

In The Circuit Court for Baltimore City  
**CIVIL**

In the Matter of

JAMES P. SCOTT  
VS.  
SECRETARY DEPT. OF PUBLIC SAFETY & CORRECTIONAL  
SERVICES

93342002

6-6-94 CIR - video

JAMES P. SCOTT, #168490  
Appellant

v.

SECRETARY OF PUBLIC SAFETY  
AND CORRECTIONAL SERVICES  
Appellee

IGO #930714

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No. 93342002/CL173585  
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① ADW

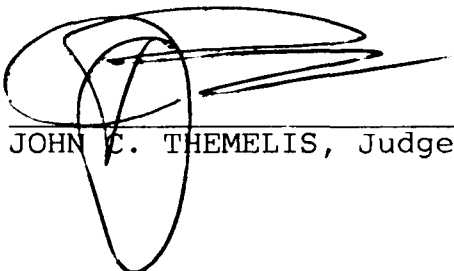
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ORDER

The above-captioned appeal from the decision rendered on behalf of the Inmate Grievance Office having come before the Court, and the parties having been heard on June 6, 1994, it is this 6<sup>th</sup> day of June, 1994, by the Circuit Court for Baltimore City, for the reasons stated in open court,

ORDERED, that the decision rendered on behalf of the Inmate Grievance Office be, and is, hereby AFFIRMED; and it is further

ORDERED, that the Clerk is directed to send a copy of this Order to Appellant, Pro Se, and Counsel for Appellee.



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JOHN C. THEMELIS, Judge

cc: James P. Scott, #168-490  
Richard B. Rosenblatt, AAG  
file

JUN 16 1994

J. G. G. 84



PRESIDING JUDGE *John C. Themelis*.....

COURTROOM CLERK *Hawkins*.....

TENOGRAPHER *Video*.....

ASSIGNMENT FOR MONDAY JUNE 06, 1994

CASE NUMBER - 93342002  
CASE TITLE - SCOTT VS DEPT. PUBLIC SAFETY CL173585  
CATEGORY - APPEAL FROM ADMINISTRATIVE AGENCY  
PROCEEDING - COURT TRIAL - FAST TRACK

CL

✓ ROSENBLATT, RICHARD  
SCOTT, JAMES P

DEFENSE ATTORNEY  
PLAINTIFF

764-4071

*6/6/94 Judgment Affirmed  
Order to file  
Costs waived*

TYPE OF PROCEEDING: (\_\_\_ JURY) ( NON-JURY) (\_\_\_ OTHER)

DISPOSITION (CHECK ONE)

- (\_\_\_ SETTLED) (\_\_\_ CANNOT SETTLE) (\_\_\_ NEXT COURT DATE)
- (\_\_\_ VERDICT) (\_\_\_ REMANDED) (\_\_\_ NON PROC/DISMIS)
- (\_\_\_ JUDGEMENT NISI) (\_\_\_ ORDER/DECREE SIGNED) (\_\_\_ OTHER)
- (\_\_\_ JUDGEMENT ABSOLUTE) ( ORDER/DECREE T. NED) PLEASE
- (\_\_\_ MOTION GRANTED)
- (\_\_\_ MOTION DENIED)

JUDGE SIGNATURE *[Signature]* DATE *6/6/94*

RESIDING JUDGE *John C. Themelis*

COURTROOM CLERK *Hawkins*

STENOGRAPHER *Vicko*

ASSIGNMENT FOR MONDAY JUNE 06, 1994

CASE NUMBER - 93342002  
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✓ ROSENBLATT, RICHARD  
SCOTT, JAMES P

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*6/6/94* *Judge with A and*  
*Ord*  
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TYPE OF PROCEEDING: (\_\_\_ JURY) ( NON-JURY) (\_\_\_ OTHER)

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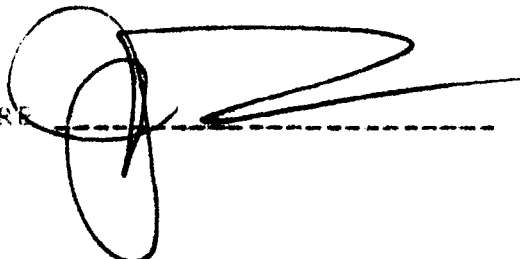
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(\_\_\_ POSTPONED) (\_\_\_ MOTION GRANTED)

(\_\_\_ SUB CURIA) (\_\_\_ MOTION DENIED)

SIGNATURE



DATE

*6/6/94*

CIRCUIT COURT FOR BAL

RESIDING JUDGE *John C. Themelis*.....

TROOM CLERK *Hawkins*.....

TENOGRAPHER *Video*.....

ASSIGNMENT FOR MONDAY JUNE 06, 1994

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TT VS DEPT. PUBLIC SAFETY CL173585

GORY - APPEAL ADMINISTRATIVE AGENCY

ACCEPT - COURT CAL - FAST TRACK

DEPT, RICHARD  
JAMES P

DEFENSE ATTORNEY  
PLAINTIFF

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*6/6/94*

*Costs waived*

(\_\_\_ JURY) (\_\_\_ NON-JURY) (\_\_\_ )

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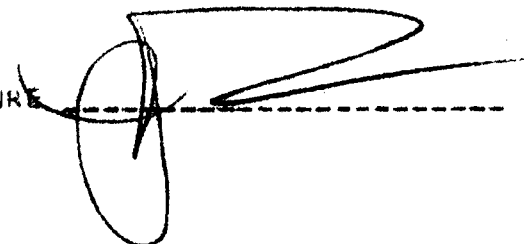
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(\_\_\_ JUDGE (LUTE)  ORDER/DEC SIGNED)

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(\_\_\_ SUB CURIA) (\_\_\_ MOTION DENIED)

SIGNATURE



*6/6/94*



RESIDING JUDGE *John C. Themelis*

COURTROOM CLERK *[Handwritten]*

STENOGRAPHER *Video*

ASSIGNMENT FOR MONDAY JUNE 06, 1994

NUMBER - 97342002  
TITLE - SCOTT VS DEPT. PUBLIC SAFETY CL173585  
CATEGORY - APPEAL FROM ADMINISTRATIVE AGENCY  
PROCEEDING - COURT TRIAL - FAST TRACK

CL

ROSENBLATT, RICHARD  
SCOTT, JAMES P

DEFENSE ATTORNEY  
PLAINTIFF

764-4071

*6/6/94*

*[Handwritten scribbles]*

*Costs waived*

TYPE OF PROCEEDING: ( ) JURY (  ) NON-JURY ( ) OTHER

RESOLUTION (CHECK ONE)

- ( ) SETTLED ( ) CANNOT SETTLE ( ) NEXT COURT DATE
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- ( ) SUB CURIA ( ) MOTION DENIED

JUDGE SIGNATURE

*[Handwritten signature]*

DATE

*6/6/94*

James P. Scott #168-490

Appellant

v.

Maryland Division of Correction

Appellee

IGO No. 930714

OAH No. 93-DPSCS-IGO-003-971

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In the

Circuit Court

for

Baltimore City

Case No. 93342002 / CL173585

\* \* \* \* \*

MEMORANDUM IN SUPPORT OF  
ADMINISTRATIVE AGENCY DECISION

Respondent, Maryland Division of Correction, by its attorneys, J. Joseph Curran, Jr., Attorney General of Maryland, and Richard B. Rosenblatt, Assistant Attorney General, pursuant to Maryland Rule of Procedure 7-207 submits the within memorandum in support of the decision rendered on behalf of the Inmate Grievance Office by Administrative Law Judge Bootz D. Mercer on November 26, 1993.

Appellant Scott (hereinafter "Scott") was an inmate at the Maryland Penitentiary on December 14, 1992, when another inmate was stabbed to death. An investigation was initiated by the Maryland State Police, and Scott was implicated by an anonymous source. When the institution learned of Scott's possible involvement in this murder, procedures were initiated to remove Scott from the general population. The procedures involved placing Scott on Administrative Segregation and, inasmuch as Scott was already incarcerated at the maximum security institution of the State, transferring his custody to the only institution of higher security the Maryland Correctional Adjustment Center (M.C.A.C. or "Supermax").

Scott's grievance, which is the subject of review by this Court, was filed with the Inmate Grievance Office alleging that this change in status and transfer violated his Constitutional right to Due Process of law, and further that the Division did not comply with its own regulations in effecting the change. Scott attempts to equate the level of "process" that is "due" him to that of a criminal proceeding. He errs in that regard. He also errs in assuming that there is a sufficient "liberty interest" in his classification to be "due" any "process" at all. The Administrative Law Judge properly analyzed the law in these areas and properly concluded that the grievance was without merit. Moreover, the only failure to follow regulations cited by Scott related to the authorship of the preliminary portion of the "Notice" classification form. This claim was also properly disregarded by the Administrative Law Judge.

At the heart of Scott's complaint is the issue of whether something more than an anonymous tip was required to instigate all of the repercussions he has suffered. The answer is that nothing more is required as his complaints relate to security classification - not punishment. Initially, the placement on Administrative Segregation was due to the pending investigation. This fact is not disputed. Therefore, the sufficiency of the "tip" to support placement on Administrative Segregation is not an appropriate inquiry. The question of whether the "tip" was sufficient relates only to the transfer of Scott from the Penitentiary to Supermax based on his classification as a "problem."

This distinction is important because the question of entitlement to due process varies with the interest involved. An inmate placed on Administrative Segregation suffers a loss of privileges that may not be imposed upon whim or caprice. There must be a finding that specified conditions exist before these restrictions on prison "liberty" may be given effect. This pre-condition generates a protected liberty interest that cannot be abridged without due process -- even if due process at this level consists of nothing more than notice and opportunity to be heard. See Hewitt v. Helms 459 U.S. 460 (1983).

On the other hand, even though classification carries restrictions on liberty as well (there being many more freedoms enjoyed in minimum security compared to medium, medium compared to maximum, and maximum compared to Supermax), there is no protected liberty interest. The classification of an inmate to any particular level of security is a subjective determination based on suggested guidelines. There is no defined precondition similar to either Administrative or Disciplinary Segregation. Thus, there is no right to Due Process of law. See Paoli v. Lally 812 F.2d 1489 (4th Cir. 1987).

As noted above, the anonymous "tip" may have triggered the investigation, but it is the existence of an investigation that authorizes placement on Administrative Segregation. Thus, the examination into the adequacy of the "process" is unrelated to confrontation of the informant, etc. As testimony at the Inmate Grievance hearing established that a hearing was held with an opportunity for Scott to be heard (T. 25), and that information was before the classification team concerning the pending investigation (T. 29) and Scott's prior adjustment history (T.35), the classification to Administrative Segregation is unassailable for want of Due Process. And, as noted above, the transfer to Supermax carried with it no similar Due Process entitlement.

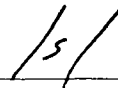
With the Constitutional claims rejected, all that remains is the claim that the Division failed to abide by its own regulations. The only allegation in this regard made by Scott is that the process was initiated by someone other than his own Case Management Specialist ("CMS" -- formerly known as Classification Counselors). At the Inmate Grievance hearing, Scott's CMS testified that he was not available to execute the notice and, to insure that there would be no time limit problems, the notice was filled out by another CMS. (T.37). Scott's CMS testified that the information on that part of the form was objective in nature and that, had he filled it out, he would not have filled it out any differently. (T.42). There is no dispute that Scott's own counselor was the individual who chaired the Classification proceeding and who was responsible for the ultimate recommendation.

The agency directive imposing the responsibility for notice upon a particular person does not give an inmate an enforceable right in having that person perform that task. Such a directive exists solely for the benefit of the administration of the institution. Even if it did confer a benefit on the inmate, however, any failure to follow the strict language of that directive was not prejudicial to Scott and in no way affected the outcome of the proceeding.

WHEREFORE, the Maryland Division of Correction respectfully requests that the decision of the Inmate Grievance Office be AFFIRMED.

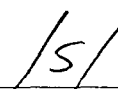
Respectfully Submitted,

J. JOSEPH CURRAN, JR.  
Attorney General of Maryland

  
RICHARD B. ROSENBLATT  
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on this 24 day of May, 1994, a copy of the Memorandum in Support of Administrative Decision was hand delivered in open court to James P. Scott, #168-490, appellant in proper person.

  
RICHARD B. ROSENBLATT  
Assistant Attorney General

CASE NUMBER: 93342002 SCOTT VS DEPT. PUBLIC SAFETY CL173585  
CATEGORY: APPAA  
ORIG COURT: CL AMOUNT OF SUIT :\$ LAST PLEA DATE : 05/17/94  
DATE FILED: 12/08/93 TRANSCRIPT PAGES : 52 TERMINATION DATE: 05/17/95  
STATUS: A CONSOLIDATED CASE: BOOK NUMBER :  
STATUS CODE: 12/27/93 PROTRACTED: PAGE NUMBER :  
WHO PAYS COSTS : WAIV  
LAST MODIFIED ON: 05/18/94

DATE	CODE	TIME	PART	ROOM	SCHED	ACTUAL	DISP	REAS	JUDGE	ID
06/06/94	CAL	09:30		219W	CTF					
12/08/93	FILE		PETITION FOR JUDICIAL REVIEW. (1)							
12/08/93	MEMO		COPY SENT TO 6776 REISTERSTOWN RD.							
12/27/93	ANSW		APPR OF ATTY RICHARD B. ROSENBLATT FOR APPELLE. RESPONSE TO							
12/27/93			PETITION (2)							
01/21/94	PLEA		TRANSCRIPT OF RECORD (3)							
01/31/94			NOTICE SENT IN ACCORDANCE TO MD RULE 7-207 (4)							

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CIRCUIT COURT FOR BALTIMORE CITY DATE: 05/31/94  
MSV523 CASE INQUIRY TIME: 14:18  
CASE NUMBER: 93342002 SCOTT VS DEPT. PUBLIC SAFETY CL173585

02/07/94 ORDR WRIT OF HABEAS CORPUS AD TESTIFICANDUM. (KAPLAN, J) (5)  
02/10/94 SERVED D.O.C. ON WRIT OF HABEAS CORPUS AD TESTIFICANDUM.  
02/18/94 PLEA APPELLANT'S MEMORANDUM OF LAW FD. (6)  
04/25/94 ORDR WRIT OF HABEAS CORPUS AD TESTIFICANDUM. (KAPLAN, J) (7)  
04/25/94 PROC NON EST AS TO WRIT OF HABEAS CORPUS  
05/02/94 PPSN SUMMONS SENT TO PARTIES REPRESENTED AS PROPER PERSON  
05/02/94 CAL 09:30 219W CTF CONF POST PJ HELLER, ELLEN 8848  
05/02/94 PLEA CIVIL POSTPONEMENT APPROVED (J HELLER) (8)  
05/06/94 ORDR HABEAS CORPUS AD TESTIFICANDUM ISSUED (JUDGE KAPLAN)(9)  
05/09/94 SERVED D.O.C. ON WRIT OF HABEAS CORPUS AD TESTIFICANDUM.  
05/17/94 PLEA PLTFF'S REPLY TO THE DEFT'S MEMORANDUM. (10)  
06/06/94 PPSN SUMMONS SENT TO PARTIES REPRESENTED AS PROPER PERSON

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CIRCUIT COURT FOR BALTIMORE CITY DATE: 05/31/94  
MSV523 CASE INQUIRY TIME: 14:18  
CASE NUMBER: 93342002 SCOTT VS DEPT. PUBLIC SAFETY CL173585

CONN NAME  
DEF \*DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL IDENT F54435  
6776 REISTERSTOWN RD. PHONE 410 -  
BALTIMORE MD 21215  
ADF ROSENBLATT, RICHARD IDENT 643085  
ASSISTANT ATTORNEY GENERAL PHONE 410 764-4071  
6776 REISTERSTOWN RD., STE 312 SSN 216-64-3085  
BALTIMORE MD 21215  
PLA SCOTT, JAMES P IDENT V09449 PROPER PERSON  
M.C.A.C. #168-490 PHONE 410 -  
401 E. MADISON ST.  
BALTIMORE MD 21202

FINDINGS OF FACTS BY THE ADMINISTRATIVE LAW JUDGE

Appellant James Scott was an inmate at the Maryland Penitentiary on December 14, 1992 when another inmate was stabbed to death. An investigation was initiated by the Maryland State Police, and Scott was implicated by an anonymous source.

As a result of the stabbing, the Grievant was placed on Administrative Segregation on December 17, 1992, and served a notice of assignment to administrative segregation on that date. The reason given on the notice of assignment was that Grievant was implicated in a fatal assault of another inmate.

On December 17, 1992, the Maryland State Trooper investigating the incident completed an Administrative Segregation Investigative Report which indicated the Grievant was implicated as being an accessory to the murder of the inmate through an anonymous source. The trooper recommended that the Grievant be placed on Administrative Segregation until the investigation was completed.

On December 18, 1992, a classification hearing was held at the cell door of the Grievant in which the classification team recommended that the Grievant be assigned to Administrative Segregation and that he be transferred to the Maryland Correctional Adjustment Center ("Supermax"). This was approved by Warden Sewall B. Smith on December 18, 1992.

On May 7, 1993, James Scott filed a grievance claiming that he was unjustly transferred from the Maryland Penitentiary to MCAC and placed on Administrative Segregation. He claims he was transferred without benefit of a classification hearing, was never served a notice of infraction, nor was he the subject of an investigation.

A hearing was held on October 20, 1993 before Administrative Law Judge Mercer; on November 26, 1993, the Administrative Law Judge filed a decision containing the following conclusion of law:

The Grievant failed to show by the preponderance of the evidence that the action taken was arbitrary, capricious or inconsistent with the law, or a denial of due

process or equal protection. The Grievant's placement on administrative segregation was mandated by a concern for security and in accordance with regulations. Sending the Grievant to MCAC, bases on his prior record, was a valid and reasonable exercise of discretion by the institution.

On December 8, 1993, the petitioner filed a petition for judicial review.

Analysis:

The relevant procedure is Division of Correction Directive (DCD) 100-131. The regulation, in pertinent part, provides:

III. An inmate may only be placed on administrative segregation in response to a potential threat to the safety, security, and good order of the institution, and there must be reason to believe that the placement of the inmate on administrative segregation will reduce that threat. The following are examples of situations that may warrant the placement of an inmate on administrative segregation:

2. during the pendency of an investigation, when, for example, there is reason to believe that the inmate might otherwise intimidate potential witnesses.

6. when the inmate's continued behavior shows an inability to conform to the rules and regulations of the institution and/or division.

In the present case, the Classification Committee was told by the Chief of Security that an anonymous source had implicated the appellant in the stabbing of the inmate. See transcript, page 29, lines 18-21. ✓

With respect to the placement on Administrative Segregation, the appellant testified that he was placed on Temporary Administrative Segregation on December 17, 1992. See transcript, page 19, lines 2-10. Alvin Wooten, the appellant's case management specialist, testified that the appellant thus had to be seen by a classification team within 96 hours. See transcript, page 28, ✓



lines 1-12.

A classification hearing was held on December 18, 1992 at the cell door of the appellant. See page 33, line 8-14. Mr. Scott was present for the classification hearing, and had the opportunity to address the members of the classification team. See page 25, lines 17-19. As a result, the Administrative Law Judge was not clearly erroneous in finding that the requirements of DCD 100-131 III B were followed.

Because certain procedures were mandated by DCD 100-131 III B before the transferring of the appellant to Administrative Segregation, some due process was required. See Hewitt v. Helms, 459 U.S. 460. As stated earlier, the appellant was served a notice of assignment to Administrative Segregation on December 17, 1992. The reason given on the notice of assignment was that the Grievant was implicated in a fatal assault of another inmate. See transcript, page 19, lines 8-16. The appellant was present for the classification hearing and had an opportunity to address the members of the classification team. See page 25, lines 17-19.

With respect to the appellant's transfer from the Maryland Penitentiary to Supermax, the appellant argued that the transfer was arbitrary and capricious.

In Paoli v. Lally, 812 F.2d 1489 (4th Cir. 1987), the Court interpreted both DCR-100-1, which provides for the classification of inmates, and Article 27, section 690 and held that the transfer of an inmate from one institution to another did not implicate a liberty interest in the absence of a statute or regulation that created such an interest. The Court, interpreting the same statute and regulation at issue in the present case found no such liberty interest existed. Since there was no liberty interest, there was no right to due process. Moreover, the classification of an inmate to any particular level of security is a subjective determination based on ~~suggested guidelines~~. ~~regulations~~ ~~that were~~ ~~as~~ ~~followed~~

As a result, the Administrative Law Judge was not clearly erroneous in finding no due process violation for the transfer.

