETED

PEN - PENDING

CLD - NUMBER OF ACTIONS CLOSED

H/T - NUMBER OF HEARINGS OR TRIALS (INCLUDE INFO IN NARRATIVE)

SET - NUMBER OF SETTLEMENTS (INCLUDE INFO IN NARRATIVE)

AWD - NUMBER OF AWARDS (INCLUDE INFO IN NARRATIVE)

GOVERNMENT ACTION AND DATE OF ACTION - (INCLUDE IN NARRATIVE)

TORT CLAIMS

LOC	NUM	PROP	PI	APPR	AMT	DEN	PEND	OD	A/O	A/P
MXR										
NER										
SER										
NCR	168	123	45	16	326.5	38	145	0	0	31
SCR										
WXR										
TOT										

NARRATIVE ANALYSIS

DEFINITIONS

- LOC - LOCATION
- NUM - NUMBER FILED IN QUARTER
- PROP - PROPERTY CLAIM
- PI - PERSONAL INJURY CLAIM
- APPR - APPROVED
- AMT - TOTAL AMOUNT APPROVED
- DEN - DENIED
- PEND - PENDING
- OD - NUMBER OVERDUE
- A/O - AVERAGE NUMBER OF DAYS OVERDUE
- A/P - AVERAGE LENGTH OF TIME TO PROCESS

PI includes 3 WD & 3 PPPI