



Joyce

SEP 12 1995

SEP 1 1995

**UNITED STATES GOVERNMENT
MEMORANDUM
FEDERAL BUREAU OF PRISONS
WESTERN REGIONAL OFFICE
DUBLIN, CALIFORNIA 94568**

DATE: <Date>

REPLY TO

ATTN OF: HARLAN W. PENN
Regional Counsel

SUBJECT: Monthly Report for August 1995

TO: WALLACE H. CHENEY, General Counsel

CASES OF INTEREST

NINTH CIRCUIT MATTERS:

USA V. BOYD, ET AL

(Dist. ORE)

Inmates appeal of District Court denial of Motion to Dismiss for Double Jypoardy in the criminal prosecution of inmates for destruction of government property during the 9/93 disturbance at FCI Sheridan, has been removed from the oral argument calendar.

DISTRICT COURT MATTERS:

USA V. BROWN

(C.D.CAL)

Inmate found guilty of possession of a weapon at U.S.P. Lompoc after a jury trial, sentencing pending.

USA V. BRADLEY JOHN KEHM

~~Trial set for September 26, 1995~~ for assault on inmate, assault on staff, possession of weapon and destruction of government property at FCI, Lompoc in 1993.

USA V. WESLEY WADE HUNTER

Trial set for September 19, 1995 in Los Angeles in case of possession of 19 grams of tar heroin at USP, Lompoc.

COUPAR V. CRABTREE

(Dist. ORE)

Bivens complaint alleging staff instructed inmates to spread false information which endangered Coupar. Coupar was transferred for security reasons.

JACKSON V. CRABTREE

(D. OR)

FTCA trial set for August 15, 1995 (telephonically), was continued. Claim concerns alleged loss of two rings after confiscation by staff. Inmate is now at Florence ADX. AUSA Silver indicates there may be a settlement for \$100.

FOTTLER V. MORTON

(D. NEV)

Previously reported, asbestos exposure case filed by former FPC NEL pro se inmate who continues to attempt to certify a class of plaintiffs. Court continues to grant plaintiff's motion's for continuance. U.S. Marshal affected proper service at FPC NEL on 8/4/95. Plaintiffs sent Requests for Production of Documents to private contractors who have done asbestos abatement work for BOP and USAF at Nellis AF Base, USAO is renewing its previous Motion for Stay & Protective Order.

FASSLER V. U.S.

(D. AZ)

FTCA action for IPP by inmate at FCI Tucson. Judge Briones granted Plaintiff's MSJ in and awarded damages the amount of \$12.76, inmate originally sought \$493.10. BOP could not document that inmate had been advised a change to lower grade for a two week period.

RELIGION:

PARR V. KEOHANE

(C.D.Cal.)

Previously reported. RFRA case at USP Lompoc. AUSA wanted to make special factors argument against Bivens liability, as well as argument that RFRA doesn't authorize action against individuals or money damages. DOJ refused to allow those arguments by USAO and has authorized outside counsel for Warden and Chaplain so the arguments can be raised.

GAINEY V. RENO

(D. AZ)

Previously reported. Employment discrimination case alleging discrimination on basis of religion and ethnic background (Native American). Plaintiff has demanded a jury trial. Civil Div. Chief AUSA has suggested second settlement conference for early Oct. with BOP RC present. No trial date has been set due to present illness of the prior AUSA handling the matter. Case has not been re-assigned for trial.

MEDICAL MALPRACTICE TORT CLAIMS and LITIGATION REFERENCING

GAO REPORT ON AGENCY MEDICAL CARE:

DEBARDELEBEN V. QUINLAN CV 93-0483-ABC (RNB) (C.D. CAL.)

Inmate claims denial of medical care and access to legal materials. Similar cases filed at Terre Haute and Lewisburg.

SETTLEMENTS:

MISCELLANEOUS MATTERS:

ENVIRONMENTAL MATTERS:

JANOE V. USA, CV 95-2940-RAP (C.D. CAL.)

Another asbestos claim from USP, Lompoc which is consolidated with Bivens action.

Arizona Dept. of Environmental Quality gave final approval to PHX back-flow system retrofit.

Navy Public Works began remediation of oil spill at FPC, Boron.

Harlan: Litigation Statistics from Districts I cover -Valerie

Closed 4-

New/Total 7

FTCA-2

BIV - 1

HC - 4



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DISTRICT COURT MATTERS:

Randall Scott Harvey v. Wayne Stephens, et al., CV-F-95-5055 (E.D. Cal.)

