

FILED

MAY 26 2015

CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY CAJ
DEPUTY CLERK

Plaintiff's Name: Victor C. Fourstar, Jr.
Reg. No: 07418-046, Federal Correctional Institution
Address: P.O. Box 7007
Marianna, Florida 32447-7007

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA FRESNO DIVISION

VICTOR CHARLES FOURSTAR, JR.,)
Plaintiff,)
vs.)
RICHARD MARTINEZ, ET AL.,)
Defendant(s).)

APPLICATION TO PROCEED
IN FORMA PAUPERIS
BY A PRISONER IN BIVENS-RICO
COMPLAINT PURSUANT TO 28 U.S.C. §1915(g)
CASE NUMBER:
(To Be Assigned By Clerk)

1:15 CV - 00792 - DLB PC

I, Victor C. Fourstar, Jr., declare that I am the plaintiff in the above-entitled proceeding; that, in support of my request to proceed without prepayment of fees under 28 U.S.C. section 1915, I declare that I am unable to pay the fees for these proceedings or give security therefor and that I am entitled to the relief sought in the complaint.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated? Yes No (If "no" DO NOT USE THIS FORM)

If "yes" state the place of your incarceration. F.C.I. - Marianna, P.O. Box 7007, Marianna, FL 32447

Have the institution fill out the Certificate portion of this application and attach a certified copy of your prison trust account statement showing transactions for the past six months. See attached Certificate of Inmate Account dated May 20, 2015 and Print-out of Inmate Account dated May 20, 2015.

2. Are you currently employed (includes prison employment)? Yes No

a. If the answer is "yes" state the amount of your pay. \$ 0.00

b. If the answer is "no" state the date of your last employment, the amount of your take-home salary or wages and pay period, and the name and address of your last employer.

N/A

3. Have you received any money from the following sources over the last twelve months?

a. Business, profession, or other self-employment: Yes No

b. Rent payments, interest or dividends: Yes No

c. Pensions, annuities or life insurance payments: Yes No

- d. Disability or workers compensation payments: ___ Yes No
- e. Gifts or inheritances: ___ Yes No
- f. Any other sources: ___ Yes No

If the answer to any of the above is "yes," describe by that item each source of money. Also state the amount received and what you expect you will continue to receive. Please attach an additional sheet if necessary. *N/A*

4. Do you have cash (includes balance of checking or savings accounts)? ___ Yes No

If "yes" state the total amount: *N/A*

5. Do you own any real estate, stocks, bonds, securities, other financial instruments, automobiles or other valuable property? ___ Yes No

If "yes" describe the property and state its value: *N/A*

6. Do you have any other assets? ___ Yes No

If "yes," list the asset(s) and state the value of each asset listed: *N/A*

7. List all persons dependent on you for support, stating your relationship to each person listed and how much you contribute to their support. *N/A*

8. *I declare that I am currently in imminent danger of serious physical injury as a result of the defendant(s) deliberate indifference to the medical and dental acts and deprivations complained of herein and at my current facility FCI-Marianna, Florida. See, Mot. to Proc. IFP 31915(a).*

I hereby authorize the agency having custody of me to collect from my trust account and forward to the Clerk of the United States District Court payments in accordance with 28 U.S.C. section 1915(b)(2).

May 20, 2015
DATE

[Signature]
SIGNATURE OF APPLICANT

CERTIFICATE

(To be completed by the institution of incarceration)

I certify that the applicant named herein has the sum of \$ _____ on account to his/her credit at _____ (name of institution). I further certify that during the past six months, the applicant's average monthly balance was \$ _____. I further certify that during the past six months, the average of monthly deposits to the applicant's account was \$ _____.

(Please attach a certified copy of the applicant's trust account statement showing transactions for the past six months).

DATE

SIGNATURE OF AUTHORIZED OFFICER

Victor C. Fourstar, Jr. # 07418-046
Federal Correctional Institution
P.O. Box 7007
Marianna, Florida 32447-7007
PLAINTIFF PRO SE

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA FRESNO DIVISION

VICTOR CHARLES FOURSTAR, JR., Plaintiff,	CASE NO. _____ (To Be Assigned By Clerk of Court)
v.	MOTION AND APPLICATION TO PROCEED IN FORMA PAUPERIS IN BIVENS-RICO COMPLAINT PURSUANT TO IMMINENT DANGER OF SERIOUS PHYSICAL INJURY EXCEPTION TO "3-STRIKES"
RICHARD MARTINEZ, ET AL., Defendant(s).	PROVISION OF 28 U.S.C. § 1915(g)