Finally, appellant claims that the administrative procedure under DCR 100-1, vi was not followed because the Classification

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Assignment Sheet and the procedures were not initiated by his Case Management Specialist, Mr. Wooden. Instead, the Classification Assignment Section A was completed by Karen Woodbridge.

Mr. Wooden testified, to the best of his recollection, that Ms. Woodbridge prepared the paperwork to make sure that the case would be heard within the required 96 hour time frame. See transcript, page 37, lines 13-21. He further testified that the information completed by Ms. Woodbridge in Part A was objective and that he would not have titled out Part A any differently than Ms. Woodbridge. See page 42, lines 3-10. It is also clear that Mr. Wooden was the Chairman of the Classification team that made the final recommendation; See page 25, line 10-12. Thus, there is no evidence that the appellant was prejudiced by Ms. Woodbridge's preparation of the paperwork.

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- Subst compliance  
- Wooden  
and partners

JAMES P. SCOTT #168-490  
Appellant

BALTIMORE CITY  
1994 MAY 7 A 7:37  
CIVIL DIVISION

1090

In The Circuit Court

for

Baltimore City

Case No. 93342002/CL17

-3585

✓  
Maryland Division of Correction  
Appellee

IGO. No 930714

ORH No. 93-DPSCS-IGO-003-971

Reply To The Appellee  
MEMORANDUM

Appellant James P. Scott pro-se submit this reply to the Appellee memorandum in pursuant to Maryland Rule of Procedure 7-207.

The Appellee statement of facts is not correct. The correct facts are on December 14, 1992 inmate Martin Thomas was fatally stab doing a fight with another inmate at the Maryland Pen. This fight was witness by 50 to 100 inmates and correctional officers (TO1) that same day the alleged suspect who was involved in the incident and three other inmates was place on Administrative segregation and interviewed by the State Police

On December 17, 1992 Appellant along with three other inmates was taken out of the general population and place on Temporary Administrative Seg. as a possible involvement on December 18, 1992 Kitefoner along with five (5) other inmates was transfer to MCFP. The only information that the case management team has was a classification assignment sheet that was already prepared by another case management counselor (T29). Mr. Woodson who chaired the team admit that he did not talk to the

chief of security who claims that he was the receiver of the alleged anonymous information and that he did not see any report on evidence CT 30 and T. 367. At the Citeance hearing testimony was given and accepted by the hearing judge that the state Police who did the investigation never had or received any information concerning Appellant possible involvement or Appellant was under any type of investigation (CT 17, 18). Appellant wanted the state Trooper at the hearing to support his contention but his request was denied and considered irrelevant. Appellant was not charged or received any disciplinary. If Appellant was charged he would have been entitled to due process and limited confrontation. See Walt v McDonnell 418 U.S. 539 (1974) Hupka v MD Inmate Citeance Comm. 40 Md. App. 329, 391 A. 1213 (1978)

Appellant is going to reply to the Appellee contention that Appellant was given his limited Due Process right and Appellant placement on Administrative Segregation as unassailable first then Appellant will address the placement on Administrative Segregation and transfer to M.C.C. together.

Appellant was not complaining about D.C.D. 100-131 as he stated in his memorandum (see 94). Appellant claim is that he was denied Due Process because D.C.D. 100-133 A 3, 4 B 1 was not allowed to make the placement on Administrative Segregation official. D.C.D. 100-133 A 3, 4 state the case management team will review all the report and evidence rely on to place an inmate on Temporary Administrative Seg and Hewitt v Helms 459 U.S. 460 (1983) The decision maker must review the evidence. Which Mr. Woodson admits that the team did not do (28, 29) and the classification assignment sheet already prepared is not the report and evidence D.C.D. 100-133

A 3,4 is stating the case management Team will follow on to make the placement official.

The Appellee contention that Appellant had a opportunity to be heard. Coming to Appellant cell with a classification Assignment sheet transferring Appellant to Administrative Segregation and M.C.A.C. Already prepared and Appellant was not able to call witnesses or opportunity to call witness and present evidences is not the hearing due process require (TDS). How can Appellant contest the alleged information if the case management Team never saw or received any evidence or reports to see in fact there was any information that was supply implicating the Appellant. The classification assignment sheet is the last document to be file out after the review or doing the review in the matter sub-judice it was file out before. (TDS) For the case management Team not Following its DCD 100-133 A-234 B-1 Appellant was denied due process. According to the Notice of Assignment To Administrative Segregation Appellant was taken out of the general Population because he was perceived to be a threat to the security and not pending investigation. There is no way Appellant can be given due process if the case management Team action was not base on a review of all the facts to make a inform decision.

Appellee states in its memorandum that Appellant equate the level of process that is due him to that of a criminal proceeding and an anonymous tip is sufficient to justify a transfer to M.C.A.C. and that the classification of an inmate to any level of security is a subjective determination based on suggested guideline and there is no defined precondition similar to either Administrative or Disciplinary segregation and cited Raelin Lally 812 F.2d 1489 (4th Cir (1987)) that argument is like giving the court a penny and

asking for changes.

Appellant present a simple question. Does an alleged uncorroborated hearsay from anonymous source justify a decision to place and pronounce on administrative segregation than transfer him to Maryland, Correctional Adjustment Center? Should the case management team make sure the alleged information is credible and in appellant case make sure the information exist.

Appellee first claim that appellant is equating the level of process that is due to a criminal proceeding is incorrect. Appellant claim is that he was entitled to fundamental fairness as a right synonymous with substantive due-process in any dispute with the division of correction. Also the case management Team should at least check into the reliability of the information or at least if in fact there was information from anonymous source. The classification assignment sheet that state appellant was possible involve is not evidence that can be relied on (129).

As a general rule hearsay evidence is admissible at administrative hearing if credible and of sufficient probative force may be the sole basis for the decision of administrative body. Tubben v County Board of Appeals 257 Md. 202, 213, 262 A.2d 513 (1970). But there is a limit on its use Kade v Hickey school 80 Md App 721, 725, 520 A.2d 148, 130 C (1989) In Kade a general guideline as to what evidence may be fairly admitted under the related standard of Administrative proceeding is provided in Maryland Code (1984) sec. 10-208(b) of the state Government Article which states

Probative evidence: the agency may admit probative evidence that reasonable and prudent individuals commonly accept in the conduct of their affairs and give probative

effect to that evidence. See also Dept. of Public Safety and Corr. v Seaguss, 79 Md. App 312, 321 A2d 536. The probative evidence must be substantial, reliable and competent. The only way a conclusion as to the reliability can be made the team must do its own independent investigation in the matter sub-judice. The case-management team did not do. The only information the team rely on was a classification assignment sheet which is not evidence. The administrative law judge had no basis for evaluating the credibility of the documents or alleged information, for there wasn't any brought before him. His only focus was on what procedure was due the appellant. More important if over 50 witnesses did not implicate appellant why should the alleged unconfined unseen information from anonymous source be taken at face value. In Heady v Warden 850 F.2d 269 (CA 11 1988) the decision maker should assess the informant's reliability.

Kyle v Harberty, 677 F.2d 1386 (11th Cir 1982) found that without a bona-fide evaluation of the credibility and reliability of the evidence a prison committee's hearing would thus be a sham which would improperly subject an inmate accused of wrong doing to an arbitrary determination. Thus are the action a hearing must take before accepting anonymous information at face value. For it is a well known fact that inmate informers does not always tell the truth. The classification assignment sheet that was used does not fit the same evidence standard in Baker v Lyles, 904 F.2d 925 (4th Cir 1990)

Since super max is a major change in the prisoner confinement and prisoners is subjected to the behavior modification program cannot progress through the system take advantage of the educational program he should at least had some opportunity to due process to test the information rely on see Vitek v Jones 443 US 488 (1980) Appellant had an reasonable expectation like all prisoners that

he would not be transferred to super max unless he met the substantial criteria for such transfer.

The Appellee next state that the classification of an inmate to any particular level of security is a subjective determination based on suggested guidelines and there is no defined precondition similar to administrative or disciplinary segregation than cited Pugh v Kelly, 812 F.2d 1489 (1987) again this is factually wrong.

DC 100-1 clearly states that in classifying an inmate the classification team (in case management team) must use objective data. A classification assignment or confinement based on information from an alleged anonymous source is objective PATA.

As for the precondition. Formerly DCD 100-5 and now DCD 100-161.1A(1) establish the criteria for the transferring an inmate to M.C.P.C. and both these rule establish the precondition. an Appellant cannot be properly put into that criteria based on uncorroborated uncorroborated information. This was not a situation where appellant was charged and found guilty of anything. The only reason appellant was taken out of the general population was based on hearsay.

If one take the position that there is no Federally protected liberty interest in a prisoner housing assignment, this does not mean that prisoners are not entitled to fair treatment under the division of Correction Regulation and not discriminated against unless the prisoner is found guilty or by his/her behavior. The I.G.O provide prisoner with a remedy for reviewing classification Decision (COMAR 2.02.07.02) The I.G.O have a obligation to determine whether such decision was arbitrary caprice or unsupervised by substantial evidence in the record.



Com on 12.11.01. OC C (3). The information relied on was not evidence and the argument posited by the Appellee does not have any support by law and under the hearing unfair.

Appellee relying on Paoli v Kelly, 812 F.2d 1489 (4th Cir. 1987) that no process was due Appellant, should not be considered. Paoli involves the Commission of Correction, the Commission did not appear Appellant. Transfer (see Classification assignment sheet) the Commission only has the discretion to transfer an inmate at his discretion, the warden does not. The Supermax was not in existence at the time the Paoli case was before the Federal District Court. D.C.D 100-5 now D.C.D 100-101 define the criteria and pre-condition for sending an inmate to supermax. Unlike other prison supermax is a major change in confinement, a prisoner must go through mandatory behavior modification treatment before he is eligible to return to any prison. See Walt v Jones, 445 U.S. 480 488 (1980) the court held because of major change in confinement he was entitled to a hearing and due process and a adequate opportunity to be heard. The Paoli case is being used as an umbrella to cover the unfair action of the case management Team. The English statesman William Pitt (1759-1806) once stated:

Necessity is the plea of every infringement of Human Freedom. Paoli in the matter said-judice is the plea to every unjust infringement of an inmate right to remain in the general population getting treated fairly and the opportunity to progress in the prison system like every other inmate.

The Appellee claim that and anonymous tip is enough for security classification and pending investigation and not punishment. If Appellant was not sent to M.C.P.C for punishment then why is he forced to go through the behavior modification program. Why wasn't Appellant sent back to the MD Pen when the alleged investigation was over. Appellant been housed at the Supermax for 17 month was not charge or

Found Guilty of anything. and is not the subject of an investigation.  
In Hewitt v Helms, 103 Sct 804 (1983) at 474. the court held that  
investigation and Administrative segregation should not be used as a  
pretext for indefinite confinement the investigation is over and it was  
an is being use as a pretext to keep Appellant at M.C.A.C. Finally  
if appellant was sent to M.C.A.C. for investigation and not punishment as  
Appelle stated. why is Appellant being compell to file for Judicial re-  
view and waste the courts time tax payers money. when it is apparent  
that the alleged unfarmed, ~~unseen~~<sup>unseen</sup>, information from anonymous was  
a false and mendacious story. Just to get some relief.

### Relief Requested

That this court should reverse the decision of the Secretary of  
Public Safety and Correctional Services and order that Petitioner  
immediately be returned to the general population of the  
Maryland Penitentiary Have the division of Correction expung  
all report in appellant base file Pertaining to the fatal assault  
of another inmate on December 14, 1992.

James P Scott  
James P Scott 168-490  
401 E Madison Street  
Baltimore Maryland

2/20/92

## CERTIFICATE OF SERVICE

I hereby certify that on this 16 Day of May, 1994 a copy of the Reply Memorandum was mailed to Richard B. Rosenblatt, Assistant Attorney General, Department of Public Safety and Correctional Services, 6776 Reisterstown Road, Baltimore Maryland 21215

James P. Scott  
James P. Scott  
168490 M.C.A.C.  
401 E Madison St  
Baltimore MD 21202

(91)

# HABEAS CORPUS AD TESTIFICANDUM

INDICTMENT/CASE NO. 93342002 - CL 173585      POLICE IDENT. NO. ....

PART .....      D.O.B. ....

ROOM 219 Mitchell Court House .....      ISSUED BY ... Civil Assignment .....

DATE June 6, 1994 .....      PHONE ..... 333-3755 .....

CASE TITLE ... Scott ..... VS. ... Dept. of Public Safety .....

CIVIL

CRIMINAL

WRIT OF HABEAS CORPUS ADTESTIFICANDUM SERVED ON TRANSPORTATION  
 DEPT, AT D.O.C., 505 E. MADISON ST., ON 5-8-94 9:30 a.m.  
 AT 9:00 A.M., IN THE PRESENCE OF DEPUTY SHERIFF [Signature]  
 TIME: ~~XX~~ XX A.M.

[Signature]  
 SHERIFF

BALTIMORE CITY, MD  
 MAY 6 2 24 1994

## The State of Maryland

TO THE COMMISSIONER OF CORRECTION, GREETINGS:

You are hereby commanded, that you have the body of .....  
 .... James P. Scott. (I.D.#168-490) ..... detained  
 under your custody as it is said, by whatsoever name he may be called in the same, before the Circuit  
 Court for Baltimore City to testify in the case of ~~the State of Maryland~~ ~~vs.~~ .....  
 .... Scott vs. Dept. of Public Safety ..... then and there to be tried.  
 Inmate is required to appear from day to day until conclusion of proceedings or until excused by Judge.  
 Immediately thereafter the said ..... James P. Scott. (I.D.#168-490) .....  
 shall have given his testimony before the said Court to return him to said prison, and have you then  
 and there this writ.

Witness the hand of the Judge and the Seal of the Citrcuit Court for Baltimore City this 3rd ..  
 day of May ..... A.D., 19 94 .....

[Signature]

[Signature]  
 Judge  
 JOSEPH .....  
 JUDGE



**HABEAS CORPUS AD TESTIFICANDUM**

INDICTMENT/CASE NO. 93342002 - CL 173585 POLICE IDENT. NO. ....  
PART ..... D.O.B. ....  
ROOM 219 Mitchell Court House ISSUED BY Civil Assignment ....  
DATE June 6, 1994 PHONE 333-3755 ....  
CASE TITLE Scott VS. Dept. of Public Safety .....

- CIVIL
- CRIMINAL

9:30 a.m.

TIME: 9 A.M.

**The State of Maryland**

TO THE COMMISSIONER OF CORRECTION, GREETINGS:

You are hereby commanded, that you have the body of .....  
James P. Scott (I.D.#168-490) ..... detained  
under your custody as it is said, by whatsoever name he may be called in the same, before the Circuit  
Court for Baltimore City to testify in the case of the State of Maryland vs. X .....  
Scott vs. Dept. of Public Safety ..... then and there to be tried.  
Inmate is required to appear from day to day until conclusion of proceedings or until excused by Judge.  
Immediately thereafter the said James P. Scott (I.D.#168-490) .....  
shall have given his testimony before the said Court to return him to said prison, and have you then  
and there this writ.

Witness the hand of the Judge and the Seal of the Circuit Court for Baltimore City this 3rd ...  
day of May ..... A.D., 19 94 .....

*Sandra E. R.*



**JOSEPH H. H. KAPLAN**  
**JUDGE**

Judge.

*Handwritten mark*

OFFICES OF

COURT FOR  
BALTIMORE CITY



J. JOSEPH CURRAN, JR.  
ATTORNEY GENERAL

RALPH S. TYLER  
DEPUTY ATTORNEY GENERAL

1994 MAY -6 A 7:45

CIVIL DIVISION

THE ATTORNEY GENERAL  
DEPARTMENT OF PUBLIC SAFETY  
AND CORRECTIONAL SERVICES  
PLAZA OFFICE CENTER  
SUITE 312, 6776 REISTERSTOWN ROAD  
BALTIMORE, MARYLAND 21215-2341  
(410) 764-4070 TTY FOR DEAF 486-0677  
FAX (410) 764-4039

STUART M. NATHAN  
ASSISTANT ATTORNEY GENERAL  
PRINCIPAL COUNSEL TO THE  
DEPARTMENT OF PUBLIC SAFETY  
AND CORRECTIONAL SERVICES  
RICHARD B. ROSENBLATT  
DEPUTY COUNSEL  
JOAN L. BOSSMANN  
MARK H. BOWEN  
ALAN D. EASON  
GEORGE A. EICHHORN, III  
STEVEN G. HILDENBRAND  
SUSAN L. HOWE  
LEO W. OTTEY, JR.  
BETTY A. STEMLEY  
ASSISTANT ATTORNEYS GENERAL  
MICHAEL O. DOYLE  
STAFF ATTORNEY

May 5, 1994

Clerk, Circuit Court for Baltimore City  
Court House  
111 N. Calvert Street  
Baltimore, Maryland 21202

Re: James P. Scott v. Division of Correction  
Case No. 93342002/CL173585

Dear Clerk:

The above-referenced case was to be heard on May 2, 1994. On that date, I filed with the court a Memorandum in Support of Administrative Agency Decision and certified that a copy of the Memorandum was hand-delivered to Mr. Scott. However, Mr. Scott was not brought to court that day and did not receive his copy. The case has been reset for June 6, 1994. Please be advised, therefore, that I have on this date mailed a copy of my Memorandum, postage prepaid, to James P. Scott, #168-490, Maryland Correctional Adjustment Center, 401 East Madison Street, Baltimore, Maryland 21202.

Very truly yours,

*Richard B. Rosenblatt*

Richard B. Rosenblatt  
Assistant Attorney General

RBR/bc

cc: James P. Scott, #168-490

**CIVIL POSTPONEMENT FORM**

DATE: 5/2/94

Plaintiff(s)

*Scott*

v.

IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE CITY

Defendant(s)

*Dept. of Public Safety*

Computer #: 93342002 ✓

File #: CL 173585

Jury \_\_\_\_\_ CT. \_\_\_\_\_ CTF.  MOT.  GEN  2-507

DOMESTIC JUDGE: \_\_\_\_\_ DOMESTIC MASTER: \_\_\_\_\_

**PLEASE PRINT**

To be postponed from: DATE: 5/2/94 ✓ PRIOR POSTPONEMENTS: Y  N

Postponement requested by: MAN

Postponement reason: (please specify):

*pla. was not transported from Super-Market writ was issued*

~~Plaintiff(s) Attorneys:~~  
*P.P.*

Defendant(s) Attorneys: *Richard  
Mr. Rosenblatt  
764-4071*

New Trial Date: 6/6/94 CTF ✓

Approved:  Denied: \_\_\_\_\_ : *Alle*  
(JUDGE'S SIGNATURE)

*[Handwritten mark]*

**HABEAS CORPUS AD TESTIFICANDUM**

INDICTMENT/CASE NO. 93342002 - CL. 173585 POLICE IDENT. NO. ....  
PART ..... D.O.B. ....  
ROOM 219 Mitchell Court House MORE CITY, MD ISSUED BY Civil Assignment .....  
DATE May 2, 1994 ..... PHONE 333-3755 .....  
CASE TITLE Scott VS. Dept. Public Safety .....

CIVIL  
 CRIMINAL

WRIT OF HABEAS CORPUS ADTESTIFICANDUM SERVED ON TRANSPORTATION  
DEPT. AT D.O.C., 505 E. MADISON ST., ON ..... 9:30 a.m.  
..... 00 A.M., IN THE PRESENCE OF DEPUTY SHERIFF #33 .....  
TIME: 9:30 A.M.

SHERIFF

*Not - KST,  
need five working  
days  
J. Anderson  
Stress =  
well  
try*

**The State of Maryland**

TO THE COMMISSIONER OF CORRECTION, GREETINGS:

You are hereby commanded, that you have the body of .....  
James P. Scott (I.D.#168-490) ..... detained  
under your custody as it is said, by whatsoever name he may be called in the same, before the Circuit  
Court for Baltimore City to testify in the case of ~~the State of Maryland~~ .....  
Scott vs Dept. Public Safety ..... then and there to be tried.  
Inmate is required to appear from day to day until conclusion of proceedings or until excused by Judge.  
Immediately thereafter the said ..... James P. Scott (I.D.#168-490) .....  
shall have given his testimony before the said Court to return him to said prison, and have you then  
and there this writ.

Witness the hand of the Judge and the Seal of the Circuit Court for Baltimore City this .....  
day of April ..... A.D., 19 94...

