

ATTACHMENT A

BUREAU OF PRISONS CUSTODY CLASSIFICATION FORM
SUBSECTION (B) BASE SCORING -ASSIGN SEVERITY SCORE 7 GREATEST

COLCW 606.00 * MALE CUSTODY CLASSIFICATION FORM * 02-29-2020
PAGE 001 OF 001 12:24:52

(A) IDENTIFYING DATA

REG NO.: 45343-069 FORM DATE: 02-03-2020 ORG: COL
NAME: SERPA-CANDELARIA, JUAN

MGTV: NONE

PUB SFTY: GRT SVRTY MVED:

(B) BASE SCORING

DETAINER: (0) NONE SEVERITY: (7) GREATEST
MOS REL.: 46 CRIM HIST SCORE: (00) 0 POINTS
ESCAPES: (0) NONE VIOLENCE: (0) NONE
VOL SURR: (0) N/A AGE CATEGORY: (2) 36 THROUGH 54
EDUC LEV: (0) VERFD HS DEGREE/GED DRUG/ALC ABUSE: (1) <5 YEARS

(C) CUSTODY SCORING

TIME SERVED: (4) 26-75% PROG PARTICIPAT: (2) GOOD
LIVING SKILLS: (2) GOOD TYPE DISCIP RPT: (0) GREATEST
FREQ DISCIP RPT: (3) NONE FAMILY/COMMUN: (4) GOOD

--- LEVEL AND CUSTODY SUMMARY ---

| BASE CUST | VARIANCE | SEC TOTAL | SCORED | LEV | MGMT | SEC LEVEL | CUSTODY | CONSIDER |
|-----------|----------|-----------|--------|-----|------|-----------|---------|----------|
| +10 | +15 | 0 | +10 | LOW | N/A | | IN | SAME |

G0005 TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

ATTACHMENT B

PUERTO RICO PROCEEDING CAUSING FABRICATION OF RECORDS

Estado Libre Asociado Puerto Rico
TRIBUNAL GENERAL DE JUSTICIA
TRIBUNAL DE PRIMERA INSTANCIA
Sala (Superior, Municipal) de Arecibo

EL PUEBLO DE PUERTO RICO

VS.

Nombre: JUAN SERPA CANDELARIA
Núm. de Querrela de la Policía: 2012-02-047-05803
Fecha de nacimiento: 18 marzo 1979
Lugar de nacimiento: Arecibo, PR
Sexo: Masculino
Seguro Social: 583-87-7432
Dirección: barrio Sabana Seca, número 30,
Manatí, PR
Núm. de licencia de conducir: No consta
Señas: No consta

CRIMINAL NÚM. C LA2012G0434

Por: INFR. ART. 5.07 LEY ARMAS

ENM. A:
INFR. ART. 5.04 LEY ARMAS
Delito

S E N T E N C I A

Hoy, día 9 de enero de 2013, llamado el que fuera el caso de epígrafe, comparecieron en corte abierta EL PUEBLO DE PUERTO RICO, representado por la fiscal, Hon. Yolanda Pitino Acevedo y el(la) acusado(a) JUAN SERPA CANDELARIA en persona, y asistido(a) de su abogado, Lcdo. Juan Ojeda Arnau. Habiéndose dado lectura a la acusación y preguntado por el Tribunal que alegación hacía, el(la) acusado(a) manifestó que se declaraba culpable del delito de INFR. ART. 5.04 LEY ARMAS y solicitó se dictará sentencia en su contra en el acto. El Tribunal aceptó la alegación de culpabilidad, luego de determinar que la misma se hizo voluntariamente con conocimiento de la naturaleza del delito imputado y de las consecuencias de dicha alegación.

El Tribunal, vista la confesión de culpabilidad del(de la) acusado(a) en sesión pública del Tribunal, falla declarándole culpable por confesión del delito de INFR. ART. 5.04 LEY ARMAS y lo(la) condena a la pena de cinco (5) años de reclusión consecutivo con el caso CSC2010G0259 y consecutivo con cualquier otra sentencia que en derecho proceda. Se exime del pago de la Pena Especial, Ley 183.