COMES NOW the Plaintiff Victor C. Fourstar, Jr., acting pro se with MOTION AND APPLICATION TO PROCEED IN FORMA PAUPERIS IN BIVENS-RICO COMPLAINT PURSUANT TO IMMINENT DANGER OF SERIOUS PHYSICAL INJURY EXCEPTION TO "3-STRIKES" PROVISION OF 28 U.S.C. § 1915(g) [attached]

FACTS IN SUPPORT

1. On or about March 20, 2014 the Plaintiff-movant Victor C. Fourstar, Jr. (Fourstar) sought orthopediatric knee surgery for both his right and left (knees) with case at bar defendant and Dr. Andrew Pecovas at U.S.P. - Atwater, Ca. On July 15, 2014 U.S.P. Atwater, Ca. P.A. Anne Egan acknowledged that Fourstar had a duly sought right and left knee surgeries, but only after Fourstar had lodged his prison administrative remedy BP-9 in Rem. 2D. # 782106-F1 against Dr. Pecovas and P.A. Egan on July 1, 2014. On May 12, 2015 at FCI-Marianna, FL. Fourstar filed prison administrative remedy BP-9 against FCI-Marianna, FL. Associate Warden Secretary Mrs. Tal-

Kson complaining of her failure to supply a Atwater, Ca. USP - BP-9 Response in Rem. ID. # 782106-FL (a Remedy complaining of defendant(s) Pecar and Egans failure to supply Knee surgeries to Fawstar's left and right knee and failure to provide dental care. See, APPENDIX 1

2. On May 12, 2015 Fawstar mailed a letter to Federal Bureau of Prisons Southeast Regional Counsel Ms. Sunderman complaining via federal Administrative tort Claim # TRT-SER-2015-03653 of FCI-Marianna, FL. medical administrator(s) acting outside standard operating procedures by failing to provide medical and dental care to Fawstar's serious medical and dental needs i.e., failure to provide Fawstar with left and right knee surgeries, and failure to provide dental care to Fawstar's upper front tooth and back lower right wisdom tooth. See, APPENDIX 2

3. On May 19, 2015 Fawstar filed a prison administrative remedy BP-9 at FCI-Marianna, FL. complaining of Dr. Archer and Nurse Practitioner Ms. Alexander's failure to provide Fawstar with knee surgery for his left and right knees (s) [see, APPENDIX 3], and failure to provide Fawstar with dental care for his front upper tooth and lower right wisdom tooth # 32. See, APPENDIX 4

4. On July 31, 2014 Fawstar filed a prison administrative remedy BP-8 at USP-Atwater, Ca. complaining of prison administrator's failure to supply him with legal indigent postage and/or afford him the ability to access his frozen inmate account so that he could purchase his own postage. See, AFFIDAVIT at Decl. # 1

5. On August 19, 2014 Fawstar filed a motion to stay mandate declaring the on-going common scheme to delay the supply of his Sixth Circuit U.S. Court of Appeals disposition and MANDATE in case at bar Fawstar v. Farley that impeded his ability to timely stay mandate, and ultimately impeded his ability to motion stay Issuance of the Mandate Pursuant To Fed. R. App. P. Rule 41 (d)(2)(D) after the U.S. Supreme Court refused to hear his Petition for Rehearing in Fawstar v Farley. See, AFFIDAVIT at Declaration # 2 ; And see, APPENDIX(S)

#7 (April 20, 2015 U.S. Supreme Court Clerk Order denying Petition For Rehearing); And #8 (May 5, 2015 Sixth Circuit U.S.C.A. case manager letter Re: Stay Issuance of Mandate Pursuant To Fed. R. App. P. Rule 41(d)(2)(D)!

6. Fourstar is currently in imminent danger serious physical injury. AFFIDAVIT@ Decl. #3

ARGUMENT

This is a Motion and Application To Proceed In Forma Pauperis in the attached Bivens - RKO Complaint Fourstar v. Martinez, et al. pursuant to the imminent danger of serious physical injury exception to the "3-strikes" provision of 28 U.S.C. § 1915(g).

Because Fourstar has "3-strikes" he may proceed in forma pauperis only if he "is under imminent danger of serious physical injury." See, 28 U.S.C. § 1915(g). Fourstar must be in imminent danger at the time of filing. See, Ashley v. Dilworth, 147 F.3d 715, 717 (8th Cir. 1998); Banos v. O'Brien, 144 F.3d 883, 885 (5th Cir. 1998). Allegations that Fourstar faced imminent danger in the past are not enough. See, Ashley, 147 F.3d at 717.

