



## LITIGATION

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
New Cases Recd	32											
Cases Closed	3											
Habeas Corpus	25											
Bivens	4											
FTCA	3											
Other	0											
Lit Reports	23											
Cases With Hearing or Trials	2											
Cases With Settlements or Awards	0											
Tort Claim Settlements	0											

SIGNIFICANT CASESL. J. and Maylene Carter, LR-C-95-407 (ED/AR)

In this FTCA action, the plaintiffs sought reimbursement for subsistence fees charged while they were housed in a halfway house. Their theory was based on the fact that the Judgment and Commitment Order, which did impose fines and restitution, contained the form language that "The fine includes any costs of incarceration and/or supervision." On January 21, 1997, the court ruled that we acted within our authority in collecting the subsistence fees, and that our actions were not in violation of the J & C. The court also noted that plaintiffs did have a choice in the matter - if they did not want to pay subsistence, they could have been housed in a correctional institution, where no subsistence or costs of incarceration would have been assessed.

Daniel Schmaus v. N. L. Conner, 6:96CV1023 (ED/TX)

In this Habeas action, the inmate alleges his third revoked term of Special Parole had expired and the U.S. Parole Commission had determined his "sentence had expired". He alleges the Bureau of Prisons refuses to release him.

Eddie Wayne Roberson v. Warden, 5:96CV216 (ED/TX)

In this Habeas action, the inmate alleges the Warden refuses to give jail time credit for time he spent in state custody under federal detainer.

CRIMINAL MATTERS/PROSECUTION

FPC BRYAN

[REDACTED] case continues to be active. The letter proposing termination has been withdrawn, and it is expected that [REDACTED] will return to work on Monday, January 27th. [REDACTED] will be assigned to answer telephones and will work in the Control Center with another officer present at all times. This restriction in his work status is being imposed because additional information has come to light and OIG has "reactivated" their investigation into [REDACTED] activities. One of the inmate witnesses, who is currently in the Lubbock area, will be reinterviewed. Further action regarding the case will be based upon the witnesses statement. b7c

The investigation into allegations of sexual impropriety by [REDACTED] Physician Assistant, continues. OIG agents and an Assistant U.S. Attorney from Main Justice (Civil Rights) will be in the institution at a yet undetermined date in the future to interview the subject and others.

The investigation into allegations of sexual impropriety raised against [REDACTED] Correctional Officer, continues. [REDACTED] was served with a Search Warrant to provide blood sample. He complied with the Warrant, and the blood sample has been sent to the FBI Laboratory in Quantico, Virginia, for analysis. Further activity in this case is contingent upon the results of the blood analysis.

FCI EL RENO

Harwood, Escape, pending.

Harris, Introduction of Drugs, FBI declines due to small amount (previously reported). The Warden concurs with reservations, but has decided not to pursue.

Hiliard, Possession of Marijuana, pending (previously reported). The Warden is advocating for the Assistant U.S. Attorney to pursue.

Jones, Introduction of Marijuana, sentence next week.

Lamar, Introduction of Narcotics, pending.

Luevano, Attempted Murder, pled guilty, awaiting sentencing.

Martinez, Introduction of Narcotics, pending.

Robitaille, Escape, pending.

Wilson, Assaulted staff, Introduction of Narcotics, sentenced 27 months.

#### **FTC OKLAHOMA**

The Warden concurs with all nonsubmittals.

A credit card fraud involving Sears was detected during telephone monitoring. The matter was referred to the FBI who then referred it to Secret Service. Secret Service accepted the case.

On December 20, 1996, staff noticed a section of a wall in one of the SHU cell had been dug away. Staff also found pieces of metal and plastic electrical box used in the shower control hidden in the mattresses along with one metal bracket that had been fashioned into a weapon. This matter of attempted escape was referred to the FBI, and it was determined this matter did not qualify for referral to the U.S. Attorney's Office. The Warden concurred because of insufficient facts to support the charge.