Y se ordena que el sentenciado sea trasladado sin demora al cuidado del funcionario correspondiente y sea detenido por éste hasta que la sentencia se hubiere cumplido.

Arecibo, Puerto Rico, a 9 de enero de 2013.


MARTA M. ROSARIO SANTANA
JUEZ SUPERIOR

ATTACMENT C

ADMINISTRATIVE EXHAUSTION RECORDS

BP-8 THRU BP-11 CENTRAL RESPONSES

Sera

1-1

INFORMAL RESOLUTION FORM
(BP-8)

NOTICE TO INMATE Bureau of Prisons Program Statement 1330.13 requires that except as provided in 542.13 (b) an inmate shall first present an issue of concern informally to staff and staff shall informally attempt to resolve the issue prior to submitting a BP-9.

INSTRUCTIONS Counselors will complete and attach this form to each Request for Administrative Remedy Form (BP-9) submitted, if not informally resolved

Inmate Name: **JUAN SERPA CANDELARIA** Register No.: **45343-069** Qtrs./Unit: **C-1** Date Initiated: _____

1. Specific complaint (one 8 1/2" X 11" continuation page may be attached).

I AM REQUESTING A PSF WAIVER AND TRANSFER TO A MINIMUM SECURITY BASED ON THE FACTS IN THE ATTACHED ONE CONTINUATION PAGE.

2. What efforts have been made by the inmate to resolve the complaint informally? To whom has the inmate spoken?

CASE MANAGER

3. What Action does the inmate wish to be taken to correct the issue?

REMOVAL OF THE PSF WAIVER AND TRANSFER TO A MINIMUM SECURITY FACILITY OR A MEETING WITH THE CASE MANAGER TO ESTABLISH A REASONABLE EXPIRATION DATE FOR REMOVAL OF THE PSF.

Correctional Counselor's Comments (Including actual steps taken to resolve):

The PSF of lowest security is accurate. According to your PSI Page # 431 you were in charge of a drug point, provided your to give inmates a piece of bread with a 635 permit. You also supplied drugs to the drug point. You denied any program for personal use, involved with a shooting with a Automatic Handgun. An investigator suggested that you bought a pistol for \$1500 a cheap price to make the list of items to be based on the above, the Public Safety Dept. & lowest security applies + you are not appropriate for any

Correctional Counselor

Date

Staff Circle One:

Informally Resolved

Not Informally Resolved

Unit Manager's Review

Unit Manager

Date

Distribution by Correctional Counselor:

1. If complaint is informally resolved, forward original to Administrative Remedy Clerk for filing

2. If complaint is not informally resolved, attach original to BP-9 Form and forward to Administrative Remedy Clerk for processing.

| | | | | | |
|------------|-----------------------|----------------------------|-----------------------|----------------------------|---------------------------------------|
| Date: | BP-8 Issued to Inmate | BP-8 Returned to Counselor | BP-9 Issued to Inmate | BP-9 Returned to Counselor | BP-9 Delivered to Admin. Remedy Clerk |
| Time: | 8/27/18 | 9/1/18 | 9/26/18 | 9/26/18 | 9/26/18 |
| Counselor: | TUS | M | R | TUS | TUS |