Plaintiff-movant Fourstar does not merely disagree with the specific treatment he has received and is receiving, rather Fourstar's foregoing supporting facts, documents and declarations clearly establish that he is receiving no medical care for his serious medical needs for his left and right (knees) from mid-2011 through the present, and for his front upper tooth and lower back wisdom tooth #32. Fourstar's current medical deprivations has resulted in a severe work related injury to his left knee as a result of his deteriorated knee condition and causing his right knee to swell and throb and is resulting in his current inability to walk without crutches and cane. And Fourstar's current dental care deprivations has resulted in his severe pain, inability to eat and properly digest his food, danger of his abscessed tooth #32 leaking poison to his brain causing death. Fourstar has shown that he is in imminent danger at the time of his instant filing of complaint Fourstar v. Martinez, et al. - See, Ashley at 715.

Fourstar should be allowed to proceed in forma pauperis pursuant to the imminent danger of serious physical injury exception to the "3-strikes" provision of 28 U.S.C. § 1915(g) and the Prison Litigation Reform Act.

WHEREFORE the Plaintiff-movant Fourstar respectfully moves this Court to grant his motion

and Application To Proceed *In Forma Pauperis* in the attached Federal Bivens-RICO Complaint *Fourstar v. Martinez, et al.* pursuant to the imminent danger of serious physical injury exception to "3-strikes" provision of 28 U.S.C. § 1915(g), and other relief appropriate under law.

Executed on this 20th day of May, 2015. ~~Victor C. Fourstar, Jr.~~
VICTOR C. FOURSTAR, JR.

CERTIFICATE OF SERVICE

I, Victor C. Fourstar, Jr., hereby swear and certify under penalty of perjury 28 U.S.C. § 1746 that I mailed this original MOTION AND APPLICATION TO PROCEED IEP AND BIVENS-RICO COMPLAINT on this 20th day of May, 2015 by pre-paid First Class Postage through F.C.I. - Marianna, FL. legal mail procedures (*Houston v. Lack*, 487 U.S. 266 (1988)) to the following: Office of the Clerk, United States District Court for the Eastern District of California, 2500 Tulare Street, Room 1501, U.S. Courthouse Building, Fresno, California 93721-1318

Attached, May 20, 2015 Certificate of Inmate Account & Print-out of Inmate Account

AFFIDAVIT

I, Victor C. Foustar, Jr., hereby swear and declare that the following facts and evidence to be true and correct to the best of my knowledge and belief under the pains and penalties of perjury pursuant to 28 U.S.C. § 1746:

1.) On July 31, 2014 at U.S.P. - Atwater, Ca. I filed a prison administrative remedy BP-8 with my case manager Mr. Cole complaining of U.S.P. - Atwater, Ca. Counselor Mr. Scott's failure to supply me with Legal Indigent Postage and/or afford me the ability to access my inmate account that has been frozen since June, 2005 - Present. On August 26, 2014 Counselor Scott acknowledged receiving my July 31, 2014 filed BP-8 RE: Denial of Access to Legal & Regular Postage (a date the institution came off lock-down after being on complete institutional lock-down since August 17, 2014), but failed to supply a BP-8 Response and caused me the inability to timely file a motion to stay mandate until August 19, 2014 in the Sixth Circuit U.S. Court of Appeals in my federal Writ of Habeas Corpus under 28 U.S.C. § 2241 Victor C. Foustar, Jr. v. Robert Farley, Warden, 6th Cir., No. 13-5669 (U.S. Supreme Court, case No. 14-5501). I have since been impeded in my ability to exhaust this issue via prison administrative remedy procedure as demonstrated in my three (3) prison administrative remedy BP-9(s) that I filed on May 12, 2015 with FCZ - Marianna, FL - Counselor Mr. Scoggins [see, APPENDIX (S) 1, 5, and 6];

