

UNITED STATES GOVERNMENT
memorandum

Date: September 5, 2001

Reply to: Sherree L. Sturgis, Regional Counsel, Southeast Region
Attn of: Federal Bureau of Prisons, Atlanta, GA 30331

Subject: Monthly Report - August 2001

To: Christopher Erlewine, Assistant Director/General Counsel
Federal Bureau of Prisons
Washington, D.C. 20534

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Tort Claims - 2001

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 st	155	138	140	105	113	112	136	146	166			
Rec'd in month	35	21	30	40	32	54	50	60				
Recons. rec'd	4	2	1	0	1	3	1	3				
Ans'd in month	62	38	50	61	64	55	42	45				
Pending at end	138	140	105	113	112	136	146	162				
Over 180 days	28	54	10	9	9	9*	17*	15*				

* OIA Referrals -7

Pending Settlement, Settlement Authority, OQM and/or AFIP Referral-7

Pending Add. Info from Inst.-1

B. Tort Claim Investigation Status: As of August 1, 2001

	ATL	COL	EDG	EGL	EST	GUA	JES	MIA	MIM	MNA	MON	PEN	TAL	TDG	YAZ	SEO
PENDING	69	7	5	2	3	12	9	17	1	4	3	3	9	3	6	15
>60 DAYS	18	0	0	0	2	1	3	11	0	1	2	1	0	0	0	7

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C. FOI/Privacy Act Requests - 2001

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 st	6	21	23	29	25	17	19	20	15			
Rec'd in month	29	37	39	25	28	28	32	31				
Ans'd in month	19	33	29	31	37	37	31	37				
Pending at end	21	23	29	25	17	17	20	15				
Over 30 days	0	0	2	2	0	0	0	0				

D. FOIA Requests for records: As of September 2001

	ATL	COL	EGL	EST	GUA	JES	MIA	MIM	MNA	MON	PEN	TAL	TDG	YAZ	EDG
PENDING	4	2	2	0	0	2	1	0	0	0	0	2	0	0	2
>30 DAYS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

E. Administrative Remedies 2001

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
133	136	211	178	272	182	155	221				

II. LITIGATION ACTIVITY - 2001 SOUTHEAST REGION

A. Summary Report

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Cases Open	310	212	213	222	231	236	217	234	231			
New Cases	12	11	19	20	19	20	30	25				
Habeas Corpus	5	6	14	8	16	13	21	16				
FTCA	0	0	0	1	0	1	2	2				
Bivens	5	5	5	9	3	5	5	6				
Other	2	0	0	2	0	1	2	1				
Bivens/FTCA	0	0	0	0	0	0	0	0				
Lit Reports	6	5	1	1	5	5	10	14				
Cases Closed	110	10	10	11	14	39	13	28				

B. Settlements and Awards: None reported

C. Significant Cases, Trials, Hearings, Other:

1. NEW CASES:

a. Dale Robinson v Forbes, 99-CV-3376-JEC

Bivens/FTCA Case. USP Atlanta. Inmate alleges staff was indifferent to his medical condition and assigned him strenuous labor giving him a heart attack. This case was closed December 18, 2000. Case reopened July 25, 2001. Lisa Cooper, AUSA.

b. Andre Twitty v. Willie Scott, et al., 01-CV-1538-TWT

Bivens Case. USP Atlanta. Plaintiff alleges that staff assaulted him. Plaintiff seeks \$25,000,000. AUSA has not yet been assigned.

c. Idris Enlow v. U.S., 1-01-CV-2165

FTCA Case. USP Atlanta. Plaintiff alleges that USP Atlanta staff failed to protect him from an assault. Plaintiff alleges that he was stabbed 16 times by another inmate. Plaintiff \$2,000,000.

d. James Kimball v. U.S., 5:01-CV-2570c-10

FTCA Case. FCC Coleman. Plaintiff alleges that he is not receiving appropriate medical care and treatment for a breathing and coughing problem, his back and neck injury, and ongoing dental problems. Plaintiff sought a Temporary Restraining Order and Injunction, but both were denied. Court has ordered Plaintiff to prove that he has exhausted available administrative remedies.

e. Anthony Hunter v. Cathleen Hawkins, et al., 7:01-2610-19BG
Bivens Case. FCI Estill. Plaintiff alleges that he has not received medical treatment for his skin condition. Plaintiff seeks \$1,000,000.

f. Harold Wood v. U.S., 5:01-cv-222-RH
FTCA Case. FCI Marianna. Plaintiff alleges that he has not received appropriate medical treatment for his seizure disorder. Plaintiff seeks \$30,000,000.

g. Leslie Perez v. Kathleen Hawks Sawyer, 4:01-cv-268-SP
Bivens Case. Florida Department of Corrections. The Petitioner alleges he is presently being illegally detained by the Florida Department of Corrections because of an agreement between the FBOP and the State of Florida. The Petitioner also alleges discrimination by the FDOC because they refuse to provide him the same benefits as a federal prisoner.

h. Hiram Martinez v. BOP et., al Case No.01-CV-1929-King/Sorrentino
This is a 2241 habeas petition from FDC Miami. The Petitioner argues that the period during which he was on appeal bond should be awarded as credit against the service of the six year term of imprisonment imposed by Judge Moore. The Petitioner contends that this period of release is similar to parole and was served concurrent to his supervised release term, therefore, it is creditable towards his first sentence.

i. Note Received five Habeas Corpus Petitions from FCI Talladega concerning the retroactive application of new regulations concerning Section 3621(e) releases where the inmates had an early expectation of release.

