THIS IS AN ADM. REMEDY I HAD TYPED UP AFTER FILING IT HAD DISTRIBUTED THROUGH OUT THE U.S. & ABROAD TO DIFFERENT HUMAN RIGHTS ORGANIZATIONS, MEDIA OUTLETS, MY WEBSITES, FRIENDS & LEGAL ASSOCIATIONS.

U.S. Dept of Justice — Request for Administrative Remedy

(2)

| From: | Reg No: | Unit: | Institution: |
|---|---|---|---|
| Silverstein, Thomas E. | 14634 – 116 | Z | Florence |

Part A – Inmate request: B.P.8 states I'm currently in segregation because my placement in other units poses a threat to security and good orderly running of this Institution and B.O.P. facilities, therefore my request to be placed in general population is denied.

On the contrary I have an exemplary disciplinary record for 19 years! To ignore this institutional adjustment is evident of a B.O.P. vendetta against me, and the real reason for my indefinite isolation status, and a clear violation of B.O.P.s own policy 5270, 07 C N – 05, Sept 29 1994 CH. 1 PG. 3 (4) Disciplinary action may not be capricious or retaliatory, (5) Staff may not impose or allow imposition of corporal punishment of any kind, and flies in the face of numerous court rulings. i.e. Morris v Travisono cite as 549 F, supp, 291 (1982).

The district court, Pettine, senior Judge held that the segregated confinement of the prisoner for eight and a half years without sufficient penological justification, thus resulted in unnecessary and wanton infliction of pain in violation of the 8th amendment, since neither the prisoners criminal record nor his disciplinary record during confinement justified continued solitary confinement, and since the claim that the prisoner was too dangerous to be returned to the general population, appeared to be mere pretext for unduly punishing him for his conviction of murder of a prison guard. 1. Criminal law key 1213, prisons key 13 (5) solitary confinement is not pers'e unconstitutional under certain circumstances. However solitary confinement may be so onerous that it constitutes a cruel and unusual punishment. U.S.C.A. constitutional amendment . 8.

Professor Connon testified that he was familiar with Carillos prior conviction and crimes of violence against correction officers. His recent disciplinary record as well as the current circumstances of his confinement (TR. At 14 – 22). According to Professor Connon, because of what this man did in 1973, there is a plan to keep him in this kind of sub- human state which borders on daily torture of a human being (TR. AT 33) In a prison book by Pete Earley: The Hot House page 123 – 4, Craig Trout a B.O.P. official said he knew exactly where to put me after I moved from U.S.P. Atlanta to U.S.P. Leavenworth.

Associate Warden Smith at Leavenworth, had known officer Clutts (the person I killed) personally and had attended his funeral. "As far as I'm concerned Silverstein is a cold blooded, blood thirsty, worthless killer" Smith said on pages 226 – 7.
I'm kept on "no human contact" status, as one Bureau official explained," When an inmate kills a guard, he must be punished. We can't execute Silverstein, so we have no choice but to make his life a living hell. Otherwise other inmates will kill guards too, there has to be some supreme punishment. Every convict knows what Silverstein is going through. We want them to realise if they cross the same line that he did, they will pay a heavy price!" In applying contemporary standards of decency to challenge prison conditions, the Supreme Court has held that the eighth amendment prohibits not only

physically barbarous punishments, but also "unnecessary and wanton" inflictions of pain that are totally without penological justification. Gregg v Georgia, 482 U.S.153, 173, 183, 96 S, CT.2909, 2925, 2929. 49L. Ed. 2d 859 (1976): seen so Estelle v Gamble, 429 U.S. 97. 103, 97 S, CT. 285, 290, 501, Ed . 2d 251 (1976).

As the first circuit has observed, where solitary confinement is imposed (1) inappropriately or for too long a period, even permissible forms of solitary confinement might violate the eighth amendment. O'Brien v Moriarty, 489 F2d 941, 944 (1st cir 1974) (emphasis added) It goes without saying that a prison Warden may not constitutionally put an inmate in administrative segregation, involving solitary confinement, or other rigorous conditions of imprisonment, simply because he dislikes the inmate, or desires to punish him for past misconduct. Moreover, it should be emphasised that the reason or reasons for the segregation must not be valid at the outset, but must continue to subsist during the period of the segregation.