CONTINUATION PAGE - ~~BP-8~~

I am currently being denied the PSF Waiver and transfer to a minimum security facility, which I am again requesting as others have ... Other inmates within the BOP with similar security/custody classification scoring, who have had a negative transition within in the BOP have been successfully transferred to a minimum security facility. For example, inmate Jimmy Cushing, Register No. 22971-017, who has a history of violence and had greatest security classification, which required increased BOP security measures to ensure the protection of society was transferred to a minimum security facility. Gallegos-Hernandez v. United States, 688 F.3d 190, 195 (5th Cir. 2012) ("To establish an equal protection claim, Gallegos must show that two or more classifications of similarly situated persons were treated differently ... Gallegos points to no evidence that the exclusion is motivated by discriminatory intent[.]") (Inmates Cushing, mentioned above and on the first page, Shumrak, and Coleman, listed on page one are evidence of discriminatory intent; **JOEL SHUMRAK, REGISTER NO. 05398-014 (HAS A GREATER SECURITY CLASSIFICATION WHICH LIST A DATE OF 02/01/2019 REMOVAL AND HAS RECEIVED AN INCIDENT REPORT AND CHARGED WITH TWO CONSPIRACIES; THOMAS COLEMAN, REG. NO. 23964-047 (WAS TRANSFERRED FROM FCC COLEMAN LOW TO A CAMP AND INMATE CHARLOT, REG. NO. 33739-018 AND OTHERS).**

SHOWING OF CONSTITUTIONAL VIOLATIONS

The BOP does not provide any written criteria or guidelines for a PSF waiver to be considered or applied to any inmate. See Program Statement 5100.08. Therefore, no one can evaluate or review if the BOP is knowingly abusing their prison administration discretion or if the BOP PSF waiver review process is arbitrary, capricious, or unconstitutional. As a result, the present PSF waiver regulation itself must be struck from the Code of Federal Regulations because it violates the due process and equal protection rights, under the United States Constitution, regarding myself and all citizens who participate in rehabilitation, specific treatment, training programs, and re-entry programs in 18 U.S.C. §§3621 and 3624. This is also a violation of Tapia v. United States, 564 U.S. 319, 334 (2011) and the Second Chance Act. (President Donald Trump said on March 13, 2018, regarding the Second Chance Act, "I am committed to advancing reform efforts to prevent crime, improve re-entry, and reduce recidivism."). All constitutional arguments and evidence are preserved for judicial review, discovery, and judicial estoppel applies in both a 28 U.S.C. §2241 and/or a 42 U.S.C. §1983 proceeding.

Respectfully submitted,

REQUEST FOR ADMINISTRATIVE REMEDY

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

| | | | | |
|-------|----------------------------------|------------------|------------|------------------------|
| From: | <u>SERPA CANDELARIA, JUAN</u> | <u>45343-069</u> | <u>C-1</u> | <u>FCC COLEMAN LOW</u> |
| | LAST NAME, FIRST, MIDDLE INITIAL | REG. NO. | UNIT | INSTITUTION |

Part A- INMATE REQUEST

BASIS FOR APPEAL: -- REQUESTING A PSF WAIVER AND TRANSFER TO MINIMUM SECURITY

I AM PROCEEDING WITH AN APPEAL BECAUSE THE UNIT TEAM IN MY BP-8 DID NOT ESTABLISH A REASONABLE EXPIRATION DATE FOR REMOVAL OF THE PSF AS LISTED AS AN OPTION IN THE ATTACHED BP-8 WHICH HAS BEEN DONE FOR OTHER INMATES AT FCC COLEMAN LOW AS SHOWN BY THE IRREFUTABLE EVIDENCE IN THE NOW ATTACHED BP-8, THEREFORE THIS IS A PATTERN AND ABUSE OF PRISON ADMINISTRATION DISCRETION. NEXT, THE BOP DOES NOT PROVIDE ANY WRITTEN CRITERIA OR GUIDELINES FOR INMATES OR ANYONE TO REVIEW HOW A PSF WAIVER BE CONSIDERED OR APPLIED TO ANY INMATES. SEE PROGRAM STATEMENT S100B.0B, THEREFORE THE BOP PSF WAIVER PROCESS IS ARBITRARY, CAPRICIOUS AND UNCONSTITUTIONAL, SEE ALSO BP-8.

