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01-14-1992

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

1992	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
ADMINISTRATIVE REMEDIES												
# PENDING ON FIRST	31	32	45	60	70	63	30	81	70	72	62	26
# RECEIVED IN MONTH	49	67	115	117	70	78	109	111	108	86	93	67
# ANSWERED IN MONTH	48	54	100	107	77	111	58	122	106	96	129	53
# PENDING END OF MO	32	45	60	70	63	30	81	70	72	62	26	40
# OVER 30 DAYS	0	0	0	0	0	0	0	0	0	0	0	0

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TORT CLAIMS (1992)	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# PENDING ON FIRST	148	159	143	151	142	113	128	141	170	210	196	177
# RECEIVED IN MONTH	45	38	54	52	47	73	60	79	81	66	56	66
# ANSWERED IN MONTH	34	54	46	61	76	58	47	50	41	80	75	55
# PENDING END OF MO	159	143	151	142	113	128	141	170	210	196	177	188
# OVER 6 MONTHS	0	0	0	0	0	0	0	0	0	0	0	0

FOI/PRIVACY (1992)	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# PENDING ON FIRST	66	59	63	76	72	76	102	97	98	106	130	128
# RECEIVED IN MONTH	27	43	61	47	16	88	37	45	29	36	4	12
# ANSWERED IN MONTH	34	39	48	51	12	62	42	44	21	12	6	44
# PENDING END OF MO	59	63	76	72	76	102	97	98	106	130	128	96
# OVER 30 DAYS	44	42	36	47	63	46	60	72	87	98	125	88

TORT CLAIM INVESTIGATION STATUS: AS OF 12/31/1992

	ALW	DAN	FAI	LEW	LOR	MCK	NYM	OTV	RBK	SCH	LSCI
# PENDING	12	9	27	47	12	12	28	8	11	20	0
# INV OVER 60 DAYS	0	0	0	16	3	1	1	1	0	0	0

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LITIGATION ACTIVITY, 1992, NORTHEAST REGION

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# CASES OPEN	247	253	259	264	273	278	296	312	322	281	205	215
# NEW CASES RECD	10	11	17	12	20	21	30	26	18	20	27	21
# LIT REP DONE	11	6	11	8	23	16	21	20	22	18	21	19
# CASES CLOSED	12	5	11	7	11	15	12	10	8	61	103	11
# HABEAS CORPUS	1	5	7	3	12	5	7	9	6	6	15	7
# FTCA	2	2	0	1	0	1	0	3	2	4	4	1

# BIVENS	4	1	5	2	4	8	13	6	4	9	5	6
# OTHER	3	3	5	6	3	7	10	6	5	1	3	4
# BIVENS & FTCA	0	0	0	0	1	0	0	2	1	0	0	3

LITIGATION OF NOTE:

1. ROBERT REGO V. UNITED STATES, CIVIL NO. 92-6547 (EDPA)

INMATE REGO WAS REMOVED FROM FPC MAXWELL AIR FORCE BASE TO TESTIFY FOR THE UNITED STATES IN A MAJOR TRIAL IN PHILADELPHIA. ONE WEEK AFTER ARRIVAL, REGO FILED A HABEAS CORPUS PETITION REQUESTING IMMEDIATE RELEASE THROUGH A CCC OR IMMEDIATE HOME CONFINEMENT. REGO HAS PRESUMPTIVE PAROLE DATE OF APRIL 25, 1993. COURT HELD HEARING ON THE PETITION ON DECEMBER 7, 1992. US ATTORNEY'S OFFICE SUPPORTED REGO'S REQUEST FOR EXTENDED PLACEMENT, BUT

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DEFERRED TO BOP. HANK SADOWSKI REPRESENTED BOP AT HEARING. ON DECEMBER 14, 1992, DISTRICT COURT DISMISSED PETITION FOR LACK OF JURISDICTION OVER WARDEN, FAILURE TO EXHAUST, AND ON MERITS.

2. U.S. V. FRANK SMITH, 90 CR 504 (EDNY)

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 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(B). IN THE PLEA BARGAIN, AUSA AGREED NOT TO OPPOSE REQUEST FOR SERVICE OF FEDERAL SENTENCE FIRST. HANK SADOWSKI APPEARED BEFORE JUDGE GLASSER ON JANUARY 4, 1993 AND PRESENTED BOP POSITION. JUDGE GLASSER STATED HE WILL TAKE CASE UNDER ADVISEMENT AND ENTER HIS RULING. WE ARE SEEKING TO RETURN INMATE TO STATE.