Conditions in prison change as they do every where else, and a reason for administrative segregation of an inmate that is valid today, may not necessarily be valid six months or a year into the future. 525 F, 2d at 400. As this court observed in Morris v Travisono , even if a person is confined to an air conditioned suite at Waldorf Astoria, denied of meaningful human conduct for such an extended period, may very well cause severe psychological injury. 499 F, supp, at 160, see O'Brien v Moriarty, 489 F, 2d at 944c ( "for a person to be cut off markedly from all others is a privation not to be underestimated" ) Courts have a responsibility to ensure that conditions of prisoners confinement are not cruel, and unusual punishment in violation of the eighth amendment. Rhodes v Chapman, 1015, CT at 2401 and this determination necessarily involves a review of correctional officials' decision – even if they pertain to prison security and discipline.

It cannot be seriously contended that prison administrators can wholly evade judicial review by merely raising institutional security concerns. See Procnier v Martinez, 416 U.S. 396, 405 – 06. 945 – T, 1800, 1808, 40L Ed 2d 224 (1974). Johnson v Avery 393 U.S. 483, 486, 895, CT. 747, 749, 2IL. Ed 718 (1969). (2) After a thorough examination of the record in this case I find that the defendants ' decision to house Carillo in solitary confinement for the past eight and a half years, is without sufficient penologicl justification, and as a consequence has resulted in the unnecessary and wanton infliction of pain" in violation of the eighth amendment. CT Estelle v Gamble, 42DS. At 103, 97 S. CT. AT 290 cutting an individual off from all meaningful human contact after the reasons for such segregation no longer exist offends in a fundamental way contemporary standards of decency.

Defendants claim that Carillo is to dangerous to be returned to the general population, appears to this court to be a mere pretext for unduly punishing him for his 1973 murder conviction. In the 8 years that have elapsed since that conviction, the defendants have not meaningfully reviewed, Carillos progress, nor have they attempted to evaluate whether he could adjust to the general population. Instead they have advanced a series of unsatisfactory justifications for Carillo's continued solitary confinement. ( Nor am I given meaningful reviews ! ). The defendants refusal to even attempt to return Carillo to the prison G.P. once in the past eight and a half years strongly reinforces this courts conclusion that Carillo has been kept in isolation not

for his dangerous propensities, but because he was convicted of the murder of a prison guard.

The fact is that Carillo seeks only to be returned to the general population of a high security facilty, where his activities can be closely supervised. There is simply no explanation why an inmate whose disciplinary record for the last several years, reveals no violent behaviour would be any more difficult to control than other inmates, who are sufficiently "dangerous" that they must be housed in a high security facility, in some this court holds that the conditions of the plaintiff's confinement when considered in the light of the lack of a legitimate justification supporting it, are barbarous as the filthy physical conditions that have been consistently condemned in other prison cases. See ED Palmigiano v Garraky, 443 F, Supp, 956 (D.R.I. 1977): Pugh v Locke, 406 F supp. 318 (N.D. Ala. 1976) Accordingly, Carillo's treatment violates the eighth amendment, confining a man to 23 hours a day and denying him all opportunities to express himself for eight and a half years can have at least as devastating an effect on a prisoner as a complete lack of sanitation. Contemporary standards of decency forbid such treatment. (I've been held in total solitary confinement for 23 years, under far worse conditions than those described in the Corillo case. Showing an obvious malicious intent to make my life the "living hell" expressed earlier by a B.O.P. official and indifference to my subjugation.)

My restrictions have gotten "more" stringent despite 19 years clean conduct, not less. There isn't only a lack of a review as B.P.8. clearly states, my fate has been predetermined as they regurgitate their 23 year "(meaningless)" mantra that I pose a threat etc. I'd like to know who I pose a "threat" to since I've not threatened anyone in 23 years! B.O.P. officials refuse to return me to the general population, ignore my exemplary conduct and have arbitrary punished me by taking what privileges that took me 19 years to earn. (I'm going backward not forward). In Kuck v Lewis cite as 216 f UPP, 2d 999 (D,Arizona. 2001) (2) inmates five and half years confinement, with no end in sight (as it is in my case)gave rise to protected due process liberty interest, (3) inmate could not be indefinitely detained in a special management unit (SMU) based solely on his status of as gang member and absent evidence of overt misconduct.
After Sandin, A state – created liberty interest arises when the prisons conduct toward an inmate imposes an "a-typical" and significant hardship on the inmate in relation to the ordinary incidents of prison life, Sandin, 515 U.S. at 484, 1155 J 2293.