REJECTION NOTICE -- MY RESUBMISSION IS TIMELY ON 9/20/2018

THE REJECTION NOTICE IS DATED SEPTEMBER 19, 2018, I SUBMITTED THE CORRECTED BP-9 ON SEPTEMBER 20, 2018 ON 9/27/2018 THE UNIT SECRETARY DIRECTED ME CORRECT IT ONCE AGAIN AND I RESUBMITTED IT ON 9/27/2018

9/20/2018
DATE

[Handwritten Signature]
SIGNATURE OF REQUESTER

Part B- RESPONSE

See attached

Received 10-9-18

DATE _____ WARDEN OR REGIONAL DIRECTOR _____

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE _____ CASE NUMBER: 954016-F2

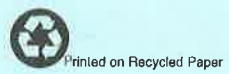
----- CASE NUMBER: _____

Part C- RECEIPT

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE _____ RECIPIENT'S SIGNATURE (STAFF MEMBER) _____



TRULINCS

Unit:

FROM:
TO:
SUBJECT: APPEAL
DATE: 09/17/2018

BASIS FOR APPEAL:

I am proceeding with an appeal because the Unit Team did not establish a reasonable expiration date for removal of the PSF as listed as an option in the BP-8 which has been done for other inmates as shown by the evidence below, therefore they have abused their prison administration discretion.

BACKGROUND AND PATTERN OF INMATE DISCRIMINATION:

I have completed 7 rehabilitation programs and incarcerated for various years. Therefore I am requesting a PSF waiver and transfer to a minimum security camp based on the establishment of a reasonable expiration date for removal of the PSF, which the Unit Team did not even consider again this shows a pattern of abusing the prison administration discretion. My Unit Team did not address nor resolve the irrefutable pattern of inmate discrimination of selectively granting PSF waivers when responding to my Administrative Remedy BP-8.

EVIDENCE (Continuous Discovery):

I am now providing, 5 irrefutable examples of how FCC Coleman is abusing the prison's administrative discretion and using discrimination intent against inmates which is unconstitutional and wrong. These examples evidence this: Jimmy Cushing, Register No. 22971-017 (has a history of violence and lost a one-year sentence reduction from the RDAP and was transferred to Yazoo Camp); Joel Shumrak, Register No. 05398-104 (has a greater security classification which list a date of 02/01/2019 removal, has a conspiracy to distribute oxycodone and conspiracy to commit money laundering and has received an incident report); Thomas Coleman, Reg. No. 23964-047 (was transferred from FCC Coleman Low to a camp); inmate Charlot, Reg. No. 33739-018 and inmate Mendoza Reg. No. 23109-017 and others. All evidence will be attached to all future administrative remedies if necessary.

APPLYING CONSTITUTIONAL, STATUTORY, AND FEDERAL LAW

Based on the examples above, the current PSF waiver process that is being employed by FCC Coleman is arbitrary, capricious, unconstitutional, and wrong. See e.g. Gallegos Hernandez v. United States, 688 F.3d 190, 195 (5th Cir. 2012) ("To establish an equal protection claim, Gallegos must show that two or more classification of similarly situated persons were treated differently...Gallegos points to evidence that the exclusion is motivated by discriminatory intent[.]") I have provided evidence of more than two similarly situated persons to establish an equal protection claim.

FACTUAL BASIS REGARDING THE CURRENT PSF WAIVER PROCESS AND CURRENT STATUS:

The BOP does not provide any written criteria or guidelines for inmates or anyone to review how a PSF waiver can be considered or applied to any inmates. See Program Statement 51008.08. Therefore, no one can evaluate or review if the BOP is knowingly abusing their prison administration discretion or if the BOP PSF Waiver process is arbitrary, capricious, or unconstitutional.

As a result the present PSF waiver regulation itself must be struck from the Code of Federal Regulations because it violates the due process and equal protection rights, under the United States Constitution, regarding myself and all citizens (how are current inmates in the BOP) and who also participate in rehabilitation, specific treatment, training programs, and re-entry programs in 18 U.S.C. Sections 3621 and 3624. This is also a violation of Tapia v. United States, 564 U.S. 319, 334 (2011) and the Second Chance Act. All constitutional arguments and evidence are preserved for judicial review, discovery, and judicial estoppel applies in both a 28 U.S.C. Section 2241 and/or 42 U.S.C. Section 1983 proceedings.