*[Signature]*  
Judge.  
H. H. KAPLAN  
JUDGE

*[Handwritten mark]*



HABEAS CORPUS AD TESTIFICANDUM

INDICTMENT/CASE NO. 93342002 - CL 173585 POLICE IDENT. NO. ....
PART ..... D.O.B. ....
ROOM 219 Mitchell Court House MORE CITY, ISSUED BY Civil Assignment
DATE May 2, 1994 ..... PHONE 333-3765 .....
CASE TITLE Scott VS. Dept. Public Safety

- CIVIL
CRIMINAL

Handwritten signature/initials: V O C D

9:30 a.m.
TIME: 9 A.M.

Handwritten notes: Not - rest, need five working days, J. A. ...

The State of Maryland

TO THE COMMISSIONER OF CORRECTION, GREETINGS:

You are hereby commanded, that you have the body of James P. Scott (I.D.#168-490) detained under your custody as it is said, by whatsoever name he may be called in the same, before the Circuit Court for Baltimore City to testify in the case of the State of Maryland vs Scott vs Dept. Public Safety then and there to be tried. Inmate is required to appear from day to day until conclusion of proceedings or until excused by Judge. Immediately thereafter the said James P. Scott (I.D.#168-490) shall have given his testimony before the said Court to return him to said prison, and have you then and there this writ.

Witness the hand of the Judge of the Circuit Court for Baltimore City this day of April, 19 A.D., 19

Signature: Sandra E. Banks
SAUNDRA E. BANKS, CLERK

JOSEPH B. H. KAPLAN
Judge

HABEAS CORPUS AD TESTIFICANDUM

INDICTMENT/CASE NO. 83342002 - CR. 173585 POLICE IDENT. NO. 7  
PART ..... D.O.B. 38  
ROOM 19 Mitchell Court House ISSUED BY Civil Assignment  
DATE Nov 2, 1994 PHONE 333-3765  
CASE TITLE Scott VS. Dept. Public Safety

- CIVIL
- CRIMINAL

9:30 a.m.  
TIME: 9 A.M.

The State of Maryland

TO THE COMMISSIONER OF CORRECTION, GREETINGS:

You are hereby commanded, that you have the body of .....  
James P. Scott (I.D.#168-490) ..... detained  
under your custody as it is said, by whatsoever name he may be called in the same, before the Circuit  
Court for Baltimore City to testify in the case of the State of Maryland vs. ....  
Scott vs Dept. Public Safety ..... then and there to be tried.  
Inmate is required to appear from day to day until conclusion of proceedings or until excused by Judge.  
Immediately thereafter the said James P. Scott (I.D.#168-490) .....  
shall have given his testimony before the said Court to return him to said prison, and have you then  
and there this writ.

TRUE COPY

Witness the hand of the ~~JESSE~~ and the Seal of the Citrcuit Court for Baltimore City this .. 25  
day of April A.D., 19 94

*Sandra E. Banks*  
SANDRA E. BANKS, CLERK

JOSEPH H. H. KAPLAN  
Judge  
Judge.

PRESIDING JUDGE Ellen L. Hollander

COURTROOM CLERK Louise C. Baylor

STENOGRAPHER John Knowbridge

ASSIGNMENT FOR MONDAY MAY 02, 1994

CASE NUMBER - 93342002  
CASE TITLE - SCOTT VS DEPT. PUBLIC SAFETY CL173585  
CATEGORY - APPEAL FROM ADMINISTRATIVE AGENCY  
PROCEEDING - COURT TRIAL - FAST TRACK

CL

ROSENBLATT, RICHARD  
SCOTT, JAMES P

DEFENSE ATTORNEY  
PLAINTIFF

764-407.

The prisoner was not transported. Re-set per Fran Meeks. EHT

TYPE OF PROCEEDING: (\_\_\_ JURY) (\_\_\_ NON-JURY) (\_\_\_ OTHER)

DISPOSITION (CHECK ONE)

- (\_\_\_ SETTLED) (\_\_\_ CANNOT SETTLE) (\_\_\_ NEXT COURT DATE)
- (\_\_\_ VERDICT) (\_\_\_ REMANDED) (\_\_\_ NON PROS/DISHMISSE)
- (\_\_\_ JUDGEMENT NISI) (\_\_\_ ORDER/DECREE SIGNED) (\_\_\_ OTHER)
- (\_\_\_ JUDGEMENT ABSOLUTE) (\_\_\_ ORDER/DECREE TO BE SIGNED) PLEASE EXPLAIN:
- (\_\_\_ POSTPONED) (\_\_\_ MOTION GRANTED)
- (\_\_\_ SUB CURIA) (\_\_\_ MOTION DENIED)

JUDGE SIGNATURE Ellen Hollander

DATE 5/2/94

RECEIVED  
CIRCUIT COURT FOR  
BALTIMORE CITY  
1994 FEB 18 A 7 48  
CIVIL DIVISION

In The Circuit Court  
Baltimore City

\*\*\*\*\*

	*	
James P. Scott #168-490	*	
Appellant	*	
VS	*	
	*	
Maryland Division Of	*	Case No. 93342002/CL173585
Correction	*	
Appellee/Agency	*	
IGO# 930-714	*	
OAH# 93-DPSCS-IGO-003-971	*	

MEMORANDUM OF LAW

Appellant James P. Scott hereby submits said Memorandum of Law in the above captioned case for violations of both State Administrative Rules as well as The intent of the U.S. Constitutional requirements when the Appellant was:

- 1) Placed on Administrative Segregation, but was not given Due Process to make the Administrative Segregation official.
- 2) Transferred unjustly to M.C.A.C. and denied Due Process.

R

## Administrative Segregation

It is clear that DCR 100-1, 4 and DCD 100-133, 4 B-1, 2, create a liberty interest, which the Court in *Wolf v McDonald* 418 U.S. 539 (1974) and *Hewitt v Helms* 459 U.S. 460 (1983), when there is a major change in prison condition for Administrative reason.

DCD-100-131 gives the prison official the right to place an Inmate on temporary administrative segregation; however, for the placement to administrative segregation to become official. DCR 100-1, A-4 and DCD 100-133 B-1,2.

DCR 100-1,V1 Procedure A states: all classification procedures shall be initiated by the Inmate Case Management Specialist, by completing sec. A of DC form 100-1c classification assignment sheet. This rule was not followed. The classification procedure 100-1c form was initiated and filled out by Karen Woodridge who was not Appellant's case management specialist. Mr. Wooden, who was Appellant's case management specialist at the time, admits that he did not initiate the process (T36). The rationale that Mr. Wooden gave for Ms Woodridge's action does not support the facts. The form was filled out on 12-18-92, and the hearing is alleged to have been held on 12-18-92 (T37) and chaired by Mr. Wooden who signed part (B) of the form. See DC form 100/c of 12-18-92.

DCD 100-133 4, B-1: The Inmate's placement on Administrative

Segregation will be reviewed by a Case Management Team, and Hewitt v Helm, 459 U.S. (1983), The decision maker must review the charges and evidence relied upon to make an independent decision. The Classification Team did not follow those procedures. Mr. Wooden admitted that the only information relied on was the Administrative Segregation Investigation Report submitted by Captain Turner CT27-302. The investigative report allegedly consist of information supplied from an anonymous source, which only stated that Appellant was implicated as an accessory by information from an anonymous source. That amounts to double hearsay. The report does not state how or in what capacity Appellant was an accessory (see Admin. Seg. Investigative Report of 12-17-92)

It is clear from the whole record and all documents that the Classification Team never had any information what so ever as evidence to warrant Appellant's transfer to Administrative Segregation under the basic principle, even under the informal proceeding. Hewitt v Helms, 459. U.S. 460 at 476; The Decision Maker must review the charges and the evidence against the Prisoner. Helmsly v Wilson 850 F. 2d, 269, 276-77 (1986), Brown v Smith 828 F. 2d 1493 (1987), Wells v Israel 854 F2d 995 (7th cir. 1985) that the Committee must make an independent determination of the Informant reliability rather than accepting the Investigating Officer's conclusion.

The Team did not see the note supplied, allegedly, by the anonymous source to, in fact, see if there was information supplied by an anonymous source. At most, Due Process calls for the Classification to have an independent, unbiased hearing from custody especially where Appellant has not been charged with any disciplinary rule or criminal law violation of the December 14, 1992 incident. Without such independent, unbiased, by the Classification Team Prison Officials can, will, and do use Administrative Segregation as well as transfers to the MD Correctional Adjustment Center as punishment.

The report relied upon never states how Appellant was an accessory. In Coffman v Trickey, 884 F. 2d 1037,1059 cert. Denied 110 S. ct. 1523 (1990), that Court held that Coffman was deprived of Liberty without due process when he was placed on Administrative Detention and charged with knowingly failing to abide by any published Institutional rule, but the charge didn't specify which rule was violated. This is similar to what happened to Appellant.

Appellant is not complaining about DCD 100-131. Appellant argues that rule DCD 100-133 was not followed to make the Administrative action final or official. See Hewitt at 459, U.S. 476.

The Administrative Judge stated in his opinion that the Agency can use unidentified and unsworn testimony from an Informant. This is true; however, before the Agency can use that type of information it must test it's reliability. See Brown v Smith, 828 F. 2d 1493, 1495, (10th cir. 1987), Hensley v Wilson, 850 F. 2d 269 (6th, cir. 1988), Unverified statement elicited from Confidential Informant does not constitute any evidence to find Inmate guilty of assault, which the Agency admits that he did not do.

The information relied upon did not meet the "some evidence standard" outlined in Baker v Lyles, 904 F. 2d 923 (4th cir. 1990), Superintendent v Hill, 472 U.S. 445, 105 S. ct. 2768, 86 L. FD. 2d, 356 (1985): because the team relied only on a report that just says that Appellant was implicated as an accessory by an anonymous source, they did not talk to the anonymous source, or see the information that was allegedly used.

Transfer To M.C.A.C. UNJUSTLY

Appellant was transferred to the Maryland Correctional Adjustment Center unjustly due to the Classification Team denying Appellant liberty without due process. When DCR 100-1 VI A-4 and DCR 100-5 VI-A was not followed. Also, Appellant was denied liberty without due process when the



Classification Team relied on a report without investigating the information to see if it was reliable or trustworthy. Hewitt v Helms, 459 U.S. 460 (1983)

Appellant's transfer to M.C.A.C. and placement on Administrative Segregation was not done pursuant to DCR 100-1 VI A-4, because the process of classification was not initiated by Appellant's Case Management Specialist. That's something that the Appellant's Case Management Specialist admits that he did not do. CT36-412. The wording of those rules are written in mandatory language; thereby, making the Classification Teams action a violation of due process.

It is clear from the record that the Classification Teams action to transfer Appellant to M.C.A.C. as a special Management problem was the death of Martin Thomas on December 14th, 1992, and not because of Appellant's past adjustment (27-33). Mr. Wooden also admits that the Team did not investigate the information relied upon, which denied Appellant liberty without due process.

Appellant was denied his due process rights because the Classification Team did not make an independent investigation to see if the information relied upon was true or credible. To warrant Appellant's transfer, Hewitt v Helms, 459 U.S. 460, the decision maker must review

the evidence relied upon and the charge. Hensley v Wilson, 850 F. 2d 269 (6th cir. 1988). The decision maker must make an independent determination of the informant's reliability rather than accept the Investigative Official's conclusion. The only information relied on was an Administrative Segregation Investigative Report which stated that Appellant was implicated as an Accessory by an Anonymous source.

Appellant was further denied his due process rights due to the fact that the information relied upon did not fit within the evidence standard. See Superintendent v Hill, 472 U.S. 445, 444, 105 S ct. and Baker v Lyles, 904 F. 2d 925 (4th cir. 1990). The Team in this case did not talk to the Anonymous source or see the alleged information from the Anonymous source. The only thing the Team relied on was a report that simply says that Appellant was implicated as an accessory by an Anonymous source.

Mr. Wooden testified that Appellant's past Adjustment record being considered in the making of the decision should not have been done, because Appellant was not <sup>Taken</sup> out of the General Population because of his past adjustment record. Appellant was not charged, and has not been charged with any Criminal or Institutional Infraction. This was not a situation where Appellant was charged or found guilty

of anything to warrant the Classification Teams use of his past adjustment record against him. In fact, Appellant went in front of the Team 2 months earlier for Security Classification, and the Team didn't consider him a Special Management Problem then. (31-32) Also, Appellant was in College where he needed only 12 credits to graduate, and involved with several self-help Programs when he was taken out of the General Population (11-14).

Mr. Wooden answered in the affirmative to Mr. Schurman's question that Appellant's placement on Administrative Segregation and transfer to M.C.A.C. was done under the auspices of both DCR and DCD (26). Also, Mr. Schurman's assertion that Appellant was afforded his limited due process rights (46) is not so.

How can the action taken against Appellant be under the auspices of the DCR and DCD, and Appellant given his limited due process rights when the most basic principle and important process was not followed. That is, produce some type of evidence rule, have an independent investigation, and make sure that the information relied upon has some type of truth to it.

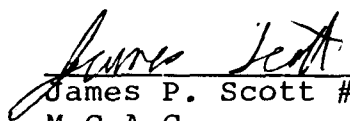
How can Appellant be considered a threat to security based only on unconfirmed information in a report that just simply says that Appellant was implicated as an Accessory by an Anonymous source. The Teams action was

not based on objective facts.

As for the Agency relying on Paoli v Lally, 812 F.2d 1489 4th cir. (1987), DCR #100-5 does not create a liberty interest because that is the defined criteria an Inmate must fit into before he's considered for The Super Max. See Hewitt v Helms, 459 U.S. 460 (1983): where State law limits the decision maker's discretion, and if the decision maker is required to base its decision on objective and defined criteria, the State has created a Constitutionally protected liberty interest. The decision maker in Appellant's case was the Classification Team, not the Commissioner of Corrections. Again; how can Appellant be justly placed into the confine of 100-5 Special Management Inmate, without some evidence or finding as to whether the information relied upon was truthful.

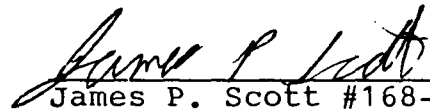
As Mr. Tuminelli, Appellant's Lawyer, stated at 48-51; it's not unreasonable when an Inmate is going to be placed in this type of confinement, ie, M.C.A.C., that there be some type of opportunity to test the validity of the information that's being used to make this kind of transfer.

The Appellant would like for the Court to take judicial notice that Appellant was not charged and is not the subject of an investigation. Therefore, Appellant brings forth this memorandum of Law as a matter for relief.

  
James P. Scott #168-490  
M.C.A.C.  
401 E. Madison Street  
Baltimore, Maryland 21202

Certificate Of Service

It is this 17 day of Feb 1994 The Copy Of The Memorandum Of Law was in fact mailed to Richard B. Rosenblatt, Assistant Attorney General, Department Of Public Safety and Correctional Services, 6776 Reisterstown Road, Baltimore, Maryland 21215.

  
James P. Scott #168-490  
M.C.A.C.  
401 E. Madison Street  
Baltimore, Maryland 21202

**HABEAS CORPUS AD TESTIFICANDUM**

INDICTMENT/CASE NO. 93342002 - CL 173585 POLICE IDENT. NO. ....  
PART ..... D.O.B. ....  
ROOM 219 Mitchell Court House ..... ISSUED BY Civil Assignment  
DATE May 2, 1994 ..... PHONE 333-3755  
CASE TITLE Scott ..... VS. Dept. Public Safety .....

CIVIL  
 CRIMINAL

WRIT OF HABEAS CORPUS AD  
AT BALTIMORE CITY JAIL, AT  
AT 9:00 A.M., IN THE PRESENCE OF DEPUTY SHERIFF  
9:30 a.m.  
2-10-94  
TIME: 9:30 A.M.  
*John W. Under*  
SHERIFF

BALTIMORE CITY, MD  
FEB 9 2 12 PM '94

**The State of Maryland**

TO THE COMMISSIONER OF CORRECTION, GREETINGS:

You are hereby commanded, that you have the body of .....  
JAMES P. SCOTT (168-490) ..... detained  
under your custody as it is said, by whatsoever name he may be called in the same, before the Circuit  
Court for Baltimore City to testify in the case of ~~the State of Maryland~~ ~~xx~~ .....  
Scott vs. Dept. Public Safety ..... then and there to be tried.  
Inmate is required to appear from day to day until conclusion of proceedings or until excused by Judge.  
Immediately thereafter the said James P. Scott (I.D.#168-490) .....  
shall have given his testimony before the said Court to return him to said prison, and have you then  
and there this writ.

Witness the hand of the Judge and the Seal of the Citrcuit Court for Baltimore City this 7<sup>th</sup> ...  
day of February ..... A.D., 19 94 .....

*[Signature]*  
.....  
Judge.



HABEAS CORPUS AD TESTIFICANDUM

INDICTMENT/CASE NO. 93342002 - CL 173585 POLICE IDENT. NO.
PART D.O.B.
ROOM 219 Mitchell Court House ISSUED BY Civil Assignment
DATE May 2, 1994 PHONE 333-3755
CASE TITLE Scott VS. Dept. Public Safety

CIVIL
CRIMINAL

9:30 a.m.

TIME: 9:30 A.M.

Handwritten initials and number 5

The State of Maryland

TO THE COMMISSIONER OF CORRECTION, GREETINGS:

You are hereby commanded, that you have the body of JAMES P. SCOTT (168-490) detained under your custody as it is said, by whatsoever name he may be called in the same, before the Circuit Court for Baltimore City to testify in the case of the State of Maryland vs. Scott vs. Dept. Public Safety then and there to be tried. Inmate is required to appear from day to day until conclusion of proceedings or until excused by Judge. Immediately thereafter the said James P. Scott (I.D.#168-490) shall have given his testimony before the said Court to return him to said prison, and have you then and there this writ.

Witness the hand of the Judge and the Seal of the Circuit Court for Baltimore City this 7th day of ... A.D., 1994

JOSEPH H. H. KAPLAN Judge

Handwritten signature of Joseph H. H. Kaplan

INKS, CLERK



RECEIVED  
CIRCUIT COURT FOR  
BALTIMORE CITY

1994 JAN 21 A 7 46

CIVIL DIVISION

JAMES P. SCOTT

Appellant

v.

INMATE GRIEVANCE OFFICE

Appellee  
(IGO No. 930714)

\*  
\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY

\* Case No. 93342002/  
\* CL173585

~~2-9~~  
7-207  
Notice

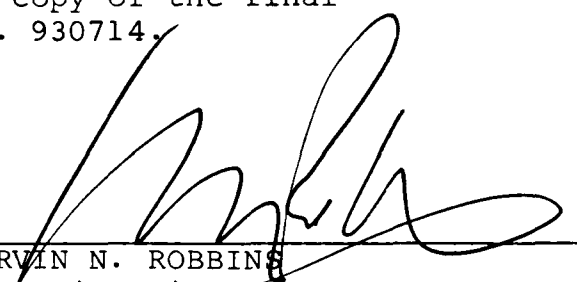
\* \* \* \* \*

CERTIFICATE OF RECORD

I HEREBY CERTIFY THAT the attached documents are the full, complete and official record of proceedings before the Inmate Grievance Office in IGO No. 930714:

1. Grievance received May 7, 1993 from James P. Scott;
2. Letter dated May 24, 1993 from Paula R. Saggese to James P. Scott;
3. Letter dated May 24, 1993 from Paula R. Saggese to Brett Schurmann;
4. Letter received June 3, 1993 from James Scott to Paula R. Saggese;
5. Letter dated June 8, 1993 from Paula R. Saggese to James P. Scott;

6. Letter received June 15, 1993 from James P. Scott to Paula R. Saggese;
7. Letter dated June 23, 1993 from Marvin N. Robbins to James P. Scott;
8. Letter and attachments received July 12, 1993 from William O. Filbert to Marvin Robbins;
9. Letter dated August 12, 1993 from Marvin N. Robbins to Brett Schurmann;
10. Letter dated August 12, 1993 from Marvin N. Robbins to James Scott;
11. Letter received August 17, 1993 from James P. Scott to Marvin Robbins;
12. Letter and attachment received October 14, 1993 from Arcangelo M. Tuminelli;
13. Letter dated October 14, 1993 from Paula R. Saggese to Brett Schurmann;
14. Transcript of the hearing conducted on October 20, 1993; and
15. Letter dated November 26, 1993 from Administrative Law Judge Bootz D. Mercer to James P. Scott, with a copy of the final Order issued in IGO No. 930714.