The Sandin test requires a case by case examination of both the conditions of the inmates confinement and the duration of the deprivation at issue. Sandin 515 U.S. at 486, 1165 CT. 2293, Keenan v Hall, 83 f ed 1083 (9th cir, 1996) amended by 135 F. 3d 1318 (9th cir. 1998) See Sealey v Giltner, 197 F, 3d 578. 585 (2d cir 1996)
In Koch's case, the deprivation is extreme in both degree and duration. Not surprisingly, the severe conditions of the SMU 11 (mine are worse) have adverse Psychological consequences. See Miller v Stewart, 231 F. 3d 1248. 1252 (9th cir. 2000). It is well accepted that conditions such as those presented in SMU11, can cause psychological decompensation to the point that individuals may become incompetent Comer v Stewart, 215f,3d 910, 915 ( 9th cir. 2000) "We and other courts have recognized that prison conditions remarkably similar to (SMU11) can adversely effect a persons mental health."

Madrid, 889 F supp at 1230. Discussing the psychological deterioration that results from isolation in SMU11 like conditions: see also McCleary v Kelly. 4 supp 2d 195. 208 (WDNY, 1998) "The notion that" prolonged isolation from social and environmental increases the risk of developing a mental illness does not strike this court as rocket science. The expert testimony submitted by parties served to confirm the obvious. At trial Kock's expert witness testified that isolation in SMU11 causes detrimental pathological effects on the inmate. Koch has been confined to SMU11 for five and a half years this clearly is long enough to trigger liberty interest. See Colon v Howard. 215 F 3d 227, 230 – 32 (cir. 2000) Discussing cases and holding that 305 day confinement satisfied the Sandin standard. Shoat v Horn, 213 F 3d 140 143 – 44 (3d cir. 2000) Holding that segregation for eight and a half years triggered due process rights, furthermore, Koch will remain in SMU11 indefinitely. See Seeley, 197F, 3d at 586 (especially harsh conditions endured for a brief interval and so me, what harsh conditions endured for a prolonged interval might be atypical. Sandin. 515 U.S. at184, 1155. CT 2293: see Shoats, 213. 3d at 144. "We have no difficulty concluding that eight years in administrative custody, with no prospect of immediate release in the near future, is atypical in relation to the ordinary incidents of prison life")

Judge Gilman in his concurring opinion as a sixth circuit case Judge, Jones v Baker observed that confinement in ADM, lockdown for a period over two and a half years "is clearly a rare occurrence" The court in Morris v Travistino referred to confinement of all inmates in SEG, for the period of seven years, without a systematic plan for rehabilitation as "the epitome of warehousing" and therefore sufficient to give rise to a liberty interest. In a recent unpublished decision, the 5th cir. suggested that a 10 year confinement in extended lock down gives rise to a liberty interest.

At least one court within the 5th cir. has gone even further than the third cir. In Shoat v the 5th cir. In Colgrove, in Beene v Hammer,2003 WL 21673456. 4 (ND Texas July 15th 2003. The court held that even A 6 – MO stay in lockdown could give rise to liberty interest. Wilkerson, supra, 329 F3d at 435. since the plaintiff in present matter allege that the approximately 120 lockdown reviews afforded them by LSP staff were a sham proceedings, it is worth noting that the plaintiff in Kelly also received monthly evaluations regarding his confinement in ADM, SEG. However the appeals court affirmed the district courts holding, that the monthly evaluations were a mere sham and were of no practical value to the inmate involved; notably Kelly was only in ADM, SEG for approximately 3 years, versus 28 – 33 years for the present plaintiffs.