MEMORANDUM

From: Juan Serpa-Candelaria
To: Warden Lane
Date: May 29, 2019
RE: The assumption that a gun is intrinsically violent

I, Juan Serpa-Candelaria, am being denied camp status, a sentence reduction for participation in RDAP, and other opportunities because I am deemed violent due to an underlying gun enhancement. This contradicts numerous judicial decisions over the last ten years that have deemed the presence of a gun is not per se violent. I have filed the Administrative Remedies and cited other inmates with the same charges having received reclassification. (See Attached). My apparent problem is a statement in the PSI as regards to my involvement in a shooting with force. This statement was not associated with the instant offense, does not establish that I had or used a gun prior to the instant charge.

In the case I was convicted of possessing a gun without a license, § 5.04 of Puerto Rico criminal law. The incident occurred in my front yard at Bo-Cortez Sector La Ceiba, Manati, Puerto Rico 00674.

The facts were that I was the victim of a gun assault while driving home. The men who shot into my car attempting to kill me, then followed me home and continued to shoot at me while I stood in my front yard. To protect my family and my property, I returned fire. My actions were deemed self-defense and all charges against me were dismissed except the possession without a license. I believe I would have been killed and my family was in danger due to the men shooting at me, first while driving, and then again at my home. The Court noted that I fled the shooters and that the perpetrators pursued me to my home.

The Unit Team were ignoring the Court's decision and the facts of the case. I have not been convicted of discharging a gun or using a gun in furtherance of a crime in this incident. My guilt is having a gun without a license. Moreover, I never threatened or attempted to commit a crime. I legally defended myself and my family against men who intended to hurt or kill me and were threatening my family. The PSR should have said I was the victim in an incident involving a shooting of force. That detail is reflected in my charge and proven by the facts.

I appeal my classification as regards to the incident in 2012 and pray you will look into the matter more completely.

I thank you for your consideration.

TRULINCS

Unit:

FROM:
TO:
SUBJECT: APPEAL
DATE: 09/17/2018

CONTINUATION PAGE BP-10

BASIS FOR APPEAL:

I am proceeding with an appeal because the Unit Team did not establish a reasonable expiration date for removal of the PSF as listed as an option in the BP-8 which has been done for other inmates as shown by the evidence below, therefore they have abused their prison administration discretion.

BACKGROUND AND PATTERN OF INMATE DISCRIMINATION:

I have completed 7 rehabilitation programs and incarcerated for various years. Therefore I am requesting a PSF waiver and transfer to a minimum security camp based on the establishment of a reasonable expiration date for removal of the PSF, which the Unit Team did not even consider again this shows a pattern of abusing the prison administration discretion. My Unit Team did not address nor resolve the irrefutable pattern of inmate discrimination of selectively granting PSF waivers when responding to my Administrative Remedy BP-8.

EVIDENCE (Continuous Discovery):

I am now providing, 5 irrefutable examples of how FCC Coleman is abusing the prison's administrative discretion and using discrimination intent against inmates which is unconstitutional and wrong. These examples evidence this: Jimmy Cushing, Register No. 22971-017 (has a history of violence and lost a one-year sentence reduction from the RDAP and was transferred to Yazoo Camp); Joel Shumrak, Register No. 05398-104 (has a greater security classification which list a date of 02/01/2019 removal, has a conspiracy to distribute oxycodone and conspiracy to commit money laundering and has received an incident report); Thomas Coleman, Reg. No. 23964-047 (was transferred from FCC Coleman Low to a camp); inmate Charlot, Reg. No. 33739-018 and inmate Mendoza Reg. No. 23109-017 and others. All evidence will be attached to all future administrative remedies if necessary. *NOW ATTACHED IS THE MALE CUSTODY CLASSIFICATION FORM FOR JOEL SHUMRAK CLEARLY LISTING AN EXPIRATION DATE. SEE EXHIBIT A.*