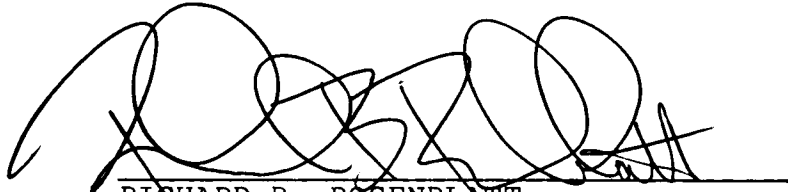


---

MARVIN N. ROBBINS  
Executive Director  
Inmate Grievance Office  
Suite 302 - 6776 Reisterstown Road  
Baltimore, Maryland 21215

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT a copy of the foregoing Certificate of Record was mailed, postage prepaid, this 20<sup>th</sup> day of January, 1994, to James P. Scott #168490, Maryland Correctional Adjustment Center, 401 E. Madison St., Baltimore, Md. 21202.



RICHARD B. ROSENBLATT  
Assistant Attorney General  
Department of Public Safety  
and Correctional Services  
Suite 312 - 6776 Reisterstown Road  
Baltimore, Maryland 21215

James F Scott  
108-490

W -1-

**RECEIVED**

MAY 7 1993

**INMATE GRIEVANCE OFFICE**

Inmate Grievance Office  
Suite 302, Plaza Office Center  
5776 Reisterstown Road  
Baltimore, Maryland 21215

April 30, 1993

Inmate Grievance office:

I am requesting a grievance hearing to remedy the unjust reason I am being held here at the Maryland Correctional Adjustment Center. Do the nature of this grievance I am asking for this grievance be treated as a emergency grievance. The nature of this grievance are:

(1) I was place on Administrative Segregation and center here at the M.C.A.C. in violation of D.C.D. 100-130 Policy A, B and D.C.D. 100-133 Reviews B. Initial review and 2.

(2) I am being held here for no reason. I didn't receive a institutional interaction, criminal charges and according to the administrative paper I am not under any type of investigation.

Facts

On December 17, 1992 at 7:55 am in the Maryland Penitentiary, I was taken from my cell and brought to The

PELPS  
5/20/93

James Scott  
168-490 M.C.P.C.

(2)

lower level strip search. I was then taken to southwing holding area. At 11:45am I was taken to B-Block segregation. At 12:15 pm I was given administrative segregation papers signed by security chief T. Purnell and A. Turner COE. stating reason exist to believe that you are dangerous to the security of the institution and / or inmate and / or staff. Rational was I was allegedly implicated in the fatal assault on another inmate.

On December 18, 1993 Sgt. Minor came to my cell and informed me to pack up my property because I was being sent to M.C.A.C. that afternoon. I was transfer here without the benefit of a hearing or seen anybody to explain to me why I was being sent here. I was not given the opportunity to be heard or made aware of the evidence used to send me over here so that I can defend against it. To this day I still haven't seen anyone to explain what condition I am being held here, and as stated supra I haven't receive a institutional infraction, criminal charge and according to Admin paper I am not under any type of investigation. I just learn recently that I am not a suspect or any type of suspicion by the State Police and the I.I.U.

Finally I hope that the urgency of my situation can be understood and that the emergency grievance be granted to correct the unjust treatment that I am receiving.

Thanking your office in advance for your assistance

Sincerely

James P. Scott

James P. Scott

168-490

401 E. Madison St.

Baltimore MD

21202

c/kk

STATE OF MARYLAND  
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

-2-

WILLIAM DONALD SCHAEFER  
GOVERNOR

MELVIN A. STEINBERG  
LT. GOVERNOR

BISHOP L. ROBINSON  
SECRETARY



MARVIN N. ROBBINS  
EXECUTIVE DIRECTOR

INMATE GRIEVANCE OFFICE  
SUITE 302, Plaza Office Center  
6776 Reisterstown Road  
Baltimore, Maryland 21215-2342  
(410) 764-4257  
TTY FOR THE DEAF: 486-0677

May 24, 1993

James P. Scott, #168490  
MCAC

RE: IGO No. 930714

Dear Mr. Scott:

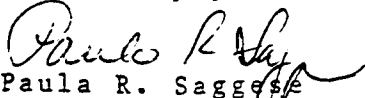
Please be advised that your letter dated 4/30/93, has been received by this office. This office is presently reviewing your grievance and will advise you in writing as your case progresses.

You are entitled to call a reasonable number of relevant witnesses in the event a hearing is held. Therefore, please furnish us with the identities of any witnesses you would request and the testimony you would expect each to give. This office will make the selection of witnesses on the basis of the information available to it. (If yours is an appeal from an Adjustment conviction we will not schedule as witnesses persons whose expected testimony refers to issues of your guilt or innocence, as we will not be conducting a second Adjustment Hearing).

You have the right to be represented by an attorney, or by another inmate if you wish. Neither the Inmate Grievance Office nor the Office of Administrative Hearings can provide a lawyer for you. You may want to apply for legal assistance from the Prisoner Assistance Project of the Legal Aid Bureau, Inc., 500 E. Lexington Street, Baltimore, MD 21202 (539-0390). The determination as to whether or not to represent you is within its discretion. I suggest that if you plan to contact the Prisoner Assistance Project that you do so promptly. You should also be aware that the Division of Correction is not obligated to transport an inmate representative from another institution.

The identities of your representative and witnesses (with their expected testimony) should be forwarded here as soon as possible, so as to review your requests and give them due consideration prior to scheduling your hearing.

Very truly yours,

  
Paula R. Saggese  
Associate Director

STATE OF MARYLAND  
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

- 3 -

WILLIAM DONALD SCHAEFER  
GOVERNOR

MELVIN A. STEINBERG  
LT. GOVERNOR

BISHOP L. ROBINSON  
SECRETARY



MARVIN N. ROBBINS  
EXECUTIVE DIRECTOR

**INMATE GRIEVANCE OFFICE**

SUITE 302, Plaza Office Center  
6776 Reisterstown Road  
Baltimore, Maryland 21215-2342  
(410) 764-4257  
TTY FOR THE DEAF: 486-0677

May 24, 1993

Brett Schurmann  
IGCoord.  
MCAC

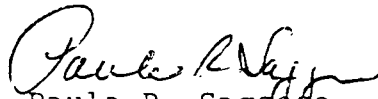
RE: IGO No. 930714  
James P. Scott, #168490

Dear Mr. Schurmann:

Mr. Scott contends that on or about 12/18/92, he was unjustly transferred from Maryland Penitentiary to MCAC and placed on administrative segregation. He claims he was transferred without benefit of a classification hearing, was never served a Notice of Infraction, nor is he the subject of an investigation.

Please look into this matter and forward pertinent records.

Very truly yours,

  
Paula R. Saggese  
Associate Director

PRS:m11



5-31-93 -4-

Paula R. Saggese (AST-DIA)  
Inmate Grievance office  
776 Reisterstown Road  
Baltimore Maryland  
21215

RECEIVED

INMATE GRIEVANCE OFFICE

RE: IGO No. 930714

Dear Ms. Saggese:

In response to your letter of 5-24-93 I am enclosing the names of the witnesses and Representatives

witnesses

The case-management team that allegedly recommended me to be sent here to give testimony as to what information was received.

1. All other party that participate in the process of sending me here to M.C.A.C.

2. My base file and all of the information that was used.

3. The I I U officer of the State Police Bureau  
7777 Washington Blvd  
Jessup Maryland

who was investigating the stabbing death of Martin Thomas on 12-14-92 at the Maryland Pen. He can give testimony that I am not a suspect or under any type of investigation dealing with that

5-31-93

Re: I60 No: 930714

matter.

Representative

Attorney: Arcangelo M. Taminelli  
8 East Mulberry Street  
Baltimore, Maryland 21202

If he cannot appear do to prison obligation I would  
have Inmate

Anthony Grandson #162040  
401, E Madison St M. L.A.C.  
Baltimore MD 21202

Thank you for your assistance

Sincerely  
James Scott  
James Scott 168 #162040  
401 E. Madison St  
Baltimore md  
21202

STATE OF MARYLAND  
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

-5-

LLIAM DONALD SCHAEFER  
GOVERNOR

MELVIN A. STEINBERG  
LT. GOVERNOR

BISHOP L. ROBINSON  
SECRETARY



MARVIN N. ROBBINS  
EXECUTIVE DIRECTOR

**INMATE GRIEVANCE OFFICE**  
SUITE 302, Plaza Office Center  
6776 Reisterstown Road  
Baltimore, Maryland 21215-2342  
(410) 764-4257  
TTY FOR THE DEAF: 486-0677

June 8, 1993

James P. Scott, #168490  
MCAC

RE: IGO No. 930714

Dear Mr. Scott:

I am in receipt of your letter dated 5/31/93.

Please be advised that you must designate only one representative. If you decide on an attorney he must first enter his appearance in writing with this Office. If he does not, and you do not designate another representative, you will be expected to go on with the hearing on your own.

With regard to your requested witnesses please be advised that:

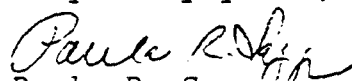
1) Inasmuch as there was no classification hearing held the Case Management Teams' testimony would be irrelevant and are therefore denied.

2) Inasmuch as you failed to indicate the names and testimony of the persons who participated in the transfer they are denied; and

3) Inasmuch as you stated in your complaint that according to the administrative segregation papers you are not under any type of investigation, the testimony of the I.I.U. Officer of the State Police would be irrelevant and therefore his/her presence is denied.

You will be advised in writing when a hearing date is set for your case.

Very truly yours,

  
Paula R. Saggese  
Associate Director

PRS:m11

5

4

6-  
RECEIVED

JUN 15 1993

INMATE GRIEVANCE OFFICE

Paula R. Saggese (Ass. Dir.)  
Inmate Grievance Off.  
6776 Reisterstown Rd. Suite 302  
Baltimore Maryland 21225

June 14, 1993

RE: IGO NO. 930714

Dear Ms Saggese:

In response to your letter of 6-8-93 about my designating a Representative. In my letter of 5-31-93 I designated attorney Arcangelo M. Tumminelli, 8 East Mulberry Street Baltimore MD 21202 as my primary representative. I as for Anthony Grandison for a representative for two reasons (1) after Mr. Tumminelli enter his appearance and cannot attend on the date of the hearing because of prior obligation (eg. trial). (2) Do to my speech impediment and the lack of respect, pre-judice like impatient and the equator this problem as being uneducated and lack of ability to think - I experience. I think it will be in both party interest to have Mr. Grandison if Mr. Tumminelli can't make it.

I like to mention also that Mr. Grandison is here at MICA and would not pose no inconvenient to the security if Mr. Tumminelli can't make it. finally if you still percieve this as being a problem. I will take my chances if Mr. Tumminelli can't make it

Sincerely  
James V. Scott  
James V. Scott 16799  
401 E. Madison St  
Baltimore MD  
21202

STATE OF MARYLAND  
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

- 7 -

WILLIAM DONALD SCHAEFER  
GOVERNOR

MELVIN A. STEINBERG  
LT GOVERNOR

BISHOP L. ROBINSON  
SECRETARY



MARVIN N. ROBBINS  
EXECUTIVE DIRECTOR

**INMATE GRIEVANCE OFFICE**

SUITE 302, Plaza Office Center  
6776 Reisterstown Road  
Baltimore, Maryland 21215-2342  
(410) 764-4257  
TTY FOR THE DEAF: 486-0677

June 23, 1993

James P. Scott, #168490  
MCAC

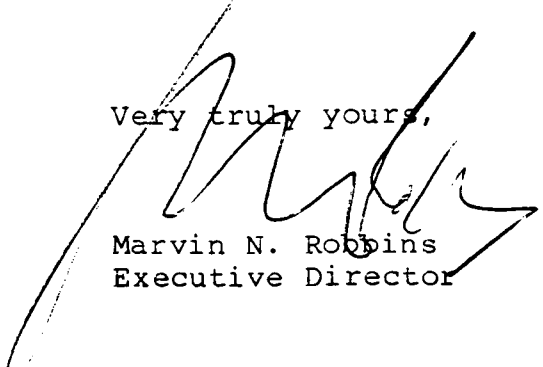
RE: IGO No. 930714

Dear Mr. Scott:

In response to your letter dated June 14, 1993, please be advised that I have entered the name of Anthony Grandison #172622 as your requested representative. If Mr. Tuminelli decides to enter his appearance in writing, I will then substitute his name.

You will be notified further in writing as this case progresses.

Very truly yours,

  
Marvin N. Robbins  
Executive Director

MNR:mll

STATE OF MARYLAND  
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES  
DIVISION OF CORRECTION

-8-



WILLIAM DONALD SCHAEFER  
GOVERNOR

MELVIN A. STEINBERG  
LT. GOVERNOR

BISHOP L. ROBINSON  
SECRETARY

MARYLAND CORRECTIONAL ADJUSTMENT CENTER  
401 E. MADISON STREET  
BALTIMORE, MARYLAND 21201  
(410)  
TTY FOR THE DEAF: 486-0677

RICHARD A. LANHAM, SR.  
COMMISSIONER

MERRY COPLIN  
DEPUTY COMMISSIONER

SEWALL B. SMITH  
WARDEN

JOSEPH WILSON  
ASST. WARDEN

WILLIAM O. FILBERT  
ASSISTANT WARDEN

July 7, 1993

**RECEIVED**  
JUL 12 1993  
INMATE GRIEVANCE OFFICE

Marvin Robbins, Executive Director  
Inmate Grievance Office  
Suite 302, Plaza Office Center  
6776 Reisterstown Road  
Baltimore, Maryland 21215

Institution: MCAC  
RE: IGO No. 930714  
Inmate: Scott, Jamesy  
DOC#: 168490

Dear Mr. Robbins:

This will acknowledge receipt of your correspondence dated 5/24/93 regarding the above referenced IGO case. Enclosed are documents/information requested.

Sincerely,

*William O. Filbert / BRS*

William O. Filbert  
Assistant Warden  
MP/MCAC Complex

WOF/BRS/brs

8

⊗

STATE OF MARYLAND  
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

-9-

WILLIAM DONALD SCHAEFER  
GOVERNOR

MELVIN A. STEINBERG  
LT. GOVERNOR

BISHOP L. ROBINSON  
SECRETARY



MARVIN N. ROBBINS  
EXECUTIVE DIRECTOR

**INMATE GRIEVANCE OFFICE**

SUITE 302, Plaza Office Center  
6776 Reisterstown Road  
Baltimore, Maryland 21215  
(410) 764-4257  
TTY FOR THE DEAF: 486-0677

August 12, 1993

Brett Schurmann  
IGO Coordinator  
MCAC

Re: IGO Hearing-  
October 20, 1993

Dear Mr. Schurmann:

Listed below are the matters to be heard by the Office of Administrative Hearings on October 20, 1993 at MCAC. The hearing session will begin at 9:00 a.m.

TRULEY, GLEN #206135 - IGO No. 930626

Mr. Truley contends that the Classification Team based its decision on April 21, 1993 upon the erroneous belief that he had two prior incarcerations (he claims to have had only one prior incarceration).

DAVIS, TYRONE #143333 - IGO No. 930663

Mr. Davis contends that the Warden unjustly disapproved the Classification Team's recommendation on March 10, 1993 to reduce his security level to "maximum" based upon the false claim that he would be an "escape risk" at the Maryland Penitentiary.

As a witness he requests the presence of Counselor P. Knight. (Others requested by the grievant would be cumulative, and have been denied.)

BACON, RUSSELL #161659 - IGO No. 930672

Mr. Bacon contends that following his Classification Hearing on March 3, 1993 Mr. Zbozien's "Optional Review Comments" made on March 5, 1993 concerning his attempted escape was factually inaccurate, misleading, and was a deliberate attempt to inhibit his progress through the prison system.

In addition, he claims that the Warden unjustly disapproved the Classification Team's recommendation to reduce his security level to "maximum".

(As part of the relief he wants the records corrected and Mr. Zbozien reprimanded.)

As witnesses he requests the presence of Joseph Zbozien, Brett Schurmann, Charles Stanfield #160945, and Chief Purnell. (Others requested by the grievant would be irrelevant and/or cumulative and have been denied.)

HENRY, MICHAEL #157501 - IGO No. 930681

Mr. Henry contends that the Warden unjustly disapproved the Classification Team's recommendation on March 10, 1993 that he be transferred to "maximum" security. In this regard he claims that the Warden's rationale was unfounded.

As a witness he requests the presence of Warden Sewall Smith.

OSBORNE-BEY, ROBERT #175195 - IGO No. 930694

Mr. Osborne-Bey contends that the Warden unjustly disapproved the Classification Team's recommendation on January 13, 1993 to decrease his security level to "maximum". In this regard he claims that the Warden's rationale was unfounded.

As a hostile witness he requests the presence of Warden Sewell Smith. (Other witnesses and evidence requested in his original grievance have been denied, because they would be irrelevant to these proceedings.)

SCOTT, JAMES #168490 - IGO No. 930714

Mr. Scott contends that on or about 12/18/92, he was unjustly transferred from Maryland Penitentiary to MCAC and placed on Administrative Segregation. He claims he was transferred without benefit of a Classification Hearing, was never served a Notice of Infraction, nor is he the subject of an investigation.

He wishes to be represented by Anthony Grandison #172622.



Mr. Schurmann

-3-

8/12/93

GROSS, DONALD #167708 - IGO No. 930206  
OAH-93-DPSCS-IGO-002-625

Mr. Gross has filed this grievance on appeal from ARP-MCAC-1051-92, which is incorporated herein by reference.

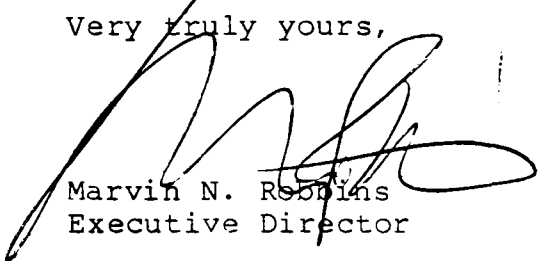
In essence, he contends that on October 26, 1992 the lunch he received did not comply with his medically prescribed (low sodium) diet. He claims that although Officer Fenton and Sgt. Bruce were made aware of the problem and did call the Dietary Department. Sgt. McCray (of Dietary) refused to investigate the matter and showed deliberate indifference.

He wishes to be represented by George Gantt #182146.

As witnesses he requests the presence of Sgt. Bruce, Officer Fenton, and Sgt. McCray. In addition, he requests the presence of the B-Pod Log Book for October 26, 1992.

(This hearing was postponed from July 16, 1993 because the IGO unintentionally omitted the references to the requested representative and witnesses from the original synopsis.)

Very truly yours,



Marvin N. Robbins  
Executive Director

MNR:le

cc: Hon. Judith Singleton - OAH  
Jack Cragway - DOC Hq.  
David Barthlow - DOC Hq.  
Richard Kastendieck, Esq., AGO

15

STATE OF MARYLAND  
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

- 10 -

WILLIAM DONALD SCHAEFER  
GOVERNOR

MELVIN A. STEINBERG  
LT. GOVERNOR

BISHOP L. ROBINSON  
SECRETARY



MARVIN N. ROBBINS  
EXECUTIVE DIRECTOR

**INMATE GRIEVANCE OFFICE**

SUITE 302, Plaza Office Center  
6776 Reisterstown Road  
Baltimore, Maryland 21215  
(410) 764-4257  
TTY FOR THE DEAF: 486-0677

August 12, 1993

Jsames Scott #168490  
MCAC

Re: IGO No. 930714

Dear Mr. Scott:

The captioned case has been scheduled for a hearing on October 20, 1993. Any other complaints made by you in this matter which are not included in the attached synopsis have been administratively dismissed. At your hearing you will have an opportunity to appear and present your grievance.

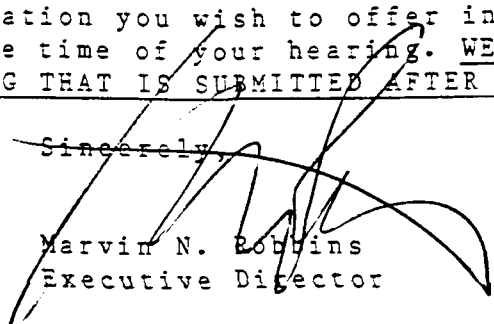
The selection of witnesses has been made on the basis of the information available.

A request for postponement should be made at least fifteen (15) days prior to the hearing and will be granted only with adequate justification.