3 / 3/ 06 Thomas E. Silverstein.

U.S Department of .Justice Central Office Administrative Remedy Appeal.

| From: Thomas E Silverstein | 14634-116 | Z | Florence |
|---|---|---|---|
| Name. | reg no | unit | institution. |

Reason for appeal: Mr Nally states my confinement is appropriate based on my repetitive history of violence and need for extreme security conditions. This ignores my none repetitive, none violent past, 23 years. Antiquated reliance and repetitive use of my history to justify my extreme conditions in 2006 proves more retaliatory than a legit Penalogical concern, since ADX Florence is a human tapestry of torture and sadism, where prisoners are isolated and forbidden to commingle with other prisoners except 5 hours a week. In individual repressive dog cages for outside "recreation", like me they don't come into contact with other humans unshackled. It's absurd for this Administration to pretend that I pose a security threat just because I'll be able to see / talk with other prisoners 5 hours a week. This pathetic ploy is merely devised to continue subjecting me to the diabolical rigour of Solitary Confinement in order to enhance and inflict as much Psychical trauma as possible, with malice and heartless indifference.

Mr Nally falsely claims my conditions aren't indefinite. After 23 years with no exit date nor criteria. I'd like to know his definition of ''indefinite'' When exactly will "I" be released or do I wait another 23 years for the same obscure prisoncratic double talk. As far as my status thoroughly reviewed every 6 months, I believe 6 month reviews do not comply with the policy remanded 30 days, nor was I reviewed the first 4 years of my isolation. What exactly is reviewed that determines whether or not I'm released from isolation today or 6 months from now. Do they draw straws till my number comes up? Contrary to Mr Nallys phoney spew that my conduct is noted and taken into consideration – that's a lie, evident by the fact despite my exemplary record I was punished when I was sent to Florence, and loosing privileges earned at Leavenworth. Mr Nally just gives lip service for what should be done, but it's a sham since it is meaningless Psychological abuse / torture.

Isolation stems directly from brain washing techniques used during the Korean War. Sensory deprivation as a form of behaviour modification. The goal of this is clearly to disable me through spiritual, psychological or physical breakdown. Forced idleness, mail tampering, 24 – 7 visual audible surveillance, daily strip searches by female and male guards, sleep deprivation by night count guards. Dr Stuart Grassian, an expert on results of living in extended isolation, has commented at length on psychiatric harm that can come to people subjected to long-term isolation, who suffer serious symptoms of post – traumatic stress. He interviewed people who began to cut themselves just so they can ''feel'' something and reports panic attacks and a progress inability to tolerate ordinary stimulation. Isolation has been documented as a cause of paranoia, problems with impulse control, extreme motor restlessness, delusions, suspiciousness, confusion and depression. Dr Henry Weinstein, a Psychiatrist who has studied prisoners in isolation, says they suffered symptoms ranging from memory loss to severe anxiety to hallucinations to delusions, and under the severest cases of sensory deprivation, people go crazy. But some correctional experts say the trend towards solitary confinement makes their job more dangerous. Such a prisoner they

say has no reason not to attack, maim or even kill a guard. CNN – trend to toward solitary confinement worries expert – Jan 1998 by peg type, statistical evidence was accumulating showing confinement was the cause of very disturbing cases of insanity, physical disease and death in some cases.

As early as 1965, Dr M. Metzer, former chief officer at Alcatraz fed penitentiary, made his observations of psychiatric disturbances when persons were exposed to punitive solitary confinement at Alcatraz. He observed changes in motor skills ranging from the occasional tense pacing, restlessness and inner tension from noise – yelling, banging and assaultiveness at one end of the spectrum, to regressed, dissociated withdrawn hypnotic state, at the other end, per Metzer , sense of self, the ego and the ego boundary phenomena are profoundly effected by the isolation. In 1956 at a symposium of Psychiatrists, Dr John Lilly of the national institute of mental health contributed this to the pic of factors used to increase the susceptibility of individuals to forceful indoctrination… social and sensory isolation was still the central pathogenic factor in such confinement. The complied research from these models and other studies revealed there were symptoms that can be attributed to conditions of confinement. Some of these symptoms are: perceptual distortions, illusions, vivid fantasies, sometimes long with vivid hallucinations and hyperresponsity to external stimuli along with these, some people developed observable syndromes which include cognitive impairment, massive free floating anxiety, extreme motor restlessness, emergence of punitive aggressive fantasies ( sometimes with fearful hallucinations) and in some cases, delirium like conditions, EEG's confirmed the same abnormalities typical of stupor and delirium. It was also seen that these were organic changes in brain similar to stupor and delirium – The European Parliament investigated and determined SHU conditions " A form of unnecessary oppression which can be a form of psychological torture. Super maximum security prisons, sensory deprivation and effects of solitary confinement.