On December 23, 1996, an inmate threw an unknown liquid substance out of his SHU cell food slot, hitting the officer in the chest and stomach area. This matter of staff assault was referred to the FBI but was not submitted to the U.S. Attorney's Office.

On December 30, 1996, an inmate in SHU struck his food tray and knocked it off the food slot, striking the officer in the abdomen area. This staff assault was referred to the FBI but was a non-submittal to the U.S. Attorney's Office.

On January 8, 1997, two inmates were fighting in Food Service. They were separated, seen by medical staff, and placed on administrative detention. The FBI deemed this a non-submittal and did not refer the matter to the U.S. Attorney's Office.

On January 14, 1997, the unit officer saw inmate Olowodola running after inmate Williams while yelling and swinging a fire extinguisher. This matter of inmate assault was referred to the FBI but was not referred to the U.S. Attorney's Office.

On January 18, 1997, an inmate in SHU threw an empty urine specimen bottle through the food slot and struck the officer in the upper chest area. This matter was deemed by the FBI as a non-submittal to the U.S. Attorney's Office.

#### **FCI TEXARKANA**

Inmates Cordova-Rodriguez and Morris Haughton became involved in a heated verbal argument in the Dining Hall at FCI Texarkana. Haughton then assaulted Cordova-Rodriguez by cutting him across the forehead with a single edge razor blade. Cordova-Rodriguez received 32 sutures to close the wound. The razor blade was discovered on the floor near the area of the incident.

The U. S. Attorney has accepted prosecution against Morris Haughton. The case was set for trial on January 28, 1997, and will be continued through next month in Texarkana. Five (5) staff members have been subpoenaed as witnesses already.

#### **FCI THREE RIVERS**

The U.S. Attorney's office has declined prosecution in the Garcia-Chavez homicide case (incident occurred in May 1996) for the following reasons: forensic evidence was insufficient to support prosecution and the only witness was not credible. The Warden has been advised, and has not pursued the matter further.

On January 5, 1997, Jorge Ramon, Jr. and Clemente Valdez, Jr. were involved in a fight/assault in an inmate's living unit, which resulted in inmate Ramon receiving several stab wounds. Investigation revealed both inmates had agreed to fight. Both inmates were placed in Special Housing. The Assistant U.S. Attorney's Office has not advised whether they will seek prosecution.

#### **SIGNIFICANT TORT CLAIM**

Inmate Marsha BUCHANON, Register Number 19548-001 - Former inmate at FMC Carswell has submitted an administrative claim (T-SCR-97-20), alleging that while she was being x-rayed on January 17, 1995, the x-ray machine malfunctioned and she sustained burns to both of her eyes. She claims that the examination revealed she had sustained flash burns and had photophobia/photo sensitivity. She is seeking three hundred thousand dollars (\$300,000.00) in damages.

A review of the medical documents she attached to her claim indicates that on January 17, 1995, a physician at FMC Carswell noted in her medical chart that she had photophobia secondary to flash in her eyes.

CASES WITH HEARING OR TRIALHoot v. Gibson, A-96-CA-390 (WD/TX)

On January 28, 1997, Judge Sparks held a hearing to consider the petitioner's request for DAP credit for seven weeks spent in non-DAP bed as the result of mutual error of staff and petitioner. The Central Office's position that the petitioner had not met the statutory requirement of 180 days in a DAP bed was articulated by Dr. J. Jones, DAP Administrator, SCRO. The Court ruled that the equities of the case were in the petitioner's favor, and entered judgment orally in favor of the Petitioner.

Gerald Esposito v. George E. Killinger, et al., 4:96-CV-927-Y ND/TX

A hearing was held on January 31, 1997, on a pending TRO on ESPOSITO, Gerald, who claims we have denied him adequate medical care. At the hearing, the Court denied the TRO due to the requested medical procedure being scheduled. The Judge suggested that Inmate Esposito drop the case to avoid it being dismissed as frivolous.

