

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

YASSIN MUHIDDIN AREF, <i>et al.</i>)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 10-0539 (RMU)
)	
ERIC HOLDER, <i>et al.</i>)	
)	
Defendants.)	
)	

**DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT ON DANIEL McGOWAN’S
RETALIATION CLAIM**

Pursuant to Federal Rule of Civil Procedure 56 and the Court’s August 17, 2011, Scheduling Order, ECF No. 46, Defendants hereby move for an order of summary judgment with respect to Daniel McGowan’s allegation in his Complaint that the Bureau of Prisons transferred him to a Communications Management Unit in 2008 in retaliation for his protected speech and conduct. *See* Compl. ¶ 167; Fifth Cause of Action, ECF. No. 5. In support of their motion, Defendants submit the accompanying Memorandum and supporting exhibits, Statement of Material Facts Not in Dispute, and Proposed Order.

Dated: September 9, 2011

Respectfully submitted,

TONY WEST
Assistant Attorney General

RONALD C. MACHEN JR.
United States Attorney

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**DEFENDANTS’ MEMORANDUM IN SUPPORT OF THEIR MOTION FOR
SUMMARY JUDGMENT ON DANIEL MCGOWAN’S RETALIATION CLAIM**

INTRODUCTION

Defendants seek an order of summary judgment with respect to Daniel McGowan’s allegation that the Bureau of Prisons (“BOP”) transferred him to a Communications Management Unit (“CMU”) in 2008 in retaliation “for [his] continued lawful communication and speech.” Compl. ¶ 167; Fifth Cause of Action, ECF No. 5. Although required to do so by the Prison Litigation Reform Act (“PLRA”), McGowan failed to exhaust his administrative remedies before bringing this claim in federal court. As a consequence, McGowan’s retaliation claim must now be dismissed.

The PLRA’s exhaustion requirement is designed to ensure that prison officials have the ability to conduct timely investigations in response to prisoner complaints and to allow these officials the opportunity to correct mistakes before litigation begins, thus avoiding the need to burden courts with unnecessary lawsuits. To this end, before bringing a claim in federal court, the PLRA requires an inmate to put prison officials on notice of the nature of the claim by filing

an administrative remedy that complies with all applicable prison rules, including any filing deadlines. Despite this requirement, according to the declaration of Bruce Plumley, Administrative Remedy Specialist for BOP (attached hereto as Ex. 1), McGowan never filed an administrative remedy alleging that his 2008 transfer to a CMU was made for any retaliatory reasons. And it is too late for him to do so now because the twenty-day deadline for filing grievances set forth in BOP's regulations has long since expired.

Accordingly, for the reasons set forth in more detail below, Defendants respectfully submit that, in accordance with the PLRA's exhaustion requirement, this Court should grant summary judgment to Defendants and dismiss McGowan's retaliation claim with prejudice.

BACKGROUND

A. McGowan's placement in the CMU and retaliation claim

Plaintiff Daniel McGowan is a former member of the Earth Liberation Front ("ELF") and Animal Liberation Front ("ALF"), Compl. ¶¶ 18 & 161, which the Department of Justice has classified as domestic terrorist organizations.¹ In 2007, he was convicted of arson, attempted arson, and conspiracy to commit arson and destruction of an energy facility. J. in a Criminal Case, *United States v. Daniel Gerard McGowan*, No. 06-cr-60124-AA (D. Ore. June 6, 2007), ECF No. 24 (attached hereto as Ex. 2). McGowan was sentenced to seven years in prison and ordered to pay \$1,944,003.82 in restitution, joint and severally, with six co-defendants to four arson victims. *Id.*

¹ See *U.S. Dep't of Justice, Federal Bureau of Investigation: Terrorism 2002/2005*, at 3 (noting that all domestic terrorist events recorded in 2002 were committed solely by ELF or in conjunction with ALF), available at http://www.fbi.gov/stats-services/publications/terrorism-2002-2005/terror02_05.pdf; *id.* at 29 (describing "Operation Backfire" arrests and McGowan's alleged role in acts of arson); *id.* at 41 (stating that the "majority of domestic terrorism incidents from 1993 to 2001 were attributable to the left-wing special interest movements the Animal Liberation Front (ALF) and the Earth Liberation Front (ELF)").

While serving his sentence, McGowan was initially housed in the general population unit at the Federal Correctional Institution in Sandstone, Minnesota from September 2007 until August 2008, at which point he was transferred to a CMU at the United States Penitentiary in Marion, Illinois (USP Marion). Compl. ¶¶ 155, 160. In his Complaint, McGowan alleges that his 2008 designation to the CMU at USP Marion was “in retaliation for [his] continued lawful communication and speech.” *Id.* ¶ 167.

McGowan was released into the non-CMU general population unit at USP Marion in October 2010, subsequent to the inception of the instant lawsuit. Neuman Decl. ¶ 3, ECF No. 29-1. He was then re-designated to the CMU at the Federal Correctional Complex in Terre Haute, Indiana (FCI Terre Haute), in February 2011, where he is currently incarcerated. Shepard Decl. ¶ 4, ECF No. 34-1.

B. BOP administrative remedy process

Pursuant to BOP regulations, McGowan has access to a multi-level grievance process that allows him to “seek formal review of an issue relating to any aspect of his confinement.” *See* 28 C.F.R. § 542.10(a). As a general matter, inmates are encouraged to informally resolve any issues with staff at the institution where they reside. *Id.* § 542.13. If informal resolution is insufficient to resolve the matter, an inmate may submit a formal Administrative Remedy Request on a form known as a BP-9 to a designated staff member at the institution where the inmate resides. *Id.* § 542.14(a), (c). Absent extenuating circumstances, this form must be submitted within twenty calendar days of the event that triggered the inmate’s complaint. *Id.* § 542.14(a). Inmates not satisfied with the Warden’s response to their BP-9 may submit an appeal to the Regional Director within twenty days of the response using a form known as a BP-10. *Id.* § 542.15(a).

Should an inmate be dissatisfied with the Regional Director's response, he or she may submit a final appeal to the General Counsel in BOP's Central Office in Washington, D.C. *Id.* This appeal must be made within thirty days of the Regional Director's response, using a form known as a BP-11. *Id.* Inmates are permitted to receive assistance from other inmates, institution staff, and outside sources, including attorneys, at all levels of the administrative remedy process. *Id.* § 542.16(a).

C. Administrative remedy requests filed by McGowan

During his BOP custody, McGowan has filed nineteen separate Administrative Remedy Requests using a BP-9 form. Plumley Decl. ¶ 7 & Ex. A. Only four of these remedies challenge McGowan's transfer, or continued designation, to a CMU, and none of the four grievances includes an allegation that BOP retaliated against McGowan when he was transferred to a CMU in 2008. Plumley Decl. ¶ 8(a)-(d). A summary of the contents of these remedies is as follows:

- *9/12/08 Administrative Remedy No. 508242 (Plumley Decl. Ex. B).* In this request, McGowan claimed that his placement in the CMU violated his Constitutional rights. He asserted that the "CMU was established in violation of Federal regulations and thus, subjects me to due process violations. I request that the Communications Management Unit be terminated or brought into compliance of proper Federal Regulations and that I be transferred to a low-security prison."
- *10/1/08 Administrative Remedy No. 509775 (Plumley Decl. Ex. C).* McGowan contended that his placement in the CMU was based on erroneous information, namely (1) "That my offense conduct included the 'destruction of an energy facility'"; (2) "The allegation that I am a member and leader in the Earth Liberation Front (ELF) and Animal Liberation Front (ALF)"; and (3) "That I taught others how to commit arson." McGowan requested "a) evidence of these claims"; "b) removal of claims from my 'notice to inmate of transfer to CMU'"; and "c) immediate transfer to the general population of a low-security prison."
- *4/20/10 Administrative Remedy No. 586371 (Plumley Decl. Ex. E).* In this request, McGowan claimed that he was denied transfer out of the CMU after "20 months of clear conduct, exemplary participation and no problems of complaints with my communication (i.e., phone, email, mail)." He further complained that the memorandum denying his transfer did not state a reason for his continued designation

to a CMU. He then requested: “(1) Please give me a reason why I was rejected, (2) Please afford me due process in the form of a hearing so I may contest the claims made to send/keep me here and/or (3) Increase my communication privileges so that they are consummate with prisoners in a general population setting (which the CMU really is not), i.e., 300 phone minutes, contact visits.”

Following the filing of the instant lawsuit and his re-designation to the CMU in 2011, McGowan also filed the following request:

- *3/16/11 Administrative Remedy No. 630732 (Plumley Decl. Ex. F)*. McGowan challenged the BOP’s decision to re-designate him to the CMU in February 2011, asserting that his due process rights were violated because he did not receive a meaningful explanation for that decision and that the reasons for his placement were invalid. He also contended that his First Amendment right of free association was violated. Finally, McGowan alleged that his re-designation was in retaliation for his lawful attempt to gain information from his attorney, which burdened his access to courts. This remedy did not include any allegations regarding his 2008 CMU designation.

ARGUMENT

A. Legal overview of the Prison Litigation Reform Act (PLRA)

The PLRA mandates, in relevant part, that “[n]o action shall be brought with respect to prison conditions under [42 U.S.C. § 1983], or any other Federal law, by a prisoner confined to any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.” 42 U.S.C. § 1997e(a). Mandatory exhaustion is the “general rule” for litigating “within § 1997e(a)’s compass.” *Porter v. Nussle*, 534 U.S. 516, 525 n.4 (2003). Indeed, “[e]ven if an inmate believes that seeking administrative relief from the prison would be futile and even if the grievance system cannot offer the particular form of relief sought, the prisoner nevertheless must exhaust the available administrative process.” *Kaemmerling v. Lappin*, 553 F.3d 669, 675 (D.C. Cir. 2008).

Exhaustion for purposes of the PLRA requires “proper exhaustion,” meaning that an inmate must comply with a prison’s procedural rules, including filing deadlines, prior to

pursuing a claim in federal court. *Woodford v. Ngo*, 548 U.S. 81, 90-91 (2006); *see also Searcy v. United States*, 668 F. Supp. 2d 113, 118 (D.D.C. 2009). An inmate, however, is not required to exhaust a prison's grievance process in the rare circumstance where "the relevant administrative procedure lacks authority to provide any relief or to take any action whatsoever in response to a complaint." *Kaemmerling*, 553 F.3d at 675 (quoting *Booth v. Churner*, 532 U.S. 731, 736 (2001)). Nevertheless, the general rule is that "unexhausted claims cannot be brought in court." *Jones v. Bock*, 549 U.S. 199, 211 (2007).

The PLRA's exhaustion requirement serves two main purposes. First, it protects an agency's administrative authority by providing the agency "an opportunity to correct its own mistakes with respect to the programs it administers before it is haled into federal court" and by "discourag[ing] 'disregard of [the agency's] procedures.'" *Woodford*, 548 U.S. at 89 (internal quotation marks omitted) (second brackets in original). Second, the exhaustion requirement promotes efficiency because it helps to "reduce the number of inmate suits, and also to improve the quality of suits that are filed by producing a useful administrative record." *Jones*, 549 U.S. at 204. The PLRA, in essence, helps "filter out the bad claims and facilitate consideration of the good." *Id.*

An inmate's grievances do not have to specifically articulate legal theories, but must not be "so vague as to preclude prison officials from taking appropriate measures to resolve the complaint internally." *Brownell v. Krom*, 446 F.3d 305, 310 (2d Cir. 2006). At a minimum, a grievance must give prison officials notice of the type of problem of which the inmate complains. *Johnson v. Johnson*, 385 F.3d 503, 517-18 (5th Cir. 2004).

An inmate's failure to exhaust is not a jurisdictional bar to bringing a claim but instead "operates as an affirmative defense." *Plummer v. District of Columbia*, 596 F. Supp. 2d 70, 73

(D.D.C. 2009). The defense is therefore properly raised in a motion for summary judgment. *Id.*; *see also* Def's Answer (Third Defense), ECF No. 41.

B. McGowan failed to exhaust his administrative remedies for his retaliation claim

In his Complaint, McGowan alleges that his 2008 placement at the CMU at USP Marion was “in retaliation for [his] continued lawful communication and speech”; specifically his “speak[ing] out about social justice issues and the rights of political prisoners and . . . communicat[ing] with law abiding activists involved in these movements.” Compl. ¶ 167; Fifth Cause of Action. However, as discussed in the Plumley declaration, none of the administrative remedy requests filed by McGowan contains an assertion that his 2008 transfer to the CMU was motivated by any retaliatory purpose on the part of the BOP. Plumley Decl. ¶ 9. Rather, with respect to his 2008 designation, his grievances are limited to allegations that his procedural due process rights were violated when he was placed in the CMU (No. 508242), that his Notice to Inmate of Transfer to Communication Management Unit contained inaccurate statements (No. 509775), and that he was improperly denied transfer out of the CMU (No. 586371).