If yours is a property grievance, see the attached "Property Regulation" FOR GUIDANCE. You should further note that in reference to paragraphs D(4) and E(5) therein, the best evidence to present in order to establish the actual cost of the property at the time of acquisition is the purchase receipt. We are also enclosing a form which you are encouraged to fill out and present at your hearing.

Please note that whatever information you wish to offer into evidence must be submitted at the time of your hearing. WE WILL NOT CONSIDER AS EVIDENCE ANYTHING THAT IS SUBMITTED AFTER YOUR HEARING.

Sincerely,

  
Marvin N. Robbins  
Executive Director

cc: Anthony Grandison #172622

RECEIVED

AUG 27 1993

-11-

INMATE GRIEVANCE OFFICE

8-11-93

Marvin Robbins  
Suite 302, Plaza Office  
776 Reisterstown Road  
Baltimore MD 21215

RC160 930714

Dear Mr. Robbins:

I would like to know has a date been set for a hearing pertaining to the grievance I filed.

Thank you for your assistance

Sincerely  
James P. Scott  
James P. Scott  
168-490 M.C.A.E.  
401 E. Madison St.  
Baltimore Maryland  
21202

Note: no response necessary - if notice sent out 8/18/93

*[Handwritten signature]*  
8/18/93

- 12 -

ARCANGELO M. TUMINELLI  
ATTORNEY AT LAW  
8 EAST MULBERRY STREET  
BALTIMORE, MARYLAND 21202-2105  
(410) 539-3690

FACSIMILE  
(410) 576-9351

HYATTSVILLE OFFICE  
(301) 345-1313

October 13, 1993

Ms. Paula Saggese  
Inmate Grievance Commission  
Suite 302  
6776 Reisterstown Road  
Baltimore, MD 21215-2346

**RECEIVED**

OCT 14 1993

RE: James P. Scott  
I.D. #168490  
Grievance No.: IGO93074

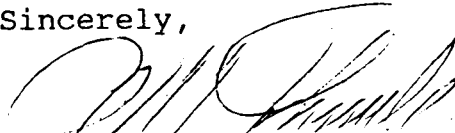
**INMATE GRIEVANCE OFFICE**

Dear Ms. Saggese:

As per our telephone conversation on October 13, 1993, enclosed please find a copy of a letter that I sent to Mr. Scott advising him that I will represent him at his grievance hearing on October 20, 1993. Also, I hereby advise the Inmate Grievance Commission that I am entering my appearance as Mr. Scott's attorney.

Thank you for your help in this matter.

Sincerely,



Arcangelo M. Tuminelli

AMT:sah

Enclosure

cc: James P. Scott

Faxed: 10/13/93

ARCANGELO M. TUMINELLI

ATTORNEY AT LAW

8 EAST MULBERRY STREET

BALTIMORE, MARYLAND 21202-2105

(410) 539-3690

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(301) 345-1313

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(410) 576-9351

October 13, 1993

Mr. James P. Scott  
I.D. #168490  
MCAC  
401 E. Madison Street  
Baltimore, MD 21202


RE: Inmate Grievance Hearing #IG093074

Dear James:

Enclosed please find a copy of my letter advising the Inmate Grievance Commission that I will be representing you on October 20, 1993. I was just advised several days ago that I would be retained to represent you at your hearing. I would have written you sooner, had I been contacted earlier regarding my representation.

I was advised by the Inmate Grievance Commission of the grounds you stated for your grievance. I will review the necessary law and procedural rules and determine whether I need additional information from you for purposes of the hearing. If I do, I will visit you before the hearing.

Sincerely,



Arcangelo M. Tuminelli

AMT:sah

Enclosure

6

STATE OF MARYLAND  
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

-13-

WILLIAM DONALD SCHAEFER  
GOVERNOR

MELVIN A. STEINBERG  
LT. GOVERNOR

BISHOP L. ROBINSON  
SECRETARY



MARVIN N. ROBBINS  
EXECUTIVE DIRECTOR

**INMATE GRIEVANCE OFFICE**

SUITE 302, Plaza Office Center  
6776 Reisterstown Road  
Baltimore, Maryland 21215  
(410) 764-4257  
TTY FOR THE DEAF: 486-0677

October 14, 1993

Brett Schurmann  
MCAC

RE: IGO No. 930714  
James P. Scott, #168490

Dear Mr. Schurmann:

We have just been informed that Mr. Scott will be represented by Arcangelo M. Tuminelli, Esq., in lieu of Anthony Grandison, #172622, at his hearing scheduled for 10/20/93 at MCAC.

Thank you for your cooperation in this matter.

Very truly yours,

*Paula R. Saggese*  
Paula R. Saggese  
Associate Director

PRS:m11

cc: Honorable Judith Singleton, OAH  
James P. Scott, #168490 (MCAC)  
Arcangelo M. Tuminelli, ESQ - please note the hearing  
session begins at 9:00 a.m.

15

# COPY

BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
(Maryland Division of Correction)

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In the Matter of	)	
	)	
JAMES P. SCOTT	)	OAH Case No.
#168490,	)	93-DPSCS-IGO-003-971
	)	
Grievant,	)	IGO Case No.
	)	930714
vs.	)	
	)	
MARYLAND DIVISION OF	)	
CORRECTION,	)	
	)	
Respondent.	)	

- - - - -

The hearing in the above-entitled matter commenced on Wednesday, October 20, 1993, at the Maryland Correctional Adjustment Center, Baltimore, Maryland.

BEFORE: THE HONORABLE BOOTZ D. MERCER  
Administrative Law Judge

Transcribed by: Kathy J. DeMent

For The Record, Inc.  
2F Industrial Park Drive  
Waldorf, Maryland 20602

A P P E A R A N C E S

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ON BEHALF OF THE GRIEVANT:

ARCANGELO TUMINELLI, ESQ.

8 East Mulberry Street

Baltimore, Maryland 21202

ON BEHALF OF THE AGENCY:

BRETT SCHURMANN

Maryland Division of Correction





## P R O C E E D I N G S

- - - - -

1  
2  
3 JUDGE MERCER: My name is Bootz Mercer, I'm an  
4 Administrative Law Judge in the Office of Administrative  
5 Hearings. Today's date is October the 20th, 1993, and the  
6 place is the Maryland Correctional Adjustment Center in  
7 Baltimore.

8 This is an inmate grievance hearing for James  
9 Scott, #168490, IGO No. 930714, also identified as No.  
10 93-DPSCS-IGO-003-971. If the parties who are present this  
11 morning would identify themselves for the record, beginning  
12 with this gentleman.

13 MR. SCHURMANN: Brett Schurmann, S C H U R M A N N,  
14 the Agency representative for the Division of Corrections.

15 MR. WOODEN: Alvin Wooden, Case Management  
16 Specialist at the Maryland Correction Center.

17 MR. TUMINELLI: Arcangelo Tuminelli,  
18 T U M I N E L L I. I'm an attorney and I've been privately  
19 retained by Mr. Scott to represent him at this hearing.

20 JUDGE: At this kind of hearing the burden of proof  
21 is on the inmate. All of those who are going to testify,  
22 raise your right hand, I'll swear you in.

23 Whereupon,

24 JAMES P. SCOTT and ALVIN WOODEN  
25 witnesses, called for examination, were duly sworn to

1 testify in this hearing.

2 JUDGE: Do we have any preliminary matters?

3 MR. TUMINELLI: One, just one preliminary matter,  
4 Your Honor. As you know this hearing is being held pursuant  
5 to Article 49 of the Maryland Code Section 4-102.1, and you  
6 are correct, as I understand it, the burden of proof at this  
7 hearing, which is an inmate grievance hearing, is on the  
8 inmate.

9 The preliminary matter is this: The basis of Mr.  
10 Scott's complaint or grievances, are essentially two  
11 pronged. One is that he was on September 4, 1992 placed on  
12 Administrative Hearing (sic) and under Hewitt v. Helms,  
13 which is a Supreme Court case -- and I'll give you the cite  
14 is you need it -- and under Hewitt v. Helms that he should  
15 have been afforded a due process hearing prior -- prior to  
16 -- or at some point after being placed on Administrative  
17 Segregation.

18 Subsequent to that he was transferred to MCAC, this  
19 institution, and again with Hewitt v. Helms he contends that  
20 he's entitled to a due process hearing. In both of those  
21 hearings he would have been -- the burden of proof would not  
22 have been on Mr. Scott, it would have been on the Division  
23 of Corrections, not him. Because we are here today on an  
24 inmate grievance the burden is essentially shifted to him.

25 So what he is contending is -- he is not in any way

1       waiving his right to the Hewitt type hearing that he was  
2       entitled to by proceeding with -- in this proceeding and we  
3       understand the burden is on him. We think the issue is  
4       going to be very narrow because of the way -- the posture in  
5       this case in this particular body. The issue, as we see it  
6       at this point, is whether or not the Division of Corrections  
7       denied him due process in both those situations and if so,  
8       then we would ask for relief.

9               This hearing -- last point on this -- this hearing  
10       will not, and cannot by its nature, satisfy the Hewitt  
11       requirements because we don't have the Division of  
12       Corrections here trying to justify after the fact placing  
13       him on Administrative Segregation and transferring him to  
14       this institution.

15              Mr. Wooden is here, perhaps to lend some  
16       information to the Court, or to this body, as to why Mr.  
17       Scott was transferred. But certainly they're not going to  
18       put on a full case as to justify the transfer and the  
19       Administrative Segregation.

20              With that reservation, Mr. Scott is willing to  
21       proceed in this matter.

22              MR. SCHURMANN: I have no objection to that. I'm  
23       not attempting to justify his placement.

24              JUDGE: The file was made available to Scott's  
25       representative. At this part of the hearing, I want to read

1 into the record the IGO summary of the case.

2 "Mr. Scott contends that on or about December 18,  
3 1992, he was unjustly transferred from Maryland Penitentiary  
4 to MCAC and placed on Administrative Segregation. He claims  
5 he was transferred without benefit of a Classification  
6 Hearing, was never served a Notice of Infraction, nor is he  
7 the subject of an investigation." (Inaudible)

8 MR. TUMINELLI: No, but I would submit to this body  
9 a copy of a memorandum supporting the Grievant's -- the  
10 Grievant's contentions.

11 MR. SCOTT: (Inaudible)

12 MR. TUMINELLI: Pardon me?

13 MR. SCOTT: (Inaudible)

14 MR. TUMINELLI: We can state those. At this point  
15 I simply want to submit the memorandum of law that Mr. Scott  
16 has prepared in support of the two contentions that I've  
17 previously alluded to in my opening remarks, in effect it  
18 being Mr. Scott's Exhibit Number 1 for purposes of this  
19 hearing.

20 JUDGE: Well, did you publish those?

21 MR. TUMINELLI: No. How many do you have?

22 MR. SCOTT: (Inaudible)

23 JUDGE: Well, I'll accept -- (inaudible) --  
24 documents.

25 MR. TUMINELLI: Thank you.

1 JUDGE: Did you wish to -- (inaudible)?

2 MR. SCHURMANN: I'm not going to respond to  
3 that. We're -- our case is -- (inaudible) -- and what we'll  
4 present -- we'll probably answer whatever arguments come up.

5 JUDGE: You have no response?

6 MR. SCHURMANN: Yeah, I'd just like to say Mr.  
7 Scott was placed on Administrative Segregation and  
8 transferred to MCAC in accordance with Division of  
9 Corrections Policy and established law.

10 JUDGE: The file on this was made available to you  
11 and -- (inaudible) -- Exhibit Number 1.

12 (Whereupon, Grievant's Exhibit  
13 Number 1 was marked for  
14 identification and admitted into  
15 evidence.)

16 JUDGE: You want to proceed then, Mr. Tuminelli?

17 MR. TUMINELLI: Just one further matter, just so  
18 I -- I'm not -- this is the first time I've participated  
19 in one of these proceedings. I'm not sure what Mr.  
20 Sherman's -- or Schurmann, did you pronounce it?

21 MR. SCHURMANN: Schurmann.

22 MR. TUMINELLI: Schurmann. I'm not sure exactly,  
23 is he our adversary? I mean, he appears to be -- I -- just  
24 could you state what his role is so I understand.

25 MR. SCHURMANN: Yeah, I would say I'm your

1 adversary.

2 MR. TUMINELLI: And -- and you're representing who,  
3 the Division?

4 MR. SCHURMANN: Division of Corrections.

5 MR. TUMINELLI: Okay. Fair enough. All right.  
6 I'm going to call Mr. Scott as the first witness on behalf  
7 of the Grievant, Mr. James Scott.

8 DIRECT EXAMINATION

9 BY MR. TUMINELLI:

10 Q. Mr. Scott, I'm going to ask you if you would  
11 briefly tell His Honor when were you first incarcerated on  
12 this particular charge that resulted in your incarceration?

13 A. Talking about --

14 Q. No. When were you first -- when were you first  
15 confined as a result of the case that you're now serving  
16 time?

17 A. February, 1983.

18 Q. And were you convicted in the year 1983?

19 A. Right.

20 Q. And what was your sentence?

21 A. Seventeen.

22 Q. All right. And where were you -- you were  
23 committed to the Department of Corrections in 1983?

24 A. Right, right.

25 Q. And where were you incarcerated at that time?

1 A. Maryland Penitentiary.

2 Q. And you've been at MCAC since September of 1992?

3 A. December, 1992.

4 Q. December of 1992?

5 A. December 18, 1992.

6 Q. I'm sorry, say that again?

7 A. December the 18th, 1992.

8 Q. December?

9 A. 18th.

10 Q. December 18, 1992. Prior to December 18, 1992,  
11 were you at the penitentiary from 1983 until that day?

12 A. Yes.

13 Q. All right. Now, I'm going to take you back to the  
14 five years prior to your transfer to MCAC. How many, if  
15 any, infractions did you have at the penitentiary?

16 A. I had '97 to '92, I had --

17 Q. You said '97 you mean 1987?

18 A. '87 to '92 I had a total of five -- five  
19 infractions.

20 Q. Five infractions?

21 A. Yes, sir.

22 Q. In five years?

23 A. Yes, sir.

24 Q. And what was the most serious infraction you had  
25 during that time?



1 A. Assaulting an inmate.

2 Q. Assaulting an inmate? And what was -- was there  
3 some kind of administrative hearing on that matter?

4 A. Thirty-day segregation.

5 Q. Thirty-day segregation. And in 1992 -- excuse  
6 me -- yes, 1992, prior to you being transferred to MCAC,  
7 what programs, if any, were you participating in at the  
8 Maryland Penitentiary?

9 A. I was in a college program, I need 12 -- I need 12  
10 credits to get a Bachelor's Degree in managerial science.

11 Q. Excuse me. Slow down. You were in a college  
12 program in managerial science?

13 A. Yes.

14 Q. And did you say that you had --

15 A. I need 12 credits to get a degree in managerial  
16 science.

17 Q. Would that have been a Bachelor's Degree?

18 A. Right.

19 Q. So you were 12 credits short of a Bachelor's  
20 Degree?

21 A. Right.

22 Q. Prior to your transfer? And obviously that -- that  
23 educational program has been terminated since you've been  
24 transferred?

25 A. Right. I set myself up -- (inaudible).

1 MR. TUMINELLI: Can I have a second to confer with  
2 my client?

3 (Whereupon, a brief recess  
4 was taken.)

5 MR. TUMINELLI: We can go back on the record.

6 JUDGE: We're back on.

7 MR. TUMINELLI: Okay. Mr. Scott, I have several  
8 documents here that you've provided to me for consideration  
9 by the Court.

10 What I'd like to do, Judge, if we could, is submit  
11 these to the Court and to Mr. Schurmann for review. But I  
12 won't make them Exhibits because he'd like to keep them.  
13 But as we said, like to offer them for purposes of you  
14 seeing them during the course of the hearing.

15 Any objections?

16 MR. SCHURMANN: No, no objection.

17 BY MR. TUMINELLI:

18 Q. Okay. Mr. Scott, I see one, two documents showing  
19 Certificate of Achievement from the Narcotics Anonymous  
20 group at the Maryland Penitentiary.

21 A. Right.

22 Q. Would that have occurred during the five years  
23 prior to your transfer over here?

24 A. Right, right.

25 Q. All right. And you have a document titled He Man

1 Certificate from the United States Jaycees; is that correct?

2 A. Right.

3 Q. And this is in recognition of outstanding service  
4 rendered to the Director of Public Relations; is that right?

5 A. Right, right.

6 Q. All right. And that would also have occurred  
7 within the last five years prior to your transfer, prior to  
8 your transfer over here?

9 A. Right.

10 Q. You also have a Certificate of Appreciation from  
11 Project Turnaround for services as a counselor to troubled  
12 youth offenders; is that correct?

13 A. Right.

14 Q. That also would have occurred within five years of  
15 your transfer?

16 A. Right.

17 Q. And then we have a second document form the United  
18 States Jaycees, and what is -- can you tell the Judge what  
19 this document is?

20 A. Orientation.

21 Q. Pardon me?

22 A. Orientation with them.

23 Q. Orientation with the Jaycees?

24 A. Right.

25 Q. And finally, you have a document dated October 1,

1 1993, and it appears to be in relation to some religious  
2 affiliation with the Muslims?

3 A. Right, right.

4 Q. All right. And what's the nature of this document?

5 A. Showing support that I -- (inaudible).

6 Q. And your religious beliefs at the penitentiary?

7 A. Right.

8 Q. All right. I would submit those for the review by  
9 the Judge for purposes of this hearing.

10 Now, all of those -- all of those documents and the  
11 activities reflected in them occurred within the last five  
12 years prior to your transfer over here, correct?

13 A. You need the letters along with them, you know,  
14 that I was not placed in Administrative Segregation.

15 Q. All right. Now, let me call your attention to the  
16 month of September of 1992. Did you go through a  
17 classification at that time?

18 A. Right.

19 Q. And can you just tell the Judge what occurred in  
20 terms of your classification in September of 1992?

21 A. The team recommended I stay at the Maryland  
22 Penitentiary.

23 Q. You say the team recommended you stay at the  
24 Maryland Penitentiary?

25 A. Right. And the warden approved of it 9/14 of '92.

1 Q. All right. So, you went through a classification  
2 procedure and the team recommended you remain at the  
3 Maryland Penitentiary?

4 A. Right.

5 Q. And the Warden of the Maryland Penitentiary in  
6 September -- what?

7 A. '92.

8 Q. In September of 1992 approved that you remain at  
9 the penitentiary?

10 A. Right, right, right.

11 Q. At that time, during that classification, was there  
12 any evidence presented to you that you in any way  
13 constituted a management problem inmate?

14 A. No.

15 Q. All right. Now, that review by the Classification  
16 Team and approval by the warden would have occurred  
17 approximately what, three months before this incident  
18 occurred?

19 A. Right, right.

20 Q. All right. Now, I want to call your attention to  
21 December of 1982.

22 A. '92.

23 Q. '92, I'm sorry. In December of 1992, did there  
24 come a time that an incident occurred at the Maryland  
25 Penitentiary that resulted in your going into Administrative

1 Segregation?

2 A. Right, right.

3 Q. Can you tell the Judge, as far as you know with the  
4 information available to you, what was that incident?

5 A. It was December the 14th --

6 (Whereupon, a brief recess  
7 was taken.)

8 JUDGE: We're back on the record.

9 BY MR. TUMINELLI:

10 Q. You want to continue?

11 A. On December the 14th, 1992, an inmate by the name  
12 of Martin Thomas got killed. And on December 17, 1992, I  
13 was taken out of general population, placed on temporary  
14 Administrative Segregation, based on information supposedly  
15 supplied by an anonymous source.

16 Q. Let me ask you, you mentioned an incident that  
17 occurred on December the 14th, 1982 (sic).

18 A. Right.

19 Q. Where did the incident occur?

20 A. In A-block.

21 Q. In A-block?

22 A. Right.

23 Q. Can you estimate how many inmates were in the area  
24 where this incident occurred?

25 A. (Inaudible) -- time during our rec area -- in the

1 rec area on a mass move, at that time anywhere between 50 to  
2 100 inmates in the area.

3 Q. Okay. And the incident where -- you say Mr. Thomas  
4 eventually died?

5 A. Right.

6 Q. Was it that it involved an altercation, a fight,  
7 between Mr. Thomas and another individual or a group of  
8 individuals?

9 A. That's what I hear.

10 Q. From what you understand.

11 A. From what I understand, from what I heard, Mr.  
12 Thomas and an inmate.

13 Q. Another inmate?

14 A. Right.

15 Q. Okay. Have you ever been provided with the names  
16 of any individuals who were present when that altercation  
17 occurred that said that you had any part in that at all?