APPLYING CONSTITUTIONAL, STATUTORY, AND FEDERAL LAW

Based on the examples above, the current PSF waiver process that is being employed by FCC Coleman is arbitrary, capricious, unconstitutional, and wrong. See e.g. Gallegos Hernandez v. United States, 688 F.3d 190, 195 (5th Cir. 2012) ("To establish an equal protection claim, Gallegos must show that two or more classification of similarly situated persons were treated differently...Gallegos points to evidence that the exclusion is motivated by discriminatory intent[]") I have provided evidence of more than two similarly situated persons to establish an equal protection claim.

FACTUAL BASIS REGARDING THE CURRENT PSF WAIVER PROCESS AND CURRENT STATUS:

The BOP does not provide any written criteria or guidelines for inmates or anyone to review how a PSF waiver can be considered or applied to any inmates. See Program Statement 51008.08. Therefore, no one can evaluate or review if the BOP is knowingly abusing their prison administration discretion or if the BOP PSF Waiver process is arbitrary, capricious, or unconstitutional.

As a result the present PSF waiver regulation itself must be struck from the Code of Federal Regulations because it violates the due process and equal protection rights, under the United States Constitution, regarding myself and all citizens (how are current inmates in the BOP) and who also participate in rehabilitation, specific treatment, training programs, and re-entry programs in 18 U.S.C. Sections 3621 and 3624. This is also a violation of Tapia v. United States, 564 U.S. 319, 334 (2011) and the Second Chance Act. All constitutional arguments and evidence are preserved for judicial review, discovery, and judicial estoppel applies in both a 28 U.S.C. Section 2241 and/or 42 U.S.C. Section 1983 proceedings.

Response to Administrative Remedy Case Number: 954016-F2

This is in response to your Request for Administrative Remedy received in this office on October 9, 2018. You state the Unit Team did not establish a reasonable expiration date for removal of the Public Safety Factor (PSF).

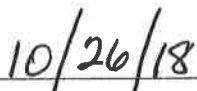
A careful review of this matter was conducted and according to your Presentence Investigation Report (PSI), your instant offense involved you being the leader of a drug conspiracy which involved the carrying of a firearm, as well as your involvement in a shooting with force, violence, and intimidation against rival drug trafficking members. The Public Safety Factor of Greatest Severity is appropriately applied and will not be waived. In addition, you will not be considered for minimum security placement based on your offense conduct. Furthermore, Public Safety Factors do not have an expiration date; however, they are reviewed at each of your program reviews.

Therefore, your Request for Administrative Remedy is **denied**.

If you are dissatisfied with this response, you may appeal by filing a BP-10 to the Federal Bureau of Prisons, Southeast Regional Office, Attn: Regional Director, 3800 Camp Creek Parkway, SW, Building 2000, Atlanta, GA 30331-6226, within 20 calendar days from the date of this response.



Kathy P. Lane, Warden



Date

Administrative Remedy No. 954016-A1
Part B - Response

This is in response to your Central Office Administrative Remedy Appeal wherein you challenge the constitutionality of the Bureau of Prisons process of applying Public Safety Factors (PSF) without Due Process. For relief, you request an unbiased review for consideration of a Public Safety Factor (PSF) waiver and a lesser security transfer.

We have reviewed the documentation related to your appeal and, based on the information gathered, concur with the manner in which the Warden and Regional Director addressed your concerns. Our succeeding review revealed the PSF of "Greatest Severity" is applied in compliance with Program Statement 5100.08, Security Designation and Custody Classification Manual. Staff have thoroughly reviewed this matter and determined you are not appropriate for a Minimum security institution at this time.

A waiver of a PSF is accomplished only after review and approval of the Chief of the Designation and Sentence Computation Center. Moreover, Program Statement 5100.08 requires staff to use sound correctional judgment and discretion when making classification decisions. The objective is to ensure the safety of the public and to make certain security and custody levels are appropriate for the offense conduct.