Following his release from the CMU at USP Marion to a non-CMU general prison environment and his subsequent February 2011 re-designation to the CMU at FCC Terre Haute, McGowan filed an administrative remedy request contending that his placement in the CMU at Terre Haute was retaliatory. *See* Plumley Decl. Ex. F. That allegation, however, pertained only to his *second* CMU designation, in February 2011, and contained no allegation that his original designation to a CMU, in August 2008, was done for retaliatory reasons. *See id.* McGowan thus failed to bring a retaliation claim in any of his administrative remedies regarding his first CMU designation, which is the only designation addressed by his Complaint. *See* Compl. ¶¶ 160, 167. As a consequence, the PLRA now prohibits him from maintaining in this litigation

that his transfer to the CMU at USP Marion, in 2008, was done for retaliatory purposes. *See* 42 U.S.C. § 1997e(a) (“*No action shall be brought with respect to prison conditions . . . by a prisoner confined to any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.*” (Emphasis added)).

McGowan’s failure to properly grieve his retaliation claim with the BOP is particularly noteworthy in light of the fact that he has made frequent use of the administrative remedy process. While in BOP custody, McGowan has filed a total of fifty-two Administrative Remedy Submissions (i.e., all BP-9s, BP-10s, and BP-11s). Plumley Decl. ¶ 7 & Ex. A. He has articulated sophisticated claims in his grievances related to the CMU, alleging violations of specific constitutional rights and providing detailed factual bases for certain claims. *See* Ex. B-D to Plumley Decl. In addition, McGowan has demonstrated that he is capable of pursuing a retaliation claim using the administrative remedy process. In his submission related to his re-designation to the CMU in 2011, he contends that

[d]esignating me to the CMU in retaliation for my lawful attempt to gain relevant information from my attorney burdens and chills my fundamental right to access counsel, and the courts, and prejudices my ability to work with and seek advice from my counsel, in violation of the Fifth and First Amendment.

Plumley Decl. Ex. F, Informal Resolution Form, Attachment 1 to BP-9. McGowan thus has proven his ability to grieve a retaliation claim with the BOP, yet he did not do so for the retaliation claim stated in his Complaint.

McGowan’s retaliation claim, furthermore, is not the rare type that BOP’s grievance process is unable to handle. *See Kaemmerling*, 553 F.3d at 675 (holding that plaintiff did not need to exhaust his administrative remedies because his claim challenging enforcement of the DNA Act was “the rare one in which . . . the BOP lacks authority to provide . . . any relief or to take any action whatsoever”). On the contrary, courts have consistently held that retaliation

claims must be exhausted by using the prison grievance process. *See, e.g., Miller v. BOP*, 703 F. Supp. 2d 8, 15 (D.D.C. 2010) (dismissing retaliation claims against BOP for failure to exhaust); *Davis v. Mukasey*, 669 F. Supp. 2d 45, 50 (D.D.C. 2009) (dismissing retaliatory transfer claim against BOP for failure to exhaust).

Dismissal of McGowan's exhaustion claim would fulfill the two purposes of the PLRA's exhaustion requirement. To begin with, dismissal would "discourage[] disregard of the agency's procedures" and recognize that BOP must have "an opportunity to correct its own mistakes with respect to the programs that it administers before it is haled into federal court." *Woodford*, 548 U.S. at 89 (brackets, citation, and internal quotation marks omitted). McGowan's failure to avail himself of the administrative remedy process in this instance deprived BOP of any notice of his claim, including any information regarding the speech or conduct that allegedly triggered BOP's retaliatory response. Absent this notice, BOP had no meaningful opportunity to investigate and respond to this claim.

Dismissal of McGowan's retaliation claim would also promote efficiency, the exhaustion requirement's second goal. Had McGowan pursued this claim within the applicable deadlines for the administrative grievance process, there would have been an opportunity to create an administrative record while evidence was still fresh and available. *See Woodford*, 548 U.S. at 95 ("When a grievance is filed shortly after the event giving rise to the grievance, witnesses can be identified and questioned while memories are still fresh, and evidence can be gathered and preserved.") Instead, McGowan now seeks to engage in discovery about a stale claim arising from events that took place more than three-and-a-half years ago.

In sum, the PLRA required McGowan to exhaust his retaliation claim and now mandates dismissal of that claim in light of his failure to do so. The Court should accordingly grant Defendants' motion for summary judgment on this claim.

C. McGowan's retaliation claim should be dismissed with prejudice

The Court, furthermore, should dismiss the retaliation claim with prejudice. McGowan failed to formally file a grievance with BOP by the stipulated deadline, which has long since expired. *See* 28 C.F.R. § 542.14(a) (requiring inmates to submit an Administrative Remedy Request using a BP-9 form within "20 calendar days following the date on which the basis for the Request occurred"). McGowan's failure to initiate a timely administrative remedy request now bars him from grieving the claim with BOP. Accordingly, McGowan's retaliation claim should be dismissed with prejudice. *See Mukasey*, 669 F. Supp. 2d at 50 (dismissing plaintiff's unexhausted claims with prejudice because he "either did not timely initiate an administrative grievance or timely file an appeal of a denial . . . and he is now a foreclosed from doing so").

CONCLUSION

For the foregoing reasons, Defendants respectfully request that the Court grant their Motion for Summary Judgment with respect to McGowan's retaliation claim.

Dated: September 9, 2011

Respectfully submitted,

TONY WEST
Assistant Attorney General

RONALD C. MACHEN JR.
United States Attorney

VINCENT M. GARVEY
Deputy Branch Director
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**DEFENDANTS’ STATEMENT OF MATERIAL FACTS NOT IN DISPUTE IN
SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT ON DANIEL
McGOWAN’S RETALIATION CLAIM**

Pursuant to Rule 56 and Local Rules 7(h) and 56.1, Defendant submits the following Statement of Material Facts, as to which there is no genuine issue:

1. Daniel McGowan has not completed Bureau of Prisons (“BOP”) administrative remedies— namely, a Request for Administrative Remedy (BP-9), Regional Administrative Remedy Appeal (BP-10), and Central Office Administrative Remedy Appeal (BP-11) — for a claim alleging that BOP transferred him to a Communications Management Unit in 2008 in retaliation for his communication or speech, or for any other First Amendment protected activity. *See* Declaration of Bruce Plumley, Administrative Remedy Specialist for BOP ¶¶ 7-9 (Ex. 1 to Def’s Mot. for Sum. Judg’t On Daniel McGowan’s Retaliation Claim).

Dated: September 9, 2011

Respectfully submitted,

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DECLARATION OF BRUCE PLUMLEY

I, Bruce Plumley, hereby make the following declaration:

1. I am an Administrative Remedy Specialist for the Federal Bureau of Prisons (BOP) in Washington, D.C., and have been employed in this specific capacity with the BOP since August 22, 2005.
2. My statements in this declaration are based upon my personal knowledge, belief, and experience gained in the course of my employment with the BOP and in the course of my official duties as Administrative Remedy Specialist.
3. The BOP administrative remedy procedure is set out in 28 C.F.R. § 542.10 *et seq.*, and provides formal review of any complaint which relates to any aspect of an inmate's confinement. Under this process, inmates are encouraged to first attempt resolution of their complaints informally by discussing the matter with a member of their Unit Team. If informal resolution is insufficient to resolve the matter, the inmate may submit a formal written Administrative Remedy Request to the Corrections Counselor for response by the Warden, on a designated form known as a BP-9, within twenty days of the event that triggered the inmate's complaint. 28 C.F.R. § 542.14 (a). If the inmate is not satisfied with the Warden's response, he or she may appeal the response to the Regional Director, on a designated form known as a BP-10, within twenty calendar days of the date the Warden signed the response. 28 C.F.R. § 542.15(a). If the inmate is dissatisfied with the Regional Director's response, he or she may file a national appeal, on a designated form known as a BP-11, with the Office of General Counsel (Central Office) in Washington, D.C., within thirty calendar days of the date the Regional Director signed the response. *Id.* Appeal to the Central Office is the final administrative appeal in the BOP. No request for administrative

remedy is considered to have been fully exhausted until Central Office has issued a formal response to the inmate.

4. As an Administrative Remedy Specialist, I have access to the BOP database known as SENTRY. All administrative remedy requests and appeals filed by BOP's inmates are cataloged under a permanent and unique number which is maintained in SENTRY. The first level of the Administrative Remedy program (i.e., institution) generates the unique number, labeling the remedy cycle. This number is followed by a two-character suffix, commencing with the letter 'F', 'R', or 'A', where 'F' indicates the facility or institutional level, and 'R' refers to the regional level. 'A' denotes the agency or Central Office level, and represents the final level of appeal for the program.
5. SENTRY allows for the tracking of administrative remedy complaints and appeals through the use of an Administrative Remedy Generalized Retrieval Index, sometimes referred to as the "Administrative Remedy Log." The Administrative Remedy Log contains information about all administrative remedy submissions filed by a particular inmate. The Administrative Remedy Log also contains information about the facility where the request was filed, the date the request was filed, a short abstract describing the complaint, and the status of the filing. The "status code" shows whether a remedy was accepted, rejected, closed, or voided. Information about a particular submission is entered into the Administrative Remedy Log by the administrative remedy clerk located at each institution and at each regional office.
6. The automated administrative remedy records in the SENTRY database can be searched back as far as the inception of the system, or more than twenty years. A true and correct copy of Plaintiff McGowan's Administrative Remedy Log, dated September 6, 2011, is attached to this declaration at Exhibit A.
7. Prior to executing this declaration, I searched the SENTRY database for administrative remedies filed by Plaintiff Daniel McGowan, Federal Register Number 63794-053. Review of administrative remedy records revealed McGowan submitted a total of 52 Administrative Remedy submissions (i.e., all BP-9s, BP-10s, and BP-11s combined), of which 19 were Requests for Administrative Remedy (i.e., BP-9s). Many of his Requests for Administrative Remedy do not pertain to the issues identified in the complaint. For purposes of this declaration, I will address all of McGowan's administrative remedies regarding his transfer and continued designation to the Communications Management Unit (CMU).
8. My search revealed that McGowan filed four administrative remedies regarding his transfer and continued designation to the CMU. These are included within Administrative Remedy Cycle No. 508242 (true and correct copy attached as Exhibit B hereto); Administrative Remedy Cycle No. 509775 (true and correct copy attached as Exhibit C hereto); and Administrative Remedy Cycle No. 586371 (true and correct copy attached as Exhibit D hereto). McGowan also filed Administrative Remedy No. 630732 (true and correct copy attached as Ex. E hereto).
 - a. *Administrative Remedy No. 508242 (Ex. B).* McGowan filed a BP-9, received by the Warden on September 12, 2008, complaining that his

placement in the CMU at the United States Penitentiary located in Marion, Illinois (USP Marion), in 2008, violated his constitutional rights. Specifically, he stated that the “CMU was established in violation of Federal regulations and thus, subjects me to due process violations. I request that the Communications Management Unit be terminated or brought into compliance of proper Federal Regulations and that I be transferred to a low-security prison.” His request to the Warden was denied on September 17, 2008. McGowan’s appeal to the North Central Regional Office was received on October 7, 2008 and denied on November 5, 2008. Plaintiff’s appeal to the Central Office was denied on June 25, 2009, formally exhausting this administrative remedy cycle.


- b. *Administrative Remedy No. 509775 (Ex. C)*. McGowan filed a BP-9, received by the Warden on October 1, 2008, objecting to his placement in the Marion CMU, claiming it was based on inaccurate information and requested transfer to another institution. In particular, he complained of “errors” in his Notice to Inmate of Transfer to Communication Management Unit. According to McGowan, these errors were (1) “That my offense conduct included the ‘destruction of an energy facility’”; (2) “The allegation that I am a member and leader in the Earth Liberation Front (ELF) and Animal Liberation Front (ALF)’”; and (3) “That I taught others how to commit arson.” McGowan stated that he requested “a) evidence of these claims”; “b) removal of claims from my ‘notice to inmate of transfer to CMU’”; and “c) immediate transfer to the general population of a low-security prison.” His request to the Warden was denied on October 6, 2008. McGowan’s appeal of that decision to the North Central Regional Office was received on October 17, 2008, and denied on November 17, 2008. On May 13, 2009, his appeal to the Central Office was also denied, formally exhausting this administrative remedy cycle.
- c. *Administrative Remedy No. 586371 (Ex. D)*. McGowan filed a BP-9, received by the Warden on April 20, 2010, claiming that he had been denied transfer out of the CMU at USP Marion after “20 months of clear conduct, exemplary participation and no problems of complaints with my communication (i.e., phone, email, mail).” He complained that the memorandum denying his transfer did not state a reason for his continued designation to a CMU. He wrote: “(1) Please give me a reason for why I was rejected, (2) Please afford me due process in the form of a hearing so I may contest the claims made to send/keep me here and/or (3) Increase my communication privileges so that they are consummate with prisoners in a general population setting (which the CMU really is not), i.e., 300 phone minutes, contact visit.” His request to the Warden was denied on April 25, 2010. McGowan’s appeal to the North Central Regional Office was received on May 6, 2010 and denied on May 27, 2010. His appeal to the Central Office was denied on December 9, 2010, formally exhausting this administrative remedy cycle.

d. *Administrative Remedy No. 630732 (Ex. E)*. McGowan filed a BP-9, received by the Warden on March 16, 2011, contesting the BOP's decision to re-designate him to the CMU at the Federal Correctional Complex in Terre Haute, Indiana (FCC Terre Haute) in February 2011, claiming that his due process rights were violated because he did not receive a meaningful explanation for the transfer. He also contended that the communication restrictions in the CMU violated his First Amendment right to free association and contended that his Notice to Inmate of Transfer to Communication Management Unit contained inaccurate statements. In addition, he alleged that his 2011 designation to the CMU at FCC Terre Haute was in retaliation for his lawful attempt to gain relevant information from his attorney, burdening his right of access to the courts. His request to the Warden was denied on March 30, 2011. His appeal to the North Central Regional Office was received on April 13, 2011 and denied on May 2, 2011. McGowan appealed the decision to the Central Office. His appeal to the Central Office was recently denied on August 30, 2011, formally exhausting this administrative remedy cycle.