18 A. No. In fact, the State -- I asked that State  
19 Trooper here that was doing the investigation because he  
20 testified that I was not -- I was not a subject of that  
21 investigation or a suspect in this incident.

22 Q. Now, you said the Maryland State Trooper -- did the  
23 Maryland State Trooper have the responsibility to  
24 investigate the death of Mr. Thomas?

25 A. Right, right. Right.

1 Q. All right. Now, you say information was made  
2 available to you that the State Trooper never considered you  
3 as a suspect?

4 A. Right, right. In fact, he -- he did not have any  
5 knowledge of me, period.

6 Q. All right.

7 A. I had a copy of the letter but I sent it across the  
8 street to get it copied, you know, and somehow it never got  
9 back to me.

10 MR. TUMINELLI: Okay.

11 MR. SCHURMANN: I'd like to make an objection.  
12 This is hearsay.

13 THE WITNESS: Hearsay about what?

14 MR. SCHURMANN: About what the State Trooper told  
15 you.

16 THE WITNESS: That's -- that's why I (inaudible)  
17 from him because I wanted the State Trooper here so he can  
18 testify to that.

19 JUDGE: Well, I'm going to -- (inaudible) -- the  
20 testimony, just for -- (inaudible).

21 MR. TUMINELLI: Thank you.

22 BY MR. TUMINELLI:

23 Q. Mr. Scott, do you know the State Trooper's name?

24 A. Turner.

25 Q. Okay. Did you say that you wrote to him?



1 A. The State Trooper, I did, yes.

2 Q. Okay. All right. Now, subsequent to this incident  
3 that occurred on December 14th that you've just been  
4 describing, did there come a time you were placed on  
5 Administrative Segregation?

6 A. I was placed on temporary Administrative  
7 Segregation.

8 Q. Temporary Administrative Segregation. When was  
9 that?

10 A. On December 17, 1992.

11 Q. Did you ever -- were you ever provided with  
12 notices -- a notice of the charges that resulted in you  
13 being placed on temporary Administrative Segregation?

14 A. Yes.

15 Q. When?

16 A. Same day, the 17th.

17 Q. Okay. Was a hearing conducted in order --

18 A. No.

19 Q. There was no hearing?

20 A. There was an official notice.

21 Q. So, you never had an opportunity to present your  
22 account of the incident that was referred to in the notice?

23 A. Right.

24 Q. Now, when were you transferred to MCAC?

25 A. December 18, 1992.

1 Q. All right. Now, subsequent to the transfer to  
2 MCAC, did there ever come a time before today that you were  
3 ever afforded a hearing as to why you were placed on  
4 Administrative Segregation temporarily or why you were  
5 transferred to MCAC?

6 A. No.

7 Q. Did it ever come to your attention the reasons for  
8 your transfer to MCAC?

9 A. Six months after I been over there.

10 Q. And what was the reason given?

11 A. Transferred as a special management -- special  
12 management problem.

13 Q. You were transferred as a special --

14 A. Management problem.

15 Q. -- management problem. Okay. Did you ever receive  
16 any -- or what was the form of that information being made  
17 available to you, that you were a special management  
18 problem?

19 A. Only thing I got -- only thing I received is a copy  
20 of the Classification Assignment Sheet, and on it -- on it  
21 they said I'm a special management problem, but they never  
22 specified how or why.

23 Q. Is this the document that you're referring to?

24 A. Right, right.

25 MR. TUMINELLI: Is this -- off the record a second.

1 (Whereupon, a brief recess  
2 was taken.)

3 JUDGE: Go ahead.

4 BY MR. TUMINELLI:

5 Q. Mr. Scott, the Maryland Division of Correction  
6 Classification Assignment sheet is dated December 18, 1992,  
7 correct?

8 A. Correct.

9 Q. And you say that this document was first made  
10 available to you when?

11 A. June or May, '93.

12 Q. '93?

13 A. Yes.

14 Q. All right. And was it your understanding, based on  
15 this document, that your transfer to MCAC was based upon  
16 your being considered a special management problem inmate?

17 A. Yes. That's when I learned it. When I first came  
18 over, I was -- first I was supposed to be only under  
19 investigation.

20 Q. Right. But the question is, did you eventually  
21 come to understand that you were here based upon this  
22 document because they considered you to be a special  
23 management problem?

24 A. Right, right.

25 Q. All right. Now, you testified earlier that in

1 September of '92 when you were reclassified there was no  
2 reference to you being a problem?

3 A. No.

4 Q. In any regard?

5 A. No.

6 Q. Is that correct? Were you ever provided  
7 specific -- information involving specific incidents that  
8 led the Maryland Penitentiary officials to conclude that you  
9 were a special management problem?

10 A. No.

11 Q. Has it ever come to your attention, or has anyone  
12 in the Division of Corrections or the Maryland Penitentiary  
13 ever provided you with any incidents -- any act or incidents  
14 that they were relying on -- in referring to you as a  
15 special management problem?

16 A. No.

17 Q. Now, you've been here since December of 1992,  
18 correct?

19 A. Yes. Yes, sir.

20 MR. TUMINELLI: All right. Can we go off the  
21 record one second?

22 (Whereupon, a brief recess  
23 was taken.)

24 BY MR. TUMINELLI:

25 Q. We'll have to ask a question -- that is contained

1 in your file, Mr. Scott, that we referred to earlier, the  
2 Classification Assignment Sheet. Do you know who prepared  
3 that document?

4 A. Karen Woodbridge.

5 Q. Karen C. Woodbridge?

6 A. Right.

7 Q. And who, as you understand it, has the  
8 responsibility for preparing such a Classification Sheet?

9 A. According to DCD 100 -- 100-1, inmate counselor --  
10 inmate assigned case management specialist shall initiate  
11 the proceedings.

12 Q. All right. And was Karen Woodbridge -- was that  
13 her title at the time this document was prepared?

14 A. No.

15 Q. Who fit that title?

16 A. Wooden, Wooten -- is that your name, Wooden?

17 Q. Woodsen.

18 MR. WOODEN: Wooden.

19 THE WITNESS: Wooden.

20 BY MR. TUMINELLI:

21 Q. Is that who was the classification --

22 A. That was my classification counselor.

23 Q. At the time?

24 A. Right, right.

25 Q. All right. And the document speaks for itself.

1           A. I also like to make note in reference DCD 100-1 --  
2 (inaudible) -- names.

3           Q. Mr. Scott was saying those remarks to the argument.  
4 Is there anything else factual?

5           A. Just about the Administrative Segregation. DCD --  
6 right here -- I notice on this members of the Classification  
7 Team --

8           Q. Wooden.

9           A. Wooden, a name here Barnes and mine, right. You  
10 stated --

11          Q. No, no. James, we're not asking questions yet.  
12 The question is, do you have any more testimony that you  
13 want to give? Do you have any testimony that you want to  
14 give at this point?

15          A. No, that's it.

16           MR. TUMINELLI: All right. That's the testimony of  
17 Mr. Scott at this point.

18           JUDGE: Mr. Schurmann?

19           MR. SCHURMANN: Okay. I call Mr. Wooden.

20           MR. TUMINELLI: Do you have any questions for Mr.  
21 Scott?

22           MR. SCHURMANN: I'm sorry. No, I have no  
23 questions.

24           MR. TUMINELLI: And we have no further witnesses to  
25 call.

1 MR. SCHURMANN: All right. Now I'll call Mr.  
2 Wooden.

3 DIRECT EXAMINATION

4 BY MR. SCHURMANN:

5 Q. State your name for the record.

6 A. Alvin Wooden, Case Management Specialist, Maryland  
7 Penitentiary.

8 Q. Okay. Now, we've been up to this point referring  
9 to a document in reference to a Classification Assignment  
10 Sheet for a classification hearing, heard on 12/18/92. And  
11 were you the chairman of that Classification Team on that  
12 date?

13 A. Yes, I was.

14 Q. All right. Now, from your best recollection was  
15 Mr. Scott present for that classification hearing?

16 A. Yes, he was.

17 Q. And did he have an opportunity to address the  
18 members of the Classification Team?

19 A. Yes, he did.

20 Q. All right. Now, was Mr. Scott placed on  
21 Administrative Segregation under the auspices of DCD 131  
22 and 2?

23 A. Yes.

24 Q. Such as this?

25 A. Yes.

1 THE WITNESS: (Inaudible) -- it's under Article  
2 131, I'm saying they --

3 MR. TUMINELLI: All right. Let him put on his  
4 case. It would help so I can --

5 MR. SCHURMANN: Yeah, I usually make three copies  
6 and for some reason I don't have them today. All right.  
7 Well, we'd like to submit a copy of DCD 131 100-131  
8 and 132 -- 100-132 into the record as evidence.

9 JUDGE: Well, I'll admit it.

10 MR. SCHURMANN: Or ask you to take judicial  
11 evidence.

12 JUDGE: I can take judicial notice of it.

13 MR. TUMINELLI: We don't have any objections.

14 JUDGE: Okay.

15 BY MR. SCHURMANN:

16 Q. Now, also -- so, you also placed him on  
17 Administrative Segregation. You also recommended that he be  
18 transferred to super-maximum security at MCAC under DCD  
19 100-5; is that correct?

20 A. Yes.

21 Q. Now, this classification hearing was done under the  
22 auspices of both of those Division of Correction directives,  
23 correct?

24 (END OF TAPE 1, SIDE A)

25 JUDGE: We're back on the record.



1 BY MR. SCHURMANN:

2 Q. All right. As well as 100-1, correct?

3 A. Yes.

4 MR. SCHURMANN: Which is the classification  
5 process. I think that's all the questions we have.

6 CROSS EXAMINATION

7 BY MR. TUMINELLI:

8 Q. Mr. Wooden, you say -- when did this classification  
9 meeting take place?

10 A. December the 18th, 1992.

11 Q. And you say Mr. Scott was present?

12 A. Yes.

13 Q. Were there any witnesses that came in and presented  
14 any evidence to the team at that time?

15 A. No.

16 Q. There was just the team and Mr. Scott, correct?

17 A. Yes.

18 Q. At this meeting were there any notices -- or, was  
19 there a notice or a notice of charges handed to Mr. Scott as  
20 to this alleged incident that caused his reclassification?

21 A. Yes. He had a copy of the Notice of Assignment to  
22 Administrative Segregation.

23 Q. Pardon me?

24 A. He had his copy of the Notice of Assignment to  
25 Administrative Segregation.

1           Q. Okay. Was there -- what I'm asking you, though --  
2 what precipitated -- what was the cause of this meeting  
3 taking place on December 18, 1992? What event occurred that  
4 resulted in the classification meeting?

5           A. What resulted in the classification meeting was  
6 that he was placed on temporary Administrative Segregation  
7 status and he had to be seen by a Classification Team  
8 within 96 hours.

9           Q. Why was he placed on temporary Administrative  
10 Segregation?

11          A. Because he was implicated in the stabbing of Mark  
12 Thomas.

13          Q. All right. And with regard to that incident, the  
14 stabbing of Mark Thomas, was Mr. Scott provided with a --  
15 was he provided with a specific notice of charges with  
16 regard to that incident at your meeting?

17          A. Not at my meeting, no.

18          Q. Okay. Were there any witnesses that came in and  
19 appeared before your body, the investigation -- I mean, the  
20 Classification Team, that presented evidence with regard to  
21 the stabbing of Mr. Thomas?

22          A. No.

23          Q. Did you receive any documentary evidence or any  
24 tangible evidence of any type that supported that contention  
25 that he was involved in the stabbing of Mr. Thomas?

1           A. The only thing that we received was the assignment  
2 sheet that said that he was possibly implicated in the  
3 assault.

4           Q. Possible -- you received the documents that he was  
5 possibly implicated in the assault on Mr. Thomas?

6           A. Anonymous.

7           Q. All right. And that was my next question. That  
8 document referred to some anonymous source; is that correct?

9           A. Yes.

10          Q. Okay. Did you ever have an opportunity to -- who  
11 prepared the document that you're referring to?

12          A. The security chief and the captain.

13           JUDGE: I didn't hear you.

14           THE WITNESS: The security chief.

15           BY MR. TUMINELLI:

16          Q. And, I believe, you said and the captain?

17          A. Yeah, the captain.

18          Q. Okay. So, you received a document that referred to  
19 his possible involvement in this incident with Mr. Thomas  
20 from the security chief and the captain, correct?

21          A. From -- yeah, from the captain.

22          Q. From the captain?

23          A. The captain was one of the preparers.

24          Q. So you had that document that was provided to you?

25          A. Yes.

1 Q. Did you talk to the captain?

2 A. No.

3 Q. Did you talk to the security chief?

4 A. No.

5- Q. Did you have an opportunity to discuss this  
6 incident with the anonymous source?

7 A. No.

8 Q. Okay. So, what you have is a piece of paper then  
9 on December 18th that said that there was this allegation  
10 that -- by an anonymous source -- that he may have been  
11 involved in Mr. Thomas' assault, correct?

12 A. Yes.

13 Q. So, Mr. Scott had -- during your December 18th  
14 classification meeting -- had no opportunity to confront  
15 whoever the anonymous source was, correct?

16 A. Not at -- not at our classification meeting.

17 Q. Okay. And he certainly didn't have the opportunity  
18 to confront and question the captain or the security chief?  
19 They were weren't present, were they?

20 A. Not at our meeting.

21 Q. Now, with regard to the designation that he was a  
22 special management problem, what evidence did you rely on  
23 during your meeting? What specific incidents were you  
24 relying on in order to determine that he was a special  
25 management problem? Was there something in addition to this

1 incident involving the inmate who was assaulted?

2 A. That and his past institutional adjustment.

3 Q. Okay. His past institutional adjustment. Was it  
4 true that he, in fact, was classified several months earlier  
5 in September of 1992?

6 A. In September?

7 Q. Yes, in September of '92.

8 A. He was seen by a Classification Team for a security  
9 classification incident.

10 Q. And did they -- did that Classification Team  
11 designate Mr. Scott to be a special problem inmate?

12 A. No.

13 Q. Okay. Did any incident occur between September  
14 of '92 and your meeting in December of '92, other than the  
15 allegation of the assault that you were relying on when you  
16 determined him to be a special inmate -- management inmate?

17 A. From September?

18 Q. Between your earlier classification when he was not  
19 deemed to be a special management problem, was there any  
20 incident that you relied on in December of '92, other than  
21 the Thomas incident or the Thomas assault?

22 A. Just past institutional adjustment.

23 Q. All right. But that past institutional adjustment  
24 was available to the team that reviewed his file and  
25 classified him in September of '92, wasn't it?

1           A. Right. But that wasn't the purpose of the  
2 classification.

3           Q. I understand. But all I'm asking you is the  
4 information, his past institutional adjustment, was  
5- available in September of '92, correct?

6           A. Yes, it was.

7           Q. All right. Then is it fair to say that the one  
8 additional incident that was present at your review in  
9 December of 1992 was the Thomas assault, correct?

10          A. Yes.

11          Q. Is that fair?

12          A. Yes.

13          Q. All right. And the information available to you, I  
14 believe you testified regarding the Thomas assault, was  
15 simply a document that the captain prepared that referred to  
16 some anonymous source, correct?

17          A. Yes.

18          Q. All right. Now, is there anything that your  
19 management team considered on December 18, 1992, other than  
20 his past history in the institution and the Thomas incident  
21 that caused you to conclude that he was a special management  
22 problem?

23          A. Any other?

24          Q. Yeah, other than what -- they were the two --

25          A. No, that was all.

1 Q. So, your team made its designation based upon that  
2 information, correct?

3 A. Yes.

4 Q. And just so I'm clear, at the meeting that Mr.  
5- Scott was present at, that was not a quasi-judicial type  
6 proceeding where there were witnesses?

7 A. That's right.

8 Q. You just sat down with him and your team made a  
9 classification after that meeting, correct?

10 A. We stood in front of his cell door.

11 MR. TUMINELLI: You stood in front of his cell?

12 JUDGE: I didn't hear you.

13 THE WITNESS: We stood in front of his cell door  
14 and had the meeting -- (inaudible).

15 MR. TUMINELLI: Okay. Go off the record one  
16 second, Judge.

17 (Whereupon, a brief recess  
18 was taken.)

19 MR. TUMINELLI: We're back on the record.

20 BY MR. TUMINELLI:

21 Q. Mr. Wooden, I want to ask you -- you've seen this  
22 document that we've referred to as the Classification  
23 Assignment Sheet, correct?

24 A. Yes.

25 Q. And this was the document that was prepared after

1 your meeting with Mr. Scott, your team's meeting with him,  
2 on December 18, 1992, correct?

3 A. Say that again?

4 Q. This was the Classification Assignment Sheet that  
5 - was prepared after the meeting?

6 A. Prepared before.

7 Q. Before the meeting? Before the meeting?

8 A. That's correct.

9 Q. Well, let me ask you this: Does that mean -- this  
10 document refers to Mr. Scott being a special management  
11 problem. He was referred to a special management problem  
12 before you even met with him?

13 A. That's what -- that's what the team wrote down, our  
14 part of the recommended action -- (inaudible).

15 Q. And he was being considered a special management  
16 problem before you ever talked to him about the incident  
17 regarding Mr. Thomas; is that correct?

18 A. No, I can't say that's correct.

19 Q. Well, then you just told us this document was  
20 prepared before you ever talked to him, before you ever met  
21 with him.

22 A. Not -- not the full document, just the information  
23 part of the document was prepared. And when the team went  
24 down to see him, where it says recommended action, then  
25 that's when special management inmate was written in.



1 Q. All right. So this means he was being considered  
2 potentially a special management problem?

3 A. Yes.

4 Q. Before you met with him? And then you concluded  
5- that after you met with him?

6 A. No, we drew on his base file.

7 Q. Pardon me?

8 A. We drew on his base file, as far as his past  
9 institutional history was considered -- and he was  
10 considered a special management problem.

11 Q. Based upon his inmate file and the Thomas incident,  
12 right?

13 A. Yes.

14 Q. All right. Under the Department of Corrections  
15 procedures who is supposed to initiate this procedure?  
16 Wouldn't that have been you?

17 A. When you say -- what procedure?

18 Q. The classification.

19 A. What do you mean, the classification?

20 Q. He was -- this is a Classification Assignment  
21 Sheet, right?

22 A. Right.

23 Q. And you were considering reclassifying him, right?

24 A. No, this was -- we weren't considering  
25 reclassifying him, we were considering assigning him to

1 Admin. Seg. and transferring him to this.

2 Q. Did that -- didn't that involve having to classify  
3 him or characterize him as a special inmate?

4 A. Yes.

5 Q. All right. Who -- in your understanding of the  
6 Division of Corrections procedure -- whose responsibility is  
7 it to initiate that type of designation for consideration?  
8 How does that process start?

9 A. Well, to prepare the paperwork it's just a matter  
10 of a Case Management Specialist preparing the paperwork or  
11 to be heard -- notification to be heard before the  
12 Classification Team.

13 Q. Well, were you the Case Management Specialist?

14 A. Yes.

15 Q. You didn't prepare this document, though?

16 A. No, I did not.

17 MR. TUMINELLI: All right.

18 MR. SCOTT: I'd like to say for the record Karen  
19 Woodbridge wasn't qualified to fill this document out.

20 Because according to --

21 MR. TUMINELLI: That's all right. We'll save that  
22 until after the questions. You're going to get a chance.

23 All right?

24 MR. SCOTT: We have to -- (inaudible).

25 MR. TUMINELLI: All right. All right. We have no

1 further questions.

2 JUDGE: Redirect?

3 REDIRECT EXAMINATION

4 BY MR. SCHURMANN:

5- Q. Yeah. Okay. Just to clarify for the record, there  
6 are three parts to the Classification Assignment Sheet.  
7 Part A is prepared before a hearing is conducted. Okay.  
8 Correct?

9 A. Correct.

10 Q. Now, in this case Part A was prepared by Karen  
11 Woodbridge, correct?

12 A. Correct.

13 Q. Now, what would be a reason if you were Mr. Scott's  
14 assigned counselor that Ms. Woodbridge would have prepared  
15 this sheet?

16 A. Because in this instance -- to the best of my  
17 recollection -- when the notice of assignment to  
18 Administrative Segregation sheet was received in the case  
19 management file I wasn't present. And so in order to make  
20 sure that he was heard within the 96 hours, Ms. Woodbridge  
21 prepared the paperwork.

22 Q. And that would certainly be within the auspices of  
23 100-1?

24 A. Yes.

25 Q. Okay. Now, Part B was prepared -- that is the

1 recommended action -- was written at the time of the  
2 hearing?