2.) On February 12, 2014 @ 8:30 A.M. at Oklahoma City, OK - Federal Transfer Center I filed via legal mail procedures a 'NOTICE OF TRANSFER AND CHANGE OF ADDRESS' and duly supplied my new address at USP - Atwater, Ca. with the Sixth Circuit U.S. Court of Appeals in my appeal of my federal Writ of Habeas Corpus (and with U.S. Supreme Court) in Victor C. Foustar, Jr. v. Robert Farley, 6th Cir., No. 13-5669 (U.S. Supreme Court, No. 14-5501). Despite these efforts, on July 30, 2014 I received the MANDATE from the Sixth Circuit USCA in Foustar v. Farley that was back-dated 14-days to July 16, 2014; a issuance of the MANDATE despite me already litigating my Petition For Writ

of Certiorari in the U.S. Supreme Court in Fourstar v. Farley, U.S. Supreme Court, No. 14-5501, as reflected in my June 10, 2014 'motion To Supplement Petition For Writ of Certiorari' (and its June 12, 2014 filed 'Notice of Constitutional Challenge' to SONRA, § 2254(d)(2), 18 U.S.C. §§ 16911(1) and 2250) in said case. In said Petition For Writ of Certiorari Fourstar v. Farley I duly filed a timely motion To Stay mandate from U.S.P.-Marion, IL. prior to my February 11, 2014 transfer from U.S.P.-Marion, IL. On August 19, 2014 in an overly abundance of caution I filed a motion To Stay the mandate in the Sixth Circuit U.S. Court of Appeals in Fourstar v. Farley, 6th Cir., No. 13-5669, and it was returned unfiled by the Sixth Circuit Clerk of Court because the mandate had already issued despite my declaration that the Sixth Circuit decision denying my Petition For Rehearing was delayed in its supply to me. On April 30, 2015 I filed a 'motion To Stay Issuance of the Mandate Pursuant To Fed. R. App. P. Rule 41(a)(2)(D)' in the Sixth U.S. Court of Appeals in Fourstar v. Farley, 6th Cir., No. 13-5669, and alleged a stay issuance of the mandate is warranted where the recent U.S. Supreme Court's holding in Maples v. Thomas, 132 S. Ct. 912, 181 L. Ed. 2d 807 (2012) constitutes an intervening change in the law that would warrant a significant change in result. In Maples, the Court held that abandonment by postconviction counsel could provide cause to excuse procedural default of a habeas corpus claim. Id. at 927. On May 5, 2015 in a unsigned letter by Sixth Circuit Case Manager Karen S. Fultz returned unfiled said April 30, 2015 filed 'motion To Stay Issuance of the mandate Pursuant To Fed. R. App. P. Rule 41(a)(2)(D)';

3.) my Appendix(s) # 1-4 demonstrate my current imminent danger of serious physical injury at FCI-Marianna, Florida, and my Appendix(s) # 5-6 demonstrate the cover-up of those medical care deprivations by FCI-Marianna, FL. administrator Ms. Jackson, et al. I bring this motion in good faith with belief I am entitled to relief.

Executed and sworn on this 20th day of May, 2015

Victor C. Fourstar, Jr.
VICTOR C. FOURSTAR, JR.

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

From: Foustar, Victor C. 07418-046 Creek A FCI-Marianna, FL
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - INMATE REQUEST On May 12, 2015 Counselor Scroggin delivered the "5-12-15" dated BP-8 Response in which he "did not receive a response", see, attached BP-8
on April 21, 2015 pursuant to FBOP Central Office's REJECTION NOTICE(s) in Rem. I.D. #782106-F1; Rem. I.D. #751627-A1; Rem. I.D. #78660-A4; and Rem. I.D. #780437-F2 (all said remedies supplied to ms. Jackson on April 21, 2015 by Creek-A C.M. Mr. Mitchell) (see, BP-8 Appendix (s) #1, 2, and 3). To date ms. Jackson has not supplied BP-9 Response in Rem. I.D. #782106-F1; Copy of all Remedy forms in Rem. I.D. #751627-A1 (because the remedies have fallen apart); Copy of all Remedy forms in Rem. I.D. #78660-A4; And verification from USP-Atwater, Ca, Counselor Scott that he supplied me with the BP-9 Response on August 15, 2014 in Rem. I.D. #780437-F2. I am requesting a Staff misconduct Investigation & sanctions and supply of the foregoing documents with memo outlining reason for delay, and a return of all said Remedy forms supplied to ms. Jackson.

May 12, 2015
DATE FILED

[Signature]
SIGNATURE OF REQUESTER

Part B - RESPONSE

Rem. I.D. #782106-F1 Denial of knee surgery at
USP-Atwater, Ca.

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

CASE NUMBER

Part C - RECEIPT

APPENDIX 1

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

SUBJECT: _____

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)



(May 12, 2015)

FILE COPY

Ms. Lisa M. Sunderman
Southeast Regional Counsel
Building 2000
3800 Camp Creek Parkway S.W.
Atlanta, Georgia 30331

RE: Administrative Claim # TRT-SER-2015-03653

Dear S.E. Regional Counsel Ms. Sunderman:

On May 12, 2015 F.C.I. - Marianna, FL. counselor Mr. Scroggin delivered your letter dated May 1, 2015 in the above referenced Administrative Tort Claim for the denial of dental care that has resulted in my continued abscessed tooth and severe pain and suffering.