9. According to my recent review of the SENTRY database and available documentation, Plaintiff McGowan did not allege at any time that his transfer to the CMU at USP Marion in 2008 was in retaliation for his vocalization of social justice issues or the rights of political prisoners or in retaliation for any other protected speech or conduct. The only administrative remedy alleging retaliation is Administrative Remedy No. 630732, which pertains solely to his re-designation to the CMU at FCC Terre Haute in 2011.

I declare the foregoing is true and correct to the best of my knowledge and belief, and given under penalty of perjury pursuant to 28 U.S.C. § 1746.

Executed this 9th day of September 2011.



Bruce Plumley
Administrative Remedy Specialist
Office of General Counsel

EXHIBIT A

BOPG6 *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 09-06-2011
PAGE 001 OF 15:03:57

FUNCTION: L-P SCOPE: REG EQ 63794-053 OUTPUT FORMAT: FULL

-----LIMITED TO SUBMISSIONS WHICH MATCH ALL LIMITATIONS KEYED BELOW-----

DT RCV: FROM _____ THRU _____ DT STS: FROM _____ THRU _____

DT STS: FROM _____ TO _____ DAYS BEFORE "OR" FROM _____ TO _____ DAYS AFTER DT RDU

DT TDU: FROM _____ TO _____ DAYS BEFORE "OR" FROM _____ TO _____ DAYS AFTER DT TRT

STS/REAS: _____

SUBJECTS: _____

EXTENDED: REMEDY LEVEL: _____ RECEIPT: _____ "OR" EXTENSION: _____

RCV OFC : EQ _____

TRACK: DEPT: _____

PERSON: _____

TYPE: _____

EVNT FACL: EQ _____

RCV FACL.: EQ _____

RCV UN/LC: EQ _____

RCV QTR.: EQ _____

ORIG FACL: EQ _____

ORG UN/LC: EQ _____

ORIG QTR.: EQ _____

G0002 MORE PAGES TO FOLLOW . . .

BOPG6 *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 09-06-2011
PAGE 002 OF * FULL SCREEN FORMAT * 15:03:57

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: MAR
REMEDY ID: 508242-F1 SUB1: 15HM SUB2: 13HM DATE RCV: 09-12-2008
UNT RCV...: I QTR RCV.: I01-012L FACL RCV: MAR
UNT ORG...: I QTR ORG.: I01-012L FACL ORG: MAR
EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 1 RESP DUE: THU 10-02-2008
ABSTRACT.: REQUESTS TO BE PLACED IN GENERAL POP UNITS
STATUS DT: 09-17-2008 STATUS CODE: CLD STATUS REASON: DNY
INCRPTNO.: RCT: P EXT: DATE ENTD: 09-12-2008
REMARKS...:

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: MAR
REMEDY ID: 509028-F1 SUB1: 33FM SUB2: DATE RCV: 09-18-2008
UNT RCV...: I QTR RCV.: I01-012L FACL RCV: MAR
UNT ORG...: I QTR ORG.: I01-012L FACL ORG: MAR
EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 1 RESP DUE: WED 10-08-2008
ABSTRACT.: LEGAL MAIL
STATUS DT: 09-25-2008 STATUS CODE: CLO STATUS REASON: XPL
INCRPTNO.: RCT: P EXT: DATE ENTD: 09-18-2008
REMARKS...:

G0002 MORE PAGES TO FOLLOW . . .

BOPG6 *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 09-06-2011
PAGE 004 OF * FULL SCREEN FORMAT * 15:03:57

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: MAR
REMEDY ID: 509775-F2 SUB1: 15HM SUB2: 25ZM DATE RCV: 10-01-2008
UNT RCV...: I QTR RCV.: I01-012L FACL RCV: MAR
UNT ORG...: I QTR ORG.: I01-012L FACL ORG: MAR
EVT FACL.: MAR ACC LEV: MAR 2 NCR 1 BOP 1 RESP DUE: TUE 10-21-2008
ABSTRACT.: REQUEST TRANSFER OUT OF CMU
STATUS DT: 10-06-2008 STATUS CODE: CLD STATUS REASON: DNY
INCRPTNO.: RCT: P EXT: DATE ENTD: 10-01-2008
REMARKS...:

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: NCR
REMEDY ID: 508242-R1 SUB1: 15HM SUB2: 13HM DATE RCV: 10-07-2008
UNT RCV...: I QTR RCV.: I01-012L FACL RCV: MAR
UNT ORG...: I QTR ORG.: I01-012L FACL ORG: MAR
EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 1 RESP DUE: THU 11-06-2008
ABSTRACT.: REQUESTS TO BE PLACED IN GENERAL POP UNITS
STATUS DT: 11-05-2008 STATUS CODE: CLD STATUS REASON: DNY
INCRPTNO.: RCT: P EXT: DATE ENTD: 10-15-2008
REMARKS...:

G0002 MORE PAGES TO FOLLOW . . .

BOPG6 *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 09-06-2011
PAGE 006 OF * FULL SCREEN FORMAT * 15:03:57

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: NCR
REMEDY ID: 509775-R1 SUB1: 15HM SUB2: 25ZM DATE RCV: 10-17-2008
UNT RCV...: I QTR RCV.: I01-012L FACL RCV: MAR
UNT ORG...: I QTR ORG.: I01-012L FACL ORG: MAR
EVT FACL.: MAR ACC LEV: MAR 2 NCR 1 BOP 1 RESP DUE: TUE 12-16-2008
ABSTRACT.: REQUEST TRANSFER OUT OF CMU
STATUS DT: 11-17-2008 STATUS CODE: CLD STATUS REASON: DNY
INCRPTNO.: RCT: P EXT: P DATE ENTD: 10-22-2008
REMARKS...:

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: MAR
REMEDY ID: 512703-F1 SUB1: 15HM SUB2: 16AM DATE RCV: 10-21-2008
UNT RCV...: I QTR RCV.: I01-012L FACL RCV: MAR
UNT ORG...: I QTR ORG.: I01-012L FACL ORG: MAR
EVT FACL.: MAR ACC LEV: MAR 1 RESP DUE: MON 11-10-2008
ABSTRACT.: INCOMING PUBLICATION REJECTED
STATUS DT: 11-05-2008 STATUS CODE: CLD STATUS REASON: DNY
INCRPTNO.: RCT: P EXT: DATE ENTD: 10-21-2008
REMARKS...:

G0002 MORE PAGES TO FOLLOW . . .

BOPG6 *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 09-06-2011
 PAGE 008 OF * FULL SCREEN FORMAT * 15:03:57

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
 RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: MAR
 REMEDY ID: 528504-F1 SUB1: 15HM SUB2: 18ZM DATE RCV: 03-02-2009
 UNT RCV...: I QTR RCV.: I01-004L FACL RCV: MAR
 UNT ORG...: I QTR ORG.: I01-004L FACL ORG: MAR
 EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 1 RESP DUE: SUN 03-22-2009
 ABSTRACT.: VISITING AREAS IN CMU NOT ADEQUATE
 STATUS DT: 03-09-2009 STATUS CODE: CLO STATUS REASON: XPL
 INCRPTNO.: RCT: P EXT: DATE ENTD: 03-03-2009
 REMARKS...:

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
 RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: BOP
 REMEDY ID: 508242-A1 SUB1: 15HM SUB2: DATE RCV: 03-12-2009
 UNT RCV...: I QTR RCV.: I01-004L FACL RCV: MAR
 UNT ORG...: I QTR ORG.: I01-012L FACL ORG: MAR
 EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 1 RESP DUE: MON 05-11-2009
 ABSTRACT.: PROTESTS DESIGNATION TO CMU
 STATUS DT: 06-25-2009 STATUS CODE: CLD STATUS REASON: DNY
 INCRPTNO.: RCT: P EXT: P DATE ENTD: 03-27-2009
 REMARKS...:

CURRENT INVESTIGATIVE AND RELIEF TRACKING DATA

DATE DUE	DEPARTMENT	TO	DATE ASSN	TRK TYPE	DATE RETURNED
WED 06-24-2009	ADMIN REM	JRS	04-27-2009	INV	06-24-2009
THU 06-25-2009	ADMIN REM	HW	06-24-2009	SIG	06-25-2009

G0002 MORE PAGES TO FOLLOW . . .

BOPG6 *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 09-06-2011
 PAGE 009 OF * FULL SCREEN FORMAT * 15:03:57

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
 RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: BOP
 REMEDY ID: 510282-A1 SUB1: 15HM SUB2: 27CM DATE RCV: 03-12-2009
 UNT RCV...: I QTR RCV.: I01-004L FACL RCV: MAR
 UNT ORG...: I QTR ORG.: I01-012L FACL ORG: MAR
 EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 1 RESP DUE: TUE 04-21-2009
 ABSTRACT.: DELAY IN DENTAL CARE
 STATUS DT: 04-17-2009 STATUS CODE: CLO STATUS REASON: XPL
 INCRPTNO.: RCT: P EXT: DATE ENTD: 03-27-2009
 REMARKS...: MEMO REC'D FOR LATE FILING

CURRENT INVESTIGATIVE AND RELIEF TRACKING DATA

DATE DUE	DEPARTMENT	TO	DATE ASSN	TRK TYPE	DATE RETURNED
FRI 04-17-2009	MED SVC		03-27-2009	INV	04-14-2009
SUN 04-19-2009	ADMIN REM	HW	04-17-2009	INV	04-17-2009
TUE 04-21-2009	ADMIN REM	HW	04-17-2009	SIG	04-17-2009

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
 RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: BOP
 REMEDY ID: 509775-A1 SUB1: 15HM SUB2: 25ZM DATE RCV: 03-12-2009
 UNT RCV...: I QTR RCV.: I01-004L FACL RCV: MAR
 UNT ORG...: I QTR ORG.: I01-012L FACL ORG: MAR
 EVT FACL.: MAR ACC LEV: MAR 2 NCR 1 BOP 1 RESP DUE: MON 05-11-2009
 ABSTRACT.: REQUESTS TRANSFER OUT OF CMU
 STATUS DT: 05-13-2009 STATUS CODE: CLD STATUS REASON: DNY
 INCRPTNO.: RCT: P EXT: P DATE ENTD: 03-27-2009
 REMARKS...: MEMO REC'D FOR LATE FILING

CURRENT INVESTIGATIVE AND RELIEF TRACKING DATA

DATE DUE	DEPARTMENT	TO	DATE ASSN	TRK TYPE	DATE RETURNED
THU 04-16-2009	ADMIN REM		03-27-2009	INV	05-13-2009
SUN 05-10-2009	ADMIN REM	VJ	05-10-2009	INV	05-13-2009
MON 05-11-2009	ADMIN REM	HW	05-11-2009	SIG	05-13-2009

G0002 MORE PAGES TO FOLLOW . . .

BOPG6 *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 09-06-2011
 PAGE 010 OF * FULL SCREEN FORMAT * 15:03:57

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
 RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: BOP
 REMEDY ID: 509028-A1 SUB1: 33FM SUB2: DATE RCV: 03-12-2009
 UNT RCV...: I QTR RCV.: I01-004L FACL RCV: MAR
 UNT ORG...: I QTR ORG.: I01-012L FACL ORG: MAR
 EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 1 RESP DUE: MON 05-11-2009
 ABSTRACT.: LEGAL MAIL
 STATUS DT: 05-13-2009 STATUS CODE: CLD STATUS REASON: DNY
 INCRPTNO.: RCT: P EXT: P DATE ENTD: 03-27-2009
 REMARKS...: MEMO REC'D FOR LATE FILING

CURRENT INVESTIGATIVE AND RELIEF TRACKING DATA

DATE DUE	DEPARTMENT	TO	DATE ASSN	TRK TYPE	DATE RETURNED
TUE 05-12-2009	ADMIN REM	CRL	05-12-2009	INV	05-13-2009
WED 05-13-2009	ADMIN REM	HW	05-13-2009	SIG	05-13-2009

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
 RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: NCR
 REMEDY ID: 528504-R1 SUB1: 15HM SUB2: 18ZM DATE RCV: 03-30-2009
 UNT RCV...: I QTR RCV.: I01-004L FACL RCV: MAR
 UNT ORG...: I QTR ORG.: I01-004L FACL ORG: MAR
 EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 1 RESP DUE: FRI 05-29-2009
 ABSTRACT.: VISITING AREAS IN CMU NOT ADEQUATE
 STATUS DT: 05-06-2009 STATUS CODE: CLD STATUS REASON: DNY
 INCRPTNO.: RCT: P EXT: P DATE ENTD: 04-01-2009
 REMARKS...:

G0002 MORE PAGES TO FOLLOW . . .