3 A. Yes.

4 MR. SCHURMANN: Okay. No further questions.

5- RE CROSS EXAMINATION

6 BY MR. TUMINELLI:

7 Q. At the hearing or at the meeting that you had?

8 A. Which part?

9 Q. Well, you were just asked whether Part B was  
10 prepared at the hearing. There was no hearing, was there?

11 A. Yes, there was a hearing.

12 Q. It was a meeting, wasn't it?

13 A. You keep saying meetings and --

14 Q. Well, let me strike that. Was there -- were there  
15 witnesses called by the Division of Correction at this  
16 proceeding, whatever it was?

17 A. No.

18 Q. Was there an opportunity for Mr. Scott to cross  
19 examine and question through himself or some representative  
20 the anonymous source?

21 A. No.

22 Q. Was he able to confront and cross examine the  
23 captain who prepared the piece of paper that you are relying  
24 on?

25 A. No.

1 Q. So, there were no witnesses, correct?

2 A. No, there was only the Classification Team and Mr.  
3 Scott.

4 Q. All right. And you were standing at a cell where  
5 Mr. Scott was being confined, correct?

6 A. Yes.

7 Q. So there was no hearing the sense that we're having  
8 a hearing today, where there were witnesses and the  
9 ability -- the right -- to confront witnesses? None of  
10 those things occurred, correct?

11 A. Right.

12 Q. All right. In that sense there was no hearing,  
13 right?

14 A. In that sense.

15 MR. TUMINELLI: All right.

16 BY MR. SCOTT:

17 Q. You said that -- that -- ask you the reason why you  
18 weren't able to fill the report out? If you were the one  
19 that did it the 17th, why you didn't do it the 18th then?  
20 You said before the 18th -- you say 96 hours. You got 96 --  
21 it's prepared within 96 hours before you're placed on  
22 Administrative Segregation.

23 A. Well, you know, I -- you know, I can't, you know,  
24 say for certain, you know, why Ms. Woodbridge had already  
25 completed the Classification Assignment Sheet. When the

1 paperwork was received in the case management office, it's  
2 possible that the case management supervisor that's there  
3 filled out the --

4 MR. SCOTT: No.

5 MR. TUMINELLI: Let him finish.

6 THE WITNESS: -- out the paperwork -- to fill out,  
7 you know, since I wasn't there at that time.

8 MR. SCOTT: The question is, according to the DCD  
9 it says inmate assigned Case Management Specialist shall  
10 initiate the proceedings, right?

11 MR. SCHURMANN: I'd like to object to the  
12 procedure.

13 MR. SCOTT: Object? I'm just getting the  
14 management names.

15 MR. SCHURMANN: Who is questioning the witness?

16 JUDGE: Yes. Mr. Schurmann, thank you. You're  
17 being represented here. Your counsel should ask the  
18 questions.

19 MR. SCOTT: I'm -- (inaudible) -- right?

20 MR. TUMINELLI: Do you want -- do you want to relay  
21 the question to me, I'll just ask it.

22 FURTHER RECROSS EXAMINATION

23 BY MR. TUMINELLI:

24 Q. Mr. Wooden, you're familiar with DCR 100-1? Are  
25 you?

1           A. Yes.

2           Q. All right. And is there a procedure set out in  
3 Part 6, Roman numeral six, that establishes what the  
4 inmate's Case Management Specialist shall do?

5           A. Yes.

6           Q. You were the inmate -- inmate's Case Management  
7 Specialist, Mr. Scott's, correct?

8           A. Yes.

9           Q. Okay. Does subsection A-4 of that procedure  
10 require you, as the assigned Case Management Specialist, to  
11 prepare the forms, Part A -- Section A of DC form 100-1T?  
12 Does it require you as the -- again, as the Case Management  
13 Specialist to prepare that form and distribute it to the  
14 other team members? Is that what the procedure requires?

15          A. Yes, if I'm present.

16          Q. Okay. Well, you didn't do that, did you, in this  
17 case?

18          A. No.

19          Q. Someone else prepared this document.

20          A. Another Case Management Specialist.

21          Q. But not his Case Management Specialist. You were  
22 the Case Management Specialist, correct?

23          A. Yes.

24           MR. TUMINELLI: Okay. No further questions.

25           MR. SCHURMANN: One final question.

## 1 FURTHER REDIRECT EXAMINATION

2 BY MR. SCHURMANN:

3 Q. Mr. Wooden, the information in Part A on the  
4 Classification Assignment Sheet is fairly objective, that  
5 is, it remains constant, correct?

6 A. Yes.

7 Q. Would you have filled out the Part A any  
8 differently than Ms. Woodbridge would have filled out  
9 Part A?

10 A. No.

11 MR. SCHURMANN: Thank you.

12 MR. TUMINELLI: No further questions.

13 MR. SCHURMANN: I have -- I don't know how you want  
14 to take this, I want to refer to some cases. Should I do  
15 that in closing argument or should I do that at this  
16 juncture?

17 JUDGE: You can do that in closing arguments.

18 MR. SCHURMANN: Okay.

19 JUDGE: That means you don't have any more  
20 witnesses?

21 MR. SCHURMANN: No more witnesses.

22 JUDGE: No more -- (inaudible)?

23 MR. SCHURMANN: No.

24 JUDGE: Go ahead.

25 MR. TUMINELLI: Yes. Your Honor, I would ask --



1 obviously, it should be apparent that Mr. Scott has given a  
2 lot of thought to this. I'd ask that you do something now  
3 with this due allocution in criminal case, give him an  
4 opportunity to be heard and then I will make just a few  
5- brief remarks in closing, if that procedure is acceptable.

6 JUDGE: Any objection?

7 MR. SCHURMANN: No objection.

8 MR. TUMINELLI: Mr. Scott, you're going to be given  
9 now an opportunity -- you're not testifying any longer, the  
10 facts, the factual record is closed. And what you are now  
11 going to be afforded an opportunity to do is to address the  
12 points that you want to address. You should keep them brief  
13 and Judge Mercer will consider your points.

14 And then I, after that, will then have an  
15 opportunity to make any point that I want to make. All  
16 right?

17 Judge, one procedural matter. This is not clear to  
18 me. Since we have the burden of going forward -- I assume,  
19 like in all other legal proceedings I'm familiar with -- we  
20 will have an opportunity to rebut Mr. Schurmann as opposed  
21 to Mr. Schurmann going last in this proceeding? Is that  
22 correct?

23 JUDGE: Well -- (inaudible).

24 MR. TUMINELLI: Okay. So, we'll follow. But then  
25 what I will do in that regard, I'm going to allow Mr. Scott

1 to make essentially the initial argument on the law and then  
2 Mr. Schurmann can make his points and then I will simply  
3 make my concluding remarks, and that should end this  
4 proceeding. All right? Thank you.

5 MR. SCOTT: Your Honor, in regards of this  
6 Administrative Segregation according to Hewitt v. Helms the  
7 Court stated the committee must review the charge in  
8 evidence against the prisoner.

9 Mr. Wooden stated that he did not do that. He  
10 based his information on -- on the investigation officer.  
11 And in Envie v. Wilson (phonetic) the committee must make  
12 independent determination of --

13 MR. TUMINELLI: Mr. Scott, let me just interrupt  
14 for one second so that -- Judge, for your benefit, Hewitt v.  
15 Helms that he just referred to is 459 U.S. 460, and that's a  
16 1983 Supreme Court case.

17 I'm sorry, Mr. Scott. You can continue.

18 MR. SCOTT: Also, on his decision making he's  
19 required to be -- the decision maker is required to base his  
20 decision on objective and defined material, the State has  
21 breached a Constitutional protected liberty interest.

22 All right. Now, according to the DCD and DCR, I  
23 quoted from my memorandum, you know, that the language of  
24 the DCD and the DCR is written in mandatory language. So  
25 therefore, they are bound -- bound by the words to follow

1 procedures.

2 And also, as far as Ms. Woodbridge stating why I  
3 was considered as a special management problem, according  
4 to the DCD there is no such thing as special management  
5- problem -- I see special management inmate, I don't see no  
6 special management problem on there, Your Honor.

7 Your Honor -- (inaudible) -- that's a big -- that's  
8 a big job. I don't care if you read the DCD, the DCR, there  
9 is no such thing as a special management inmate -- I mean,  
10 excuse me, special management problem.

11 Also, this transfer wasn't initiated or sanctioned  
12 by the Commission of Corrections.

13 JUDGE: I'm not sure I follow.

14 MR. SCOTT: I'm going to talk plainer. This  
15 transfer was not initiated or sanctioned by the Commission  
16 of Corrections. As I understand, according to the Annotated  
17 Code of Maryland that the Commission has the proper  
18 authority to transfer an inmate on any -- (inaudible). But  
19 he also -- he also has to follow his own rules and  
20 regulations.

21 So, all inmates and all State employees come under  
22 his direction. So, therefore, he don't have the arbitrary  
23 discretion to supersede his DCD or DCR -- (inaudible) --  
24 reason why regarding -- (inaudible).

25 MR. TUMINELLI: All right. That's the initial

1 statement on the evidence from Mr. Scott. I'm going to  
2 reserve my remarks in rebuttal to Mr. Schurmann.

3 JUDGE: Mr. Schurmann.

4 MR. SCHURMANN: Okay. Several things, but I'll  
5 first provide a copy of a prior OAH case, and I'll provide a  
6 copy to the Plaintiff, in regards to Administrative  
7 Segregation -- (inaudible). We don't offer that as a  
8 precedent, but just for guidance, and it refers to several  
9 other legal cases in there.

10 Two -- let's see, I'd like you to take judicial  
11 notice on Paoli v. Lally which is at 812 F.2nd 1489. 4th  
12 Circuit --

13 MR. TUMINELLI: 812 at second what?

14 MR. SCHURMANN: 4th Circuit.

15 MR. TUMINELLI: No, no. The page number.

16 MR. SCHURMANN: Oh. 1489.

17 MR. TUMINELLI: Okay.

18 MR. SCHURMANN: 4th Circuit (1987). And we'd like  
19 to note that Administrative Segregation placement was timely  
20 and afforded the Plaintiff his limited due process.

21 Number two, he was properly reviewed and approved  
22 for transfer by DCD.

23 Number three, this transfer and the Administrative  
24 Segregation placement took place to maintain the security  
25 and orderly running of the Maryland Penitentiary.



1           MR. TUMINELLI: For the last ten months and for  
2 whatever time he remains here, he's had approximately and  
3 will have approximately four hours a week outside of his  
4 cell. So, he's locked in constantly, essentially. And  
5 essentially what we have here is Mr. Scott, as a result of  
6 this change in classification and transfer has been placed  
7 in solitary confinement. Essentially, that's what's  
8 happened to him.

9           Under the case that Mr. Scott has mentioned several  
10 times and I have mentioned, Hewitt v. Helms 459 U.S. 460, if  
11 an inmate is placed on Administrative Segregation he or she  
12 is entitled to a minimal due process type hearing. What's  
13 happened here, as Mr. Wooden has outlined for you, was that  
14 there was an anonymous source -- allegedly there was an  
15 anonymous source that Mr. Scott had some type of involvement  
16 with the assault on Mr. Thomas.

17           The only thing presented to Mr. Wooden and his team  
18 was a piece of paper from a captain that referred to this  
19 anonymous source. There was never an opportunity to  
20 question the validity of the information, the double --  
21 essentially double hearsay that was contained in that  
22 document. He had no opportunity to address that issue.

23           This Court, or this body, has allowed in  
24 evidence -- and the State certainly had a right to rebut  
25 it -- but there was, in fact, an investigation by the

1 Maryland State Police because the inmate died. Mr. Scott  
2 was advised that he was never a suspect in that  
3 investigation.

4 Not only was there -- not only was there no due  
5 process of any type afforded Mr. Scott, Mr. Wooden and his  
6 team were doing their job, but they certainly weren't acting  
7 as a quasi-judicial body in their classification meeting  
8 with him.

9 Your Honor, I think in conclusion it's not  
10 unreasonable when an inmate is going to be placed in the  
11 type of confinement that Mr. Scott is in this institution,  
12 that there be some opportunity to test the information  
13 that's being used to make this kind of transfer.

14 We're not simply talking about moving him from  
15 the Maryland Penitentiary to the House of Corrections.  
16 We're talking about locking him up seven days a week  
17 based on information that no quasi-judicial body should  
18 have even begun to consider as sufficient to take this kind  
19 of action.

20 Your Honor, I finally would ask you to consider  
21 that in September of '82 (sic) he did see a Classification  
22 Team, he was not considered a management problem. The only  
23 incident -- as you were told by Mr. Wooden, or the only  
24 change --

25 JUDGE: Can we just shut it off for a second.

1 (Whereupon, a brief recess  
2 was taken.)

3 JUDGE: Back on the record.

4 MR. TUMINELLI: Judge Mercer, the final point I was  
5- making -- in September of 1992 -- during the previous five  
6 years, Mr. Scott had five infractions, none of them more  
7 serious than what resulted in a 30-day segregation. That  
8 information was available to the Classification Team that  
9 saw him in September of '92. They did not consider him to  
10 be a management problem and the warden of the penitentiary  
11 approved of their action at that time.

12 The only thing that occurred between September  
13 of '92 and Mr. Wooden's meeting with Mr. Scott in  
14 December was the Thomas incident, which we have clearly  
15 established -- and Mr. Wooden will tell you and Mr.  
16 Schurmann has told you, -- that was based upon hearsay  
17 information.

18 Mr. Scott in September of '92, as you heard, was  
19 attending college and was 12 credits short of completing  
20 that college program.

21 (Whereupon, a brief recess  
22 was taken.)

23 JUDGE: We're back.

24 MR. TUMINELLI: In conclusion, I simply would ask  
25 this body to require the Division of Corrections to do what



1 they should have done a year ago, almost a year ago, and  
2 that is provide Mr. Scott -- and this hearing does not do  
3 that, provide -- either transfer Mr. Scott back to the  
4 Maryland Penitentiary or provide him with an adequate due  
5- process hearing where there can be a fair and meaningful  
6 attempt to establish that he did have some involvement in  
7 this incident involving Mr. Thomas.

8 And if he did not then he should be allowed to  
9 return to the penitentiary, but certainly shouldn't be  
10 sitting in what amounts to solitary confinement.

11 Thank you.

12 JUDGE: Anything further?

13 MR. SCHURMANN: Here's a copy of DCD 100-5, which -  
14 - (inaudible).

15 JUDGE: December 1st -- this is October the 1st.  
16 Okay.

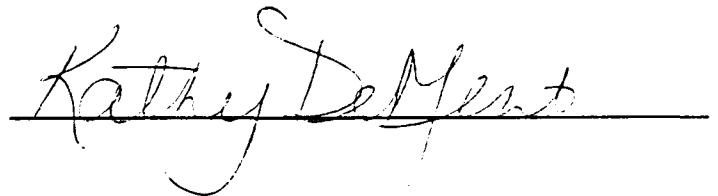
17 (Whereupon, the hearing was  
18 concluded.)

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CERTIFICATE OF TRANSCRIPTIONIST

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I, Kathy J. DeMent, do hereby certify that the foregoing proceedings were transcribed by me via audiotape and reduced to typewriting under my supervision; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were transcribed; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.



KATHY J. DEMENT, Transcriptionist *eng*

William Donald Schaefer  
Governor



-15-  
John W. Hardwicke  
Chief Administrative Law Judge

James G. Klair  
Deputy Chief Administrative  
Law Judge

**OFFICE OF ADMINISTRATIVE HEARINGS**

ADMINISTRATIVE LAW BUILDING  
GREEN SPRING STATION  
10753 FALLS ROAD  
LUTHERVILLE, MARYLAND 21093

WRITER'S DIRECT DIAL NO.

(301) 321-3993  
FAX 301-321-2040  
1-800-388-8805  
Telephone for Deaf  
321-2188

November 26, 1993

Mr. James P. Scott #168490  
Maryland Correctional  
Adjustment Center  
401 E. Madison Street  
Baltimore, Maryland 21202

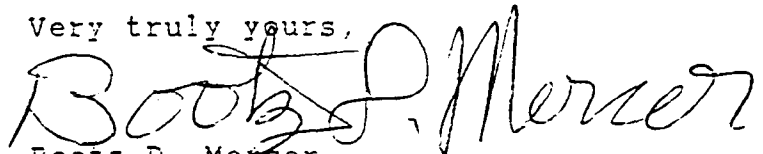
Re: OAH Case #93-DFSCS-IGO-003-971  
IGO Case #930714

Dear Mr. Scott:

Enclosed is a copy of the decision rendered as a result of an Inmate Grievance Office hearing in the matter of the above referenced case.

This is to advise you that you are entitled to appeal this decision by filing an appeal with the Circuit Court of the county in which the institution you are confined is located. In accordance with MD. ANN. CODE art. 41, § 4-102.1(k) (1993 Cum. Supp.), your appeal must be filed within thirty (30) days of the date of this final decision.

Very truly yours,

  
Bortz D. Mercer  
Administrative Law Judge

EDM/kc

cc: Richard Lanham  
Arcangelo Tuminelli, Esq.  
Brett Schurmann  
James Sanders  
Case Management Unit

JAMES P. SCOTT #168490

\* BEFORE BOOTZ D. MERCER  
\* ADMINISTRATIVE LAW JUDGE  
\* OF THE MARYLAND OFFICE OF  
\* ADMINISTRATIVE HEARINGS  
\* CASE NO.: 93-DPSCS-IGO-003-971  
\* IGO NO.: 930714

v.

DIVISION OF CORRECTION

\* \* \* \* \*

DECISION

STATEMENT OF THE CASE  
ISSUE  
SUMMARY OF THE EVIDENCE  
FINDINGS OF FACT  
DISCUSSION  
CONCLUSIONS OF LAW  
ORDER

STATEMENT OF THE CASE

On the 7th day of May, 1993, James P. Scott #168490 filed a grievance which has been summarized by the Inmate Grievance Office (IGO) as follows:

Mr. Scott contends that on or about 12/18/92, he was unjustly transferred from Maryland Penitentiary to MCAC and placed on Administrative Segregation. He claims he was transferred without benefit of a Classification Hearing, was never served a Notice of Infraction, nor is he the subject of an investigation.

A hearing was held on the 20th day of October, 1993, at the Maryland Correctional Adjustment Center (MCAC) in Baltimore, Maryland before the undersigned Administrative Law Judge. Present at the hearing were James P. Scott #168490, who was represented by Arcangelo Tuminelli, Esquire. Witnesses at the hearing were the Grievant and Alvin Wooden, Case Management Specialist. Brett Schurmann represented the Agency.

Prior to testifying, the witnesses were duly sworn. The parties were given an opportunity to review relevant documents in the Inmate Grievance Office file.

## ISSUE

Whether the Grievant's placement on Administrative Segregation and transfer to MCAC was a denial of due process or otherwise improper.

## SUMMARY OF THE EVIDENCE

### EXHIBITS

The entire Inmate Grievance Office file was admitted into evidence. The following documents within the file were pertinent to the case:

1. Hearing notice to the Grievant, dated August 12, 1993
2. Classification Assignment Sheet dated December 18, 1992
3. A notice of assignment to Administrative Segregation, dated December 17, 1992
4. An Administrative Segregation Investigative Report dated December 17, 1992
5. The Grievant's complaint to the Inmate Grievance Office, dated April 30, 1993

### TESTIMONY

The Grievant testified on his own behalf. He testified that he had been incarcerated since February, 1983, at the Maryland Penitentiary. He was transferred to the Maryland Correctional Adjustment Center (MCAC) on December 18, 1992. He testified that his last previous infraction was in 1987 when he was given 30 days segregation for assaulting another inmate. He testified he was in the College Program and needed only 12 credits to obtain his BA in Management Science. Various documents were shown to the parties and the Administrative Law Judge by the Grievant's representative, but were not admitted because no copies were available. These concerned the Grievant's positive accomplishments during the period of his incarceration.

In September, 1992 the Grievant received a classification review which was approved by Warden Sewall Smith that indicated that he was not a management problem. On December 14, 1992 an incident occurred at the Maryland Penitentiary in which an inmate was stabbed to death in A-block. On December 17, 1992, the Grievant was placed on Administrative Segregation pending investigation. He testified that the State Trooper who investigated the case indicated that he was not a subject of investigation or a suspect in this particular case. He was nonetheless transferred to MCAC on December 18, 1992 and it is his contention that he received no hearing at that time, classification or otherwise. He testified that six months after the transfer to MCAC he received a Classification Assignment Sheet which indicated that he was considered to be a special management problem. He was never given specifics of the reasons for this belief.