Inmate claims staff at FPC Boron forced him to commit criminal acts while incarcerated there. Allegations include stealing government property, finding a "hit" man for a contract employee, falsifying official reports, forging staff signatures, and bypassing computer security to falsify computer records. Seeks \$5,000,000 from various defendants.

Clifford Schuett v. BOP, et al., CV 95-3159-MMC (N.D. Cal.)

Paraplegic inmate attempts to excuse escape from CCC by stating the CCC was not properly handicap equipped. Left the CCC and turned himself in to USMS the following

day. The second time this inmate has escaped from this CCC. Sues the DHO, CCM and Regional Director.

USA v. Wesley Wade Hunter

Possession of 19 grams of tar heroin at USP Lompoc. First trial ended in hung jury (11-1 to convict). Judge ordered counsel to begin selecting jury for retrial 3 hours later. Second trial ended in hung jury (less favorable amount). Third trial scheduled, however, defendant plead to original charge on October 5, 1995.

USA v. Bradley John Kehm

Assault on inmate, assault on staff, possession of a weapon and destruction of government property at FCI Lompoc in 1993. Jury found inmate guilty of possession of a weapon but not guilty of attempted murder (despite 34 stab wounds in inmate victim).

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***MEDICAL MALPRACTICE TORT CLAIMS and LITIGATION REFERENCING
GAO REPORT ON AGENCY MEDICAL CARE:***

SETTLEMENTS:

MISCELLANEOUS MATTERS:

Training in CDCA at USAO and for Federal Public Defenders September 13. Staff from all Central Cal institutions participated in the training.

Harlan Penn and James Wills met with USAO in NDCA September 28.

Dennis accepted award on behalf of the Warden from the Bell Shelter in recognition of TRM's support of the shelter operation. Judge Pregerson and Judge Trott of the Ninth Circuit were present.

ENVIRONMENTAL MATTERS:

Arizona Dept. of Environmental Quality gave final approval to PHX back-flow system retrofit.

Navy Public Works began remediation of oil spill at FPC, Boron.

STATISTICS

<u>Tort Claims:</u>	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT
<u>NOVDEC</u>										
Received	49	48	48	53	64	82	61	95	54	
Closed 89	59	70	57	62	59	28	79	82		
Reconsidered	20	3	0	2	2	2	1	3	0	
Pending	159	151	129	132*	136	161	195	214	186	
Over 6 Mo.	4	8	2	6	2	2	2+	2+	5+	

*Physical count confirmed with database
 +Awaiting investigation from OIA for one

Investigations Pending Over 60 Days:

BRN	DUB	LOM	LOF	LOS	NEL	PHX	SAF	SDC	SHE	TRM	TCN	
TOTAL												
1	0	44	2	2	0	1	0	0	1	0	5	56

<u>FOI/PA:</u>	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV
<u>DEC</u>											
Received28	33	54	26	35	37	37	32	44			
Closed	36	48	32	28	32	34	43	24	32		
Pending	83	89	90	88	91	94	88	96	108		
30 days				46	35	28	32	35	39	37	39
40											

FOI/PA Pending More than 30 Days 08/31/95:

BRN	DUB	LOM	LOF	LOS	NEL	PHX	SAF	SDC	SHE	TRM		
TCN	TOTAL											
	1	4	6	1	0	0	0	0	0	7	9	0
28*												

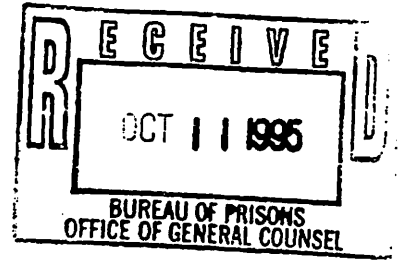
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Administrative Remedies:

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV
DEC											
	70	96	87	74	77	94	63	98	76		

<u>Litigation:</u>	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV
<u>DEC</u>											
Open Cases:	359	370	385	385	405	415	421	428	323		
New Cases:	15	20	20	17	31	15	13	11	13		
HC	11	9	7	9	14	5	5	4	6		
FTCA		0	3	3	2	3	2	4	4	2	
Bivens		3	7	9	6	13	7		4	3	5
Other		1	1	1	0	1	1	0	0	0	
Closed		9	9	5	17	11	5	7	4	118*	

* Checked open cases in Court Docket Data Base using Pacer system



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