BOPG6 *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 09-06-2011
 PAGE 011 OF * FULL SCREEN FORMAT * 15:03:57

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
 RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: BOP
 REMEDY ID: 513399-A1 SUB1: 15HM SUB2: 16AM DATE RCV: 05-01-2009
 UNT RCV...: I QTR RCV.: I01-004L FACL RCV: MAR
 UNT ORG...: I QTR ORG.: I01-012L FACL ORG: MAR
 EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 1 RESP DUE: TUE 06-30-2009
 ABSTRACT.: REQUESTS REJECTED PUBLICATION BE AUTHORIZED
 STATUS DT: 08-19-2009 STATUS CODE: CLD STATUS REASON: DNY
 INCRPTNO.: RCT: P EXT: P DATE ENTD: 05-15-2009
 REMARKS...:

CURRENT INVESTIGATIVE AND RELIEF TRACKING DATA

DATE DUE	DEPARTMENT	TO	DATE ASSN	TRK TYPE	DATE RETURNED
FRI 06-05-2009	ADMIN REM	BWP	05-15-2009	INV	08-19-2009
WED 08-19-2009	ADMIN REM	HW	08-19-2009	SIG	08-19-2009

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
 RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: BOP
 REMEDY ID: 528504-A1 SUB1: 15HM SUB2: 18ZM DATE RCV: 06-03-2009
 UNT RCV...: I QTR RCV.: I01-004L FACL RCV: MAR
 UNT ORG...: I QTR ORG.: I01-004L FACL ORG: MAR
 EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 1 RESP DUE: SUN 08-02-2009
 ABSTRACT.: VISITING AREAS IN CMU NOT ADEQUATE
 STATUS DT: 08-31-2009 STATUS CODE: CLD STATUS REASON: DNY
 INCRPTNO.: RCT: P EXT: P DATE ENTD: 06-19-2009
 REMARKS...:

CURRENT INVESTIGATIVE AND RELIEF TRACKING DATA

DATE DUE	DEPARTMENT	TO	DATE ASSN	TRK TYPE	DATE RETURNED
SUN 08-30-2009	ADMIN REM	DOR	08-30-2009	INV	08-31-2009
MON 08-31-2009	ADMIN REM	HW	08-31-2009	SIG	08-31-2009

G0002 MORE PAGES TO FOLLOW . . .

BOPG6 *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 09-06-2011
 PAGE 013 OF * FULL SCREEN FORMAT * 15:03:57

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
 RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: BOP
 REMEDY ID: 543653-A1 SUB1: 15HM SUB2: 18AM DATE RCV: 09-22-2009
 UNT RCV...: I QTR RCV.: I01-004L FACL RCV: MAR
 UNT ORG...: I QTR ORG.: I01-004L FACL ORG: MAR
 EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 1 RESP DUE: SAT 11-21-2009
 ABSTRACT.: REQUESTS VISITOR BE ADDED TO LIST
 STATUS DT: 01-19-2010 STATUS CODE: CLD STATUS REASON: DNY
 INCRPTNO.: RCT: P EXT: P DATE ENTD: 11-06-2009
 REMARKS...:

CURRENT INVESTIGATIVE AND RELIEF TRACKING DATA

DATE DUE	DEPARTMENT	TO	DATE ASSN	TRK TYPE	DATE RETURNED
MON 01-18-2010	ADMIN REM	CRL	01-18-2010	INV	01-19-2010
TUE 01-19-2010	ADMIN REM	HW	01-19-2010	SIG	01-19-2010

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
 RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: MAR
 REMEDY ID: 562059-F1 SUB1: 15HM SUB2: 16BM DATE RCV: 10-27-2009
 UNT RCV...: I QTR RCV.: I01-004L FACL RCV: MAR
 UNT ORG...: I QTR ORG.: I01-004L FACL ORG: MAR
 EVT FACL.: MAR ACC LEV: MAR 1 RESP DUE: MON 11-16-2009
 ABSTRACT.: REJECTED CORRESPONDENCE-REQS LETTER BE GIVEN TO HIM
 STATUS DT: 11-09-2009 STATUS CODE: CLD STATUS REASON: DNY
 INCRPTNO.: RCT: P EXT: DATE ENTD: 10-27-2009
 REMARKS...:

G0002 MORE PAGES TO FOLLOW . . .

BOPG6 *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 09-06-2011
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REGNO: 63794-053 NAME: MCGOWAN, DANIEL
RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: NCR
REMEDY ID: 565094-R1 SUB1: 15HM SUB2: 33ZM DATE RCV: 12-11-2009
UNT RCV...: I QTR RCV.: I01-004L FACL RCV: MAR
UNT ORG...: I QTR ORG.: I01-004L FACL ORG: MAR
EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 RESP DUE: SUN 01-10-2010
ABSTRACT.: RECEIVE LEGAL DOCUMENTS FROM ATTORNEYS
STATUS DT: 01-04-2010 STATUS CODE: CLD STATUS REASON: DNY
INCRPTNO.: RCT: P EXT: DATE ENTD: 12-16-2009
REMARKS...:

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: NCR
REMEDY ID: 567425-R1 SUB1: 15HM SUB2: 16AM DATE RCV: 01-04-2010
UNT RCV...: I QTR RCV.: I01-004L FACL RCV: MAR
UNT ORG...: I QTR ORG.: I01-004L FACL ORG: MAR
EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 1 RESP DUE: WED 02-03-2010
ABSTRACT.: REJECTION OF PUBLICATION
STATUS DT: 02-03-2010 STATUS CODE: CLD STATUS REASON: DNY
INCRPTNO.: RCT: P EXT: DATE ENTD: 01-08-2010
REMARKS...:

G0002 MORE PAGES TO FOLLOW . . .

BOPG6 *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 09-06-2011
 PAGE 017 OF * FULL SCREEN FORMAT * 15:03:57

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
 RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: MAR
 REMEDY ID: 578743-F1 SUB1: 15HM SUB2: 16AM DATE RCV: 03-01-2010
 UNT RCV...: I QTR RCV.: I01-009L FACL RCV: MAR
 UNT ORG...: I QTR ORG.: I01-009L FACL ORG: MAR
 EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 2 RESP DUE: SUN 03-21-2010
 ABSTRACT.: REQUESTS TO RECEIVE REJECTED PUBLICATION
 STATUS DT: 03-08-2010 STATUS CODE: CLD STATUS REASON: DNY
 INCRPTNO.: RCT: P EXT: DATE ENTD: 03-01-2010
 REMARKS...:

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
 RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: BOP
 REMEDY ID: 567425-A1 SUB1: 15HM SUB2: 16AM DATE RCV: 03-03-2010
 UNT RCV...: I QTR RCV.: I01-009L FACL RCV: MAR
 UNT ORG...: I QTR ORG.: I01-004L FACL ORG: MAR
 EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 1 RESP DUE: SUN 05-02-2010
 ABSTRACT.: REJECTION OF PUBLICATION
 STATUS DT: 07-16-2010 STATUS CODE: CLD STATUS REASON: DNY
 INCRPTNO.: RCT: P EXT: P DATE ENTD: 04-02-2010
 REMARKS...:

CURRENT INVESTIGATIVE AND RELIEF TRACKING DATA					
DATE DUE	DEPARTMENT	TO	DATE ASSN	TRK TYPE	DATE RETURNED
SUN 05-02-2010	ADMIN REM	RT	04-02-2010	INV	07-15-2010
FRI 07-16-2010	ADMIN REM	HW	07-16-2010	SIG	07-16-2010

G0002 MORE PAGES TO FOLLOW . . .

BOPG6 *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 09-06-2011
PAGE 018 OF * FULL SCREEN FORMAT * 15:03:57

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: NCR
REMEDY ID: 577254-R1 SUB1: 15HM SUB2: 16AM DATE RCV: 03-05-2010
UNT RCV...: I QTR RCV.: I01-009L FACL RCV: MAR
UNT ORG...: I QTR ORG.: I01-009L FACL ORG: MAR
EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 2 RESP DUE: TUE 05-04-2010
ABSTRACT.: REQUESTS PUBLICATION BE DELIVERED TO HIM
STATUS DT: 04-08-2010 STATUS CODE: CLD STATUS REASON: DNY
INCRPTNO.: RCT: P EXT: P DATE ENTD: 03-12-2010
REMARKS...:

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: NCR
REMEDY ID: 578235-R1 SUB1: 15HM SUB2: 16BM DATE RCV: 03-15-2010
UNT RCV...: I QTR RCV.: I01-009L FACL RCV: MAR
UNT ORG...: I QTR ORG.: I01-009L FACL ORG: MAR
EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 2 RESP DUE: FRI 05-14-2010
ABSTRACT.: REQUESTS TO RECEIVE REJECTED CORRESPONDENCE
STATUS DT: 04-26-2010 STATUS CODE: CLD STATUS REASON: DNY
INCRPTNO.: RCT: P EXT: P DATE ENTD: 03-22-2010
REMARKS...:

G0002 MORE PAGES TO FOLLOW . . .

BOPG6 *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 09-06-2011
PAGE 019 OF * FULL SCREEN FORMAT * 15:03:57

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: MAR
REMEDY ID: 581395-F1 SUB1: 15HM SUB2: 33FM DATE RCV: 03-17-2010
UNT RCV...: I QTR RCV.: I01-009L FACL RCV: MAR
UNT ORG...: I QTR ORG.: I01-009L FACL ORG: MAR
EVT FACL.: MAR ACC LEV: MAR 1 RESP DUE: TUE 04-06-2010
ABSTRACT.: LEGAL MAIL ISSUES
STATUS DT: 03-25-2010 STATUS CODE: CLD STATUS REASON: DNY
INCRPTNO.: RCT: P EXT: DATE ENTD: 03-17-2010
REMARKS...:

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: NCR
REMEDY ID: 578743-R1 SUB1: 15HM SUB2: 16AM DATE RCV: 03-18-2010
UNT RCV...: I QTR RCV.: I01-009L FACL RCV: MAR
UNT ORG...: I QTR ORG.: I01-009L FACL ORG: MAR
EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 2 RESP DUE: MON 05-17-2010
ABSTRACT.: REQUESTS TO RECEIVE REJECTED PUBLICATION
STATUS DT: 04-26-2010 STATUS CODE: CLD STATUS REASON: DNY
INCRPTNO.: RCT: P EXT: P DATE ENTD: 03-24-2010
REMARKS...:

G0002 MORE PAGES TO FOLLOW . . .

BOPG6 *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 09-06-2011
 PAGE 023 OF * FULL SCREEN FORMAT * 15:03:57

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
 RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: BOP
 REMEDY ID: 577254-A2 SUB1: 15HM SUB2: 16AM DATE RCV: 06-15-2010
 UNT RCV...: I QTR RCV.: I01-009L FACL RCV: MAR
 UNT ORG...: I QTR ORG.: I01-009L FACL ORG: MAR
 EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 2 RESP DUE: SAT 08-14-2010
 ABSTRACT.: REQUESTS PUBLICATION BE DELIVERED TO HIM
 STATUS DT: 01-10-2011 STATUS CODE: CLD STATUS REASON: DNY
 INCRPTNO.: RCT: N EXT: P DATE ENTD: 06-30-2010
 REMARKS...:

CURRENT INVESTIGATIVE AND RELIEF TRACKING DATA

DATE DUE	DEPARTMENT	TO	DATE ASSN	TRK TYPE	DATE RETURNED
FRI 01-07-2011	ADMIN REM	CRL	01-07-2011	INV	01-10-2011
MON 01-10-2011	ADMIN REM	HW	01-10-2011	SIG	01-10-2011

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
 RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: BOP
 REMEDY ID: 578235-A2 SUB1: 15HM SUB2: 16BM DATE RCV: 08-03-2010
 UNT RCV...: I QTR RCV.: I01-009L FACL RCV: MAR
 UNT ORG...: I QTR ORG.: I01-009L FACL ORG: MAR
 EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 2 RESP DUE: SAT 10-02-2010
 ABSTRACT.: REQUESTS TO RECEIVE REJECTED CORRESPONDENCE
 STATUS DT: 01-12-2011 STATUS CODE: CLD STATUS REASON: DNY
 INCRPTNO.: RCT: N EXT: P DATE ENTD: 08-17-2010
 REMARKS...:

CURRENT INVESTIGATIVE AND RELIEF TRACKING DATA

DATE DUE	DEPARTMENT	TO	DATE ASSN	TRK TYPE	DATE RETURNED
FRI 09-17-2010	ADMIN REM		08-17-2010	INV	01-11-2011
TUE 01-11-2011	ADMIN REM	ANE	01-11-2011	INV	01-12-2011
WED 01-12-2011	ADMIN REM	HW	01-12-2011	SIG	01-12-2011

G0002 MORE PAGES TO FOLLOW . . .