Alvin Wooden, Case Management Specialist, and Chairman of the Classification Team, testified that a hearing was held, and that Scott was present and had an opportunity to address members of the Classification Team. Mr. Wooden testified that the Grievant's security classification was reviewed because the Grievant was implicated in the stabbing of Martin Thomas in December of 1992. Mr. Wooden testified that the team was not provided with evidence of the implication, but were informed of such by the Security Chief of the institution.

Mr. Wooden was asked on cross-examination what evidence there was that the Grievant was a special management problem and he replied that the past institutional adjustment of the Grievant was the basis of this determination. Asked to supply specific instances which would indicate the Grievant being a special management problem, Mr. Wooden could offer nothing but the Thomas assault. Mr. Wooden was asked on cross-examination where the classification hearing occurred on December 18, 1992 and he replied in front of the Grievant's cell door. He testified that the Classification Assignment Sheet was prepared before the hearing.

#### FINDINGS OF FACT

I find, by a preponderance of the evidence, the following facts:

1. In December, 1992, the Grievant was housed at the Maryland Penitentiary. On December 14, 1992, an inmate was stabbed to death in A-block of the Maryland Penitentiary.

2. As a result of the stabbing, the Grievant was placed on Administrative Segregation on December 17, 1992 and served a Notice of Assignment to Administrative Segregation on that date. The reason given on the notice of assignment was that Grievant was implicated in a fatal assault on another inmate.
3. On December 17, 1992 the Maryland State Trooper investigating the incident, Captain A. Turner, completed an Administrative Segregation Investigative Report on the Grievant which indicated that the Grievant was implicated as being an accessory to the murder of the inmate, through an anonymous source. Captain Turner recommended that the Grievant be placed on Administrative Segregation until the investigation is completed.
4. On December 18, 1992 a classification hearing was held, at the cell door of the Grievant, in which the Classification Team recommended that the Grievant be assigned to Administrative Segregation and that he be transferred/classified to the Maryland Correctional Adjustment Center as a special management problem. This was approved by Warden Sewall E. Smith on December 18, 1992.

#### DISCUSSION

The facts in the case are essentially undisputed. Subsequent to the December 14, 1992 stabbing of the inmate in A-block, the Grievant was placed on Administrative Segregation on December 17, 1992. Upon classification review on December 18, 1992, a classification hearing was held at the inmate's cell door by the Classification Team, who recommended that the Grievant be placed on Administrative Segregation and transferred to MCAC as a special management problem. The reasons given by the team were that the Grievant is dangerous to the security of the institution, inmates or staff, and that he was implicated in a fatal assault on another inmate.

The Grievant contends that he was transferred to MCAC without the benefit of seeing a Classification Team in violation of DCD 100-133 (B) (1) and (2). The regulation he indicates is written in mandatory language and similar to those addressed in the case of Hewitt v. Helms, 103 S. Ct. 864 (1983). It is the inmate's contention that DCD 100-131 (a) and (b) give the prison official the right to place an inmate on Administrative Segregation temporarily, but in order for the placement to become permanent DCD 100-133 (B) (1) and (2) must be followed. That is the decision must be reviewed within 96 hours by the Case Management Team and the inmate must be given an opportunity to respond to the reasons stated for his or her placement on Administrative Segregation.

The Grievant contends that this rule was not followed in his case because the decision maker did not review the evidence against the Grievant that was used to place him on Administrative Segregation. It was his contention that the team could not make an independent decision without talking to the anonymous source that he was implicated in the A-block stabbing or seeing the alleged information supplied by that anonymous source. The Grievant contends that under Hewitt v. Helms, the committee must make an independent determination rather than accept the investigative officer's conclusion.

The Grievant, however, presented no objective evidence to show that his placement on Administrative Segregation and his subsequent transfer to MCAC was for other than concerns for institutional security.

The U.S. Constitution does not, by itself, give inmates a right to remain in the general population. The Supreme Court in Hewitt v. Helms, cited above, explained that transfer to Administrative Segregation for non-punitive reasons is well within the ordinary expectation of an inmate's confinement. The Court made it clear that just because there are procedural guidelines for administrative confinement, such do not necessarily create a protected liberty interest. However, if certain procedures are required to be used before transferring an inmate to Administrative Segregation, then some due process may be required. General principles of administrative law, and certain circumstances, may also be the basis for granting relief when certain procedures are not followed. See Hopkins v. Inmate Grievance Commission, 40 Md. App. 329 (1978).

The procedures for utilizing administrative segregation are contained in Division of Correction Directive (DCD) 100-131. The regulation provides in pertinent part as follows:

### III. Policy

B. An inmate may only be placed on administrative segregation in response to a potential threat to the safety, security, and good order of the institution, and there must be reason to believe that the placement of the inmate on administrative segregation will reduce that threat. The following are examples of situations that may warrant the placement of an inmate on administrative segregation:

2. during the pendency of an investigation, when, for example, there is reason to believe that the inmate might otherwise intimidate potential witnesses;



6. when the inmate's continued behavior shows an inability to conform to the rules and regulations of the institution and/or the division.

The Grievant has not shown by a preponderance of the evidence that any process due him as a result of the liberty interest afforded him by Maryland law has been violated. His transfer to Administrative Segregation conformed to the requirements of DCD 100-131. These regulations permit the transfer of an inmate to Administrative Segregation during the pendency of an investigation on whether the inmate is a threat to the security of the institution. And, although, the regulations require that there must be reason to believe that the inmate's placement on Administrative Segregation will reduce the threat the inmate poses to institutional security, they clearly permit the use of information from unidentified and unsworn informants to arrive at such conclusions. Nor is it required that the information of such informants be given directly to the Classification Committee.

In the instant case, the Committee was told by the Chief of Security, Chief Purnell, that information from an anonymous source indicated the Grievant was implicated in the stabbing of another inmate. This was sufficient to satisfy the requirements of DCD 100-131 III.B.

The Grievant argues that his transfer to MCAC was arbitrary and capricious and was not based on any objective facts. He asserts that the Agency was acting on unfounded information. He reasons that the Agency could not transfer him to another institution because it did not indicate with specificity that the Grievant was guilty of any infractions. By transferring the Grievant, the Agency acted upon an unsworn and unsubstantiated allegation of his alleged involvement in the assault of December, 1992. The Grievant claims that, as a result, his rights to liberty and equal protection were violated.

The Agency, relying upon the holding in Paoli v. Lally, 812 F.2d 1489, 4th Circuit (1987), contends that there has been no violation of the Grievant's constitutional rights. The Agency states that the transfer was done so that the security concerns at the Maryland Penitentiary would not be compromised.

The applicable regulation in this matter is DCD 100-1, which provides guidelines for the classification of inmates. The relevant statute, MD. ANN. CODE art. 27, § 690, provides:

(b) Offenders to be sentenced to the jurisdiction of the Department instead of to institutions; assignment or transfer to institutions and facilities generally, persons sentenced prior to June 1, 1967. - Notwithstanding any other provisions of this article or any other law to the contrary, Judges in the sentencing of convicted persons for any offense for which the provisions of this article or any other law requires the imprisonment to be served in any one of those institutions enumerated in Section 689 of this article, shall in all such cases sentence such persons to the jurisdiction of the Division of Correction. All such persons shall be admitted to the custody of the Commissioner of Correction and delivered to him for imprisonment. Thereafter, all such persons shall be held, confined in, assigned to or transferred to such of the institutions, and facilities under the jurisdiction of the Division from time to time may order, including State police barracks where such use is convenient and practical.

In Paoli, the Court interpreted both DCR-100-1 and Article 27, § 690 and concluded that the classification regulation was intended as a guideline and did not contain mandatory language which would limit the authority of prison officials. The Court held that the transfer of an inmate from one institution to another does not implicate a liberty interest in the absence of the statute or regulation that creates such an interest. The Paoli Court interpreted the same regulation and statute involved in the instant case and determined that no such liberty interest existed. The fact scenario in Paoli is similar to the instant case in that the inmate was transferred from a lesser security status to a greater one. Applying the rationale outlined in Paoli to the instant case, I must conclude that the Grievant at bar did not have a liberty interest involving which institution to which he may be transferred. Therefore, since there is no liberty interest in one's institutional assignment, no process was required to be afforded to him prior to his transfer.

No evidence was presented to show that the Grievant's transfer in any way implicated the denial of equal protection. The Agency, as indicated, stated that the transfer was done so that the security concerns at the Maryland Penitentiary would not be compromised. Based on the Grievant's history and the information received by the Agency, its actions in transferring the Grievant to MCAC was reasonable.

CONCLUSIONS OF LAW

The burden of proof in an inmate grievance is a preponderance of the evidence and rests with the Grievant. According to the Code of Maryland Regulations (COMAR) 12.11.01.03C (1), in a grievance concerning the administration of institutions, the Grievant must show that the action taken was arbitrary and capricious or in violation of law.

Based on the facts found and in light of the foregoing Discussion, I conclude that the Grievant has failed to sustain that burden. The Grievant's placement on Administrative Segregation and subsequent transfer to MCAC was mandated by a concern for security at the Maryland Penitentiary and in accordance with regulations. Sending the Grievant to MCAC, based on his prior record and on the information received, was a valid and reasonable exercise of discretion by the institution. Consequently, the Grievant did not demonstrate that his transfer from the Maryland Penitentiary to MCAC was a denial of due process or equal protection or that his placement on Administrative Segregation was a violation of his due process. He also failed to show that the Agency's action was arbitrary, capricious or inconsistent with the law.

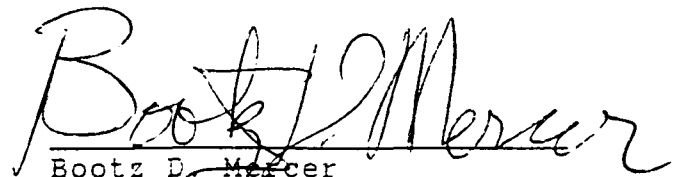
ORDER

Having concluded that the grievance of James F. Scott #168490, CAH Case No. 93-DPSCS-IGO-003-971 (IGO No. 930714) is without merit, the Administrative Law Judge orders that it be DENIED and DISMISSED.

November 26, 1993

Date

BDM/kc

  
Bootz D. Mercer  
Administrative Law Judge

NOTICE SENT IN ACCORDANCE WITH MARYLAND RULE 7-207

James P. Scott .....

Docket: .....

vs.

Folio: .....

Secretary Dept. of Public  
Safety & Correctional  
Services

File: 93342002/CL173-

585  
Date of Notice: 1-31-94

STATE OF MARYLAND, ss:

I HEREBY CERTIFY, That on the 21st day of January  
Nineteen Hundred and ninety-four, I received from the Administrative  
Agency, the record, in the above captioned case.

SAUNDRA E. BANKS, Clerk  
Circuit Court for Baltimore City

CC-39

MARYLAND RELAY SERVICE VOICE 1-800-735-2258



NOTICE SENT IN ACCORDANCE WITH MARYLAND RULE 7-207

James P. Scott .....

Docket: .....

vs.

Folio: .....

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Circuit Court for Baltimore City

CC-39

MARYLAND RELAY SERVICE VOICE 1-800-735-2258



Circuit Court for Balto. City  
111 B. Calvert St. Rm. 462  
21202

Richard B. Rosenblatt  
Asst. Atty. General  
Dept. of Public Safety  
and Correctional Services  
6776 Reisterstown Rd. Ste.312  
Baltimore, Maryland 21215

Circuit Court for Balto. City  
111 N. Calvert St. Rm. 462  
21202

James P. Scott, #168-490  
MD. Correctional Adjustment  
Center  
401 E. Madison St.  
Baltimore, Maryland 21202

JWS

PETITION OF  
JAMES P. SCOTT, #168490

BALTIMORE CITY  
1993 DEC 27 A 9:05  
CIVIL DIVISION

IN THE  
CIRCUIT COURT  
FOR

FOR JUDICIAL REVIEW OF  
THE DECISION OF THE  
INMATE GRIEVANCE OFFICE

BALTIMORE CITY

IGO #930714

OAH #93-DPSCS-IGO-003-971

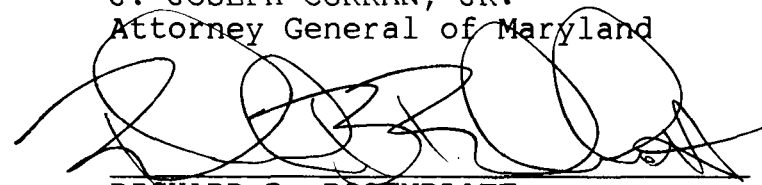
Case No. 93342002/CL173585

\* \* \* \* \*

RESPONSE TO PETITION

The Inmate Grievance Office and Secretary, Department of Public Safety and Correctional Services, Appellee, by its attorneys, J. Joseph Curran, Jr., Attorney General of Maryland, and Richard B. Rosenblatt, Assistant Attorney General, pursuant to Maryland Rule 7-204, notes its intention to participate in the action for judicial review of the decision rendered by the Inmate Grievance Office.

J. JOSEPH CURRAN, JR.  
Attorney General of Maryland



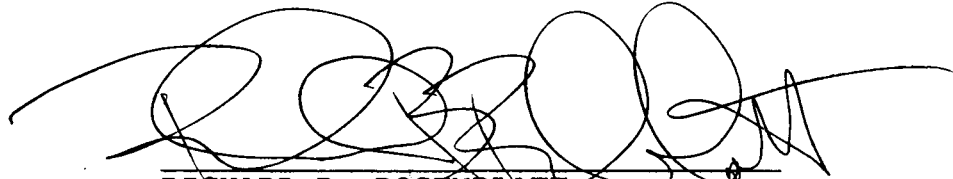
RICHARD B. ROSENBLATT  
Assistant Attorney General  
Department of Public Safety  
and Correctional Services  
6776 Reisterstown Road, Suite 312  
Baltimore, Maryland 21215  
(410) 764-4071

Attorneys for Appellee



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23<sup>rd</sup> day of December, 1993, a copy of the foregoing Response to Petition was mailed, postage prepaid, to James P. Scott, #168-490, Maryland Correctional Adjustment Center, 401 E. Madison Street, Baltimore, Maryland 21202.

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

RICHARD B. ROSENBLATT  
Assistant Attorney General

29173

RECEIVED  
CIRCUIT COURT OF  
BALTIMORE

93342002/CL  
173585

93 DEC -8 AM 8:37

CIVIL DIVISION

In The Circuit  
Court FOR  
BALTIMORE CITY  
Case No:

James P. Scott 168-490  
MARYLAND CORRECTIONAL  
ADJUSTMENT CENTER  
401 E. Madison Street  
Baltimore, Maryland 21202  
Petitioner

v.

SECRETARY, DEPARTMENT OF  
PUBLIC SAFETY AND CORRECTIONAL  
SERVICES  
6776 Reisterstown Road  
Baltimore, Maryland 21215  
Respondent

OH# No. 93-DPSCS-IG0-003-971  
IG0 No. 930714

Petition For Judicial Review

Petitioner James P. Scott, in proper person and pursuant to Md.  
Rule 7-203 (a) and Md. Ann. Code, Art. 41, 4-102.1 (CK), hereby petitions  
for judicial review of the decision of Administrative Hearing  
dated November 26, 1993, in the matter of the Inmate Grievance  
-Hearings Office,

*[Handwritten signature]*

**COSTS WAIVED.**

Respectfully submitted  
*James P. Scott*  
James P. Scott 168490  
M.C.A.C.

401 E Madison Street  
Baltimore MD 21202



NOV. 29, 1973

JAMES P. SCOTT 168-490  
MARYLAND CORRECTIONAL ADJUSTMENT  
CENTER  
401 E. MADISON STREET  
BALTIMORE MARYLAND 21202

IN THE CIRCUIT  
COURT FOR  
BALTIMORE CITY  
Case No:

SECRETARY DEPARTMENT  
OF PUBLIC SAFETY AND  
CORRECTIONAL SERVICES  
13776 REISTERSTOWN ROAD  
BALTIMORE MARYLAND 21215

OAH No. 93-DPSCS-IG0-003-971  
IG0 No. 930714

MOTION TO WAIVE PREPAYMENT  
OF FILING FEES AND SUPPORTING  
AFFIDAVIT

Petitioner James P. Scott, in proper person and De-jure of Md. Rule 1-225, respectfully requests a waiver of prepayment of filing fees, and in support thereof states under oath:

1) He is an inmate at M.C. P.C. and is unable by reason of poverty to make payment of the filing fees or other costs of the circuit court.

2) He sincerely believes that he has a good and just cause of action.

3) He respectfully prays that this court grant him leave to proceed without prepayment of filing fees on court

NOV 29, 1993

cost.

James P. Scott  
JAMES P. SCOTT, 168-990  
M.C. D.C.  
401 E. MADISON STREET  
BALTIMORE, MARYLAND 21202

Affidavit

PURSUANT to Md. Rule 1-304, I do solemnly swear  
affirm upon and under the penalties of perjury that  
the contents of this motion are true and correct.

James P. Scott  
James Scott

RECEIVED  
CIRCUIT COURT FOR  
BALTIMORE CITY  
93 DEC -8 AM 8:37  
CIVIL DIVISION

IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE CITY

James P. Scott

PLAINTIFF

Secretary, Department of Public  
Safety and Correctional Services

DEFENDANT

93342002

CL173585



ORDER

Upon the foregoing Motion and Affidavit, it is this 8th day  
of Dec, 1993.

ORDERED, by the Circuit Court for Baltimore City that the Plaintiff  
be and is hereby permitted to file the Petition for Judicial Review  
without the deposit of the advance Court Costs.

JUDGE

RICHARD T. ROMBO  
JUDGE

**COSTS WAIVED**

**MSAREF.NET, MSA SC 5458**  
**An Archives of Maryland Publication**

*72*  
*2-19-10*  
*139 Pages*

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**MSA SC 5458-82-152**

**Dates:** 2010/02/17

**Description:** Case numbers received from J. Hollander -

BALTIMORE CITY CIRCUIT COURT (Paternity Papers) Arrington v. Rodriguez, 1989, Box 169  
Case No. 119070 [MSA T3351-923, CW/16/31/25]  
File should be named `msa_sc5458_82_152_[full case number]-####`

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Rolnik v. Union Labor Life  
Ins. Co., 1987, Case No. 87313071  
Case is split between 2 boxes:  
Box 387 [MSA T2691-2026, HF/8/35/8]  
Box 388 [MSA T2691-2027, HF/8/35/9]  
File should be named `msa_sc5458_82_152_[full case number]-####`

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Shofer v. The Stuart Hack  
Co., Box 128 Case No. 88102069 [MSA T2691-2232, HF/11/30/3]  
See also for "brick binders":  
Box 527 [MSA T2691-2631, HF/11/38/18]  
Box 528 [MSA T2691-2632, HF/11/38/19]  
File should be named `msa_sc5458_82_152_[full case number]-####`

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Attorney Grievance  
Commission v. Yacono, 1992, Box 1953 Case No. 92024055 [MSA T2691-4591,  
OR/12/14/65]  
File should be named `msa_sc5458_82_152_[full case number]-####`

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Feldmann v. Coleman,  
1993, Box 391 Case No. 93203022 [MSA T2691-5466, OR/22/08/037]  
File should be named `msa_sc5458_82_152_[full case number]-####`

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Jefferson v. Ford Motor  
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BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Shofer v. The Stuart Hack  
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BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Scott v. Dept. of Public  
Safety, 1993, Box 603 Case No. 93342002 [MSA T2691-5679, OR/22/13/11]  
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BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Fitch v. DeJong, 1994, Box 109 Case No. 94077005 [MSA T2691-5817, OR/28/9/2]  
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BALTIMORE CITY CIRCUIT COURT (Criminal Papers) State v. Bowden, 1987, Box 142 Case No. 18721501 [MSA T3372-984, CW/2/23/13]  
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BALTIMORE CITY CIRCUIT COURT (Criminal Papers) State v. Redmond, 1988, Box 191 Case No. 48828071 [MSA T3372-1282, HF/11/23/43]  
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BALTIMORE CITY CIRCUIT COURT (Criminal Papers) State v. Parker, 1990  
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BALTIMORE CITY CIRCUIT COURT (Criminal Transcripts) State v. Monk, 1991, Box 78 Case No. 591277019 [MSA T3657-403, OR/17/11/21]  
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BALTIMORE CITY CIRCUIT COURT (Criminal Papers) State v. Johnson (or Johnson-Bey), 1987, Box 11 Case No. 28701917 [MSA T3372-853, CW/2/20/26]

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