2. HEARINGS: No Significant Hearings Reported

3. TRIALS: None Reported

4. OTHER

a. Layland v. United States of America, 2:01-CV-0076-ST, District of Utah
Inmate attacking his conviction for ineffective assistance of counsel in District of Utah sought recordings of conversations between him and his attorney maintained by the FCC Coleman SIS Office. Assistant United States Attorney defending 2255 action advised FCC Coleman the recordings had to be provided to inmate pursuant to an order from federal district court allowing limited discovery. FCC Coleman Legal arranged for Layland to listen to recordings in the Captain's Office because of the nature of Layland's offense of conviction (child pornography). Layland declined and successfully motioned the Middle District of Florida to order the BOP to grant him possession of tapes. After Layland was provided tapes, he determined the sound quality was poor and has threatened suit under the Freedom of Information Act.

5. CLOSED CASES

- a. McCain v. Hawk-Sawyer (FCI Edgefield)
Civil Action Number 2:99-3602-12 (FSC)
Summary Judgement
August 21, 2001
- b. United States v. Norberto Morlaes (MDC, Guaynabo)
CR No. 99-185 (CCC)
Dismissed (Failure to Exhaust)
August 2, 2001
- c. Robert Muoio v USA,
01-CV-1269-CC
Matter was moot/dismissed
August 23, 2001
- d. Royal Allen v Bureau of Prisons,
99-CV-2946-WBH, Northern District of Ga.
Motion to dismiss granted
August 15, 2001
- e. Michael Thomas v. R. Wiley, Warden
00-PWG-0118-E
Writ Denied
August 4, 2001
- f. Stephen James Moncour v. Warden R. Wiley
99-PWG-3228-E
Motion to Dismiss/Granted
August 29, 2001
- g. Theron J. Porter v. Warden R. Wiley
00-pt-0305-e
Motion to Dismiss/Granted
August 29, 2001
- h. Jeffrey T. Miller v. R.D. Swope, et al.
5:01-cv-163-oc
Dismissed
August 2, 2001

D. RELIGIOUS CASES: None Reported

E. ENSIGN AMENDMENT CASES: None reported.

F. PLRA 1915 DISMISSALS:

1. Lee v. Holder
5:01-cv-164-Oc-10GRJ (MDFL)
Inmate claimed his right to participate in Unicor was denied in violation of the United States Constitution and filed this Bivens action. District Court dismissed suit under PLRA and has ordered FCC Coleman to forward the \$150 filing fee from the inmate's trust account.
2. United States v. Amparo Concepcion
CR No. 01-050 (DRD)
Habeas Corpus petition. The Court dismissed the petition based on the petitioner's failure to exhaust administrative remedies.

III CRIMINAL CASES:

FCI EDGEFIELD

[REDACTED] b7C
During a pat search of the inmate on August 1, 2001, 17 balloons of brown leafy were found taped to the leg of the inmate. The substance tested positive for marijuana.

IV TRAVEL SCHEDULE FOR JULY 2001

August 14-17, 2001: [REDACTED] attended Prisoner Litigation Seminar at the National Advocacy Center in Columbia, South Carolina.

August 13-16, 2001: [REDACTED] attended FOIA Conference at the Central Office. b6

August 20-24, 2001: [REDACTED] attended Advocacy Skills For Agency Counsel at the National Advocacy Center in Columbia, South Carolina.

V MISCELLANEOUS:

United States vs. Cruz Mangual
98-194 (CCC)

On August 9, 2001, Jose Cruz Mangual, a former officer at MDC Guaynabo who pled guilty for having unauthorized sexual contact with an inmate was sentenced to a prison term of three months. The Honorable Carmen Vargas de Cerezo sentenced the defendant to a term of incarceration for three months.

United States v. Algarin

Former Correctional Officer was found guilty of having sexual contact with an inmate. The defendant was sentenced to a term of imprisonment for four months and completed his time. Algarin has recently filed an appeal as a pro se litigant contending ineffective assistance of counsel as his defense attorney did not request certain documents that he understands were absolutely necessary for his defense. I provided the USAO information regarding the inmate's length and place of incarceration in order to respond to the defendant's motion.