BOPG6 *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 09-06-2011
 PAGE 024 OF * FULL SCREEN FORMAT * 15:03:57

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
 RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: BOP
 REMEDY ID: 578743-A2 SUB1: 15HM SUB2: 16AM DATE RCV: 08-03-2010
 UNT RCV...: I QTR RCV.: I01-009L FACL RCV: MAR
 UNT ORG...: I QTR ORG.: I01-009L FACL ORG: MAR
 EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 2 RESP DUE: SAT 10-02-2010
 ABSTRACT.: REQUESTS TO RECEIVE REJECTED PUBLICATION
 STATUS DT: 01-10-2011 STATUS CODE: CLD STATUS REASON: DNY
 INCRPTNO.: RCT: N EXT: P DATE ENTD: 08-17-2010
 REMARKS...:

CURRENT INVESTIGATIVE AND RELIEF TRACKING DATA

DATE DUE	DEPARTMENT	TO	DATE ASSN	TRK TYPE	DATE RETURNED
FRI 09-17-2010	ADMIN REM		08-17-2010	INV	01-07-2011
FRI 01-07-2011	ADMIN REM	ANE	01-07-2011	INV	01-07-2011
MON 01-10-2011	ADMIN REM	HW	01-10-2011	SIG	01-10-2011

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
 RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: MAR
 REMEDY ID: 617274-F1 SUB1: 33FM SUB2: DATE RCV: 12-02-2010
 UNT RCV...: UM NORTH QTR RCV.: F01-011L FACL RCV: MAR
 UNT ORG...: UM NORTH QTR ORG.: F01-011L FACL ORG: MAR
 EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 1 RESP DUE: WED 12-22-2010
 ABSTRACT.: CLAIMS LEGAL MAIL WAS OPENED...
 STATUS DT: 12-20-2010 STATUS CODE: CLD STATUS REASON: DNY
 INCRPTNO.: RCT: P EXT: DATE ENTD: 12-02-2010
 REMARKS...:

G0002 MORE PAGES TO FOLLOW . . .

BOPG6 *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 09-06-2011
 PAGE 025 OF * FULL SCREEN FORMAT * 15:03:57

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
 RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: NCR
 REMEDY ID: 617274-R1 SUB1: 33FM SUB2: DATE RCV: 12-30-2010
 UNT RCV...: UM NORTH QTR RCV.: F01-011L FACL RCV: MAR
 UNT ORG...: UM NORTH QTR ORG.: F01-011L FACL ORG: MAR
 EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 1 RESP DUE: SAT 01-29-2011
 ABSTRACT.: CLAIMS LEGAL MAIL WAS OPENED...
 STATUS DT: 01-25-2011 STATUS CODE: CLD STATUS REASON: DNY
 INCRPTNO.: RCT: P EXT: DATE ENTD: 01-07-2011
 REMARKS...:

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
 RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: BOP
 REMEDY ID: 617274-A1 SUB1: 33FM SUB2: DATE RCV: 02-15-2011
 UNT RCV...: UM NORTH QTR RCV.: F01-011L FACL RCV: MAR
 UNT ORG...: UM NORTH QTR ORG.: F01-011L FACL ORG: MAR
 EVT FACL.: MAR ACC LEV: MAR 1 NCR 1 BOP 1 RESP DUE: SAT 04-16-2011
 ABSTRACT.: CLAIMS LEGAL MAIL WAS OPENED...
 STATUS DT: 04-11-2011 STATUS CODE: CLD STATUS REASON: DNY
 INCRPTNO.: RCT: P EXT: P DATE ENTD: 02-28-2011
 REMARKS...:

CURRENT INVESTIGATIVE AND RELIEF TRACKING DATA					
DATE DUE	DEPARTMENT	TO	DATE ASSN	TRK TYPE	DATE RETURNED
MON 03-28-2011	ADMIN REM	RJD	02-28-2011	INV	04-08-2011
MON 04-11-2011	ADMIN REM	HW	04-11-2011	SIG	04-11-2011

G0002 MORE PAGES TO FOLLOW . . .

BOPG6 *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 09-06-2011
 PAGE 027 OF 027 * FULL SCREEN FORMAT * 15:03:57

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
 RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: BOP
 REMEDY ID: 630732-A1 SUB1: 10ZM SUB2: DATE RCV: 06-01-2011
 UNT RCV...: CMU QTR RCV.: D04-046L FACL RCV: THA
 UNT ORG...: CMU QTR ORG.: D04-046L FACL ORG: THA
 EVT FACL.: THA ACC LEV: THA 1 NCR 1 BOP 1 RESP DUE: SUN 07-31-2011
 ABSTRACT.: WANTS OUT OF CMU
 STATUS DT: 08-30-2011 STATUS CODE: CLD STATUS REASON: DNY
 INCRPTNO.: RCT: P EXT: P DATE ENTD: 06-20-2011
 REMARKS...:

CURRENT INVESTIGATIVE AND RELIEF TRACKING DATA

DATE DUE	DEPARTMENT	TO	DATE ASSN	TRK TYPE	DATE RETURNED
MON 08-29-2011	ADMIN REM	CRL	08-29-2011	INV	08-30-2011
TUE 08-30-2011	ADMIN REM	HW	08-30-2011	SIG	08-30-2011

REGNO: 63794-053 NAME: MCGOWAN, DANIEL
 RSP OF...: THA UNT/LOC/DST: CMU QTR.: D04-046L RCV OFC: THA
 REMEDY ID: 650617-F1 SUB1: 11ES SUB2: DATE RCV: 08-04-2011
 UNT RCV...: CMU QTR RCV.: D04-046L FACL RCV: THA
 UNT ORG...: CMU QTR ORG.: D04-046L FACL ORG: THA
 EVT FACL.: THA ACC LEV: THA 1 RESP DUE: WED 08-24-2011
 ABSTRACT.: WANTS TO BE ABLE TO GET 3 BOOKS AT A TIME
 STATUS DT: 08-16-2011 STATUS CODE: CLO STATUS REASON: XPL
 INCRPTNO.: RCT: P EXT: DATE ENTD: 08-04-2011
 REMARKS...:

52 REMEDY SUBMISSION(S) SELECTED
 TRANSACTION SUCCESSFULLY COMPLETED

G0000

EXHIBIT B

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

From: McGowan, Daniel G. 63794-053 C.M.U. USP-Marion
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A- INMATE REQUEST

I contend that my placement in the Communications Management unit (CMU) violates my Constitutional rights. The CMU was established in violation of Federal regulations and thus, subjects me to due process violations. I request that the Communications Management Unit be terminated or brought into compliance of proper Federal Regulations and that I be transferred to a low-security prison.

9/11/08

DATE

Daniel McGowan

SIGNATURE OF REQUESTER

Part B- RESPONSE

See Attached Response

2008 SEP 12 AM 10:58
RECEIVED BY ADMIN
REMEDY CLERK
USP MARION

DATE

WARDEN OR REGIONAL DIRECTOR

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

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 508242-F1

CASE NUMBER: _____

Part C- RECEIPT

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

SUBJECT: 154m/134m Request to be placed in CP Unit

9/12/08
DATE

[Signature]
RECIPIENT'S SIGNATURE (STAFF MEMBER)

Administrative Remedy - Informal Resolution Marion, Illinois

Inmate's Name: Daniel McGowan Reg. No. 63794-053 Unit: CMU Date: 9/4/08

NOTICE: You are advised that prior to filing a Request for Administrative Remedy [BP-9], you **MUST** attempt to informally resolve your complaint through your counselor. Please follow the three (3) steps listed below.

1. State your specific complaint: I contend that my placement in the "communication management unit" violates my constitutional rights and is in violation of federal law.

2. State what efforts you have made to informally resolve your complaint: I have spoken to Mr. Rivas about my placement at the CMU at intake

3. State what resolution you request: I wish to be placed in general population at a low-security prison and for the CMU to be closed.

Inmate's Signature: Daniel McGowan Date: 9/4/08

4. Correctional Counselor's Comments (Steps to Resolve): You were transferred to the CMU at USP Marion to allow for greater management of your communication. Your transfer to this unit by itself, will have no effect on your length of incarceration and is not in any violation of your constitutional rights

Counselor's Signature: [Signature] Date: 9/8/08

Unit Manager's Review: [Signature] Date: 9/8/08

	Received by Counselor from inmate	Attempted informal with inmate by Counselor	BP-9 given to inmate	BP-9 Delivered to Admin. Remedy Clerk
Date	9/5/08	9/9/08	9/10/08	9/12/08
Time	2:45 PM	2:45 PM	2:00 PM	10:00 AM
Counselor	SW	SW	SW	SW

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

**Administrative Remedy
Part B - Response**

Admin Remedy Number: 508242-F1

This is in response to your Request for Administrative Remedy received September 12, 2008, wherein you claim your placement in the Communication Management Unit (CMU) at USP Marion violates your constitutional rights and request to be placed in a low security institution.

According to our records, you were transferred to the CMU at the United States Penitentiary in Marion, Illinois, on August 22, 2008. Your transfer to the CMU allows greater management of your communication with persons in the community through more effective monitoring of your telephone use, written correspondence, and visiting. Your communication by these methods may be limited as necessary to allow effective monitoring. Your general conditions of confinement in this unit may also be restricted as necessary to provide greater management of your communications. Your transfer to this unit, by itself, has no effect on the length of your incarceration. You will continue to earn good-conduct sentence credit in accordance with Bureau policy. Therefore, your placement in the CMU does not violate your constitutional rights.

Your transfer to this unit was approved by the Correctional Programs Division, Central Office, Federal Bureau of Prisons. Your continued housing in this unit will be reviewed during each Program Review conducted by your unit team. Your next Program Review is scheduled for February 2009.

Accordingly, your Request for Administrative Remedy is denied. In the event you are not satisfied with this response and wish to appeal, you may do so within 20 calendar days of this response by submitting a BP-230(13) to the Regional Director, Federal Bureau of Prisons, North Central Regional Office, Gateway Complex, Tower II, 8th Floor, 400 State Avenue, Kansas City, Kansas 66101-2492.

9.17.08
Date



Lisa J. W. Hollingsworth, Warden

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-229(13) including any attachments must be submitted with this appeal.

From: McGowan, Daniel G 63794-053 C.M.U. Marion
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - REASON FOR APPEAL

The Bureau of Prisons' placement of me in the "Communications Management Unit" (CMU) violates my constitutional rights. I wish to be placed in general population at a low-security prison.

9/28/08
DATE

Daniel McGowan
SIGNATURE OF REQUESTER

Part B - RESPONSE

RECEIVED
OCT - 7 2008

SEE ATTACHED RESPONSE

BY:.....

DATE _____ REGIONAL DIRECTOR _____
If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 508242-R1

Part C - RECEIPT

CASE NUMBER: _____

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

SUBJECT: _____

DATE _____ SIGNATURE, RECIPIENT OF REGIONAL APPEAL _____



**U.S. Department of Justice
Federal Bureau of Prisons
North Central Regional Office**

**Regional Administrative Remedy Appeal
Part B - Response**

Administrative Remedy Number: 508242-R1

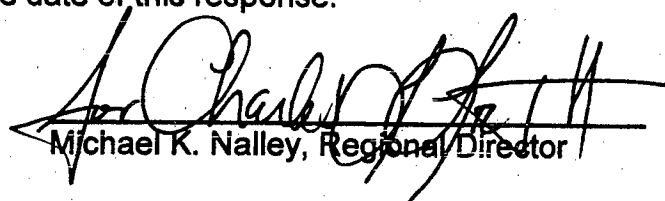
This is in response to your Regional Administrative Remedy Appeal received in this office on October 7, 2008, in which you allege your placement in the Communication Management Unit (CMU) violates your constitutional rights. You request placement in a low security facility.

We have reviewed your appeal and the Warden's response dated September 17, 2008. The Bureau of Prisons has the authority to make designation assignments they deem appropriate and necessary to ensure the safe and orderly operation of its facilities and the protection of the public. You were transferred to the CMU so that additional monitoring of your communication could be accomplished. This was deemed necessary due to your current offense, which includes acts of arson, destruction of an energy facility, attempted arson, and conspiracy to commit arson. Additionally, you have been identified as a member and leader of groups which are considered domestic terrorist organizations. Accordingly, your placement in the CMU is deemed appropriate, and further transfer is not warranted. You have provided insufficient evidence that your rights are being violated in any way.

Based on the above information, your Regional Administrative Remedy Appeal is denied.

If you are dissatisfied with this response, you may appeal to the Office of General Counsel, Federal Bureau of Prisons, 320 First Street, NW, Washington, DC 20534. Your appeal must be received in the Office of General Counsel within 30 days from the date of this response.

11/5/08
Date


Michael K. Nalley, Regional Director

Bureau of Prisons

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

From: McGowan, Daniel G. 63794-053 C.M.U. MARION
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A-REASON FOR APPEAL

The placement of me by the Bureau of Prisons in the Communication Management Unit (CMU) at USP Marion is a violation of my constitutional rights. Despite the Regional Director's generic response, my placement here is not appropriate. My request is that you close this unit and transfer me to a low-security facility that is appropriate for my security (6 points) and proximity to family (in the Northeast region). Thank you for your time.

2/14/09

DATE



SIGNATURE OF REQUESTOR

Part B-RESPONSE

RECEIVED

MAR 12 2009

Administrative Remedy Section
Federal Bureau of Prisons

DATE

GENERAL COUNSEL

FIRST COPY: WASHINGTON FILE COPY

CASE NUMBER: 503242-A1

Part C-RECEIPT

CASE NUMBER: _____

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

SUBJECT: _____

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

Administrative Remedy Number 508242-A1
Part B - Response

This is in response to your Central Office Administrative Remedy in which you protest the decision by Bureau of Prisons' officials to designate you to the Communication Management Unit (CMU).