The existence and scope of these conditions are also in opposition to guidelines for treatment set in the international covenant on civil and political rights as well as the UN standard minimum rules for the treatment of prisoners. The department of corrections own psychiatrists and psychologists, the clinical director of Psychiatry at the esteemed Harvard University and even the U.S. Federal courts have acknowledged and ruled that solitary confinement causes sensory deprivation, which in turn causes substantial psychological damage. This is not a theory – it is a fact. The resultant symptoms of sensory deprivation are many and varied in degree. It affects everyone in different ways, but it does affect everyone. U.S. prison torture and under article (1) of the United Nations Convention against torture; any act by which severe pain or suffering, whether physical or mental, obtaining from him or a third person information or a confession, punishing him for an act he or a third person, or any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public officer or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. This confinement is a second sentence; the first by the court without a public defence, and the second completely out of the public eye and totally at the mercy and whim of the prisoncrats, as the human rights watch report 2000 says: Although some instances of guard abuse resulted in criminal indictments and civil lawsuits and a few even resulted in verdicts

against the guards and awards to injured inmates, impunity remained prevalent. Internal investigators conduct superficial investigations, if any and state District Attorneys lacked the resources and political will to bring charges against abusive officers, likewise with my "reviews" and appeal process that fall on deaf and indifferent ears.

The eighth Amendment to the U.S. constitution prohibits the federal government from imposing cruel and unusual punishment for federal crimes. In attempting to define cruel and unusual punishment, Federal and state courts have generally analyzed two aspects of punishment, the method and the amount. As to the method of punishment, the Supreme court held that the use of excessive physical force against a prisoner may constitute cruel and unusual punishment even if the prisoner doesn't suffer serious injury, However, the actual infliction of physical pain or hardship is not necessary for finding of cruel and unusual punishment. Roe v Dulles, 356 U.S, 86, 78SC and 590, 2L ed. 2d 630 (1958). The court also opined that the eighth amendment must "draw its meaning from the evolving standards of decency that mark the progress of a maturing society" The B.O.P. Administrators must have retarded their "maturity" progress since they're still subjecting me to the barbaric practice of total isolation that Charles Dickens reprimanded in 1842 after visiting the Philadelphia prison of rigid confinement and auburn system in New York state at Auburn and Sing Sing. These comparisons gave enough evidence for people to voice their concern that it was not natural to leave a person in solitary; that these conditions were so unnatural they bred insanity. These comparisons showed the PA – system had a higher incident of insanity than the New York system, Dickens admonished "He is the man buried alive – dead to everything but torturing anxieties and horrible despair.

The "unusual" provision, at least, is clear; providing that persons be subjected to arbitrary, humiliating, or capricious punishment outside the normal course of law. The negative mental health effects of isolation have long been well known, more than a century ago, the U.S. supreme court acknowledged the devastating effects of prolonged isolation even on "normal" prisoners.. a considerable number of prisoners fell, after even a short confinement, into a semi - fatuous condition, from which it was next to impossible to arouse them and others became violently insane; others still committed suicide; while those who stood the ordeal better were not generally reformed and in most cases did not recover sufficiently mental activity to be of any subsequent service to the community.