Pursuant to your letter I am supplying a copy of records in my possession relating to this denial of dental care resulting in my injury to include: 1.) April 17, 2015 copy-out (w/ 4/22/15 response) by FCI-Marianna, FL. Dental [see, ATTACHMENT(S) #1 and 2]; 2.) May 12, 2015 Administrative Remedy BP-8 Re: Dental [ATTACHMENT #3]; And December 31, 2014 acknowledgment of receipt in Administrative Tort Claim # TRT-WXR-2015-01504 by Western Regional Counsel Mr. Dennis M. Wong that, in part, claims injury from dental care deprivations at VSP-Atxter, CA. resulting in the assignment of the Consolidated Legal Center. See, ATTACHMENT 4

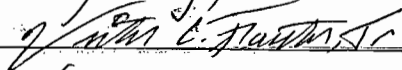
As my Administrative Tort claim in this matter reflects, on April 16, 2015 dental Dr. Venaley failed to provide any dental care for my front-upper tooth cavity and for my back lower right wisdom tooth(s). On April 17, 2015, Dental Dr. Dixon (both said doctors of FCI-Marianna, FL.) failed to provide any dental care for my front-upper cavity and for my lower right wisdom teeth. Dr. Venaley and Dr. Dixon acted outside standard operating procedures by failing to provide reasonable medical care to my serious medical

needs causing injury to my abscessed and cavity wisdom teeth and front-upper tooth resulting in pain, suffering and eventual loss of teeth.

Your attention in assisting me in correcting these deprivations and the assignment of the Consolidated Legal Center will be greatly appreciated.

Finally, on May 11, 2015 I filed an additional Administrative Tort claim with your office via certified mail # 7013 3020 0000 5774 8038 Re: Deprivations of Knee surgeries resulting in inability to walk, severe pain and suffering. A claim also addressed by CLC. see, ATTACHMENT #4. Please assign CLC in said matter also?

Very truly,



Victor C. Fouister, Jr.

CC; FILE

CLC

INMATE REQUEST TO STAFF CDFRM

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) <i>Dental Dept. - Dr. Dixon</i>	DATE: <i>April 17, 2015</i>
FROM: <i>Victor C. Forster, Jr.</i>	REGISTER NO.: <i>07418-046</i>
WORK ASSIGNMENT: <i>A#D</i>	UNIT: <i>Creek-A Unit cell #123</i>

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.

This is the cop-out you advised me today to submit in order to be placed on the list to have my teeth cleaned, a procedure you further advised was necessary before you would entertain a procedure of filling a cavity to my back lower right wisdom tooth (where no attention was given to my front upper tooth cavity). In light of the severe toothache(s) and pain that I am in (which I duly advised you of) I am requesting an expedited appointment to have my teeth cleaned so that I can receive dental care to my toothache(s)?

CC; FILE

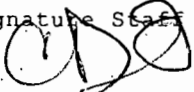
(Do not write below this line)

DISPOSITION:

*Copout answered on line AT sick call
4/21/15*

DENTAL UNIT
FCI, MARIANNA, FLORIDA 32446

LOCAL Policy Attached

Signature Staff Member 	Date <i>4/22/15</i>
---	------------------------

Record Copy - File; Copy - Inmate

ATTACHMENT 1

PDF

Prescribed by P5511

This form replaces BP-148.070 dated Oct 86 and BP-S148.070 APR 94

**BOP FCI/FPC Marianna
Local Dental Clinic Policy**

Dental Sick Call No COPOUT necessary (Copay \$2 each visit)
You must be in uniform for sick call

FCI Monday, Thursday, Friday

***6:45 AM** sign up promptly

FPC Tuesday

***6:45 AM** sign up promptly

SHU COPOUT Request Necessary, by appointment

***Late arrivals will not be honored**

For emergency relief of pain such as extractions, swelling, loose teeth, mouth sores, and or pain that is not relieved by over the counter medication.

Routine Dental Treatment COPOUT Necessary (Electronic preferred)

2 Missed appointments your name is removed from the treatment list.

Treatment in this category is non-emergency in nature and therefore is subject to BOP National Dental Policy.