Our review of this matter reveals that the Warden and Regional Director have adequately addressed your concerns. The Bureau of Prisons has the authority to make housing unit and institution assignments which are believed to be in the best interests of the correctional environment. The CMU was established to house inmates who, by virtue of the nature of their offense, criminal conduct or other information, require increased monitoring of communication between inmates and persons in the community in order to protect the safety, security, and orderly running of the institution and the public. The CMU is an administrative unit which can house all security levels and provides for greater management of your communication.

Your designation to the Communication Management Unit was based on the nature of your criminal behavior as outlined in the PreSentence Report. Your offense conduct included acts of arson, destruction of an energy facility, attempted arson, and conspiracy to commit arson. You have been identified as a member and leader in the Earth Liberation Front and Animal Liberation Front, groups considered domestic terrorist organizations. Your offense conduct included communicating in code and teaching others how to commit crimes of arson. Your actions had the primary purpose to influence and affect the conduct of government, commerce, private business and others in the civilian population by means of force, violence, sabotage, destruction of property, intimidation and coercion. Your contact with persons in the community requires heightened controls and review. You were designated to the CMU in order that additional monitoring of your communication could be accomplished. Your designation to the CMU is warranted and appropriate.

Your appeal is denied.

June 25, 2009
Date

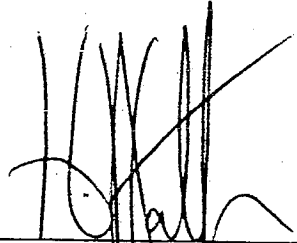


Harrell Watts, Administrator
National Inmate Appeals 

EXHIBIT C

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

**Administrative Remedy
Part B - Response**

Admin Remedy Number: 509775-F2

This is in response to your Request for Administrative Remedy received on October 1, 2008, wherein you claim there are errors on your Notice of Transfer and request to have them removed. Further, you request an immediate transfer to general population in a low security facility.

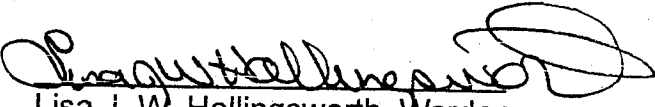
You have received a copy of your Notice of Transfer to Communication Management Unit that indicates the reasons for your placement in the CMU. If you are seeking information pertaining to Federal Bureau of Prisons records related to your placement in the CMU, you may file a request under the Freedom of Information Act (FOIA). You may direct your request to the following location:

Director, Federal Bureau of Prisons
ATTN: FOIA/PA Request
320 First Street N.W.
Washington, D.C. 20534

With regard to your request to be transferred to a low security facility, your placement in the CMU is commensurate with your security needs and you will not be transferred at this time.

Accordingly, your request for Administrative Remedy is denied. In the event you are not satisfied with this response and wish to appeal, you may do so within 20 calendar days of this response by submitting a BP-230(13) to the Regional Director, Federal Bureau of Prisons, North Central Regional Office, Gateway Complex, Tower II, 8th Floor, 400 State Avenue, Kansas City, Kansas 66101-2492.

10/6/08
Date


Lisa J. W. Hollingsworth, Warden

U.S. Department of Justice

Regional Administrative Remedy Appeal

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-229(13) including any attachments must be submitted with this appeal.

From: McGowan, Daniel G. 63744-053 C.M.U. MARION
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - REASON FOR APPEAL

The response to my Bp 9 regarding issues with my "notice to inmate of transfer to CMU" was inadequate. Three parts of that notice are inaccurate. They are:
1) That my offense conduct involves "destruction of an energy facility"
2) The allegation that I am a member and leader in the Earth Liberation Front (ELF) + Animal Liberation Front
3) That I taught others to commit arson.

The response to this was for me to file a FOIA request. I'm asking for evidence of these claims and for these claims to be removed from my "notice to inmate of transfer to CMU".

Additionally, I am requesting that I be transferred to a low-security prison and be placed in general population (as I was, without incident from 7/2/07 - 5/12/08 at MDC Brooklyn + FCI Sandstone). Specifically, I am requesting to be moved to FCI Fort Dix which is where I received a judicial recommendation for housing and is one hour from my release residency.

10/9/08
DATE

Thank you.

[Signature]
SIGNATURE OF REQUESTER

Part B - RESPONSE

DATE

REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____

Part C - RECEIPT

CASE NUMBER: _____

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

SUBJECT: _____

U.S. Department of Justice
Federal Bureau of Prisons
North Central Regional Office

Regional Administrative Remedy Appeal
Part B - Response

Administrative Remedy Number: 509775-R1

This is in response to your Regional Administrative Remedy Appeal received in this office on October 17, 2008, in which you allege you were inappropriately transferred to the Communication Management Unit (CMU) based on inaccurate information. You request removal of that information and transfer to the Federal Correctional Institution in Fort Dix, New Jersey.

We have reviewed your appeal and the Warden's response dated October 6, 2008. Although you allege the information contained in Attachment A, Notice to Inmate of Transfer to Communication Management Unit, is incorrect, both your involvement in arson and your association with the Earth Liberation Front and Animal Liberation Front is documented in your Pre-Sentence Investigation Report. Your allegation that you are inappropriately housed in the CMU is repetitive of Administrative Remedy 508242, and will not be responded to again at this level.

Based on the above information, your Regional Administrative Remedy Appeal is denied.

If you are dissatisfied with this response, you may appeal to the Office of General Counsel, Federal Bureau of Prisons, 320 First Street, NW, Washington, DC 20534. Your appeal must be received in the Office of General Counsel within 30 days from the date of this response.

11/17/08
Date


Michael K. Nalley, Regional Director



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

United States Penitentiary

Office of the Executive Assistant

Marion, IL 62959

February 19, 2009

MEMORANDUM FOR ADMINISTRATIVE REMEDY COORDINATOR

FROM:

A handwritten signature in black ink, appearing to read "T. G. Wenich".

T. G. Wenich, Executive Assistant

SUBJECT:

Late BP-11 Submission, 509775-R1

Please accept the attached late BP-11 from inmate McGowan, 63794-053.
Mr. McGowan was on WRIT and did not receive his response in time to file the BP-11
within the time frames specified in policy.

Bureau of Prisons

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

From: <u>McGowan, Daniel G.</u>	<u>63794-053</u>	<u>CMU</u>	<u>MASON</u>
LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

Part A-REASON FOR APPEAL

The response from the Regional Office is incomplete and fails to address my claims. Attachment # the 'Notice to Inmate of Transfer to CMU', includes inaccurate claims about me, specifically:

- 1) That my offense/conduct involved "destruction of an energy facility"
- 2) That I am a member + leader in both the ELF + ALF.
- 3) That I taught others to commit arson.

This information is inaccurate + I ask that it be removed from the Notice and case file. Please supply me with actual evidence of these claims (I have already sent a letter per FOIA to get evidence of this from BOP's national office). The Regional office in their response ignores the 3 claims I made above and failed to even address them or provide evidence. I respectfully request attention on this matter.

2/18/09 DATE

Daniel McGowan SIGNATURE OF REQUESTOR

Part B-RESPONSE

DATE _____

FIRST COPY: WASHINGTON FILE COPY

GENERAL COUNSEL

CASE NUMBER: 509775-A1

Part C-RECEIPT

Return to: _____

LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE _____

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL _____

BP-DIR-11 April 1982

Administrative Remedy No. 509775-A1
Part B - Response

This is in response to your Central Office Administrative Remedy in which you appeal the decision by Bureau of Prisons Officials to classify and designate you to a Communications Management Unit (CMU). You request this decision be reversed. In addition, you claim it violates your rights.

The Bureau of Prisons has the authority to make housing unit and institution assignments that support the security and orderly operation of the institution. The CMU was established to house inmates that due to their current offense, offense conduct, or other information, required increased monitoring of communication between inmates and persons in the community in order to protect the safety, security, and orderly running of the institution and the public. The CMU is an administrative unit that can house all security levels and provides for greater management of your communication.

Institution staff advised you that your transfer to the Communication Management Unit was based on your involvement in arson and your association with the Earth Liberation Front and Animal Liberation Front documented in your Pre-Sentence Investigation Report.

As noted by the Warden, you were transferred to the CMU so that additional monitoring of your communication could be accomplished. You have been appropriately designated to the CMU. We therefore concur with the responses provided. Accordingly, your appeal is denied.

May 13, 2009
Date

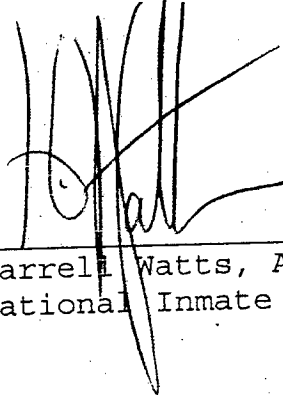

Harrell Watts, Administrator
National Inmate Appeals

EXHIBIT D

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

From: McGowan, Daniel G. 63744-053 CMU/I MAKION
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A- INMATE REQUEST

I was denied transfer out of the Communications Management Unit (CMU) after 20 months of clear conduct, exemplary participation and no problems or complaints with my communication (i.e. phone, email, mail). The memo I received (signed 4/9/10) that denied my transfer does not state a reason for my rejection. Without that, or any other explanation for continued placement in the CMU, how am I to augment my behavior or know what aspect of my behavior is disagreeable? My request(s): ① Please give me a reason for why I was rejected. ② Please afford me due process in the form of a hearing, so I may contest the claims made to send/keep me here and for ③ Increase my communications privileges so that they are commensurate with prisoners in a general population setting (which the CMU already is not), i.e. 300 phone minutes, contact with

4/15/10
DATE

Thank you for your time.

Daniel McGowan
SIGNATURE OF REQUESTER

Part B- RESPONSE

See attached Report

APR 20 AM 10:12

DATE

WARDEN OR REGIONAL DIRECTOR

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

SECOND COPY: RETURN TO INMATE

CASE NUMBER: 596371-F1

CASE NUMBER: _____

Part C- RECEIPT

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

SUBJECT: 15mm/102m Request transfer out of CMU/MAKION for denial

4/20/10 _____
DATE RECIPIENT'S SIGNATURE (STAFF MEMBER)



U.S. Department of Justice
Federal Bureau of Prisons

Administrative Remedy
Part B - Response

Admin Remedy Number: 586371-F1

This is in response to your Request for Administrative Remedy received April 20, 2010, wherein you request to know why you were denied transfer out of the Communication Management Unit (CMU). Additionally, you request a due process hearing so you may contest the reasons for your placement in the CMU, and you request your allotted monthly phone time be raised to 300 minutes.

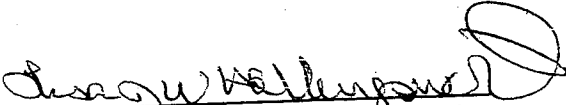
According to our records, you were transferred to the CMU at the United States Penitentiary in Marion, Illinois, on August 22, 2008, based on your current offense behavior or your continued behavior while incarcerated. Your transfer to the CMU allows greater management of your communication with persons in the community through more effective monitoring of your telephone use, written correspondence, and visiting. Your communication by these methods may be limited as necessary to allow effective monitoring; therefore, you will remain at your current level of 30 phone minutes per week.

The CMU is not a special housing unit or a control unit; therefore, there is no requirement to afford a due process hearing prior to or during placement.

Your transfer to this unit was approved by the Correctional Programs Division, Central Office, Federal Bureau of Prisons. Your continued housing in this unit will be reviewed during each program review conducted by your unit team.

Accordingly, your Request for Administrative Remedy is denied. In the event you are not satisfied with this response and wish to appeal, you may do so within 20 calendar days of this response by submitting a BP-230(13) to the Regional Director, Federal Bureau of Prisons, North Central Regional Office, Gateway Complex, Tower II, 8th Floor, 400 State Avenue, Kansas City, Kansas 66101-2492.

4-25-10
Date


Lisa J. W. Hollingsworth, Warden

U.S. Department of Justice
Federal Bureau of Prisons

Administrative Remedy
Part B - Response

Admin Remedy Number: 586371-F1

This is in response to your Request for Administrative Remedy received April 20, 2010, wherein you request to know why you were denied transfer out of the Communication Management Unit (CMU). Additionally, you request a due process hearing so you may contest the reasons for your placement in the CMU, and you request your allotted monthly phone time be raised to 300 minutes.

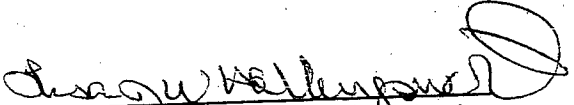
According to our records, you were transferred to the CMU at the United States Penitentiary in Marion, Illinois, on August 22, 2008, based on your current offense behavior or your continued behavior while incarcerated. Your transfer to the CMU allows greater management of your communication with persons in the community through more effective monitoring of your telephone use, written correspondence, and visiting. Your communication by these methods may be limited as necessary to allow effective monitoring; therefore, you will remain at your current level of 30 phone minutes per week.

The CMU is not a special housing unit or a control unit; therefore, there is no requirement to afford a due process hearing prior to or during placement.

Your transfer to this unit was approved by the Correctional Programs Division, Central Office, Federal Bureau of Prisons. Your continued housing in this unit will be reviewed during each program review conducted by your unit team.