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

FTCA CASE BROUGHT BY INMATE AT USP LEWISBURG REQUESTING DAMAGES FOR A SLIP

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AND FALL DOWN STEPS IN SEPTEMBER 1990. COURT HAS DISMISSED CLAIMS BASED ON INADEQUATE MEDICAL CARE FOR KNEE INJURY. INMATE ASSERTS U.S. LIABLE BECAUSE NEGLIGENT MAINTENANCE OF STEPS CAUSED HIM TO FALL. CASE ON TRIAL CALENDAR IN MDPA. A PRETRIAL CONFERENCE IS SCHEDULED FOR JANUARY 12, 1993 IN WHICH MAGISTRATE JUDGE BLEWITT IS EXPECTED TO EXPLORE SETTLEMENT. HOPE MORO, USP LEWISBURG ATTORNEY, WILL ASSIST AUSA AT CONFERENCE. MEDICAL EVIDENCE SHOWS NO PERMANENT DAMAGE TO KNEE. SETTLEMENT IS NOT EXPECTED.

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 SCHEDULED FOR JANUARY 21, 1993 AT WHICH EACH SIDE IS TO SUMMARIZE BEST CASE. HANK SADOWSKI WILL ATTEND SETTLEMENT CONFERENCE. THERE IS POTENTIAL FOR U.S. LIABILITY.

SETTLEMENTS AND AWARDS

1. RICHARD YOUNG V. KEOHANE, CIVIL NO. 88-1995 (MDPA)

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INMATE YOUNG FILED THIS COMBINATION FTCA AND BIVENS CASE CHALLENGING TREATMENT WHILE HELD AS PRETRIAL DETAINEE AT USP LEW FROM JUNE 88 THRU OCTOBER 1988. JUDGE CONABOY DENIED MOTION FOR SUMMARY JUDGMENT FOR MOST BOP DEFENDANTS. PRETRIAL CONFERENCE HELD BEFORE JUDGE CONABOY ON DEC. 15, 1992. USP LEWISBURG MIKE TAFELSKI ASSISTED AUSA AT CONFERENCE. AUSA WAS ABLE TO WORK OUT SETTLEMENT OF CASE UNDER STIPULATION FOR FTCA RECOVERY IN AMOUNT OF \$500.00. (NOTE: THIS IS NOT THE SAME INMATE YOUNG IN YOUNG V. QUINLAN, 960 F.2D 351 (3D CIR. 1992), WHICH IS STILL IN DISCOVERY.)

2. JACOB V. LUTHER, CIVIL NO. 91-7483 (EDPA)
JACOB V. SULLIVAN, CIVIL NO. 91-7484 (EDPA)

TWO CONSOLIDATED FTCA CASES FILED BY FORMER INMATE CRAIG JACOB, 97763-024 WERE SCHEDULED FOR TRIAL ON JANUARY 11, 1993. EACH CASE INVOLVED LOST PROPERTY. NER ATTORNEY AZZMEIAH VAZQUEZ-SPICER ASSISTED AUSA. PLAINTIFF FAILED TO APPEAR FOR TRIAL AND JUDGE GRANTED AUSA'S MOTION TO DISMISS WITH PREJUDICE FOR LACK OF PROSECUTION.

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TRAVEL AND LEAVE SCHEDULE FOR JANUARY 1993

DAVE ESSIG -

TRAVEL--JAN 25-29 --MSTC AURORA FOR DHO TRAINING

ANNUAL LEAVE--NONE SCHEDULED

HANK SADOWSKI

TRAVEL--JAN. 4 - US DISTRICT COURT - EDNY - US V. SMITH

JAN. 17 - US DISTRICT COURT -SDNY - WORTHINGTON V. US

ANNUAL LEAVE--NONE SCHEDULED

AZZMEIAH VAZQUEZ-SPICER

TRAVEL--JAN. 11 - US DISTRICT COURT - EDPA - JACOB V. LUTHER

ANNUAL LEAVE--NONE SCHEDULED

TERESA HUGHES, PARALEGAL SPECIALIST, REPORTED TO FCI FORT DIX ON JANUARY 11, 1993.