In re Medley, 13405. 160, 168, (1980) (describing effects of solitary as practised in the early days of the U.S.) Federal courts continue to recognize as established fact that isolated confinement inflicts serious psychological harm on many prisoners. Chambers v Florida, 309 U.S. 227 – 38 (1940). The court today remarks that"The length of confinement cannot be ignored / ante, at 686, 57L ed. 2d, At 532. Hutto v Finney (16. 4,51 the eighth amendments ban on inflicting cruel and unusual punishment, made applicable to the states by the fourteenth amendment "Proscribe(s) more than physically barbarous punishments; Estelle v Gamble, 429 U.S. 9T, 102, 501. ed 251, 97 S ct 285, it prohibits penalties that are grossly disproportionate to the offence, Weens v U.S. 217 U.S. 349. 349. 367. 541. ed 793, 30 sc and 544, as well as those that transgress today's "Broad and idealistic concepts of dignity, civilised standards, humanity and decency" Estelle v Gamble, supra, at 102, at 102, 501 ed 2d 251, 975 and 285, Puotine Jackson v Bishop, 4041 2d 511. 579 (at 1968) confinement

in a prison or in an isolation cell is a form of punishment subject to scrutiny under the eighth amendment standards….The court ordered that forbids the dept, to sentence prisoners to more than 30 days in punitive isolation. The court did note its agreement was an expert witness who testified "that punitive isolation as it exists at Cummins today serves no rehabilitive purpose and that it was counterproductive; at 277. The court went on to say that punitive isolation "makes bad men worse, it must be changed."

I bid, I would like to ask this governing body, at what point does punishment become Sadism? Date: 6 – 2 – 06 Thomas E Silverstein. # 406466

This is the third of 4 appeals:

Silverstein, Thomas E 14634 – 116 Z Florence.

Part A – Reason for Appeal.

As typical, for the last 23 years, this Administration (BOP) continues to justify my severe isolation based on my history, but ignores the Court rulings I've cited along with my 19 year clean conduct past.
The Warden decided to pass the whip of punishment / responsibility onto the Regional Director, who will predictably follow suit. So the question is, when exactly will my exemplary record be considered and at what point in time will I be released from Solitary Confinement, or is it a mute point since it doesn't matter to Prison officials how good my behaviour is, I'm not getting out of Isolation. If this is the case, its rather inapt and counter productive of this administration to torture me for good conduct, rather than encourage it with more privileges. On the contrary as stated earlier in B.P.9 my treatment, situation went from bad to worse, since my transfer from U.S.P. Leavenworth to Florence Max. When all I earned the past 23 years was confiscated! Recently they went to the extreme of actually building a door between the only other prisoner on this four box car tier that I am confined on. He has been the only prisoner I been able to speak with since 1983, although we can't see each other! The door prevents us from shouting to each other - which I suspect is the diabolical intent! This all shows that they're seriously not concerned with any legitimate penological interest. This reflects an obvious abuse of Administrators authority / discretion, and a retaliatory vendetta that was boasted about by one BOP official publicly as stated in my BP9.

As for my so called 'semi, annual 6 month reviews' they're an obvious sham! There aren't any meaningful standards to determine whether I can be released into general population. Its just a futile process,(evident by my clean record v my current treatment / confinement ) for prisoncrats to use – misuse in order to disguise their maltreatment – giving the false illusion to continue what they are doing, just because of a "review" twice yearly, what do these "reviews" consist of ? Who exactly has the power to release, and what more can I do that I've not already demonstrated, with 18 long years of good behaviour.

The Wardens at Leavenworth granted more privileges through the years that I never violated, yet they were arbitrarily, "maliciously" taken from me. I charge maliciousness due to the irrefutable fact that administrators knew what all I was allowed at U.S.P. Leavenworth. But instead of moving me to where I could maintain my earned status, with good behaviour, however I was exiled unexpectedly to one of the most secure and repressive cell / units at Florence. If not the worst in the B.O.P! As my history and the B.O.P. rhetoric that accompanies it, spare me the sensationalised paraphrase Hyde used to create a monster in order to justify atrocious isolation – truth be told, this governing body released far more dangerous and despicable prisoners than me to the street and to less secure prisons who have informed on others for B.O.P., Government agents and Prosecutors. So my criminal history shouldn't be the sole determining factor, nor should B.O.P. be able to single me out for personal retribution since they can't kill me, contrary to informers who get what they want from squealing. I earned what I got the old fashioned way… With good behaviour: so I appreciate it more, after 23 years I would think B.O.P. officials would have found a new boogie man to fear and crucify by now. It's rather pathetic

the way they still act like petrified schoolgirls frightened of a 54 year old man, as though the slightest inch of freedom I get I will harm someone.