Accordingly, your Request for Administrative Remedy is denied. In the event you are not satisfied with this response and wish to appeal, you may do so within 20 calendar days of this response by submitting a BP-230(13) to the Regional Director, Federal Bureau of Prisons, North Central Regional Office, Gateway Complex, Tower II, 8th Floor, 400 State Avenue, Kansas City, Kansas 66101-2492.

4-25-10
Date


Lisa J. W. Hollingsworth, Warden

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-229(13) including any attachments must be submitted with this appeal.

From: Daniel McGowan 63794-053 CMU/I Unit Marion
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - REASON FOR APPEAL This is an appeal of my BP-9 re: the denial of my transfer request on April 9, 2010 by Warden Hollingsworth. I have been at the CMU for 20 months with neither disciplinary violations nor problems with my communication with the outside world (i.e. phone, visits, email or mail). The memo regarding my denial does not state why I was rejected and the Warden's response only repeats the vague reason given to me when I arrived. Without any reason stated for continued placement here in the CMU, how can I change whatever behavior the BoP is alleging I am partaking in? I am requesting either:

- 1) A transfer to a normal prison without communication restrictions or
- 2) A specific reason for why I am being kept here at the CMU with
- 3) a hearing so that I may contest these claims and have that reflected on the record for future legal suits. (or)
- 4) A restoration of communication privileges to full status i.e. 300 phone minutes/month and contact visits.

My continued placement here is a violation of my due process rights under the US constitution. I kindly request that you review my transfer request and process it so that I may serve out my remaining 36 months at a prison where I can get contact visits and work toward release.

DATE 4/20/10

SIGNATURE OF REQUESTER [Signature]

Part B - RESPONSE

RECEIVED
MAY - 6 2010

BY:

DATE _____ REGIONAL DIRECTOR _____
If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.
ORIGINAL: RETURN TO INMATE _____ CASE NUMBER: 586371-R1

Part C - RECEIPT

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

DATE _____ SIGNATURE, RECIPIENT OF REGIONAL APPEAL _____



U.S. Department of Justice
Federal Bureau of Prisons
North Central Regional Office

Regional Administrative Remedy Appeal
Part B - Response

Administrative Remedy Number: 586371-R1

This is in response to your Regional Administrative Remedy Appeal received in this office on May 6, 2010, in which you appeal the decision to deny your request for transfer from the Communication Management Unit (CMU). For relief, you request a transfer out of the CMU, a due process hearing and a full restoration of your telephone and visiting privileges.

We have reviewed your appeal and the Warden's response dated April 25, 2010. The Bureau of Prisons has the authority to make designation assignments deemed appropriate and necessary to ensure the safe and orderly operation of its facilities and the protection of the public. You were designated to the CMU to ensure additional monitoring of your communication could be accomplished. This may be the result of current offense behavior or other verified information. Those inmates who require heightened monitoring will continue to be designated to the CMU. A recent review of your status determined you still require the security and supervision afforded by the CMU and you are deemed to be appropriately classified at this time. As stated in the Warden's response, your status in the CMU will continue to be reviewed. As documented, increased telephone monitoring and non-contact visiting were implemented in order to ensure the safe and orderly operation of the facility, as well as, the protection of members of the public. Your calls will continue to receive increased monitoring, and you will receive 30 telephone minutes per week. Additionally, a due process hearing is not required.

Based on the above, this response to your Regional Administrative Remedy Appeal is denied.

If you are dissatisfied with this response, you may appeal to the Office of General Counsel, Federal Bureau of Prisons, 320 First Street, NW, Washington, DC 20534. Your appeal must be received in the Office of General Counsel within 30 days from the date of this response.

5/27/10
Date



Michael K. Nalley, Regional Director

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-229(13) and BP-230(13), including any attachments must be submitted with this appeal.

From: Daniel McGowan 63794-053 CMU Marion
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - REASON FOR APPEAL This is in response to the Regional BOP's denial of my Bp10 from May 22, 2010. I have been at the CMU for 22 months now without any disciplinary issues. The Bp10 response fails in describing why exactly I am still being held at the CMU. I am requesting that your office overturn the Regional Office's decision and:

- 1) Transfer me to a prison suitable for my security level and restore my full communication privileges.
- 2) Document for me specifically why I am continuing to be held here at the CMU
- 3) Grant me due process via a hearing so that I may contest the claims made against me that are being used to house me here, or
- 4) Keep me here but restore my communication to 300 phone minutes a month and contact visits. I am agreeable to a transfer to the FCI compound here at Marion.

My continued placement here is a violation of my constitutional rights. I request that you review my transfer request and overturn the lower officer's denials. Thank you for your time.

June 4, 2010

DATE

Daniel McGowan
SIGNATURE OF REQUESTER

Part B - RESPONSE

RECEIVED

JUN 15 2010

Administrative Remedy Section
Federal Bureau of Prisons

DATE

GENERAL COUNSEL

FIRST COPY: WASHINGTON FILE COPY

CASE NUMBER: 586371-A1

Part C - RECEIPT

CASE NUMBER: _____

Return to: _____

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

SUBJECT: _____

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

Administrative Remedy No. 586371 -A1
Part B - Response

This is in response to your Central Office Administrative Remedy Appeal in which you request a transfer out of the Communication Management Unit (CMU) and full restoration of your telephone and visiting privileges.

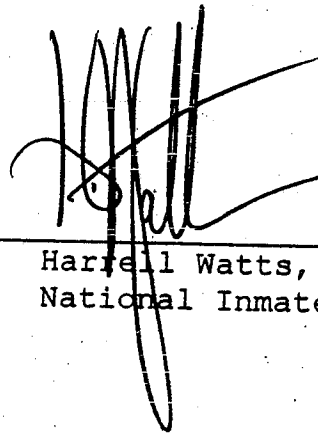
The Bureau of Prisons has the authority to make housing unit and institution assignments that support the security and orderly operation of the institution. The CMU was established to house inmates that due to their current offense, offense conduct, or other information, required increased monitoring of communication between inmates and persons in the community in order to protect the safety, security, and orderly running of the institution and the public.

Due to special security considerations of the CMU, increased telephone monitoring and non-contact visiting were implemented in order to ensure the safe and orderly operations of the institution, as well as the protection of the public.

You have been appropriately designated to the CMU. Staff will continue to monitor your case during regularly scheduled program reviews. We therefore concur with the responses provided. Accordingly, your appeal is denied.

December 9, 2010

Date



Harrell Watts, Administrator
National Inmate Appeals

DW

EXHIBIT E

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-229(13) and BP-230(13), including any attachments must be submitted with this appeal.

From: McGowan, Daniel G 63794-053 D Terre Haute
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - REASON FOR APPEAL

I am requesting that you transfer me out of the CMU and into general population. My transfer back to the CMU in February 2011 was a violation of my procedural due process. I have not yet received an adequate explanation of my transfer and the 'notice of Transfer' is full of inaccurate information. No evidence has been provided that I "attempted to circumvent communication monitoring" during my 4 month stay in general pop. in Manow. My contact with the community does not need heightened monitoring since I followed all rules + did not receive any disciplinary violations at Manow. Please review my situation and stop violating my due process by keeping me in this isolation unit.

5/24/11 [Signature]
DATE SIGNATURE OF REQUESTER

Part B - RESPONSE

RECEIVED
JUN 01 2011
Administrative Remedy Section
Federal Bureau of Prisons

DATE _____ GENERAL COUNSEL
ORIGINAL: RETURN TO INMATE CASE NUMBER: 630732-A1

Part C - RECEIPT

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

DATE _____ SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

Administrative Remedy No. 630732-A1
Part B - Response

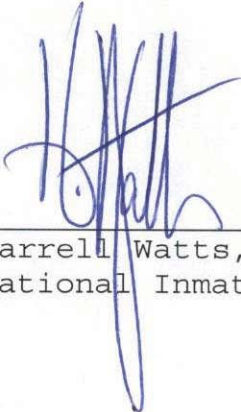
This is in response to your Central Office Administrative Remedy in which you appeal your February 2011 placement in the Communication Management Unit (CMU), alleging a violation of your due process rights. You request to be transferred to general population.

Our review of this matter reveals the Warden and Regional Director have adequately addressed your concerns. The Bureau of Prisons has the authority to make housing unit and institution assignments which are believed to be in the best interests of the correctional environment. The CMU was established to house inmates who, by virtue of the nature of their offense, criminal conduct or other information, require increased monitoring of communication between inmates and persons in the community in order to protect the safety, security, and orderly running of the institution and the public. The CMU is an administrative unit that can house all security levels and provides for greater management of an inmate's communication. Designation to the CMU is not punitive.

As explained in the Warden's response, you were transferred to the CMU in order that additional monitoring of your communication with persons in the community could be accomplished. Staff actions in this matter are consistent with the statutory authority of the Bureau of Prisons. Your designation to the CMU was not a disciplinary sanction, therefore, there are no due process rights attached to this administrative decision. Staff will continue to monitor your case during regularly scheduled program reviews. Transfer is not warranted at this time.

Your appeal is denied.

August 30, 2011
Date


Harrell Watts, Administrator
National Inmate Appeals *ce*

Federal Bureau of Prisons

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

From: McGowan Daniel G 63794-053 D Terre Haute
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A—REASON FOR APPEAL

The 3/30/11 response to my Bp 9 is just a reiteration of the notice given to me when I arrived here. My transfer to the CMU is a violation of my procedural due process rights as I still have not received a meaningful explanation. The notice of Transfer is full of inaccuracies - alleging I was a "leader" in ELF, that I destroyed a energy facility + that I taught others to commit a s.o.b. My PSR contradicts all these claims. No evidence has been provided in response to the recent allegation that I "attempted to circumvent communication monitoring policies..." My contact with the community does not require any heightened controls. My 4 months in general population at Marion's shows that I followed all rules and had no disciplinary violations. I request that you transfer me to general population and stop violating my due process by keeping me in a CMU that cruelly restricts communication with my family and community.

4/7/11
DATE

[Signature]
SIGNATURE OF REQUESTER

Part B—RESPONSE

RECEIVED
APR 13 2011

BY:

DATE

REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 630732-R1

Part C—RECEIPT

CASE NUMBER: _____

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

SUBJECT: _____

**U.S. Department of Justice
Federal Bureau of Prisons
North Central Regional Office**

**Regional Administrative Remedy Appeal
Part B - Response**

Administrative Remedy Number: 630732-R1

This is in response to your Regional Administrative Remedy Appeal received in this office on April 13, 2011, in which you appeal your placement in the Communication Management Unit (CMU). For relief, you request to be transferred to general population.

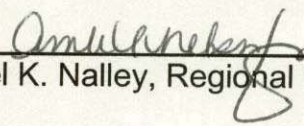
We have reviewed your appeal and the Warden's response dated March 30, 2011. The Bureau of Prisons has the authority to make designation assignments deemed appropriate and necessary to ensure the safe and orderly operation of its facilities and the protection of the public. You were designated to the CMU to ensure additional monitoring of your communication. This may be the result of current offense behavior or other verified information. Those inmates who require heightened monitoring will continue to be designated to the CMU. Your case will continue to be reviewed; however, you are deemed to be appropriately classified at this time and a transfer is not appropriate.

Based on the above, this response to your Regional Administrative Remedy Appeal is denied.

If you are dissatisfied with this response, you may appeal to the Office of General Counsel, Federal Bureau of Prisons, 320 First Street, NW, Washington, DC 20534. Your appeal must be received in the Office of General Counsel within 3 days from the date of this response.

5-2-11

Date


Michael K. Nalley, Regional Director

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

From: <u>McGowan, Daniel G</u>	<u>6374-053</u>	<u>D</u>	<u>Terre Haute-FCI</u>
LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

Part A- INMATE REQUEST

As my attached Bp 8 adequately describes my grievance, I will only summarize it here. The February 24, 2011 redesignation and transfer to the CMU violates my procedural due process rights since I have not received a meaningful explanation for this. The communication restrictions are cruel and unusual and violate my First Amendment right to free association. The Notice of Transfer given to me is wholly inadequate + repeats falsehoods contradicted by my own PSR 1) I was never a "leader" of ELF or AIF 2) I did not destroy an energy facility 3) I did not teach others to commit arson. Furthermore, the allegation made; that I attempted "to circumvent communication monitoring policies, specifically those governing attorney-client correspondence" is remarkably vague. To the extent I have tried to obtain documents relevant to my pending civil litigation from my attorneys, that is legitimate and protected communication and cannot form the basis for redesignation to the CMU. My request is that you transfer me to general population here at Terre Haute or perhaps Region/DSSC to transfer me back to general population at USP Marion. Thank you.

3/9/11 (Attached is Bp 8)

Daniel McGowan
SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE

WARDEN OR REGIONAL DIRECTOR

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

SECOND COPY: RETURN TO INMATE

CASE NUMBER: 630732-41

CASE NUMBER: _____

Part C- RECEIPT

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

SUBJECT: _____

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)



Remedy No.: 630732-F1

FCC Terre Haute, IN

PART B - RESPONSE

This is in response to your Administrative Remedy receipted on March 16, 2011, in which you allege your transfer to the Communication Management Unit (CMU) violates your procedural due process rights. You state you have not received a meaningful explanation. As relief, you request to be transferred to general population.