Institutions will provide access to non-emergency dental care for sentenced inmates, as resources of staff, time and materials are available, and commensurate with the inmate's ability to maintain good oral health

2 Missed appointments your name is removed from the treatment list.

National Dental Wait List Facts

Your position on this list transfer with you to each BOP facility

You will be treated in order of received request

Treatments may include exams, x-rays, cleanings, fillings, root canals, **dentures.

****BOP Denture Policy**

The Bureau is not required to replace missing teeth, regardless of when or where the teeth were removed. Inmates with less than 6 months remaining on his sentence are ineligible

Dental Recalls (Cleanings) No Copay for recall exam and x-rays)

Once per year not every 12 months **if staff, time, materials are available.**

You will automatically be placed on recall after the initial cleaning is completed. There is no need to put in another COPOUT

**You are required to be a Co-Therapist, brushing and flossing 2-3x daily
Recommended toothpaste Colgate Total**

ATTACHMENT 2



U.S. Department of Justice

Federal Bureau of Prisons

Western Regional Office
7338 Shoreline Drive
Stockton, California 95219

December 31, 2014

Victor Fourstar
#07418-046
USP Atwater
P.O. Box 019001
Atwater, CA 95301

Re: Tort Claim No. TRT-WXR-2015-01504 Received: December 30, 2014

Dear Mr. Fourstar:

This is to acknowledge receipt of your claims that were submitted to or forwarded to this office under the provisions of the Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 2671, et seq. Upon review of the allegations, these claims have been consolidated for a total of \$40,000,000.00.

In accordance with the applicable provisions of the statute, this agency has up to six months from the date received in which to make a final determination of your administrative claim for damages. This time frame began on the date that your claim was received for filing and processing as noted above. Based on the location of your allegations, the following Consolidated Legal Center (CLC) will be handling your claim for investigation and response. Please note all future correspondence and change of address should reference the administrative claim number and be directed to the below:

David Huband
Supervisory Attorney
FCI Phoenix
37900 N. 45th Ave.
Phoenix, AZ 85086

Eli Ben-Shmuel
Supervisory Attorney
MDC Los Angeles
535 N. Alameda Street
Los Angeles, CA 90012

X Dominic Ayotte
Deputy Regional Counsel
Western Regional Office
7338 Shoreline Drive
Stockton, CA 95219

Sincerely,

DENNIS M. WONG
WESTERN REGIONAL COUNSEL

DMW/aen

ATTACHMENT 4

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

From: Foustas, Jr., Victor 02418-046 Creek-A FCI-Marianna, FL
LAST NAME FIRST MIDDLE INITIAL REG NO UNIT INSTITUTION

Part A - INMATE REQUEST on May 18, 2015 Counselor Scroggins delivered the attached photocopy of BP-8 Regarding request for right knee MRI, orthopedic consultation and surgery that Dr. Archer and Nurse Practitioner Alexander failed to ensure on April 3, 2015 and May 11, 2015, respectively. Mr. Scroggins also supplied the attached original BP-8 that doesn't contain medical Administrator Ms. Peit's BP-8 Response. Ms. Peit's BP-8 Response is contrary to her May 15, 2015 verbal response that I would not be considered for a right knee MRI, consultation and surgery because "You people are never satisfied" that the left knee has been submitted for consultation for orthopedic surgery. Moreover, Ms. Peit's response is designed to fail, as the Utilization Review Committee will not have the benefit of a updated MRI for my right knee on which to base their decision on. There is no basis for Ms. Peit's Assertion that she "Ensured inmate's medical issues were addressed." Indeed, the attached November 3, 2011 Right Knee MRI (APPENDIX D) is outdated. I am requesting a staff misconduct investigation and sanctions, a updated right knee MRI and right knee orthopedic consultation and surgery for both my left and right knee(s).

May 19, 2015
DATE FILED

[Signature]
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.

ORIGINAL RETURN TO INMATE _____ CASE NUMBER _____

Part C - RECEIPT

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

SUBJECT _____

DATE _____ RECIPIENT'S SIGNATURE (STAFF MEMBER) _____



Federal Bureau of Prisons

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

From: Foustev Victor C. 07418-046 CREEK A FBI-Marianna, FL
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - INMATE REQUEST on May 14, 2015 Counselor Scroggin supplied the attached original BP-8 (that contains no BP-8 Response), and supplied the attached photocopy of BP-8 (that contains the Dental Dept. BP-8 Response i.e. a photocopy of Dental Dept. BP-8 Response). The photocopy of the BP-8 Response fails to deny my allegation that Dr. Veasley and Dr. Dixon failed to "provide any dental care for my front upper cavity". See, BP-8. The photocopy of the BP-8 Response further fails to state the extent of the needed dental care for tooth # 32, as the extent clearly constitutes "serious medical need" as can be verified from the X-Rays taken on April 16, 2015. The BP-8 Response further deceitfully claims that on April 16, 2015 Dr. Veasley conducted a dental exam, she did not. Dr. Veasley kicked me out of the dental office before she conducted a dental exam (other than a ink pad on tooth # 32), a non-existent procedure that Dr. Dixon basis his "findings" on, thus my refusal to "sign form".
I am requesting a staff misconduct investigation and sanctions, and I am requesting reasonable medical care for my front upper tooth cavity and required medical care for my tooth # 32.