UPCOMING TRIAL OR HEARINGSRandy Dwayne Wells v. W. F. Woods, et al., C-96-149 (SD/TX)

Evidentiary hearing is scheduled for February 24, 1997, before a U.S. Magistrate Judge. Plaintiff is alleging deliberate indifference to medical injury and needs. Plaintiff is alleging he suffered a head injury at FCI Three Rivers, on March 13, 1994, and now suffers from loss of smell and taste.

Spanjol v. USA, 4:94-CV-237 (ND/TX)

A hearing is scheduled for March 10 and 11, 1997.

We received word that Judge McBryde has scheduled a trial on Wali Muhammed v. USA during the week of April 28, 1997. There are concerns that the Judge may find liability on the issue of negligence in the placement of plaintiff in a non-handicapped accessible facility. The matter is being reviewed further by the legal staff.

SITUATIONS OF INTEREST**FCC BEAUMONT**

January 10, 1997, Paul Layer attended the FCC Beaumont's Community Relations Board Meeting and made a presentation introducing the Board Members to the FCC Beaumont Legal Department's function.

January 17, 1997, Karen Summers, Larry Weston (DHO), and Paul Layer hosted a tour of the FCC Beaumont for U.S. District Court Magistrate Judge Wendell Radford and his staff of fifteen. At one point during the tour, the group attended Paul Layer's A&O lecture to new inmates at the FCI (LOW) re: Legal Department role, FTCA procedures, FOIA/PA, and Administrative Remedy Program.

The off-site medical care procedures (contract modifications) were approved by the Central Office and presented to UTMB for consideration.

**FMC CARSWELL**U.S. v. Mansour, Rasha

Contacted the Assistant U.S. Attorney to begin commitment process under 18 USC 4245.

**FTC OKLAHOMA**

On January 29, 1997, Congressman J.C. Watts and his staff along with staff members from Congressman Lucas, Watkins, and Istook's offices took a tour. Staff members from Senators Nickles and Inhofe's offices will also be in attendance, along with Payne County D.A. and the 4th District Crime Task Force members. They will also visit FCI El Reno.

**SOUTH CENTRAL REGION**

On January 16, 1994, Patrick Gardener from Congressman J.C. Watts Office, Oklahoma City, Oklahoma, visited with Acting Regional Director Michael Hood.

**SIGNIFICANT ADMINISTRATIVE REMEDIES**

Inmate Wayne Matra, at FCI Texarkana, filed a Request for Administrative Remedy, Case Number 124992-F1, the inmate alleges discrimination in religious practices. He alleges the institution is not utilizing the proper "prayer oil". The institution's response was that the oil was not a religious item in itself; however, it was used to facilitate a religious practice. We agreed to return to using the requested oil.

MEDICAL MALPRACTICE**TORT**

CANIPE, Terry, Register Number 60647-080 (T-BOP-96-159)- Inmate alleges that during the morning hours of July 30, 1994, while he was incarcerated at FCI Bastrop, he was attacked by other inmates during an institution lockdown. He claims that he sustained a broken finger and "other injuries." Mr. Canipe contends that he did not seek immediate medical attention because he had been warned by other inmates not to give any information about how he sustained the injuries.

At approximately 6:00 p.m., Mr. Canipe reported to institution staff that he had slipped on some stairs and had fallen down. Medical staff examined Mr. Canipe and requested x-rays of his hand and face. On August 2, 1994, the x-ray revealed that he had suffered a broken finger, and approximately ten days later, he was examined by a contract orthopedic physician who noted a partial ligament rupture on the splinted finger. The inmate was instructed to initiate range of motion exercises. On August 11, 1994, an x-ray revealed a dislocation involving the joint of the right ring finger. Surgery was later performed by a contract surgeon, and Mr. Canipe was referred to Springfield. Mr. Canipe is seeking one million dollars in damages.

**LITIGATION**

None

PERSONAL MATTERS

Michael Hood	- February 4-5	- FCI Three Rivers Staff Assistance Visit
Paul Layer	- January 21-22	- Attended training seminar on Employment Regulations in Texas