A review of your request reveals you were designated to the CMU at the Federal Correctional Institution, Terre Haute, Indiana, on February 22, 2011. You arrived on February 24, 2011, for program participation in the unit. Prior to your placement in the CMU, you were provided with documentation which supports your transfer, which included your current convictions of arson, destruction of an energy facility, attempted arson, and conspiracy to commit arson. Further, you have been identified with groups considered domestic terrorist organizations, and your offense conduct included communicating in code and teaching others how to commit crimes of arson. Additionally, your incarceration conduct includes attempts to circumvent communication monitoring policies, specifically those governing attorney-client privileged correspondence. Consequently, your contacts with persons in the community require heightened controls and review.

Therefore, your Request for Administrative Remedy is denied.

If you are dissatisfied with this response, you may appeal to the Regional Director, Federal Bureau of Prisons, Gateway Complex, Tower II, 8th Floor, 4th & State Ave., Kansas City, Kansas 66101. Your appeal must be received within 20 calendar days of the date of this response.

3-30-11

Date



Charles L. Lockett, Warden

Attachment 1
THX-1330.13K

FEDERAL CORRECTIONAL COMPLEX
TERRE HAUTE, INDIANA
INFORMAL RESOLUTION FORM

Inmate Name: McGowan Reg. No. 63794-053
Unit: CMU

NOTICE TO INMATE: You are advised normally prior to filing a Request for Administrative Remedy, BP-2999(13), you **must** attempt to informally resolve your complaint through your Correctional Counselor. Please follow the steps listed below:

1. **State your complaint:** On February 24, 2011, I was redesignated to the CMU at Terre Haute after four months in general population. As I still have not received any meaningful explanation of my designation to the CMU, that designation violates my procedural due process rights. The limitations on telephone calls and visits, including the ban on cruel and unusual, and also violate
(continued on p 2)

(If more space is needed, you may use up to one letter size (8 1/2 x 11) continuation page. You must also submit one copy of supporting exhibits. (Exhibits will not be returned with the response to the BP-229(13) responses.))

2. **State what actions you have made to informally resolve your complaint:** I asked unit staff why I was sent here upon my arrival.
3. **State what resolution you expect:** I am requesting redesignation to general population, preferably back to USP Marion or an appropriate prison close to my release location.

Inmate's Signature: [Signature] Date: 3/8/11

Correctional Counselor's Comments (Steps to Resolve):

This matter/issue - you and your legal council are already in litigation over. Additionally you were provided with the Notice dated 2/24/2011 another copy is attached...

Counselor's Signature: [Signature] Date: 3/8/11
Unit Manager's Review: [Signature] Date: 3/10/11
Informally Resolved: [Signature] Date: _____

	BP-8 ISSUED	BP-8 RETURNED	BP-9 ISSUED	BP-9 RETURNED
DATE	2/28/11	3/8/11	3/9/11	3/10/11
TIME	1230	1230	1230	1230
COUNSELOR	<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>

MAR

Daniel McGowan 63794-053

TerreHawk CMU cell D-48

3/8/2011 p 2

my first amendment right to free association, as they are unconnected to any legitimate penological purpose. My ability to engage in lawful political speech is similarly burdened. The restrictions at the CMU also burden my ability to maintain relationships with my family in violation of my right to substantive due process.

The minimal reasons for my redesignation that were provided to me in my Notice of Transfer are verifiably untrue. I was never a "leader" of ELF or ALF. I did not destroy an energy facility, nor did I teach others to commit crimes of arson. Furthermore, the allegation that I have attempted "to circumvent communication monitoring policies, specifically those governing attorney-client privileged correspondence," is so vague that I have no way to know or rebut its basis. To the extent that I have tried to obtain documents relevant to my pending civil litigation from my attorneys, that is perfectly legitimate and legally-protected communication and cannot form the basis for my redesignation to the CMU.

Designating me to the CMU in retaliation for my lawful attempt to gain relevant information from my attorney burdens and chills my fundamental right to access counsel, and the courts, and prejudices my ability to work with and seek advice from my counsel, in violation of the Fifth and First Amendment.

Judgment in a Criminal Case
Sheet 1

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION**

UNITED STATES OF AMERICA

**JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)**

-vs-

Case Number CR 06-60124-1-AA

DANIEL GERARD MCGOWAN,

U.S. Marshal No. 63794-053

Amanda Lee & Jeffery Robinson,
Defendant's Attorneys

The defendant pleaded guilty to Counts 1 through 15 of the Information. Accordingly, the court has adjudicated that the defendant is guilty of the following offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC § 371	Conspiracy to Commit Arson and Destruction of an Energy Facility	beginning in October 1996 & continuing through October 2001	1
18 USC § 844(i) & 2	Arson	beginning on January 2, 2001 & continuing through May 21, 2001	2, 4 through 15
18 USC § 844(i) & 2	Attempted Arson	on May 21, 2001	3

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

Defendant shall pay a special assessment in the amount of \$1,500 for Counts 1 through 15 payable immediately to the Clerk of the US District Court, 405 East Eighth Avenue, Suite 2100, Eugene, OR 97401.

IT IS ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

Date of Imposition of Sentence:
June 4, 2007


ANN AIKEN, U.S. DISTRICT JUDGE

Dated this 5 day of June, 2007.

Judgment in a Criminal Case
Sheet 2

MCGOWAN, DANIEL GERARD
CR 06-60124-1-AA

2 of 5

IMPRISONMENT

As to Count 1, the defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **sixty (60) months**. As to Counts 2 through 15, the defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **eighty-four (84) months, concurrent with the sentence imposed in Count 1 and with each other.** *

The court makes the following recommendation to the Bureau of Prisons: Commitment to a minimum or low security facility with a preference at FCI, Ft. Dix, NJ for family purposes, if the defendant is otherwise qualified as determined by the policies of the Bureau of Prisons.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before **noon on Monday, July 2, 2007.**

* **The Bureau of Prisons will determine the amount of prior custody that may be credited towards the service of sentence as authorized in Title 18 U.S.C. § 3585(b) and the policies of the Bureau of Prisons.**

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By: _____
Deputy U.S. Marshal

Judgment in a Criminal Case
Sheet 3

MCGOWAN, DANIEL GERARD
CR 06-60124-1-AA

3 of 5

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **three (3) years**.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the Standard Conditions of Supervised Release that have been adopted by this court as set forth below. The defendant shall also comply with the additional Special Conditions of Supervision as set forth below.

SPECIAL CONDITIONS OF SUPERVISED RELEASE

1. The defendant shall cooperate in the collection of DNA as directed by the probation officer if required by law.
2. The defendant shall pay full restitution to the victims identified in this Judgment in the amount of \$1,944,003.82, joint and several with Kevin Tubbs, Case No. CR 06-60070-1-AA; Chelsea Gerlach, Case No. CR 06-60079-1-AA and CR 06-60122-1-AA; Suzanne Savoie, Case No. CR 06-60080-1-AA; Stanislas Meyerhoff, Case No. CR 06-60078-1-AA and CR 06-60122-2-AA; Nathan Block, Case No. CR 06-60123-1-AA; and Joyanna Zacher, Case No. CR 06-60126-1-AA. If there is any unpaid balance at the time of release from custody, it shall be paid at the maximum installment possible and not less than \$200 or 10% of gross income per month, whichever is greater.
3. The defendant is prohibited from incurring new credit charges or opening additional lines of credit without the approval of the probation officer.
4. The defendant shall authorize release to the US Probation Officer any and all financial information by execution of a release of financial information form, or by any other appropriate means, as directed by the probation officer.
5. The defendant shall participate in a mental health treatment program approved by the probation officer.
6. The defendant's employment shall be subject to approval by the probation officer.
7. The defendant shall disclose all assets and liabilities to the probation officer. The defendant shall not transfer, sell, give away, or otherwise convey any asset with a fair market value in excess of \$500.00 without the approval of the probation officer.
8. The defendant shall have no contact with individuals known to be involved or have been involved in any illegal environmental or animal rights activism.
9. The defendant shall not participate in any illegal environmental or animal rights activism or belong to any groups or organizations whose primary purpose is environmental and animal rights activism.

STANDARD CONDITIONS OF SUPERVISED RELEASE

The Judges of the District of Oregon adopt the following standard conditions of probation and supervised release to apply in every case in which probation and/or supervised release is imposed upon a defendant. The individual judge may impose other conditions deemed advisable in individual cases of probation or supervised release supervision, as consistent with existing and future law.

1. The defendant shall report in person to the probation office for the district to which he or she is released within 72 hours of release from the custody of the Bureau of Prisons.

Judgment in a Criminal Case

Sheet 4

MCGOWAN, DANIEL GERARD

4 of 5

CR 06-60124-1-AA

2. The defendant shall not commit another federal, state or local crime and shall not illegally possess a controlled substance. Revocation of probation or supervised release is mandatory for illegal possession of a controlled substance.
3. The defendant shall not possess a firearm, destructive, or dangerous device.
4. If the defendant illegally uses drugs or abuses alcohol, has a history of drug or alcohol abuse, or drug use or possession is determined to be an element of the defendant's criminal history or instant offense, the defendant shall participate in a substance abuse treatment program as directed by the probation officer which may include urinalyses testing to determine if the defendant has used drugs or alcohol. In addition to urinalysis testing that may be part of a formal drug treatment program, the defendant shall submit up to eight (8) urinalysis tests per month.
5. The defendant shall submit to a search of his/her person, residence, office or vehicle, when conducted by a United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of supervision. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.
6. The defendant shall not leave the judicial district without the permission of the court or probation officer.
7. The defendant shall report to the probation officer as directed by the court or probation officer, and shall submit a truthful and complete written report within the first five days of each month.
8. The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer. The defendant may decline to answer inquiries if a truthful response would tend to incriminate him/her. Such a refusal to answer may constitute grounds for revocation.
9. The defendant shall support his/her dependents and meet other family responsibilities to the best of his/her financial ability.
10. The defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons.
11. The defendant shall notify the probation officer **within 72 hours** of any change in residence or employment.
12. The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, even as prescribed by a physician. If at any time, the probation officer has reasonable cause to believe the defendant is using illegal drugs or abusing alcohol, the defendant shall submit to urinalysis testing, breathalyzer testing, or reasonable examination of arms, neck, face and lower legs.
13. The defendant shall not knowingly frequent places where controlled substances are illegally sold, used, distributed, or administered.
14. The defendant shall not knowingly associate with any persons engaged in criminal activity, and shall not knowingly associate with any person convicted of a felony, unless granted permission to do so by the probation officer.
15. The defendant shall permit a probation officer to visit him/her at any reasonable time at home or elsewhere, and shall permit confiscation of any contraband observed in plain view by the probation officer.
16. The defendant shall notify the probation officer **within seventy-two (72) hours** of being arrested or questioned by a law enforcement officer.
17. The defendant shall not enter into any agreement to act as an informant or a special agent of a law enforcement agency without the permission of the court.
18. As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by his or her criminal record or personal history and characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such a notification requirement. This requirement will be exercised only when the probation officer believes a reasonably foreseeable risk exists or a law mandates such notice. Unless the probation officer believes the defendant presents an immediate threat to the safety of an identifiable individual, notice shall be delayed so the probation officer can arrange for a court hearing and the defendant can obtain legal counsel.

Judgment in a Criminal Case

Sheet 5

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CR 06-60124-1-AA

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth in this judgment.

<u>Fine</u>	<u>Restitution</u>	<u>TOTAL</u>
\$0	\$1,944,003.82	\$1,944,003.82

The defendant shall make restitution to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all non-federal victims must be paid in full prior to the United States receiving payment.

<u>Name of Payee</u>	<u>Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage of Payment</u>
ACE, USA 500 Colonial Cntr Parkway, Suite 200 Roswell, GA 30075	\$944,591.40	\$944,591.40	
Superior Lumber Company 2695 Glendale Valley Rd. Glendale, OR 97	\$5,000	\$5,000	
Commercial Union Insurance Co. PO Box 25967 Overland Park, KS 66210	\$266,493.26	\$266,493.26	
Jefferson Poplar Farm 79114 Collins Road Clatskanie, OR	\$727,919.16	\$727,919.16	
<u>TOTALS</u>	<u>\$1,944,003.82</u>	<u>\$1,944,003.82</u>	

The Court has determined that the defendant does not have the ability to pay interest, and it is ordered that the interest requirement is waived for the \$1,944,033.82 restitution.

The defendant shall pay full restitution to the victims identified in this Judgment in the amount of \$1,944,003.82, joint and several with Kevin Tubbs, Case No. CR 06-60070-1-AA; Chelsea Gerlach, Case No. CR 06-60079-1-AA and CR 06-60122-1-AA; Suzanne Savoie, Case No. CR 06-60080-1-AA; Stanislas Meyerhoff, Case No. CR 06-60078-1-AA and CR 06-60122-2-AA; Nathan Block, Case No. CR 06-60123-1-AA; and Joyanna Zacher, Case No. CR 06-60126-1-AA. If there is any unpaid balance at the time of release from custody, it shall be paid at the maximum installment possible and not less than \$200 or 10% of gross income per month, whichever is greater.

Any payment shall be divided proportionately among the payees named unless otherwise specified.

*Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994 but before April 23, 1996.