You did not provide any evidence to substantiate your claim that you were not given fair consideration for a PSF waiver and lesser security transfer.

Accordingly, your appeal is denied.

2/22/19
Date

IC
Ian Connors, Administrator
National Inmate Appeals R.T.

U.S. Department of Justice

Central Office Administrative Remedy Appeal

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-DIR-9 and BP-DIR-10, including any attachments must be submitted with this appeal.

From: SERPA-CANDELARIA, JUAN 45343-069 C-1 FCC COLEMAN-LOW
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A-REASON FOR APPEAL SHOWING OF FUTILE TO EXHAUST ADMINISTRATIVE REMEDIES AND ATTACHED

ARGUMENT WITH CONTINUATION PAGE AND EXHIBIT: THE FEDERAL COURTS HAVE ALREADY DECIDED THAT IT WOULD BE FUTILE FOR MR. SERPA-CANDELARIA TO EXHAUST HIS BOP ADMINISTRATIVE REMEDIES THIS IS BASED ON THE FACT THAT MR. SERPA-CANDELARIA IS CHALLENGING THE CONSTITUTIONALITY OF THE BOP PSF WAIVER PROCESS BECAUSE IT VIOLATES THE DUE-PROCESS AND EQUAL PROTECTION RIGHTS, UNDER THE UNITED STATES CONSTITUTION AND FIRST STEP ACT SIGNED ON DECEMBER 21, 2018, OF HIM AND CITIZENS WHO PARTICIPATE IN REHABILITATION PROGRAMS WHILE IN THE BOP, THEREFORE THIS MITIGATES AND REDUCES THE ORIGINAL PRESENTENCE INVESTIGATION REPORT ("PSI") INSTANT BEHAVIOR RELIED ON IN THE BP-10 AND THIS IS ALSO CONFIRMED BY THE FEDERAL COURTS. SEE E.G. GALLEGOS-HERNANDEZ V. UNITED STATES, 688 F.3d 190, 194 (5TH CIR. 2012) ("HERE, GALLEGOS CHALLENGES THE CONSTITUTIONALITY OF THE BOP REGULATIONS... THUS, IT WOULD HAVE BEEN FUTILE FOR HIM TO MAKE AN ADMINISTRATIVE CHALLENGE SEEKING THIS RELIEF FROM THOSE WHO ARE CHARGED TO ENFORCE THE REGULATION."); SEE ALSO UNITED STATES V. CLAY, 483 F.3d 739, 746 (11TH CIR. 2007) ("IT IS TRUE THAT SOME OF CLAY'S POSTOFFENSE BEHAVIOR WAS NOT EXTRAORDINARY... BUT CLAY WENT BEYOND MINIMAL COMPLIANCE (J HELPS TO DEMONSTRATE THE EXTRAORDINARYNESS OF CLAY'S REHABILITATION.") SEE ATTACHED CONTINUATION PAGES

1-10-2019 DATE PAGE 1 OF 17 - PLEASE RETURN ALL PAGES SIGNATURE OF REQUESTER

Part B-RESPONSE

RECEIVED JAN 28 2019 Administrative Remedy Section Federal Bureau of Prisons

DATE GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE CASE NUMBER: 954016-A1

Part C-RECEIPT CASE NUMBER:

Return to: LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT:

DATE SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

TRULINCS

Unit: COL-A-A

FROM:
TO:
SUBJECT: APPEAL FOR BP-11
DATE: 09/24/2018 04:53:12 PM

BASIS FOR APPEAL FOR BP-11 AND PLAUSIBLE SHOWING FOR CLASS ACTION SUIT:

There is a repeated pattern currently demonstrated by FCC Coleman Low staff and the Unit Team at FCC Coleman Low regarding the PSF Waiver regarding federal Bureau of Prisons ("BOP") staff not meeting with an inmates such as myself and others to establish a reasonable expiration date for the removal of the the PSF based on factors listed below. Therefore, I am proceeding with an appeal because throughout the administrative remedies procedures I have never been granted the opportunity by the Unit Team at FCC Coleman LOW or by the Regional Director for the opportunity to have established a reasonable expiration date for removal of the PSF as listed as an example of discovery evidence below which has been done for other inmates or to have the PSF removed and transferred to a minimum security facility. Therefore this is a continued pattern and abuse a prison administration discretion among other constitutional arguments outlined below which can now be address in the Central Appeal and/or the federal court proceedings.