May 19, 2015
DATE FILED

[Signature]
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.

ORIGINAL: RETURN TO INMATE _____ CASE NUMBER _____
_____ CASE NUMBER _____

Part C - RECEIPT

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

SUBJECT _____

DATE _____ RECIPIENT'S SIGNATURE (STAFF MEMBER) _____



Federal Bureau of Prisons

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

From: Foust, Victor C. 07418-046 Creek A FCI-Marianna, FL
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - INMATE REQUEST: On May 12, 2015, counselor Scroggin delivered the "5-12-15" dated BP-8 Response in which he "did not receive a response". See, attached BP-8

On April 18, 2015 pursuant to FBOP Central Office's 3/16/15 REJECTION NOTICE I submitted a Cop-out (see, BP-8 Appendix 1) via Counselor Scroggin requesting for Ms. Jackson to supply USP Atwater, Ca.'s BP-9 Response in Rem. ID. # 795204-A1 (Re: UDC Appeal). On May 4, 2015 Mr. Scroggin's returned said Cop-out & Remedy stating Ms. Jackson was working "on several (things) for" me. To date Ms. Jackson has not supplied the requested relief in Appendix 1.

I am requesting a staff misconduct investigation and sanctions and for a copy of BP-9 Response in Rem. ID. # 795204-A1.

May 12, 2015
DATE FILED

[Signature]
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.

ORIGINAL RETURN TO INMATE

CASE NUMBER

CASE NUMBER

Part C - RECEIPT

APPENDIX 5

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

SUBJECT: _____

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)



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

From: *Forster, Victor C.* *07418-046* *CREEK A* *FCI-Marianna, FL*
LAST NAME - FIRST - MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - INMATE REQUEST *On May 12, 2015, counselor Scroggin delivered the "5-12-15" dated BP-8 Response in which he "did not receive a response", see, attached BP-8*

On April 20, 2015, pursuant to FBOP Central Office's RETENTION NOTICE(S) in Rem. I.D. # 780402-AZ (Re: Legal Files Deprivations) and in Rem. I.D. # 780402-A1 (Re: Legal Files Deprivations), I requested for Ms. Jackson to supply BP-9 Responses in said Rem. I.D. #'s. On April 24, 2015, Ms. Jackson supplied the former, but not the latter.

I am requesting a staff misconduct investigation and sanctions and supply of BP-Response in Rem. I.D. # 78042-A1 with memo outlining reason for delay in services.

May 12, 2015
DATE FILED

[Signature]
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.

ORIGINAL: RETURN TO INMATE _____ CASE NUMBER _____

_____ CASE NUMBER _____

Part C - RECEIPT
Return to: _____ UNIT _____ INSTITUTION _____
LAST NAME - FIRST - MIDDLE INITIAL REG. NO.

SUBJECT: _____

DATE _____ RECIPIENT'S SIGNATURE (STAFF MEMBER) _____



Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

April 20, 2015

Mr. Victor Charles Fourstar, Jr.
Prisoner ID 07418-046
PO Box 019001
Atwater, CA 95301

Received on 4/30/15
by cert. legal mail
procedures @ 2:45 PM
Mot. To stay issuance of mandate
filed on 4/30/15 @ 2:00 PM

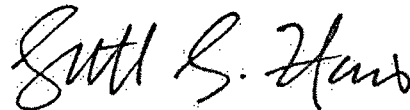
Re: Victor Charles Fourstar, Jr.
v. Robert Farley, Warden
No. 14-5501

Dear Mr. Fourstar:

The Court today entered the following order in the above-entitled case:

The petition for rehearing is denied.