Even further frustrating, this is decided by people I don't even know, and they judge me on, something I did 23 years ago and they haven't a clue as to who I am today! Nor should I be held accountable for others fear and paranoia. I've not threatened anyone, nor want too since 1983. I should be judged by my current behaviour and the man I am today, not who I was and did a lifetime ago. Although I take full responsibility for my actions, I just object to the torturous isolation I've been subjected to for two decades – as those in charge continue to fulfil their threat to make my life a living hell. The Court has already sentenced me to "life" Its not the B.O.P's duty to punish me, imprisonment is punishment !

Kelly v Brewer cite as 378 F Supp, 447 (1974) Kelly killed a Prison Guard, P G 455, it is declared that the plaintiff's continued confinement in, indefinite A.D. Segregation is a violation of his right to due process under the 14th amendment to the U.S. Constitution, given there is no meaningful review under appropriate standards to define whether the plaintiff remains a threat to security of the institution, and thus being in indefinite A.D. segregation.
P.G.455 it is ordered, adjudged and decreed that meaningful standards be developed to determine and review the issues relating to the Plaintiffs undefined A.D. Segregation, and that the plaintiff be given proper periodic hearings under these standards to determine whether he can be released into the General population.
42 U.S. CA. 1983. U.S. constitution amendment 14, Z8 U.S. GA. 1343 (3) Cases on cruel and unusual punishment is contained in 51 A.T.R 3 c 1111. P.G. The court of course isn't interested in a game of semantics but only in the conditions of confinement, no matter what it is labelled by prison administrators. Since I know how prisoncrats like to disguise their sadistic torture / isolation cells. P.G. This was a form of retribution and punishment by prison staff against this inmate before his trial and conviction, jurisdiction of section 1983 and title 28 USC, section 1343 (3). This course of action is conferred upon this court by title 42 USC. Pg 451, 12, Dr Stephan Fox, a Psychologist employed by the university Iowa, has studied the effects of this type of confinement upon prisoners, and has concluded that solitary confinement (AD Segregation) and the sensory deprivation resulting from such confinement can have extremely harmful Psychological and physical effects upon the person involved.

Possibly deleterious effects include, loss of self concept, disorientation, depersonalization, (unrealistic interaction with others), depression, frustration, distrust of others, lack of productivity, and retarded personal growth. (plaintiff ex, 4) PG. 451, 13. The plaintiff is being held indefinably in his present status, with no hope of entering the general population unless he meets certain undefined criteria of defendant Warden Brewer. The Testimony at trial in this case showed this review to have been a sham and a meaningless exercise. There are no standards of review to which the prisoner can direct himself to attempt to show his fitness for release into the general population. PG. 454 (7) There is no doubt that the "conclusive" or irrebuttable presumption is disfavoured in the law. Stanley v Illinois , 405 U.S.645, 657, 925 CI 1208, 31L, ED551 (1972), Bell v Burson, 402, U.S. 535. 915. (and 1586. 29 L, ED 2 D 90(1971): U.S. Dept of Agriculture. Murry, 313, U.S. 508,935. C+2832,371, ed 2d 767(1973): Vlandis v Kline, 412 U.S. 441,935, c+ 2230,371. ed2d 63 (1973):

Cleveland Board of Education v Le fleur, 414 U.S.632,945C+. 791,799, 39. 1, ed52 (1973) PG452517.

The question of what constitutes cruel and unusual punishment has been before the eighth circuit many times. One of the leading cases is Jackson v Bishop, 404F2d 571 (8th cir 1968). Also Sharpe v Sigler, 4081 2d966 (8th cir1969): Burns v Svenson, 430 F 2d 772 (8th cir 1970): Harris v Settle 322F. 2d 908 (circa 1963): Knecht v Gillman, 488F2d 1136( 8th cir 1973). Wright v Mc Mann,387 F2d 519 (cir 1967).
O'Brien v Moriarty cite as 489 F 2d941 (1974) P6.944 (78) A punishment not always forbidden may violate the eighth amendment if in the circumstances, it is extremely disproportionate, arbitrary or unnecessary, Furman v Georgia, supra. 408 U.S. ATZ38, 238, 239,925.c+ 2726 ( Brennan J concurring) Imposed inappropriately, or for too long a period, even the permissible forms of Solitary confinement might violate the eight amendment, cases up holding instances of Solitary confinement involve most often its imposition as a short term punishment for disciplinary infractions, PG. 944. A punishment may be so below civilised norms as to be cruel and unusual no matter what its provocation. Or it maybe cruel and unusual because extremely disproportionate to the occasion.
See Furman v George, 94419. 11 Facing "complicated and combustible situations each day. Prison officials must be free to make a wide range of decisions. Much must be left to their good faith, discretion. Palmigiano v Baxter48TF, 2d 1283 (1st circ 1973). RX Rel. Jones v Stewart cite as 231F. 3d1248 (9th cir.2000) (3) PG12.2. Both experts state that it is well accepted that conditions such as those presenting the SMUII where Miller is housed can cause Psychological decompensation to the point that individuals may become incompetent. The doctors, who previously found him incompetent to waive council, now raise serious questions regarding his competency to make decisions to die. In addition, Julie Hall council at the Arizona – capital representation project, has submitted a declaration stating that Miller told her he was still willing to pay with his life to escape the conditions of SMUII. Hall has been in regular communications with Miller, attests that Miller's mental state has declined, he has become increasingly depressed, and he has resigned himself to dying. In July of this year Miller suffered auditory hallucinations finally.

This court in comes recognized the harsh conditions of death row in Arizona and its possible effects on those that live there and on that basis an evidentiary hearing, see Comer v Stewart, 215F 3d 910, 916 (9th cir 2000). We and other courts have recognized that prison conditions remarkably similar to Mr Comer's descriptions of his current confinement can adversely affect a person's mental health. Mr Comer was also confined in SMUII. PG. 1254 (4) Doctors Morenz and Morris are not strangers to Miller, know his troubled history and their speculation as to the potential for adverse effects of incarceration in SMUII, finds support in this courts own assessment of that facility, in Comer v Stewart, 215 F 3d 910, 917 – 18 (9th cir, 2000) moreover, his decision to abandon his appeals once he entered SMUII suggest the condition of confinement may in deed have adversely affected his mental state.

Date: 4 – 1 - 06

U.S. Department of Justice
Federal Bureau of Prisons.

Central Office Administrative Remedy Appeal.

| From: Silverstein, Thomas, E. | 14634 – 116 | Z | Florence. |
|---|---|---|---|
| Name | reg no | unit | institution |

Part A – Reason for Appeal: The rejection notice dated June 26th 06 says my appeal # 406466 AI, is "Untimely" because it must be received within 30 days of the Regional Directors response. I mailed it 5 days before the time limit expired, so I "shouldn't" be held accountable for how long mail takes to reach its destination.

This serves as irrefutable evidence, that is usually hard to prove, via my constant complaints, that my mail takes 15 to 30 days to be processed. Which is evident in my appeals filed, # 390753 F1, 357892 FI, 387892 FI, 390753 FI, The administrative response is always the same, "Delays in the receipt of your mail cannot be attributed to staff intentionally delaying your mail – also keep in mind that staff do not have control over the postal service procedures in processing mail from one destination to another".

Knowing how slow my mail process is, I would have posted it sooner if possible, but this reveals another problem I have, I'm not allowed to go to the Law library so have to order my 3 book limit once weekly. I have to return them in 24 hours, sometimes they don't deliver the books on time, and miss a week.
The envelope that I sent my appeal in wasn't returned with the reject notice, so I'm unable to prove when it was posted.

I noticed the rejection notice is dated June 19th 06, but wasn't received at ADX until June 26th 06. Even Institutional mail between Administrations is slow. The time limit should start when posted, not received, since we have "no control" over the postal service procedures in processing mail.

For reasons herein, I request that my appeal be excepted and a fruitful disposition be granted – Thank you

Date signature of requester.

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