BACKGROUND AND PATTERN OF INMATE DISCRIMINATION:

I have completed 7 rehabilitation programs and incarcerated for more than 4 years years
Therefore I am requesting a PSF waiver and transfer to a minimum security camp or a meeting with a BOP staff at FCC Coleman Low for the establishment of a reasonable expiration date for removal of the PSF, which the Unit Team did not even consider again this shows a pattern of abusing the prison administration discretion. My Unit Team at FCC Coleman Low did not address nor resolve the irrefutable pattern or the inmate discrimination of selectively granting PSF waivers when responding to my Administrative Remedies BP-8, BP-9, and BP-10.

EVIDENCE NEEDED TO PROCEED WITH FEDERAL COURT REVIEW (Continuous Discovery):

I an now providing, 5 irrefutable examples of how FCC Coleman Low is abusing the prison's administrative discretion and using discrimination intent against inmates which is unconstitutional and wrong. These examples evidence this: Jimmy Cushing, Register No. 22971-017 (has a history of violence and lost a one-year sentence reduction from the RDAP and was transferred to Yazoo Camp); Joel Shumrak, Register No. 05398-104 (has a greater security classification which list a date of 02/01/2019 removal, has a conspiracy to distribute oxycodone and conspiracy to commit money laundering and has received and incident report); Thomas Coleman, Reg. No. 23964-047 (was transferred from FCC Coleman Low to a camp); inmate Charlot, Reg. No. 33739-018 and inmate Mendoza Reg. No. 23109-017 and others. All evidence will be attached to all future administrative remedies or provided with the pleading in federal courts for showing of the constitutional argument. **EXHIBIT A NOW ATTACHED IS AN EXAMPLE OF A REASONABLE EXPIRATION DATE FOR REMOVAL OF A PSF WAIVER. SEE EXHIBIT A (JOEL SHUMRAK)**

APPLYING CONSTITUTIONAL, STATUTORY, AND FEDERAL LAW

Based on the examples which are evidence the current PSF waiver process that is being employed by FCC Coleman Low is arbitrary, capricious, unconstitutional, and wrong. See e.g. Gallegos Hernandez v. United States, 688 F.3d 190, 195 (5th Cir. 2012)("To establish an equal protection claim, Gallegos must show that two or more classification of similarly situated persons were treated differently...Gallegos points to evidence that the exclusion is motivated by discriminatory intent[.]") I have provided evidence of more than two similarly situated persons to establish and equal protection claim.

FACTUAL BASIS REGARDING THE CURRENT PSF WAIVER PROCESS AND CURRENT STATUS:

The BOP does not provide any written criteria or guidelines for inmates or anyone to review how a PSF waiver can be considered or applied to any inmates. See Program Statement 51008.08. Therefore, no one can evaluate or review if the BOP is knowingly abusing their prison administration discretion or if the BOP PSF Waiver process is arbitrary, capricious, or unconstitutional.

As a result the present PSF waiver regulation itself must be struck from the Code of Federal Regulations as previously determined by the federal courts because it violates an inmates established due process and equal protection rights, under the United States Constitution, regarding myself and all citizens (how are current inmates in the BOP) and who also participate in rehabilitation, specific treatment, training programs, and re-entry programs in 18 U.S.C. Sections 3621 and 3624. This is also a violation of Tapia v. United States, 564 U.S. 319, 334 (2011) and the Second Chance Act. All constitutional arguments and evidence are preserved for judicial review, discovery, and judicial estoppel applies in both a 28 U.S.C. Section 2241 and/or 42 U.S.C. Section 1983 proceedings.