Sincerely,



Scott S. Harris, Clerk

- 1.) Federal
- 2.) State
- 3.) State legal malpractice complaint

4th v. Zeanyer

- a.) 4th v. Boyd
- b.) 4th v. Ness
- c.) § 2255

APPENDIX 7

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

100 EAST FIFTH STREET, ROOM 540
POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202-3988

Deborah S. Hunt
Clerk

Tel. (513) 564-7000
www.ca6.uscourts.gov

Filed: May 05, 2015

*Received on May 8, 2015
by regular mail*

Mr. Victor Charles Fourstar, Jr.
F.C.I. Marianna
P.O. Box 7007
Marianna, FL 32447

Re: Case No. 13-5669, *Victor Fourstar, Jr. v. Robert Farley*
Originating Case No. : 7:12-cv-00124

Dear Mr. Fourstar:

Please be advised that the mandate was issued on July 16, 2014, and therefore cannot be stayed. Your motion to stay the issuance of the mandate is being returned, unfiled. No further action will be forthcoming on this matter.

Sincerely yours,

s/Karen S. Fultz
Case Manager
Direct Dial No. 513-564-7036

Enclosure

APPENDIX 8

CERTIFICATE OF INMATE TRUST ACCOUNT

I, M. Scroggins, the undersigned authorized officer of the
Federal Correctional Institution – Marianna, 3625 FCI Road, Marianna Florida 32446

where Victor C. Forster, Jr., inmate No. 07418-046,

is confined as a prisoner, do hereby certify that:

1) On this day the prisoner has in his account the sum of \$ 31.94.

2) During the past six months, the prisoner's:

Average monthly balance was \$ 29.94.

Average monthly deposits to the prisoner's account were \$ 2.16.

Attached is a certified copy of the prisoner's trust account statement (or
institutional equivalent) showing transactions for the past six months.

Signed this 20 day of May, 2015.

M Scroggins Counselor
Authorized Officer

FCI Marianna
Institution of Confinement

Inmate Inquiry



Inmate Reg #:	07418046	Current Institution:	Marianna FCI
Inmate Name:	FOURSTAR, VICTOR	Housing Unit:	MNA-C-A
Report Date:	05/20/2015	Living Quarters:	C01-123LH
Report Time:	2:05:53 PM		

[General Information](#) |
 [Account Balances](#) |
 [Commissary History](#) |
 [Commissary Restrictions](#) |
 [Comments](#)

General Information

Administrative Hold Indicator: No
 No Power of Attorney: No
 Never Waive NSF Fee: No
 Max Allowed Deduction %: 100
 PIN: 6518
 PAC #: 392171373
 Revalidation Date: 25th
 FRP Participation Status: Completed
 Arrived From: TAL
 Transferred To:
 Account Creation Date: 3/11/2003
 Local Account Activation Date: 4/2/2015 3:14:34 AM

 Sort Codes:
 Last Account Update: 5/15/2015 8:34:42 AM
 Account Status: Active
 Phone Balance: \$0.00

Pre-Release Plan Information

Target Pre-Release Account Balance: \$0.00
 Pre-Release Deduction %: 0%
 Income Categories to Deduct From:
 Payroll
 Outside Source Funds

FRP Plan Information

FRP Plan Type	Expected Amount	Expected Rate
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Account Balances

Account Balance: \$31.94
 Pre-Release Balance: \$0.00
 Debt Encumbrance: \$31.78
 SPO Encumbrance: \$0.00
 Other Encumbrances: \$0.00
 Outstanding Negotiable Instruments: \$0.00

Administrative Hold Balance: \$0.00
 Available Balance: \$0.16
 National 6 Months Deposits: \$2.16
 National 6 Months Withdrawals: \$0.00
 Available Funds to be considered for IFRP Payments: (\$447.84)
 National 6 Months Avg Daily Balance: \$29.94
 Local Max. Balance - Prev. 30 Days: \$31.94
 Average Balance - Prev. 30 Days: \$30.75

Commissary History

Purchases

Validation Period Purchases: \$0.00
 YTD Purchases: \$0.00
 Last Sales Date: No Comm Sales

SPO Information

SPO's this Month: 0
 SPO \$ this Quarter: \$0.00

Spending Limit Info

Spending Limit Override: No
 Weekly Revalidation: No
 Bi-Weekly Revalidation: Yes
 Spending Limit: \$160.00
 Expended Spending Limit: \$0.00
 Remaining Spending Limit: \$160.00

Commissary Restrictions

Spending Limit Restrictions

Restricted Spending Limit: \$0.00
 Restricted Expended Amount: \$0.00
 Restricted Remaining Spending Limit: \$0.00
 Restriction Start Date: N/A
 Restriction End Date: N/A

Item Restrictions

List Name	List Type	Start Date	End Date	Active
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Comments

Comments:
