

NAME and NUMBER **MENENDEZ (W)** **K-14101** **FA-2128**

On Thursday, March 13, 1997, I was informed by Correctional Sergeant G. Hernandez (Investigative Services Unit) that a word processor diskette, utilized by inmate MENENDEZ (K-14101), was confiscated containing a personal letter. I subsequently took control of the diskette and upon a thorough review of its contents, I discovered ten personal letters. The letters were addressed to ten individuals (ie., Eric, Joseph, Joy, Kathy, Lily, Louis, Robert, Roseann, Shanya and Terry), with the majority of the contexts being identical. The letters did not appear to contain anything that would jeopardize the safety or security of the institution; however, the diskette did contain work related documents. The diskette was marked with the word "Work," and the diskette's sheath was marked with "IR Ad/Seg min" and "Eric Menendez." A review of MENENDEZ's visiting list and mail correspondence, revealed first names of the people indicated on the letters. Furthermore, MENENDEZ admitted to Lyle Menendez, via letter, that he did write a few letters on disk, but was unaware he could not do personal work on state equipment.

ORIG: Central-File
cc: Counselor
Inmate
Writer

V. J. Salinas LT 4

K. A. JONES
Correctional Officer #32378
A-Facility
CSP-SAC

3-13-97

(PERFORMANCE)

DATE

CUSTODIAL COUNSELING

NO.: K14101 NAME: MENENDEZ LWOP CS: 69 REV: 9/97

Custody: CLO-A

WG: A1 PG: A

Assignment: SS W/L; NGPC;
NO DOCK; P/R: REMOVE FROM
CURRENT ASSIGNMENT; P/O SS
W/L; RESTRICT FROM CLERK
POSITION-RETAIN A1/A EFF
1/11/97; CCCMS REVIEW; S RX
A CELL MATE.

MENENDEZ appeared before A-FAC UCC for the purpose of a program review. Committee notes a CDC 128-B-1 dated 4/24/97, from S's work supervisor requesting that S be removed from his job assignment due to using state equipment for his personal use during work hours.

COMMITTEE ACTION: Based on the aforementioned, committee acts to remove S from his current assignment as AD/SEG Clerk. Committee also acts to retain S's WG/PG A1/A effective 1/11/97; place S on the SS W/L with NGPC. This Committee also acts to restrict S from any clerk position, and this Committee also acts as a CCCMS review. S requested to this Committee a cell mate. This Committee had advised S that upon finding a compatible cell mate he may go through the normal cell move procedures through the A_FAC Watch Office. S is in agreement with the action taken by this committee.

M. Broddrick, CAP
4 M. GEDDIS, CCI, RECORDER/mlw
D. CHEETHAM, CAPT, (A)
D. CLAYTON, CCII, (A)
C. MOAZAM, PH.D.
D. NASH, EDUCATION



CC: Inmate, OBIS

5/14/97

22/5/14

A-FAC/UCC

CSP/SAC

STATE OF CALIFORNIA

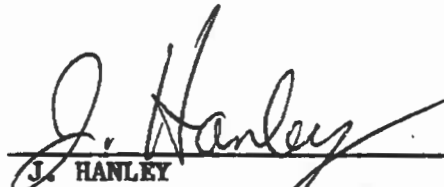
MENENDEZ (W) K-14101 FA2-128

DEPARTMENT OF CORRECTIONS
CDC 128 A (8-87)

NAME AND NUMBER

On Saturday, March 29, 1997, at approximately 1045 hours, while performing my duties as A-Facility Visiting Room Officer, I observed inmate MENENDEZ (K-14101) displaying excessive physical contact with his visitor. This conduct was kissing her neck, rubbing inside of her legs and hugging. MENENDEZ was verbally warned and counseled on 3-28-97 concerning conduct of this type in the visiting room. MENENDEZ is aware of the submission of this report, the specific charges, and that further infractions of this nature will result in disciplinary action.

ORIG: Central-File ✓
cc: Counselor
Inmate
Writer
Program Office
DATE 3-29-97



J. HANLEY
Correctional Officer #30260
A-Facility
CSP-SAC

(EXCESSIVE PHYSICAL CONTACT)

CUSTODIAL COUNSELING

RULES VIOLATION REPORT

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ (W)	RELEASE/BOARD DATE LWOP	INST. SAC	HOUSING NO. FA-2128	LOG NO. A-97-04-10
VIOLATED RULE NO(S). 3005(b)	SPECIFIC ACTS DISOBEYING A DIRECT ORDER	LOCATION FA-CHAPEL	DATE 4-1-97	TIME 1250 Hrs	

CIRCUMSTANCES

On Tuesday, 4-1-97, at approximately 1250 hours, while performing my duties as FA2-Block Floor Officer, I observed inmate MENENDEZ, (K-14101, FA-2128) attempting to gain access to the A-Facility Chapel after the yard had been recalled. MENENDEZ was not on the Ducat list and refused orders from Central Tower to return to his assigned housing unit. MENENDEZ proceeded toward the A-Facility Pedestrian Sallyport. I ordered MENENDEZ to return to his his block. Again, he refused. MENENDEZ stated, "I have a meeting with the Captain". Attempting to confirm the appointment, I was notified by Correctional Sergeant R. C. Quinlen, that there was no meeting per Captain B. Welch. MENENDEZ was then escorted to FA2-BLOCK by yard staff. MENENDEZ has been counseled several times for the same behavior. MENENDEZ continues to attempt to manipulate staff members by making untrue statements. MENENDEZ is aware of this report.

REPORTING EMPLOYEE (Typed Name and Signature) <i>[Signature]</i> K. Hofer, Correctional Officer #48891	DATE 4-7-97	ASSIGNMENT 7924	RDO'S W/Th
REVIEWING SUPERVISOR'S SIGNATURE <i>[Signature]</i> M. Bolin, Correctional Officer SGT.	DATE 4-7-97	<input type="checkbox"/> INMATE SEGREGATED PENDING HEARING	
CLASSIFIED <input type="checkbox"/> ADMINISTRATIVE <input checked="" type="checkbox"/> SERIOUS	OFFENSE DIVISION: F	DATE 4-5-97	CLASSIFIED BY (Typed Name and Signature) J. Banks, Program Lieutenant
		DATE N/A	LOC. N/A
			HEARING REFERRED TO <input type="checkbox"/> HO <input checked="" type="checkbox"/> SHO <input type="checkbox"/> SC <input type="checkbox"/> FC

COPIES GIVEN INMATE BEFORE HEARING

<input checked="" type="checkbox"/> CDC 115	BY: (STAFF'S SIGNATURE) <i>[Signature]</i> % M. Lynch	DATE 04/10/97	TIME 1755	TITLE OF SUPPLEMENT N/A
<input type="checkbox"/> INCIDENT REPORT LOG NUMBER: N/A	BY: (STAFF'S SIGNATURE) <i>[Signature]</i> N/A	DATE N/A	TIME N/A	BY: (STAFF'S SIGNATURE) <i>[Signature]</i> N/A
		DATE N/A	TIME N/A	BY: (STAFF'S SIGNATURE) <i>[Signature]</i> N/A

HEARING

Inmate MENENDEZ (K-14101) appeared before the Senior Hearing Officer on 4-16-97. He acknowledged receipt of the Rules Violation Report on 4-10-97, and all other reports to be used in evidence. Inmate MENENDEZ stated he was in good health and ready to proceed with the hearing. All time constraints have been met and all reports were issued more than twenty-four hours prior to the hearing.

The charges were read to inmate MENENDEZ and he pled NOT GUILTY. Inmate MENENDEZ stated: "I was told inmate ERICKSON (D-58822) wanted to meet with me. I got some clothes from him at the sally port. Inmate NAVARETTE (E-30142) the MAC Chairman and I were going to meet with Captain B. Welch. I went to the Chapel to let the Chaplain know I was going to be meeting with the Captain. The Central Tower Officer ordered me to lockup in my cell. I came back to the sally port to inform NAVARETTE that I had to lockup. I was escorted to my cell by C/O Hofer. I was called out of my cell and went to the Chapel, where I stayed until called out to the Captains Office for the meeting with the Captain. The Central Tower Officer informed me that I was on the ducat list for the Chapel and he had made a mistake."

WITNESSES GRANTED.

Inmate ERICKSON (D-58822).

Q asked by inmate: "Did the Captain (B. Welch) have you inform me of a meeting on 4-1-97?"

A: "He gave me an envelope and told me to tell inmate MENENDEZ (K-14101) to come see him."

REFERRED TO CLASSIFICATION BPT/NAEA

(HEARING CONTINUED ON PAGE TWO)

ACTION BY: (TYPED NAME) B. HAMMANS, Program Lieutenant	SIGNATURE <i>[Signature]</i>	DATE 4-16-97	TIME 1105
REVIEWED BY: (SIGNATURE) <i>[Signature]</i> B. WELCH, Facility Captain	DATE 4-18-97	CHIEF DISCIPLINARY OFFICER'S SIGNATURE <i>[Signature]</i> AWO (K)	DATE 4-21-97
<input checked="" type="checkbox"/> COPY OF CDC 115 GIVEN INMATE AFTER HEARING	BY: (STAFF'S SIGNATURE) <i>[Signature]</i> % M. Lynch	DATE 4/22/97	TIME 1520

RULES VIOLATION REPORT - PART C

PAGE 2 OF 2

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ (W)	LOG NUMBER A-97-04-10	INSTITUTION SAC	TODAY'S DATE
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF:	<input type="checkbox"/> 115 CIRCUMSTANCES	<input checked="" type="checkbox"/> HEARING	<input type="checkbox"/> IE REPORT
<input type="checkbox"/> OTHER _____				

NO OTHER WITNESSES WERE REQUESTED BY INMATE MENENDEZ

FINDINGS: Subject was found GUILTY of violating CCR-3005(b), DISOBEYING A DIRECT ORDER. The preponderance of evidence submitted at the hearing substantiates the charge. This evidence included:

- A. The written Rule Violation Report by Correctional Officer K. Hofer, which specifically describes her order to report to Two Block, and MENENDEZ refused to return to his block.
- B. Inmate's statement/admission of guilt at the time of the disciplinary hearing that he was ordered by Central Tower to report to his block at Yard Recall, and Correctional Officer Hofer's order to return to his block.

SHO NOTE: MENENDEZ refused two direct orders; one of which was in error by the Officer's own statement, the other was a lawful order. MENENDEZ did not comply with either order.

DISPOSITION: ASSESSED 30 DAYS LOSS OF BEHAVIORAL CREDITS. REPRIMANDED AND COUNSELLED ON FUTURE BEHAVIOR EXPECTATIONS. Refer to Chief Disciplinary Officer for confirmation of credit forfeiture. Inmate MENENDEZ was advised of his right to, and procedure for, appeal of this action. He was also advised of the credit restoration process and that he would receive a copy of the completed CDC-115 upon final audit by the Chief Disciplinary Officer.

HEARING OFFICER:

B. HAMMANS, Program Lieutenant

DATE: 4-16-97 TIME: 1105 hrs.

BH:scm

SIGNATURE OF WRITER B. HAMMANS, Correctional Lieutenant		DATE SIGNED 4-17-97	
<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	GIVEN BY: (Staff's Signature) % M. Lynch	DATE SIGNED 04-22-97	TIME SIGNED 1520

[✓] FINAL COPY GIVEN TO INMATE BY: % M. Lynch AT 1520 HOURS ON 04-22-97.

CDC 115-C (5/95)

95 30415

005

SERIOUS RULES VIOLATION REPORT

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ (W)	VIOLATED RULE NO(S) 3005(b)	DATE 4-1-97	INSTITUTION SAC	LOG NO. A-97-04-10
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REFERRAL FOR FELONY PROSECUTION IS LIKELY IN THIS INCIDENT YES NO

POSTPONEMENT OF DISCIPLINARY HEARING

<input type="checkbox"/> I DO NOT REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE ▶ N/A	DATE N/A
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<input type="checkbox"/> I REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE ▶ N/A	DATE N/A
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DATE NOTICE OF OUTCOME RECEIVED N/A	DISPOSITION N/A
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<input type="checkbox"/> I REVOKE my request for postponement.	INMATE'S SIGNATURE ▶ N/A	DATE N/A
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STAFF ASSISTANT

STAFF ASSISTANT <input type="checkbox"/> REQUESTED <input checked="" type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE ▶ <i>[Signature]</i>	DATE 04-10-97
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<input type="checkbox"/> ASSIGNED	DATE N/A	NAME OF STAFF N/A
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<input type="checkbox"/> NOT ASSIGNED	REASON N/A
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INVESTIGATIVE EMPLOYEE

INVESTIGATIVE EMPLOYEE <input type="checkbox"/> REQUESTED <input checked="" type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE ▶ <i>[Signature]</i>	DATE 04-10-97
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<input type="checkbox"/> ASSIGNED	DATE N/A	NAME OF STAFF N/A
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<input type="checkbox"/> NOT ASSIGNED	REASON N/A
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EVIDENCE/INFORMATION REQUESTED BY INMATE:
N/A

WITNESSES

WITNESSES REQUESTED AT HEARING (IF NOT PRESENT, EXPLAIN IN FINDINGS)
 REPORTING EMPLOYEE STAFF ASSISTANT INVESTIGATIVE EMPLOYEE OTHER **N/A** NONE *[Signature]*

WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)	GRANTED	NOT GRANTED	WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)	GRANTED	NOT GRANTED
INMATE ERIKSON 058822	<input type="checkbox"/>	<input type="checkbox"/>	N/A	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

INVESTIGATIVE REPORT: Investigative Employees must interview the inmate charged, the reporting employee, and any others who have significant information, documenting the testimony of each person interviewed. Review of files, procedures, and other documents may also be necessary.

INVESTIGATOR'S SIGNATURE ▶ N/A	DATE N/A
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<input checked="" type="checkbox"/> COPY OF CDC 115-A GIVEN INMATE	BY: (STAFF'S SIGNATURE) ▶ <i>[Signature]</i>	TIME 1755	DATE 04-10-97
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RULES VIOLATION REPORT

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ (W)	RELEASE/BOARD DATE	INST. SAC	HOUSING NO. FA2-128	LOG NO. A-97-05-48
VIOLATED RULE NO(S). 3005(A)		SPECIFIC ACTS EXCESSIVE PHYSICAL CONTACT IN VISITING ROOM	LOCATION VISITING ROOM	DATE 5-23-97	TIME 1100 Hrs

CIRCUMSTANCES

On Friday, 5-23-97, at approximately 1100 hours, while performing my duties as A-Facility Visiting Room Officer, I observed inmate MENENDEZ (K-14101), FA2-128, displaying excessive physical contact with his visitor. Specifically, MENENDEZ was kissing his visitor's neck, hugging her, and rubbing the insides of her thighs. On March 28, 1997, I informed MENENDEZ that this type of behavior was inappropriate, unacceptable and in violation of visiting room regulations. On March 29, 1997, MENENDEZ again engaged in excessive contact, during his visit, and received a CDC-128A. On April 3, 1997, MENENDEZ, was once again, given specific instructions on appropriate behavior while in the visiting room. MENENDEZ was informed at that time that continued behavior of this type could result in him being placed on Non-Contact Visiting status. MENENDEZ continues to ignore repeated instructions regarding his behavior in the visiting room. MENENDEZ continued insubordination creates a defiant, disruptive, atmosphere in the visiting room. MENENDEZ is aware of this report and it's specific charges.

REPORTING EMPLOYEE (Typed Name and Signature) J. Hanley	DATE 5-25-97	ASSIGNMENT Post #V-2468	RDO'S T/W
REVIEWING SUPERVISOR'S SIGNATURE S. Scarsella	DATE 5-25-97	<input type="checkbox"/> INMATE SEGREGATED PENDING HEARING	
CLASSIFIED <input checked="" type="checkbox"/> ADMINISTRATIVE <input checked="" type="checkbox"/> SERIOUS	OFFENSE DIVISION: F	DATE 5-27-97	CLASSIFIED BY (Typed Name and Signature) M. FRYANCE, Correctional Lieutenant
HEARING REFERRED TO		<input type="checkbox"/> HO <input checked="" type="checkbox"/> SHO <input type="checkbox"/> SC <input type="checkbox"/> FC	

COPIES GIVEN INMATE BEFORE HEARING

<input checked="" type="checkbox"/> CDC 115	BY: (STAFF'S SIGNATURE) % M. Lynch	DATE 5/27/97	TIME 1555	TITLE OF SUPPLEMENT N/A
<input type="checkbox"/> INCIDENT REPORT LOG NUMBER: N/A	BY: (STAFF'S SIGNATURE) N/A	DATE N/A	TIME N/A	BY: (STAFF'S SIGNATURE) N/A
		DATE N/A	TIME N/A	BY: (STAFF'S SIGNATURE) N/A

HEARING Inmate MENENDEZ (K-14101) appeared before the Senior Hearing Officer on 5/28/97. He acknowledged receipt of the Rules Violation Report on 5/27/97, and all other reports to be used in evidence. An Investigative Employee was waived by MENENDEZ. Inmate MENENDEZ stated he was in good health and ready to proceed with the hearing. All time constraints have been met and all reports were issued more than 24 hours prior to the hearing.

The charges were read to inmate MENENDEZ and he pled GUILTY. Inmate MENENDEZ stated: "I did touch my fiance. I gave her a hug and she rested her head on my shoulder. The conversation was upsetting her and I reached out to comfort her. The 115 was not warranted. I understand the error and it wont happen again."

NO WITNESSES WERE REQUESTED BY INMATE MENENDEZ.

FINDINGS: Subject was found GUILTY of violating CCR-3005(A), EXCESSIVE CONTACT IN VISITING ROOM. The preponderance of evidence submitted at the hearing substantiates the charge. This evidence included:

- The written Rules Violation Report by Officer Hanley, which specifically describes MENENDEZ displaying excessive physical contact with his visitor.
- MENENDEZ's statement at the time of the disciplinary hearing that he did make contact with his visitor.

REFERRED TO CLASSIFICATION BPT/NAEA

(HEARING CONTINUED ON NEXT PAGE)

ACTION BY: (TYPED NAME) V. SCHUMACKER, Program Lieutenant	SIGNATURE V. Schumacker	DATE 5/28/97	TIME 1800
REVIEWED BY: (SIGNATURE) D. Cheetham	DATE 6-3-97	CHIEF DISCIPLINARY OFFICER'S SIGNATURE D. Cheetham, FC(A)	DATE 6-3-97
<input checked="" type="checkbox"/> COPY OF CDC 115 GIVEN INMATE AFTER HEARING	BY: (STAFF'S SIGNATURE) % M. Lynch	DATE 06/03/97	TIME 1520

RULES VIOLATION REPORT - PART C

PAGE 2 OF 2

CDC NUMBER K-14101	INMATE'S NAME MENEDEZ (H)	LOG NUMBER A-97-05-48	INSTITUTION SAC	TODAY'S DATE
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF:	<input type="checkbox"/> 115 CIRCUMSTANCES	<input checked="" type="checkbox"/> HEARING	<input type="checkbox"/> IE REPORT
				<input type="checkbox"/> OTHER _____

SHO NOTE: This Rule Violation was originally classified as a division "F" offense; however, it is being reduced to a Administrative 115 to promote progressive discipline.

DISPOSITION: REDUCED TO AN ADMINISTRATIVE CDC-115. REPRIMANDED AND COUNSELLED ON FUTURE BEHAVIOR EXPECTATIONS. ASSESSED 5 DAYS CTQ, FROM JUNE 2nd TO JUNE 6th 1997.. Inmate MENEDEZ was advised of his right to, and procedure for, appeal of this action and that he would receive a copy of the completed CDC-115 upon final audit by the Chief Disciplinary Officer.

HEARING OFFICER:  **DATE:** 5/28/97 **TIME:** 1800 hrs.
V. SCHUMACKER, Program Lieutenant

VS:alr

<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	SIGNATURE OF WRITER V. SCHUMACKER, Correctional Lieutenant	DATE SIGNED 5-30-97
	GIVEN BY: (Staff's Signature) <u>Yo M. Lynch</u>	DATE SIGNED 06-03-97

FINAL COPY GIVEN TO INMATE BY: Yo M. Lynch AT 1520 HOURS ON 06-0.

STATE OF CALIFORNIA
SERIOUS RULES VIOLATION REPORT

DEPARTMENT OF CORRECTIONS

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ (W)	VIOLATED RULE NO(S) 3005(A)	DATE 5-23-97	INSTITUTION SAC	LOG NO. A-97-05-48
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REFERRAL FOR FELONY PROSECUTION IS LIKELY IN THIS INCIDENT YES NO

POSTPONEMENT OF DISCIPLINARY HEARING

<input type="checkbox"/> I DO NOT REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE ▶ N/A	DATE N/A
<input type="checkbox"/> I REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE ▶ N/A	DATE N/A
DATE NOTICE OF OUTCOME RECEIVED N/A	DISPOSITION N/A	
<input type="checkbox"/> I REVOKE my request for postponement.	INMATE'S SIGNATURE ▶ N/A	DATE N/A

STAFF ASSISTANT

STAFF ASSISTANT <input type="checkbox"/> REQUESTED <input checked="" type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE ▶ <i>[Signature]</i>	DATE 05-27-97
<input type="checkbox"/> ASSIGNED	DATE N/A	NAME OF STAFF N/A
<input type="checkbox"/> NOT ASSIGNED	REASON INMATE WAIVED	

INVESTIGATIVE EMPLOYEE

INVESTIGATIVE EMPLOYEE <input type="checkbox"/> REQUESTED <input checked="" type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE ▶ <i>[Signature]</i>	DATE 05-27-97
<input type="checkbox"/> ASSIGNED	DATE N/A	NAME OF STAFF N/A
<input type="checkbox"/> NOT ASSIGNED	REASON INMATE WAIVED	

EVIDENCE/INFORMATION REQUESTED BY INMATE:

INMATE MENENDEZ STATED HE WANTED NO WITNESSES / % M. Lynch.

WITNESSES

WITNESSES REQUESTED AT HEARING (IF NOT PRESENT, EXPLAIN IN FINDINGS)

REPORTING EMPLOYEE STAFF ASSISTANT INVESTIGATIVE EMPLOYEE OTHER NONE

WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)	GRANTED	NOT GRANTED	WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)	GRANTED	NOT GRANTED
<i>N/A</i>	<input type="checkbox"/>	<input type="checkbox"/>	<i>N/A</i>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

INVESTIGATIVE REPORT: Investigative Employees must interview the inmate charged, the reporting employee, and any others who have significant information, documenting the testimony of each person interviewed. Review of files, procedures, and other documents may also be necessary.

N/A

<input checked="" type="checkbox"/> COPY OF CDC 115-A GIVEN INMATE	BY: (STAFF'S SIGNATURE) ▶ <i>% M. Lynch</i>	INVESTIGATOR'S SIGNATURE ▶ <i>N/A</i>	DATE N/A
		TIME 1555	DATE 05-27-97

A8/2/02
Gunner

STATE OF CALIFORNIA
RULES VIOLATION REPORT

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ (W)	RELEASE/BOARD DATE <i>Life</i>	INST. SAC	HOUSING NO. FA2-120L	LOG NO. A-97-11-09
VIOLATED RULE NO(S). 3005(c)		SPECIFIC ACTS BATTERY ON AN INMATE W/O SBI	LOCATION <i>Mutual Combat</i> FA-YARD	DATE 11-04-97	TIME 1120 Hrs

CIRCUMSTANCES
On Tuesday, November 4, 1997, at approximately 1120 hours, while standing in the "A" Facility Recycling Work Area, I observed inmate MENENDEZ (K-14101) stop inmate BROWN (D-18369) on the track area approximately (10) ten feet in front of the yellow bars dividing the recycling work area. I saw MENENDEZ strike BROWN with his closed right fist. I observed both inmates immediately begin to strike each other. I immediately ordered the inmates to stop, and notified the Central Tower Officer to put the yard down via the radio. I attempted to stop the fight by grabbing MENENDEZ's hair with my right hand and left arm with my left hand. Both inmates continued to fight, and the inmates continued to fight on the ground all the time resisting staff's efforts to stop them. I ordered MENENDEZ to lay flat on his stomach and I grabbed his left wrist in an attempt to force him face down. MENENDEZ violently resisted my attempt to control him. I saw that my left hand had been cut and that R.N. Scott was bleeding also from his hand. Due to MENENDEZ resistive actions, I struck MENENDEZ (3) times with my right hand on the right side of his head. The altercation continued from the track area into the rose garden area. Additional staff responded and the inmates were separated and placed into mechanical restraints. It should be noted that staff had been exposed to the combatant's blood during this altercation. MENENDEZ and BROWN are aware of this report.

NO ENE CONCERNS -- see 11-23-97 memo

REPORTING EMPLOYEE (Typed Name and Signature) R. W. MORROW, Correctional Officer #32621	DATE 11-10-97	ASSIGNMENT Post #2973	RDO'S F/S
REVIEWING SUPERVISOR'S SIGNATURE <i>[Signature]</i>	DATE 11-9-97	<input type="checkbox"/> INMATE SEGREGATED PENDING HEARING	
B. E. JOSEPH, Correctional Sergeant	DATE 11-04-97	LOC. FA7-203L	
CLASSIFIED <input type="checkbox"/> ADMINISTRATIVE <input checked="" type="checkbox"/> SERIOUS	OFFENSE DIVISION: D	DATE 11-11-97	CLASSIFIED BY (Typed Name and Signature) M. FERYANCE, Lieutenant
HEARING REFERRED TO <input type="checkbox"/> HO <input checked="" type="checkbox"/> SHO <input type="checkbox"/> SC <input type="checkbox"/> FC			

COPIES GIVEN INMATE BEFORE HEARING

<input checked="" type="checkbox"/> CDC 115	BY: (STAFF'S SIGNATURE) <i>[Signature]</i>	DATE 11-16-97	TIME 1330	TITLE OF SUPPLEMENT N/A
<input type="checkbox"/> INCIDENT REPORT LOG NUMBER: AC-FAA-97-11-049	BY: (STAFF'S SIGNATURE) <i>[Signature]</i>	DATE 11/2/97	TIME 0900	BY: (STAFF'S SIGNATURE) <i>[Signature]</i>
				DATE N/A
				TIME N/A

HEARING Inmate MENENDEZ (K-14101) appeared before the Senior Hearing Officer on 1-06-98 and was properly identified. He acknowledged receipt of the Rules Violation Report on 11-16-97 and all other reports to be used in evidence. An Investigative Employee was waived by inmate MENENDEZ. Inmate MENENDEZ was not referred for a mental health evaluation. Inmate MENENDEZ stated he was in good health and ready to proceed with the hearing. All time constraints have been met and all reports were issued more than twenty-four hours prior to the hearing. Upon verbal and written notice from inmate MENENDEZ (see attached) this matter was postponed past the 30 days time constraint at the inmate's request per Title 15 §3320(C)(d); postponement of hearing for 30 days.

The charges were read to inmate MENENDEZ and he pled NOT GUILTY. Inmate MENENDEZ stated: "I pled Not Guilty of Battery on an Inmate. I did strike BROWN, once assaulted we wrestled on the ground. When the officers came to the fight, I did not resist the officers. I was trying to protect my head from both inmate BROWN and Officer Morrow. The fight occurred over a magazine after I was pushed."

WITNESSES GRANTED:

#1). Correctional Officer E. Johnson was contacted by telephone by the SHO and asked the following questions on behalf of inmate MENENDEZ. Officer Johnson gave the listed responses:
Q1: "Did inmate BROWN admit that he started the fight?"
A1: "Yes he (BROWN) did."

CM:sm (HEARING CONTINUED ON PAGE TWO)

ACTION BY: (TYPED NAME) C. A. MOORE, Program Lieutenant	SIGNATURE <i>[Signature]</i>	DATE 1-06-98	TIME 1319
REVIEWED BY: (SIGNATURE) <i>[Signature]</i>	DATE 1-7-98	CHIEF DISCIPLINARY OFFICER'S SIGNATURE <i>[Signature]</i>	DATE 1-7-98
<input checked="" type="checkbox"/> COPY OF CDC 115 GIVEN INMATE AFTER HEARING	BY: (STAFF'S SIGNATURE) <i>[Signature]</i>	DATE 1/13/98	TIME 1840

RULES VIOLATION REPORT - PART C

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ (W)	LOG NUMBER A-97-11-09	INSTITUTION SAC	TODAY'S DATE
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF:	<input type="checkbox"/> 115 CIRCUMSTANCES	<input checked="" type="checkbox"/> HEARING	<input type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER

Q2: "Did BROWN say anything about inmate MENENDEZ resisting Correctional Officer R. Morrow?"
 A2: "No, he (BROWN) did not say one way or the other anything about MENENDEZ resisting Officer Morrow."

#2). Inmate HYDRICK (K-14101) was asked the following questions by inmate MENENDEZ and gave the listed responses:

Q1: "Did you see me stop inmate BROWN on 11-04-97 to talk to him?"

A1: "Yes."

Q2: "Did you see anyone push anyone at that point?"

A2: "Yes. I saw inmate BROWN push inmate MENENDEZ with both hands, then moved forward swinging with his right fist at MENENDEZ and MENENDEZ responded, defending himself."

Q3: "When the officer arrived, did I resist C/O Morrow in any way?"

A3: "No."

Q4: "When the incident occurred, where were you?"

A4: "Approximately 25-30 feet away."

Q5: "How many times did you see C/O Morrow hit me?"

A5: "8 to 10 times in the chest and and head area."

#3). Inmate PATALSKY (J-63802) was asked the following questions by inmate MENENDEZ and gave the listed responses:

Q1: "Did you see me stop inmate BROWN on 11-04-97 to talk to him?"

A1: "No, [turning to SHO] but I saw them talking."

Q2: "Did you see anyone push anyone at that point?"

A2: "Yes, I saw BROWN push MENENDEZ then go into a fighting stance and swing at MENENDEZ and MENENDEZ struck back."

Q3: "When the officers arrived, did I resist C/O Morrow in any way?"

A3: "Not at all, [turning to the SHO] He (MENENDEZ) was only trying to block the blows from the C/O."

Q4: "When the incident occurred, where were you?"

A4: "I was on the grass across from the #1 Block yard wall, about 15 yards from the fight."

Q5: "How many times did you see C/O Morrow hit me?"

A5: "5 or 6 times on the side of the face."

INMATE MENENDEZ WAIVED INMATES DAVIS (D-89577), SMITH (J-30638), AND HANGIE (D-24062) AS WITNESSES AND DID NOT REQUEST ANY OTHER WITNESSES TO BE PRESENT AT THE TIME OF THE HEARING.

FINDINGS: Subject was found GUILTY of violating CCR-3005(c), MUTUAL COMBAT W/O SBI. The preponderance of evidence submitted at the hearing substantiates the charge. This evidence included:

- A. The written Rules Violation Report by Correctional Officer R. W. Morrow, which specifically describes that MENENDEZ struck inmate BROWN with his fist and that an altercation ensued and it was necessary, due to inmate MENENDEZ's resistive actions, for Officer Morrow to strike him (3) times.

(HEARING CONTINUED ON PAGE THREE)

CM:srm

<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	SIGNATURE OF WRITER C. A. MOORE, Program Lieutenant	DATE SIGNED 1-7-98
	GIVEN BY: (Staff's Signature) <i>[Signature]</i>	DATE SIGNED 1-13-98
FINAL COPY GIVEN TO INMATE BY: <i>[Signature]</i> AT 1840 HOURS ON 1-13-98.		

RULES VIOLATION REPORT - PART C

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ (W)	LOG NUMBER A-97-11-09	INSTITUTION SAC	TODAY'S DATE
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input checked="" type="checkbox"/> HEARING <input type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER			

- B. The statement and admission of guilt by inmate MENENDEZ at the time of the disciplinary hearing that he was involved in a fist fight but did not start the fight, only after inmate BROWN pushed him and swang at him did he fight back.
- C. The statement of Correctional Officer E. Johnson as a staff witness at the time of the disciplinary hearing that inmate BROWN admitted that he started the fight.
- D. The statements of inmates HYDRICK (E-30232) and PATALSKY (J-63802) as inmate witnesses at the time of the disciplinary hearing that inmate MENENDEZ was talking to BROWN and BROWN pushed and swung at MENENDEZ and a fight ensued.
- E. The Incident Report #SAC-FAA-97-11-0491 and the Supplemental reports by Correctional Officers P. Stinnett, C. Burnett, K. Young, and A. Magdaleno, which state that both combatants continued fighting and were physically separated by responding staff.
- F. The Medical report (CDC-7219) shows injuries consistent with that of Mutual Combat W/O SBI.

SHO NOTE: Charges should read "Mutual Combat W/O SBI" due to Correctional Officer E. Johnson's statements as a staff witness and also the statements of the inmate witnesses.

DISPOSITION: **ASSESSED 90 DAYS LOSS OF BEHAVIORAL CREDITS. REPRIMANDED AND COUNSELLED ON FUTURE BEHAVIOR EXPECTATIONS.** Refer to Chief Disciplinary Officer for confirmation of credit forfeiture. Refer to UNIT CLASSIFICATION COMMITTEE for review of program, custody, work privilege group status, and current housing status. Inmate MENENDEZ was advised of his right to, and procedure for, appeal of this action. He was also advised of the credit restoration process and that he would receive a copy of the completed CDC-115 upon final audit by the Chief Disciplinary Officer.

END OF DISPOSITION



CM:arm

SIGNATURE OF WRITER <i>C. A. Moore</i> C. A. MOORE, Program Lieutenant	DATE SIGNED 1-7-98
--	-----------------------

<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	GIVEN BY: (Staff's Signature) <i>J. Halmy</i>	DATE SIGNED 1-13-98	TIME SIGNED 1840
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FINAL COPY GIVEN TO INMATE BY: *J. Halmy* AT 1840 HOURS ON 1-13-98.

STATE OF CALIFORNIA
SERIOUS RULES VIOLATION REPORT

DEPARTMENT OF CORRECTIONS

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ (W)	VIOLATED RULE NO(S) 3005(c)	DATE 11-04-97	INSTITUTION SAC	LOG NO. A-97-11-09
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REFERRAL FOR FELONY PROSECUTION IS LIKELY IN THIS INCIDENT YES NO

POSTPONEMENT OF DISCIPLINARY HEARING

<input type="checkbox"/> I DO NOT REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE N/A	DATE N/A
<input type="checkbox"/> I REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE N/A	DATE N/A
DATE NOTICE OF OUTCOME RECEIVED N/A	DISPOSITION N/A	
<input type="checkbox"/> I REVOKE my request for postponement.	INMATE'S SIGNATURE N/A	DATE N/A

STAFF ASSISTANT

<input type="checkbox"/> REQUESTED	<input checked="" type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE (X) E.S. Menendez	DATE 11-16-97
<input type="checkbox"/> ASSIGNED	DATE N/A	NAME OF STAFF N/A	
<input checked="" type="checkbox"/> NOT ASSIGNED	REASON INMATE WAIVED.		

INVESTIGATIVE EMPLOYEE

<input type="checkbox"/> REQUESTED	<input checked="" type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE (X) E.S. Menendez	DATE 11-16-97
<input type="checkbox"/> ASSIGNED	DATE N/A	NAME OF STAFF N/A	
<input checked="" type="checkbox"/> NOT ASSIGNED	REASON INMATE WAIVED.		

EVIDENCE/INFORMATION REQUESTED BY INMATE:

N/A

WITNESSES

WITNESSES REQUESTED AT HEARING (IF NOT PRESENT, EXPLAIN IN FINDINGS)

REPORTING EMPLOYEE STAFF ASSISTANT INVESTIGATIVE EMPLOYEE OTHER NONE

WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)		GRANTED	NOT GRANTED	WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)		GRANTED	NOT GRANTED
DAVIS D-88577		<input type="checkbox"/>	<input type="checkbox"/>	SMITH J-30638		<input type="checkbox"/>	<input type="checkbox"/>
PATALSKY - J. 63802		<input type="checkbox"/>	<input type="checkbox"/>	HYDRICK - E 30232		<input type="checkbox"/>	<input type="checkbox"/>

INVESTIGATIVE REPORT: Investigative Employees must interview the inmate charged, the reporting employee, and any others who have significant information, documenting the testimony of each person interviewed. Review of files, procedures, and other documents may also be necessary.

<input checked="" type="checkbox"/> COPY OF CDC 115-A GIVEN INMATE	BY: (STAFF'S SIGNATURE) CO A [Signature]	INVESTIGATOR'S SIGNATURE N/A	DATE N/A
		TIME 1330	DATE 11-16-97

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

RULES VIOLATION REPORT

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ (W)	RELEASE/BOARD DATE	INST. SAC	HOUSING NO. FA-2120	LOG NO. A-98-07-32
VIOLATED RULE NO(S). 3006	SPECIFIC ACTS CONTRABAND	LOCATION #2 Block	DATE 7/03/98	TIME 1030 Hrs.	

CIRCUMSTANCES On 7/03/98, at approximately 1030 hours, during a #2 Block "B" section pruno sweep, I observed and confiscated the following items from cell FA-2120 which houses inmates MENENDEZ (K-14101) and ORTIZ (H-22006); one (1) 9 inch metal paint roller frame, one (1) 3 inch paint brush with cut handle, one (1) partial roll of 2 inch masking tape, and a small amount (3 oz.) of enamel paint. Other state items included one (1) plastic bucket, a plastic spray bottle, rubber gloves, and five (5) wax candles approximately 1.5 inches in diameter and ranging in length from 1.5 inches to 4.5 inches. Miscellaneous items of contraband also confiscated include; electronic scientific calculator (inmate COOK's name and number engraved on it), an inmate manufactured plug, a carved cardboard jewelry box with removable partitioned tray and sliding door compartment in the lid. Inside the lid compartment were five (5) large metal staples also contained. Also contained within the box were a pair of gaming dice. All items taken were boxed and placed in the property room pending disposition of this CDC-115. Both inmates aware of this report and its specific charges.

REPORTING EMPLOYEE (Typed Name and Signature) S.C. CASTRO, Correctional Officer #11985	DATE 7/16/98	ASSIGNMENT 2987	RDO'S S/M
REVIEWING SUPERVISOR'S SIGNATURE B. Joseph, Sergeant	DATE 7-16-98	<input type="checkbox"/> INMATE SEGREGATED PENDING HEARING	
CLASSIFIED <input checked="" type="checkbox"/> SERIOUS	OFFENSE DIVISION: F	DATE 7-16-98	CLASSIFIED BY (Typed Name and Signature) J. BANKS, Correctional Lieutenant
HEARING REFERRED TO <input type="checkbox"/> HO <input checked="" type="checkbox"/> SHO <input type="checkbox"/> SC <input type="checkbox"/> FC		DATE N/A	LOC. N/A

COPIES GIVEN INMATE BEFORE HEARING					
<input checked="" type="checkbox"/> CDC 115	BY: (STAFF'S SIGNATURE) [Signature]	DATE 7/16/98	TIME 1100	TITLE OF SUPPLEMENT N/A	
<input type="checkbox"/> INCIDENT REPORT LOG NUMBER: N/A	BY: (STAFF'S SIGNATURE) N/A	DATE N/A	TIME N/A	BY: (STAFF'S SIGNATURE) N/A	DATE N/A TIME N/A

HEARING Inmate MENENDEZ (K-14101) appeared before the Senior Hearing Officer on 08-07-98. He acknowledged receipt of the Rules Violation Report on 07-16-98, and all other reports to be used in evidence. An Investigative Employee was waived by inmate MENENDEZ. Inmate MENENDEZ stated that he was in good health and was ready to proceed with the hearing. This hearing was held in AD/SEG. Inmate MENENDEZ was not referred for a mental health evaluation. All time constraints have been met and all reports were issued more than 24 hours prior to the hearing.

The charges were read to inmate MENENDEZ and he pled GUILTY. Inmate MENENDEZ stated, "Certain items were legal items and other items had to do with my job as a porter. All of those items were mine, not ORTIZ'S."

WITNESSES WERE NOT REQUESTED BY INMATE MENENDEZ.

FINDINGS: Subject was found GUILTY of violating CCR-3006, CONTRABAND. The preponderance of evidence submitted at the hearing SUBSTANTIATES the charge. This evidence included:

JRW:md

(HEARING CONTINUED ON PAGE TWO)

REFERRED TO <input type="checkbox"/> CLASSIFICATION <input type="checkbox"/> BPT/NAEA	ACTION BY: (TYPED NAME) J. R. WARREN, Program Lieutenant		SIGNATURE [Signature]	DATE 8/7/98	TIME 1223
REVIEWED BY: (SIGNATURE) [Signature]	DATE 8/24/98	CHIEF DISCIPLINARY OFFICER'S SIGNATURE [Signature]	DATE 8/24/98		
BY: (STAFF'S SIGNATURE) [Signature]	DATE 8/27/98	TIME 1215			

RULES VIOLATION REPORT - PART C

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ (W)	LOG NUMBER A-98-07-32	INSTITUTION SAC	TODAY'S DATE 8/18/98
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF:	<input type="checkbox"/> 115 CIRCUMSTANCES	<input checked="" type="checkbox"/> HEARING	<input type="checkbox"/> IE REPORT
<input type="checkbox"/> OTHER _____				

A. The written Rules Violation by Correctional Officer S. Castro, which specifically describes finding contraband in MEMENDEZ'S cell.

B. MENENDEZ statement/admission of guilt at the time of the disciplinary hearing that the contraband belonged to him.

OTHER FACTORS CONSIDERED DURING THE HEARING WERE: This CDC-115 is reclassified as Administrative per 3315(f)(2) as the contraband does not meet criteria for dangerous contraband set forth in CCR §§ 3315(a)(2)(u) or 3306 (a). The Senior Hearing Officer believes CCR § 3314(a)(3)(b) applies.

DISPOSITION: This Rules Violation was originally classified as a division "F" offense; it is being reduced to a ADMINISTRATIVE CDC-115. COUNSELED AND REPRIMANDED. The Contraband was disposed of per institutional procedure. Refer to INSTITUTION CLASSIFICATION COMMITTEE for review of current program, custody and current housing status. MENENDEZ was advised of his right to, and procedure for, appeal of this action. He was also advised of the credit restoration process and that he would receive a copy of the completed CDC-115 upon final audit by the Senior Hearing Officer.

(END OF DISPOSITION)

JRW:md

<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	SIGNATURE OF WRITER J. R. WARREN, Program Lieutenant	DATE SIGNED 8/21/98
	GIVEN BY: (Staff's Signature) <i>[Signature]</i>	DATE SIGNED 8/27/98

STATE OF CALIFORNIA
SERIOUS RULES VIOLATION REPORT

DEPARTMENT OF CORRECTIONS

CDC NUMBER K-14101	INMATE'S NAME HENENDEZ (W)	VIOLATED RULE NO(S) 3006	DATE 7/03/98	INSTITUTION SAC	LOG NO. A-98-07-32
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REFERRAL FOR FELONY PROSECUTION IS LIKELY IN THIS INCIDENT YES NO

POSTPONEMENT OF DISCIPLINARY HEARING

<input type="checkbox"/> I DO NOT REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE ▶	DATE N/A
<input type="checkbox"/> I REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE ▶	DATE N/A
DATE NOTICE OF OUTCOME RECEIVED N/A	DISPOSITION N/A	
<input type="checkbox"/> I REVOKE my request for postponement.	INMATE'S SIGNATURE ▶	DATE N/A

STAFF ASSISTANT

STAFF ASSISTANT <input type="checkbox"/> REQUESTED <input checked="" type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE ▶ <i>[Signature]</i>	DATE 7/16/98
<input type="checkbox"/> ASSIGNED	DATE N/A	NAME OF STAFF N/A
<input checked="" type="checkbox"/> NOT ASSIGNED	REASON INMATE WAIVED.	

INVESTIGATIVE EMPLOYEE

INVESTIGATIVE EMPLOYEE <input type="checkbox"/> REQUESTED <input checked="" type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE ▶ <i>[Signature]</i>	DATE 7/16/98
<input type="checkbox"/> ASSIGNED	DATE N/A	NAME OF STAFF N/A
<input checked="" type="checkbox"/> NOT ASSIGNED	REASON INMATE WAIVED.	

EVIDENCE/INFORMATION REQUESTED BY INMATE:

NONE.

WITNESSES

WITNESSES REQUESTED AT HEARING (IF NOT PRESENT, EXPLAIN IN FINDINGS)

REPORTING EMPLOYEE STAFF ASSISTANT INVESTIGATIVE EMPLOYEE OTHER N/A NONE

WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)	GRANTED	NOT GRANTED	WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)	GRANTED	NOT GRANTED
NONE.	<input type="checkbox"/>	<input type="checkbox"/>	NONE.	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

INVESTIGATIVE REPORT: Investigative Employees must interview the inmate charged, the reporting employee, and any others who have significant information, documenting the testimony of each person interviewed. Review of files, procedures, and other documents may also be necessary.

<input checked="" type="checkbox"/> COPY OF CDC 115-A GIVEN INMATE	BY: (STAFF'S SIGNATURE) ▶ <i>[Signature]</i>	INVESTIGATOR'S SIGNATURE ▶ <i>[Signature]</i>	DATE N/A
	TIME 1100		DATE 7/16/98

SERIOUS RULES VIOLATION REPORT

APC NUMBER K-14101	INMATE'S NAME MENENDEZ (W)	VIOLATED RULE NO(S) 3005(e)	DATE 1/17/99	INSTITUTION SAC	LOG NO. A-99-01-041
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REFERRAL FOR FELONY PROSECUTION IS LIKELY IN THIS INCIDENT YES NO

POSTPONEMENT OF DISCIPLINARY HEARING

<input type="checkbox"/> I DO NOT REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE N/A	DATE N/A
<input type="checkbox"/> I REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE N/A	DATE N/A
DATE NOTICE OF OUTCOME RECEIVED N/A	DISPOSITION N/A	
<input type="checkbox"/> I REVOKE my request for postponement.	INMATE'S SIGNATURE N/A	DATE N/A

STAFF ASSISTANT <input type="checkbox"/> REQUESTED <input checked="" type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE N/A	DATE 1/20/99
<input type="checkbox"/> ASSIGNED	DATE	NAME OF STAFF
<input type="checkbox"/> NOT ASSIGNED	REASON	

INVESTIGATIVE EMPLOYEE <input checked="" type="checkbox"/> REQUESTED <input type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE N/A	DATE 1/20/99
<input type="checkbox"/> ASSIGNED	DATE	NAME OF STAFF
<input type="checkbox"/> NOT ASSIGNED	REASON	

EVIDENCE/INFORMATION REQUESTED BY INMATE:

WITNESSES

WITNESSES REQUESTED AT HEARING (IF NOT PRESENT, EXPLAIN IN FINDINGS)

REPORTING EMPLOYEE STAFF ASSISTANT INVESTIGATIVE EMPLOYEE OTHER _____ NONE

WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)	GRANTED	NOT GRANTED	WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)	GRANTED	NOT GRANTED
<i>[Handwritten Name]</i>	<input type="checkbox"/>	<input type="checkbox"/>	<i>[Handwritten Name]</i>	<input type="checkbox"/>	<input type="checkbox"/>
<i>[Handwritten Name]</i>	<input type="checkbox"/>	<input type="checkbox"/>	<i>[Handwritten Name]</i>	<input type="checkbox"/>	<input type="checkbox"/>

INVESTIGATIVE REPORT: Investigative Employees must interview the inmate charged, the reporting employee, and any others who have significant information, documenting the testimony of each person interviewed. Review of files, procedures, and other documents may also be necessary.

On 2-2-99, I was assigned the duties of investigative employee for CDC-115 Log #A-99-01-041, RE: inmate MENENDEZ (K-14101). I informed inmate MENENDEZ of my assignment, and that my role as I.E. is as a fact finder for the Senior Hearing Officer. Inmate MENENDEZ stated he had no objection to my serving in this capacity.

DEFENDANT'S STATEMENT: Inmate MENENDEZ stated: I request the locations and table numbers of my witnesses from the visiting room. (See attachment "A").

REPORTING EMPLOYEE'S STATEMENT: K. Cousins stated: On 1/17/99, at approximately 1025 hours, while performing my duties as A-Facility Visiting Control Booth Officer, I observed inmate MENENDEZ (K-14101, #A-222A) display aggressive physical contact towards his visitor (Ms. Saccoman). I observed MENENDEZ pull Ms. Saccoman from her chair with enough force as to cause her to stumble, they then walked to the back of the room. They stopped near table 36 and began to argue. MENENDEZ began to wave his right arm. He then pushed Ms. Saccoman. Ms. Saccoman attempted to walk away and MENENDEZ grabbed her by the back of her neck and pulled her back. They then walked to the sofa machine near table 28 where inmate and visitor assigned there. After approximately two minutes they walked to the sofa machine near table 28 where they continued to argue. MENENDEZ again pushed Ms. Saccoman. She again attempted to walk away but MENENDEZ grabbed her by the back of her neck and pulled her back. I notified the visiting room staff of the situation. Officer Scott ordered MENENDEZ to report to the strip out room. After talking with me and interviewing inmate MENENDEZ and Ms. Saccoman. Officer Scott contacted Lieutenant Ramans who authorized Scott to terminate MENENDEZ' visit. Lieutenant Ramans placed MENENDEZ on Non-Contact Visiting Status pending the adjudication of this CDC-115. Inmate MENENDEZ is a participant in the Mental Health Delivery System at the CDCMS level of care.

(CONTINUED ON PAGE TWO)

ISSUED TO INMATE ON: _____ AT: _____

BY: _____

INVESTIGATOR'S SIGNATURE <i>[Signature]</i>	DATE 1/20/99
C/O R. CAMITTI	DATE 1/20/99

COPY OF CDC 115-A GIVEN INMATE

CDC NUMBER 7-14101	INMATE'S NAME MUNDOZ (M)	LOG NUMBER 9-22-01-041	INSTITUTION SAC	TODAY'S DATE
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF:	<input type="checkbox"/> 115 CIRCUMSTANCES	<input type="checkbox"/> HEARING	<input checked="" type="checkbox"/> I.E. REPORT
<input type="checkbox"/> OTHER				

STAFF WITNESS(ES)'S STATEMENT(S):

#1. Correctional Officer M. Scott:

On Sunday, January 17, 1999, at approximately 1030 hours, C/O Cousins informed me that inmate MUNDOZ, 7-14101, was battling physical with his girlfriend by grabbing her neck, and pushing her around. I told MUNDOZ to come and join me in the strip room. When we got there I said to him "you can't be doing that way with your girlfriend!" He responded "what, I didn't touch her." I told MUNDOZ that C/O Cousins saw him get aggressive, with Tami Saccoman, his visitor, and for him to remain in the strip out room till we found out, how we were going to handle this situation. I called Ms. Saccoman up front we moved to the waiting area by Visiting Control to discuss what had happened. I said that MUNDOZ was in trouble for acting the way he was with her. I said that they both were to blame for what had happened in the Visiting Room. She said "your right, I made him upset, and he just didn't control himself or handle it well. I told her we can not allow any inmate to act in a physically aggressive manner towards any visitor ever and his visit was probably going to be terminated for grabbing her by the neck, like he did. She said, she understood and that I was right, she probably needed to cool down. I called Visiting Lieutenant Warrone and appraised him of our situation regarding inmate MUNDOZ. He decided that the visit should be terminated now, and the visitor sent back to processing. I complied ending the visit at approximately 1100 hours.

#2. Correctional Officer J. Hanley:

"I was working in the visiting that day, but was unable to see either incident from their location. I was in the back strip room and C/O Rocha was on a visitor escort."

#3. Correctional Officer J. Rocha:

"I was working in visiting that day, but was unable to see either incident from location as I was on a visitor escort."

INMATE WITNESS(ES)'S STATEMENT(S):

#1. Inmate CRUZ (D-99287, 741-131):

"I saw no problem between inmate MUNDOZ and his visitor."

I.E. REPORT CONTINUED ON NEXT PAGE

<input checked="" type="checkbox"/>	COPY OF CDC 115-C GIVEN TO INMATE	GIVEN BY: (Staff's Signature) <i>[Signature]</i>	DATE SIGNED 2/25/99	TIME SIGNED 1015
	SIGNATURE OF WRITER C/O R. CANTILLI <i>[Signature]</i>		DATE SIGNED 2/25/99	TIME SIGNED 1015

[] FINAL COPY GIVEN TO INMATE BY: _____ AT _____ HOURS ON _____

RULES VIOLATION REPORT - PART

CDC NUMBER K-14171	INMATE'S NAME MUNIZ	LOG NUMBER 4-99-71-741	INSTITUTION SAC	TODAY'S DATE
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input type="checkbox"/> HEARING <input checked="" type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER			

22. Inmate SIMIS (4-29962, FA2-104):

"I saw him in a discussion but saw no physical contact."

23. Inmate BERRY (C-22953, FA3-121):

"I never saw him grab or pull me."

44. VISITOR Ms. Saccoman:

On 2-9-99 I conducted a telephone interview with Ms. Saccoman, regarding inmate MENDOZA's CDC-115. She stated:

MENDOZA lifted me out of the chair, like he was leading me some where. He did not pull or drag me out of the chair. I felt no pain, discomfort or concern about his behavior. MENDOZA was upset but not very much. We were just having a intense discussion not an argument." When asked if she ever attempted to walk away from him she said; "No never, I might have turned away from him but never did I walk away from him." When asked, she could not remember him placing his hands or arm around her neck at no time during their visit did she feel any threat of physical force, pain or fear. She stated that she had no marks at all on her at the end of their visit. Concerning Correctional Officer M. Scott's report, she stated; "I never made any of those statements and I did not make him upset." She didn't even know what he had done wrong. She listened to C/O Scott and did not say very much in response to him. She was very quiet because she didn't know what he was talking about.

rd

SIGNATURE OF WRITER C/O R. CANTILLI		DATE SIGNED 2/25/99	
<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	GIVEN BY: (Staff's Signature)	DATE SIGNED 2/25/99	TIME SIGNED 1615

[] FINAL COPY GIVEN TO INMATE BY: _____ AT _____ HOURS ON _____

(I/A MENENDEZ): requested the locations and #s of the tables his witnesses were seated at.

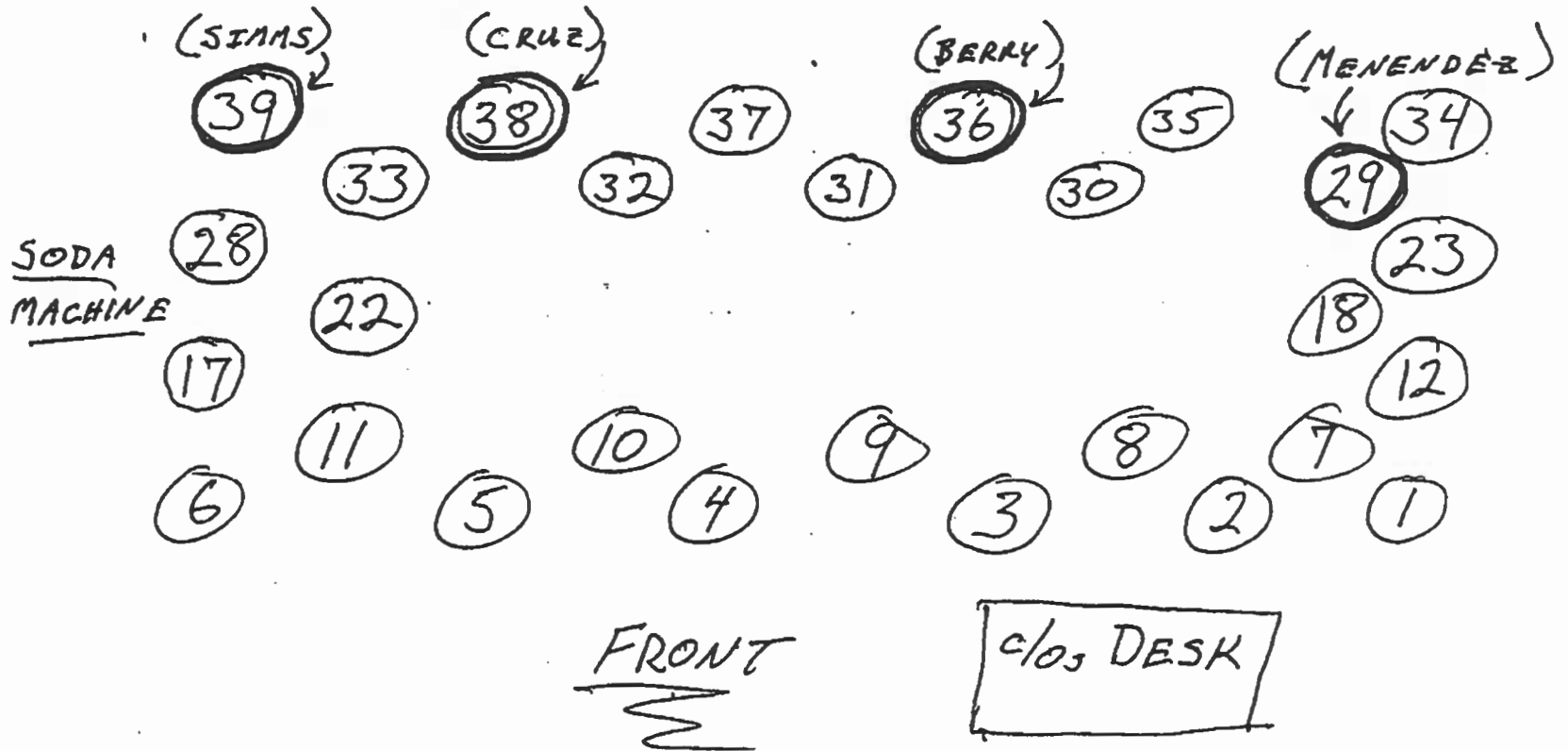
CRUZ #38 (dm report)

SIMMS #39

BERRY #36 (dm report)

MENENDEZ #29

(A)



RIGHTS AND RESPONSIBILITY STATEMENT

The California Department of Corrections has added departmental language (shown inside brackets, in non-boldface type) for clarification purposes.

Pursuant to Penal Code 148.6, anyone wishing to file an allegation of misconduct by a departmental peace officer must read, sign and submit the following statement:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER [this includes a departmental peace officer] **FOR ANY IMPROPER POLICE [or peace] OFFICER CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS'** [or inmates'/parolees'] **COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN [or inmate/parolee] COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.**

IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE. [An inmate/parolee who makes a complaint against a departmental peace officer, knowing it is false, may be issued a serious disciplinary rule violation, in addition to being prosecuted on a misdemeanor charge.]

COMPLAINANT'S PRINTED NAME	COMPLAINANT'S SIGNATURE	DATE SIGNED	
INMATE/PAROLEE PRINTED NAME	INMATE/PAROLEE'S SIGNATURE	CDC NUMBER	DATE SIGNED
MENENDEZ, ERIC G.	<i>[Signature]</i>	K-14101	5/5/99
RECEIVING STAFF'S PRINTED NAME	RECEIVING STAFF'S SIGNATURE	DATE SIGNED	
K. MARKEY	<i>[Signature]</i>	5-7-99	

DISTRIBUTION:
 ORIGINAL -
 Public - Institution Head/Parole Administrator
 Inmate/Parolee - Attach to CDC form 602
 Employee - Institution Head/Parole Administrator
 COPY - Complainant

RIGHTS AND RESPONSIBILITY STATEMENT

The California Department of Corrections has added departmental language (shown inside brackets, in non-boldface type) for clarification purposes.

Pursuant to Penal Code 148.3, anyone wishing to file an allegation of misconduct by a departmental peace officer must read, sign and submit the following statement:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER [this includes a departmental peace officer] FOR ANY IMPROPER POLICE [or peace] OFFICER CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' [or inmates'/parolees'] COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN [or inmate/parolee] COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE. [An inmate/parolee who makes a complaint against a departmental peace officer, knowing it is false, may be issued a serious disciplinary rule violation, in addition to being prosecuted on a misdemeanor charge.]

COMPLAINANT'S PRINTED NAME	COMPLAINANT'S SIGNATURE	DATE SIGNED	
INMATE/PAROLEE PRINTED NAME	INMATE/PAROLEE'S SIGNATURE	CDC NUMBER	DATE SIGNED
MENENDEZ, ERIC G.	<i>[Signature]</i>	K-14101	5/5/99
RECEIVING STAFF'S PRINTED NAME	RECEIVING STAFF'S SIGNATURE	DATE SIGNED	
K. MARKEG	<i>[Signature]</i>	5-7-99	

DISTRIBUTION:
 ORIGINAL -
 Public - Institution Head/Parole Administrator
 Inmate/Parolee - Attach to CDC form 602
 Employee - Institution Head/Parole Administrator
 COPY - Complainant

INMATE/PAROLEE APPEALS SCREENING FORM

NAME Manorley SAC LOG NO: A-ET-
CDC # V14101 CDC HOUSING A3-220 Issue # 7

YOUR CDC 602/1824 APPEAL FORM IS BEING RETURNED TO YOU FOR THE FOLLOWING REASON(S):

- 1. The action or decision being appealed is not within the jurisdiction of the department.
- 2. You have submitted a duplicate appeal on the same issue. Check one:
 - This appeal was withdrawn by you on _____.
 - Your first appeal has been completed or is under review at the _____ level. Appeal # _____
- 3. You are appealing an action not yet taken.
- 4. You have not attempted to resolve the problem on an informal level; place your appeal in the facility appeals drop box for processing. The following person/department should be contacted for an informal reply.
 - Counselor/CCI Trust Office Records Mail Room Housing Unit C/O Seg Prop C/O
 - Med Clinic Dental Clinic Psych Clinic R&R Law Lib Facil. Prop C/O
 - Visiting Sgt. Other _____

5. You have not adequately completed the Inmate/Parolee form(CDC 602) or attached the proper documents.
Please attach the following items or explain why they are not available and send what you have:

- | | |
|---|--|
| <input type="checkbox"/> CDC 115 /115A Hearing Officer's Results/Support Docs | <input type="checkbox"/> You must send your appeal directly to Third Level |
| <input checked="" type="checkbox"/> CDC 1858 Rights and Responsibility Statement | <input type="checkbox"/> CDC 1819 Denied Publications |
| <input type="checkbox"/> CDC 1845 Inmate/Parolee Disability Verification | <input type="checkbox"/> CDC 1030 Confidential Disclosure |
| <input type="checkbox"/> CDC 128G UCC/Initial Class. Comm. | <input type="checkbox"/> CDC 128 A |
| <input type="checkbox"/> CDC 128G UCC/ Class. Comm. | <input type="checkbox"/> CDC 128-B |
| <input type="checkbox"/> CDC 128G UCC/ Class. Comm. CSR referral | <input type="checkbox"/> CDC 128-B2 SSU/IGI Gang Validation |
| <input type="checkbox"/> CDC 128G ICC Class Comm chrono | <input type="checkbox"/> CDC 1128-C |
| <input type="checkbox"/> CDC 128G Ad/Seg ICC Initial Class. Comm/CDC 114-D | <input type="checkbox"/> CDC 143 Property Transfer Receipt/Cell search receipt |
| <input type="checkbox"/> CDC 128G Ad/Seg ICC Class Comm | <input type="checkbox"/> Appeal process not to be used for interrogatory process |
| <input type="checkbox"/> CDC 128G Ad/Seg ICC Class Comm CSR referral | <input type="checkbox"/> CDC 839/840 Class/Reclass Score Sheet |
| <input type="checkbox"/> CDC 128G CSR Endorsement Chrono | <input type="checkbox"/> Complete Section _____ |
| <input type="checkbox"/> CDC 7362 Health Care Request (Co-pay) | <input checked="" type="checkbox"/> Sign & Date Section <u>B</u> |
| <input type="checkbox"/> CDC 7219 Medical Report | <input type="checkbox"/> Emergency Processing Not Warranted Per CCR 3084.7 |
| <input type="checkbox"/> CDC 629A/B SHU Term Assessment Worksheet | <input type="checkbox"/> You must start appeal in section A/B (then add 1 page) |
| <input type="checkbox"/> Other (See below) | <input type="checkbox"/> You may not state "see attached page" in section A or B |
| <input type="checkbox"/> May not request forms/documents thru Appeal process | <input type="checkbox"/> CDC 128-B1 Request for removal from assignment |
| <input type="checkbox"/> You may only file 1 non-emergency appeal per 7 days CCR 3084.4 (a) | |
| <input type="checkbox"/> Failed to reasonably demonstrate the decision, action, policy, or condition as having an adverse affect upon the inmate's welfare. per CCR 3084.1(a) | |

- 6. The appeal exceeds the 15 working days time limit, and the inmate has failed to offer a credible explanation as to why he could/did not submit the appeal within the time limit, CCR 3084.2 (c), 3084.3 (c)(6), & 3084.6(c) (effective Nov.96)
- 8. Abuse of the appeal procedure. See Comments.

PLEASE FOLLOW INSTRUCTIONS AND RETURN WITH YOUR CDC 602

Comments:

Please sign CDC 602, and sign as
reigned signature on this appeal and return
to the appeals office
K Manorley 4-29-99

K. L. Markey
Appeals Coordinator, CSP-Sacramento

This screening action may not be appealed unless you allege the above reason is inaccurate. In such a case, please return this form to the Appeals Coordinator with the necessary information.

CDC FORM 695 Revised 6/98

POOR ORIGINAL
024

6/11/99

MEMORANDUM

Date: July 7, 1999

To: **INMATE MENENDEZ (K-14101)**

From: California State Prison-Sacramento-Represa, CA 95671

Subject: **FIRST LEVEL APPEAL RESPONSE LOG #SAC-A-99-00999, PARTIALLY GRANTED**

On Friday, June 18, 1999, you were interviewed by Lt. D. A. Cain regarding the following issue: You alleged that on January 17, 1999, Correctional Officer K. Cousins falsified a CDC 115 Rules Violation Report (RVR) Log #A-99-01-041. Specifically, you claim you did not grab your visitor by the back of her neck and pull her backwards as annotated in the report. You further stated you did not push your visitor as stated by Officer Cousins in the report. During the course of this interview I reviewed the recorded video tape of the alleged incident in your presence, at which time you indicated at no time does this tape reveal you pulling your visitor's neck. You indicated the report that Officer Cousins submitted is false and grossly exaggerated.

You are requesting that the CDC 115, Log #A-99-01-041, be dismissed and Officer Cousins be charged with a violation of California Penal Code 118.1 and that you be granted other relief that is just and equitable. In addition, you requested that a thorough investigation of Officer Cousin be conducted for felony charges.

An inquiry into this matter revealed the following:

On Sunday, June 27, 1999, approximately 2300 hours, I conducted an interview with Officer K. Cousins regarding your allegation that he falsified RVR Log #A-99-01-041. I reviewed the tape with Officer Cousins and had him identify the aggressive act as annotated in his reports. Officer Cousins was able to identify and describe several acts which were illustrated on the video and annotated in his report. However, he could not identify either time when you grabbed your visitor by the back of her neck and pulled her back due to the angle of the camera and clarity. Officer Cousins indicated that there was a third camera that he was utilizing at the time of this incident that clearly reflected you pulled your visitor by the back of the neck on two different occasions. He further stated this camera was not recorded due to a faulty wire that he was not aware of until this incident occurred and he tried to review the tape.

After completing a thorough inquiry into this matter and reviewing the video tape over several times, I am unable to substantiate your claim that Officer Cousins falsified his report. The video tape indisputably reveals you utilizing aggressive contact with a your visitor. However, I cannot determine if you actually grabbed your visitor by her neck or not due to the clarity and angle of the camera. It should also be noted that his report does not indicate that you forcibly pulled her back by her neck, as you implied during the interview process.

Therefore, your appeal is **Partially Granted** in that a thorough inquiry has been completed. There is insufficient evidence to support your claim that officer Cousins falsified his report.



D. A. CAIN
B-Facility Lieutenant
CSP-SAC

RECEIVED

JUL 08 1999

CSP-SAC
APPEALS OFFICE

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

RULES VIOLATION REPORT

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ (O)	RELEASE/BOARD DATE <i>LOWP</i>	INST. SAC	HOUSING NO. FB1-221	LOG NO. CS-03-01-030
VIOLATED RULE NO(S). 3189(c)		SPECIFIC ACTS POSSESSION OF TOBACCO FOR THE PURPOSE OF DISTRIBUTION	LOCATION ISU	DATE 1/21/03	TIME 1230 Hrs.

CIRCUMSTANCES

On Tuesday, January 21, 2003, at approximately 1230 hours, while working Investigations, I was conducting a search of inmate MENENDEZ's (K-14101, FB1-221) property subsequent to his placement in Administrative Segregation (Ad Seg). MENENDEZ was placed in Ad Seg for conspiracy to escape on January 17, 2003. Upon searching his property in the ISU Office, I discovered a soft back book titled "The Message" New testament with Psalms and Proverbs, Eugene H. Peterson. I picked the book up and noticed that the book contained an unknown item. I shook the book and noticed that it did contain an unknown item. I opened the book and observed a cut out area in the book. The cut out area measured approximately 6" X 4" X 1 1/2". The cut-out area contained four cellophane balloons containing a brown leafy substance (tobacco). I unwrapped one cellophane balloon. The brown leafy substance emitted an odor of tobacco. I cut the three remaining cellophane balloons at the center, cutting them in half. The three remaining cellophane balloons also contained a brown leafy substance emitting an odor of tobacco

(CIRCUMSTANCES CONTINUED ON NEXT PAGE, PART 'C')

REPORTING EMPLOYEE (Typed Name and Signature) <i>[Signature]</i>	DATE 2/3/03	ASSIGNMENT Post #2353	RDO'S S/S/H
REVIEWING SUPERVISOR'S SIGNATURE <i>[Signature]</i>	DATE 2-3-03	<input type="checkbox"/> INMATE SEGREGATED PENDING HEARING	
CLASSIFIED <input checked="" type="checkbox"/> SERIOUS	OFFENSE DIVISION: F	DATE 2-3-03	CLASSIFIED BY (Typed Name and Signature) J. BANKS, Correctional Lieutenant
HEARING REFERRED TO <input type="checkbox"/> HO <input checked="" type="checkbox"/> SHO <input type="checkbox"/> SC <input type="checkbox"/> FC		LOC. N/A	

COPIES GIVEN INMATE BEFORE HEARING

<input checked="" type="checkbox"/> CDC 115	BY: (STAFF'S SIGNATURE) <i>[Signature]</i>	DATE 2/3/03	TIME 1020	TITLE OF SUPPLEMENT 9 Evidence Photos
<input type="checkbox"/> INCIDENT REPORT LOG NUMBER: N/A	BY: (STAFF'S SIGNATURE) N/A	DATE N/A	TIME N/A	BY: (STAFF'S SIGNATURE) <i>[Signature]</i>

HEARING

Inmate MENENDEZ (K-14101) appeared before the Senior Hearing Officer on 2-05-03 at 1912 hours, in the FB1 Block Staff Office. Inmate MENENDEZ is not a participant in the Mental Health Services Delivery System.

Inmate MENENDEZ acknowledged receipt of the Rules Violation Report on 2-03-03, and all other reports to be used in evidence. Inmate MENENDEZ was properly identified, and stated he was in good health and ready to proceed with the hearing. All time constraints have been met and all reports were issued more than 24 hours prior to the hearing.

STAFF ASSISTANT: Inmate MENENDEZ was not assigned a Staff Assistant per CCR §3315(d)(2).

INVESTIGATIVE EMPLOYEE: Inmate MENENDEZ waived an Investigative Employee.

(CONTINUED ON PART C)

REFERRED TO CLASSIFICATION BPT/NAEA

ACTION BY: (TYPED NAME) J. LOER, Correctional Lieutenant	SIGNATURE <i>[Signature]</i>	DATE 2-05-03	TIME 1912
REVIEWED BY: (SIGNATURE) <i>[Signature]</i>	DATE 2/11/03	CHIEF DISCIPLINARY OFFICER'S SIGNATURE L. JACKSON, AW-ASU (A)	DATE 2/18/03
<input checked="" type="checkbox"/> COPY OF CDC 115 GIVEN INMATE AFTER HEARING	BY: (STAFF'S SIGNATURE) <i>[Signature]</i>	DATE 2/20/03	TIME 1130

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ	LOG NUMBER A/S-03-01-030	INSTITUTION SAC	TODAY'S DATE 1/21/03
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF:	<input checked="" type="checkbox"/> 115 CIRCUMSTANCES	<input type="checkbox"/> HEARING	<input type="checkbox"/> IE REPORT
<input type="checkbox"/> OTHER _____				

(CONTINUATION OF CIRCUMSTANCES)

Further search of the property discovered a Snack Crackers box. The Snack Crackers box contained two cylindrical shaped cellophane wrapped items containing a brown leafy substance. The two items measured approximately 10" X 1½" I unwrapped one of the two items. The unwrapped item revealed a brown leafy substance emitting an odor of tobacco. I cut the other item in several areas revealing a brown leafy substance emitting an odor of tobacco. I photographed both the discoveries with a digital camera of the following items:

- 1) Overall of the book exposing the cut-out area and the three cellophane balloons and one unwrapped cellophane balloon.
- 2) Overall of the front cover of the book and the unwrapped cellophane balloon.
- 3) Close-up of the inside of the book and the three cellophane balloons.
- 4) Close-up of the unwrapped cellophane balloon.
- 5) Overall of the Snack Crackers box.
- 6) Overall of the Snack Cracker box with photo card.
- 7) Close-up of the Snack Cracker box.
- 8) Overall of the Snack Cracker box, two cylindrical shaped cellophane items and the photo card.
- 9) Close-up of the two cylindrical shaped items.

It should be noted that the photo card contained an error on the date noted. The error reads 1-121-03 and should read 1-21-03.

I weighed the four balloons found in the book. The balloons weighed a total of 79.5 grams. I weighed the two cylindrical shaped cellophane items. The two items weighed 74.3 grams.

I placed the book and the four balloons into an evidence envelope. I marked the evidence envelope with MENENDEZ's name, number and all pertinent information. I placed the Snack Cracker box and the two cylindrical shaped cellophane items into an evidence envelope and marked it with MENENDEZ's name, number and all pertinent information on it. I sealed the two envelopes and secured them into ISU Evidence Locker #35.

I printed a colored copy of the nine photos and submitted them with my report.

Inmate MENENDEZ is not a participant in the Mental Health Services Delivery System. Inmate MENENDEZ is aware of this report.

<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	SIGNATURE OF WRITER <i>[Signature]</i> D. RODRIGUEZ , Correctional Officer	DATE SIGNED 2/3/03
	GIVEN BY: (Staff's Signature) <i>[Signature]</i> R. Valencia	DATE SIGNED 2/3/02

RULES VIOLATION REPORT - PART C

PAGE 2 OF 2

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ	LOG NUMBER A/S-03-01-030	INSTITUTION SAC	TODAY'S DATE 2-05-03
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF:	<input type="checkbox"/> 115 CIRCUMSTANCES	<input checked="" type="checkbox"/> HEARING	<input type="checkbox"/> IE REPORT
<input type="checkbox"/> OTHER				

PLEA: The charges were read to Inmate MENENDEZ and he pled GUILTY, stating, "The tobacco was personal use only. I saved the tobacco from the packages I received prior to it being disallowed."

WITNESSES: Inmate MENENDEZ waived all witnesses at the time of the disciplinary hearing.

FINDINGS: Inmate MENENDEZ was found GUILTY of violating CCR §3189(c), **POSSESSION OF TOBACCO**. The preponderance of evidence submitted at the hearing substantiates the charge. This evidence included:

- (1) The written Rules Violation Report by Correctional Officer D. Rodriguez, that states while he was searching Inmate MENENDEZ's property, he discovered a soft back book with a cut-out area containing four cellophane balloons. The balloons contained tobacco. C/O Rodriguez also discovered a snack crackers box containing two cylindrical shaped cellophane items containing tobacco.
- (2) Inmate MENENDEZ's admission of guilt at the time of the disciplinary hearing, stating, I am guilty of having tobacco but it was for personal use. I saved the tobacco from packages I received before they disallowed tobacco.

Special Notation: The tobacco was packaged in 6 separate containers. 4 balloons weighing a total of 79.5 grams and 2 cylindrical shaped cellophane items weighing 74.3 grams. The tobacco appeared to be packaged for distribution; however, no other evidence was available to show sales.

SHO NOTE: The contraband was disposed of per DOM Section 52051.1.

DISPOSITION: Assessed 30 days Credit Forfeiture under a division 'F' offense. Counseled and Reprimanded. Inmate MENENDEZ was advised of his right to, and procedure for, appeal of this action. He was also advised of the credit restoration process and that he would receive a copy of the completed CDC-115 upon final audit by the Chief Disciplinary Officer.

END OF DISPOSITION

JL:wdf

<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	SIGNATURE OF WRITER J. LOER, Correctional Lieutenant	DATE SIGNED 2-05-03
	GIVEN BY (Staff's Signature) <i>[Signature]</i>	DATE SIGNED 2/20/03

STATE OF CALIFORNIA
SERIOUS RULES VIOLATION REPORT

DEPARTMENT OF CORRECTIONS

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ (Q)	VIOLATED RULE NO(S). 3188(c)	DATE 1/21/03	INSTITUTION CSP-SAC	LOG NO. AVS-03-01-030
------------------------------	--------------------------------------	--	------------------------	-------------------------------	---------------------------------

REFERRAL FOR FELONY PROSECUTION IS LIKELY IN THIS INCIDENT YES NO

POSTPONEMENT OF DISCIPLINARY HEARING

<input type="checkbox"/> I DO NOT REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE ▶ N/A	DATE N/A
<input type="checkbox"/> I REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE ▶ N/A	DATE N/A

DATE NOTICE OF OUTCOME RECEIVED N/A	DISPOSITION N/A
---	---------------------------

<input type="checkbox"/> I REVOKE my request for postponement.	INMATE'S SIGNATURE ▶ N/A	DATE N/A
--	------------------------------------	--------------------

STAFF ASSISTANT <input type="checkbox"/> REQUESTED	<input checked="" type="checkbox"/> WAIVED BY INMATE	STAFF ASSISTANT INMATE'S SIGNATURE ▶ <i>[Signature]</i>	DATE 2/3/03
<input type="checkbox"/> ASSIGNED	DATE N/A	NAME OF STAFF N/A	
<input checked="" type="checkbox"/> NOT ASSIGNED	REASON DOES NOT MEET CRITERIA PER CCR 63315(d)(2)		

INVESTIGATIVE EMPLOYEE <input type="checkbox"/> REQUESTED	<input checked="" type="checkbox"/> WAIVED BY INMATE	INVESTIGATIVE EMPLOYEE INMATE'S SIGNATURE ▶ <i>[Signature]</i>	DATE 2/5/03
<input type="checkbox"/> ASSIGNED	DATE N/A	NAME OF STAFF N/A	
<input checked="" type="checkbox"/> NOT ASSIGNED	REASON WAIVED BY INMATE		

EVIDENCE/INFORMATION REQUESTED BY INMATE:
N/A

WITNESSES

WITNESSES REQUESTED AT HEARING (IF NOT PRESENT, EXPLAIN IN FINDINGS)					
<input type="checkbox"/> REPORTING EMPLOYEE	<input type="checkbox"/> STAFF ASSISTANT	<input type="checkbox"/> INVESTIGATIVE EMPLOYEE	<input type="checkbox"/> OTHER N/A	<input checked="" type="checkbox"/> NONE	
WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)	GRANTED	NOT GRANTED	WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)	GRANTED	NOT GRANTED
N/A	<input type="checkbox"/>	<input type="checkbox"/>	N/A	<input type="checkbox"/>	<input type="checkbox"/>
N/A	<input type="checkbox"/>	<input type="checkbox"/>	N/A	<input type="checkbox"/>	<input type="checkbox"/>

INVESTIGATIVE REPORT: Investigative Employees must interview the inmate charged, the reporting employee, and any others who have significant information, documenting the testimony of each person interviewed. Review of files, procedures, and other documents may also be necessary.

N/A

<input checked="" type="checkbox"/> COPY OF CDC 115-A GIVEN INMATE	BY: (STAFF'S SIGNATURE) ▶ <i>[Signature]</i>	INVESTIGATOR'S SIGNATURE ▶ N/A	DATE N/A
	TIME 1030		DATE 2/3/03

RECEIVED
CSP - SACRAMENTO
RECORDS DEPT.

03 FEB 24 AM 9:30

INVESTIGATIVE SERVICES UNIT

Incident Report Review

To: **B. MAYFIELD**
Facility Captain

Unit: **A Facility**

IR#: **SAC-FAA-03-01-0027**

IR DATE: **01/17/03**

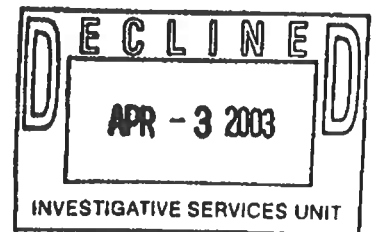
Type of Incident: **CONSPIRACY TO ESCAPE**

Suspect(s) Name and Number:

1)	TAYLOR	E-85025	2)	ROSS	J-55392
3)	MENENDEZ	K-14101	4)	HENRICKSON	C-71032
5)	KLEVEN	P-92267	6)	EHLE	P-69992

Per Director's Rules, Section 3316, and the Prosecution/Referral Criteria Agreement with the Sacramento County District Attorney's Office, dated 09/17/96, the attached incident involving the above-listed inmate(s) does not warrant referral for possible prosecution at this time for the following reason(s):

- 1. Does not meet the criteria warranting issuance of an Incident Package.
- 2. Lack of Corpus.
- 3. Insufficient evidence to warrant criminal prosecution.
- 4. Victim(s) unavailable/decline(s) to prosecute.
- 5. Witness(es) unavailable/decline(s) to testify.
- 6. No reasonable likelihood of conviction/sufficient administrative remedies exist.
- 7. Interest of Justice.
- 8. Other - Reason indicated in comments section.

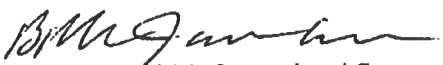


Comments: **DEFERRED IN ACCORDANCE WITH THE D.A. REFERRAL AGREEMENT.
ADMINISTRATIVE REMEDIES AVAILABLE.**

This decision is based upon:

- 1. Review of information contained in the Incident Package.
- 2. Interpretation of verbal information obtained from initiating unit.

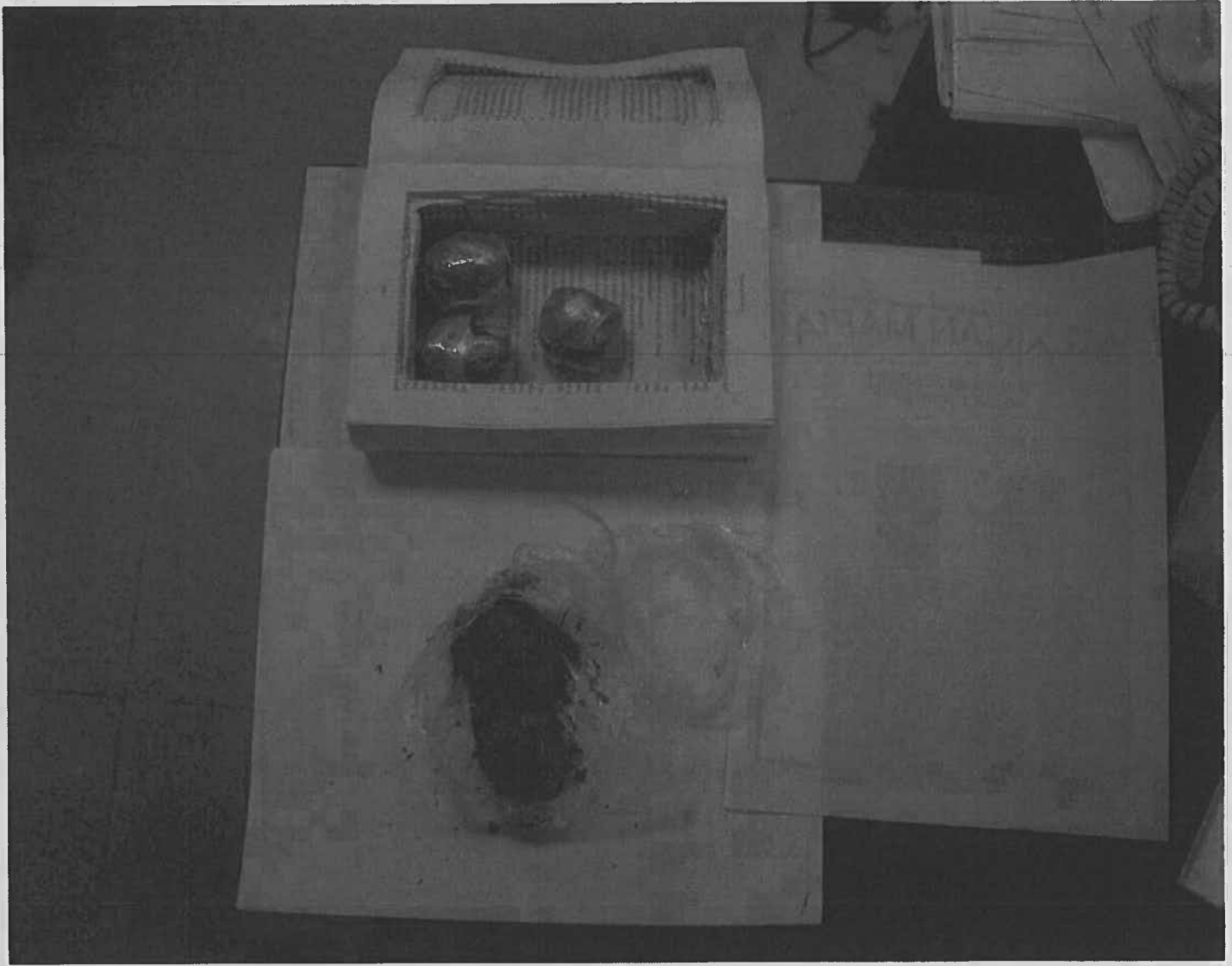
If through supplemental and/or ongoing investigation, any element or case factor that precludes prosecution is remedied, this case will be re-opened and if circumstances warrant, will be referred to the District Attorney for possible prosecution. You will be notified if such a situation arises.


B. MCJUNKIN, Correctional Sergeant, CPC
Investigative Services Unit


R. MANDEVILLE, Captain
Investigative Services Unit

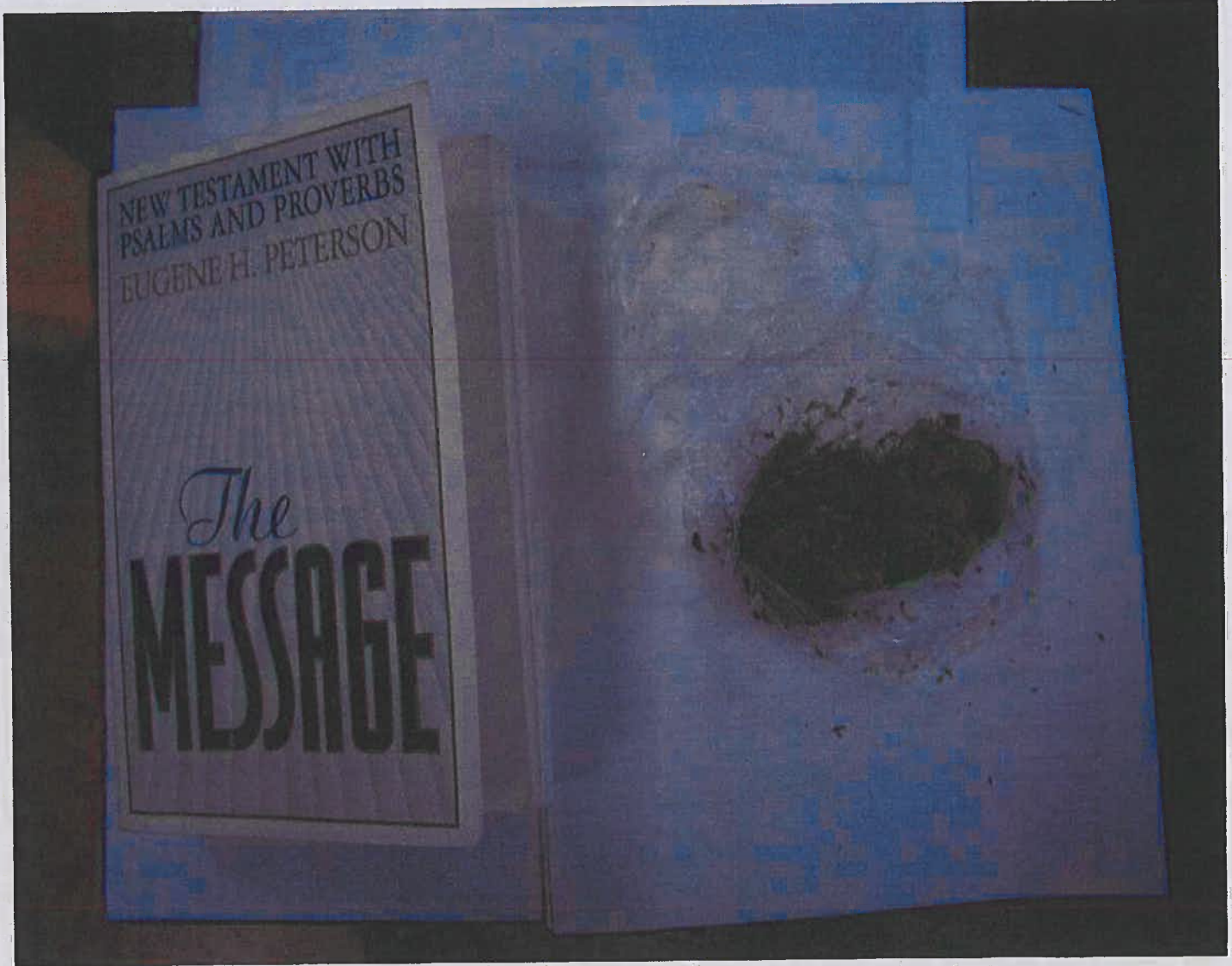
Original: CPC
cc: Central File
Facility Captain (Originating Unit)
ISU Incident File
Inmate

115
copy



115
copy

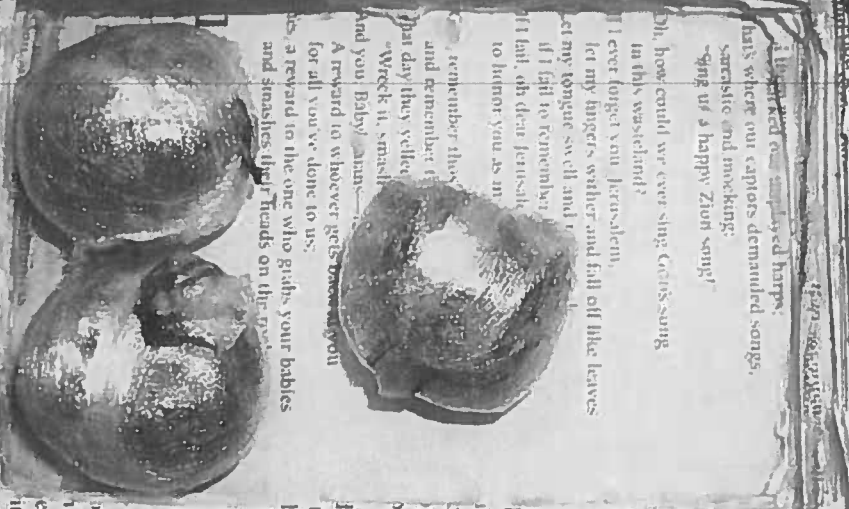
POOR ORIGINAL



115
copy

Math 4:28-5:5

He has broken our splashed harps,
 and where our captives demanded songs,
 "sing us a happy Zion song!"
 Oh, how could we ever sing your song
 in this wasteland?
 If I ever forget you, Jerusalem,
 let my fingers wither and fall off like leaves
 if I fail to remember
 all I feel, oh dear Jerusalem,
 to honor you as my
 God.
 Remember those
 and remember the
 that day they yelled
 "Wreck it, smash
 and you! Baby! smash!"
 A reward to whoever gets down and
 for all you've done to us,
 and smashes their heads on the rock
 as a reward to the one who grabs your babies



115
copy



115
copy



MENENDEZ E.
K-14101 A-7-226

115 copy



MENENDEZ E.
K-14101 A-7-226
H121-03 1230
Search of Property
C/o D. Rodriguez

116 copy



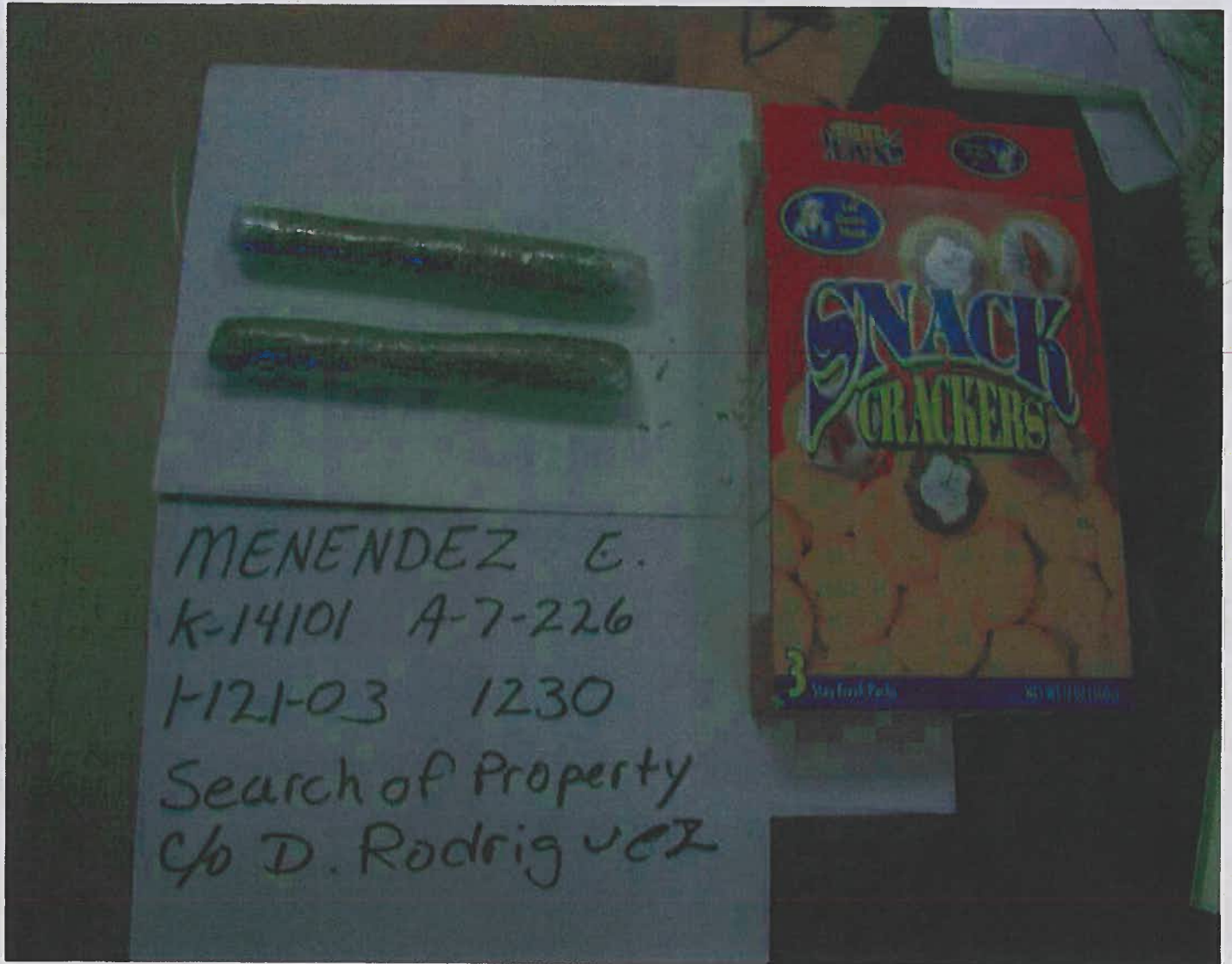
MENENDEZ E.

K-14101 A-7-226

F-121-03 1230

115
copy

POOR ORIGINAL



MENENDEZ E.

K-14101 A-7-226

H121-03 1230

Search of Property
C/o D. Rodriguez

115 copy

POOR ORIGINAL



APR 27 2003

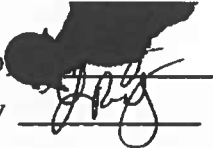
X

1/27/03

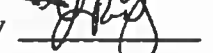
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CDC-804 recorded in Log book on 2/17/05 by 

STATE OF CALIFORNIA

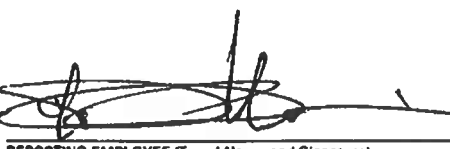
CDC-804 sent to Records on 2/23/05 by 


DEPARTMENT OF CORRECTIONS

RULES VIOLATION REPORT

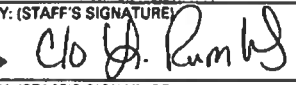

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ	(OTH)	RELEASE/BOARD DATE LIFE	INST. P.V.S.P.	HOUSING NO. AFB1-103L	LOG NO. 05/FA-02-050
VIOLATED RULE NO(S) §3016(a) CONTROLLED SUBSTANCES		SPECIFIC ACTS Unauthorized Possession of a Controlled Medication		LOCATION A-Pill Line	DATE 02/17/05	TIME 0700

On Thursday, February 17, 2005, at approximately 0700, inmate Menendez, K-14101, A1-103L appeared to be fake taking his medication. I ordered him to show me his cup, he turned his cup towards me and it contained one (1) white pill inside, marked "Welbutrin XL 150." I took possession of the medication and took it to the pharmacy for identification, and then placed the pill in the Lieutenants evidence locker. Inmate Menendez is a participant in the Mental Health Delivery System, and has a reading **TABE** score higher than 4.0. Inmate Menendez is aware of this report.



REPORTING EMPLOYEE (Typed Name and Signature) D. Criner, Correctional Officer	DATE 2-17-05	ASSIGNMENT A-Health S&E #1, 2/w	RDO'S S/S/H
REVIEWING SUPERVISOR'S SIGNATURE 	DATE 2-22-05	<input type="checkbox"/> INMATE SEGREGATED PENDING HEARING	
CLASSIFIED BY (Typed Name and Signature) N. E. Villa, Facility "A" Captain	DATE N/A	LOC. N/A	HEARING REFERRED TO
<input type="checkbox"/> ADMINISTRATIVE <input checked="" type="checkbox"/> SERIOUS	OFFENSE DIVISION: 121-150 B-6	DATE 2/23/05	<input type="checkbox"/> HO <input checked="" type="checkbox"/> SHO <input type="checkbox"/> SC <input type="checkbox"/> FC

COPIES GIVEN INMATE BEFORE HEARING

<input checked="" type="checkbox"/> CDC 115	BY: (STAFF'S SIGNATURE) 	DATE 2/26/05	TIME 1100	TITLE OF SUPPLEMENT CDC 115-C AUTHORED BY R. JULIANA Pharmacist
<input type="checkbox"/> INCIDENT REPORT LOG NUMBER:	BY: (STAFF'S SIGNATURE)	DATE	TIME	BY: (STAFF'S SIGNATURE) 

HEARING

On 03/11/05 at 1100 hours, Inmate Menendez, K-14101, AFB5-136L, appeared before this Senior Hearing Officer (SHO). The purpose of the hearing and his rights were explained to Menendez. He stated he was in good health. Inmate Menendez is a participant in the Mental Health Delivery System.

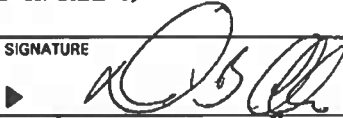


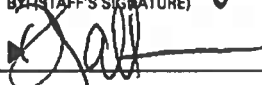
DUE PROCESS

The pre-hearing copy of the CDC-115 was issued to Menendez on 02/26/05, which is within 15 days of the date of discovery of the alleged misconduct. The hearing was conducted within 30 days of the issuance of the pre-hearing copy. All time constraints have been met. There are no due process issues barring forfeiture of credit. Inmate Menendez acknowledged receipt of the following reports, which may be used as evidence during the hearing, more than 24 hours prior to the hearing, and was ready to proceed with the hearing: CDC-115, CDC-115A, SUPPLEMENTAL REPORT Authored By R. Juliana, Pharmacist:

INVESTIGATIVE EMPLOYEE/STAFF ASSISTANT:

An Investigative Employee WAS NOT assigned. A Staff Assistant WAS NOT assigned.

(HEARING CONTINUED ON PART C)

REFERRED TO <input type="checkbox"/> CLASSIFICATION <input type="checkbox"/> BPT/NAEA		
ACTION BY: (TYPED NAME) D. B. Allen, Correctional Lieutenant	SIGNATURE 	DATE 3-11/05
REVIEWED BY: (TYPED NAME) 	DATE 3/14/05	TIME 1100
CHIEF DISCIPLINARY OFFICER'S SIGNATURE 	DATE 3/15/05	TIME 0900
BY: (STAFF'S SIGNATURE) 	DATE 3/16/05	TIME 0900

CDC 115 (7/88)

RULES VIOLATION REPORT - PART C

PAGE ___ OF ___

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ	LOG NUMBER 05/FA-02-050	INSTITUTION P.V.S.P.	TODAY'S DATE 03/11/05
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF:	<input type="checkbox"/> 115 CIRCUMSTANCES	<input checked="" type="checkbox"/> HEARING	<input type="checkbox"/> IE REPORT
<input type="checkbox"/> OTHER _____				

Although Inmate Menendez is a participant in the Mental Health Delivery System, a Staff Assistant was not assigned due to the circumstances described in the Rules Violation Report do not appear to be bizarre, unusual or uncharacteristic behavior for this inmate.

HEARING:

PLEA: The specific charge was read to Inmate Menendez, and he pled: GUILTY WITH AN EXPLANATION:

INMATE STATEMENT: "When I was at Folsom I always took my medication at night. At Folsom they would just give the meds to my cellie, I would take them before I went to bed."

WITNESS/EVIDENCE: Witnesses were requested. No additional material/evidence to be presented at this hearing. Doctor Shenik was requested as a witness but SHO determined the witness statement would have been irrelevant and was not granted. Menendez indicated the doctor might testify to Menendez needing to take his medication at bed time.

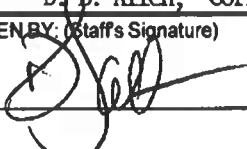
SHO contacted LVN L. Baker as a witness who indicated Menendez was to take the medication once daily. He is required to take his medication when issued at the window.

STAFF WITNESSES: None.

FINDINGS: Inmate Menendez was found GUILTY of violating CCR section 3016(a), for the specific act of: UNAUTHORIZED POSSESSION OF A CONTROLLED MEDICATION: SHO determination of guilt was based on:

- The written report of C/O D. Criner, which states in part; "On Thursday, February 17, 2005, at approximately 0700, inmate Menendez, K-14101, A1-103L appeared to be fake taking his medication. I ordered him to show me his cup, he turned his cup towards me and it contained one (1) white pill inside, marked Wellbutrin XL 150." I took possession of the medication and took it to the pharmacy for identification, and then placed the pill in the Lieutenants evidence locker."
- Inmate Menendez's admission of guilt.

DISPOSITION: ~~Assessed a credit forfeiture of 130 DAYS for a Division B Offense;~~ Assessed 90 DAYS loss of VISITING beginning on 02/17/05 ending 05/17/05, followed by 90 DAYS Non-Contact VISITING beginning on 05/18/05 and ending on 08/16/05. Assessed participation in mandatory random drug testing for one (1) year beginning on 03/11/05 per CCR Title 15 §3315(f)(4). Refusal to test or a positive test will result in another CDC-115 and a new mandatory drug testing order. Assessed participation in mandatory substance abuse class / Narcotics Anonymous (NA) per CCR Title 15 §3315(f)(5). Counseled and reprimanded regarding his conduct he was receptive. Menendez was advised of his rights to appeal and also advised that his credit loss was permanent in accordance with CCR Title 15 §3327(a)(1). Inmate Menendez was additionally informed that he will receive a final copy of this report at the completion of the CDO audit.

<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	SIGNATURE OF WRITER D. B. Allen, Correctional Lieutenant	DATE SIGNED 3/1/05
	GIVEN BY: (Staff's Signature) 	DATE SIGNED 3/16/05

STATE OF CALIFORNIA
SERIOUS RULES VIOLATION REPORT

DEPARTMENT OF CORRECTIONS

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ	VIOLATED RULE NO(S). §3016(a)	DATE 02/17/05	INSTITUTION P.V.S.P.	LOG NO. 05/PA-02-050
-----------------------	---------------------------	----------------------------------	------------------	-------------------------	-------------------------

REFERRAL FOR FELONY PROSECUTION IS LIKELY IN THIS INCIDENT YES NO

POSTPONEMENT OF DISCIPLINARY HEARING

<input type="checkbox"/> I DO NOT REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE ▶	DATE
<input type="checkbox"/> I REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE ▶	DATE
DATE NOTICE OF OUTCOME RECEIVED	DISPOSITION	
<input type="checkbox"/> I REVOKE my request for postponement.	INMATE'S SIGNATURE ▶	DATE

STAFF ASSISTANT

STAFF ASSISTANT <input type="checkbox"/> REQUESTED <input type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE ▶ <i>[Signature]</i>	DATE 2-26-05
<input type="checkbox"/> ASSIGNED	DATE	NAME OF STAFF
<input checked="" type="checkbox"/> NOT ASSIGNED	REASON D.N.N.C Per CCR 3315(d)(2)(a)	

INVESTIGATIVE EMPLOYEE

INVESTIGATIVE EMPLOYEE <input type="checkbox"/> REQUESTED <input type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE ▶ <i>[Signature]</i>	DATE 2-26-05
<input type="checkbox"/> ASSIGNED	DATE	NAME OF STAFF
<input checked="" type="checkbox"/> NOT ASSIGNED	REASON D.N.N.C Per CCR 3315(d)(1)(a)	

EVIDENCE/INFORMATION REQUESTED BY INMATE:

WITNESSES

WITNESSES REQUESTED AT HEARING (IF NOT PRESENT, EXPLAIN IN FINDINGS)

REPORTING EMPLOYEE STAFF ASSISTANT INVESTIGATIVE EMPLOYEE OTHER _____ NONE

WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)	GRANTED	NOT GRANTED	WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)	GRANTED	NOT GRANTED
Dr. SHANK	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

INVESTIGATIVE REPORT: Investigative Employees must interview the inmate charged, the reporting employee, and any others who have significant information, documenting the testimony of each person interviewed. Review of files, procedures, and other documents may also be necessary.

<input checked="" type="checkbox"/> COPY OF CDC 115-A GIVEN INMATE	BY: (STAFF'S SIGNATURE) ▶ <i>[Signature]</i>	INVESTIGATOR'S SIGNATURE ▶	DATE 2/26/05
		TIME 1100	



RULES VIOLATION REPORT - PART C

PAGE ___ OF ___

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ	LOG NUMBER 05/FA-02-050	INSTITUTION P.V.S.P.	TODAY'S DATE 02/17/05
<input type="checkbox"/> SUPPLEMENTAL	<input type="checkbox"/> CONTINUATION OF:	<input type="checkbox"/> 115 CIRCUMSTANCES	<input type="checkbox"/> HEARING	<input type="checkbox"/> IE REPORT
<input type="checkbox"/> OTHER _____				

On Thursday, February 17, 2005 at approximately 1130 hours, Correctional Officer D. Criner brought to me one (1) white pill for identification. I have identified this pill to be "Welbutrin 150 XL." a Controlled Medication.

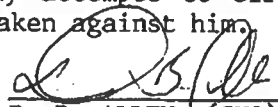
<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	SIGNATURE OF WRITER <i>R. Juliana</i> R. Juliana, Pharmacist	DATE SIGNED 2/17/05
	GIVEN BY: (Staff's Signature) <i>Clayton R...</i>	DATE SIGNED 2/26/05

RECEIVED RECORDS
PVSP

2005 MAR 21 PM 2: 03

*** ASSESSED PARTICIPATION IN SUBSTANCE ABUSE PROGRAM ***

On 03/11/05, Inmate Menendez, K-14101, AFB5-136L, was found GUILTY of a violation of CCR Title 15 §3016(a), for the specific act of Possession of a Controlled Medication, during the adjudication of CDC-115 log number 05/FA-02-050. As a result, Menendez is required to participate in mandatory substance abuse class; Narcotics Anonymous(NA) per CCR Title 15 §3315(f)(5). Menendez has been advised that any attempts to circumvent this assessment will result in additional disciplinary action being taken against him.


D. B. ALLEN, (SHO)
Correctional Lieutenant
Facility "A"

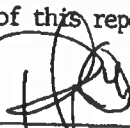
Original: Central File
cc: CC-II
Drug Testing Coordinator
Inmate

DATE 03/11/05 ASSESSED PARTICIPATION SUBSTANCE ABUSE PROGRAM PVSP GENERAL CHRONO

FILE

NAME AND NUMBER **MENENDEZ** **K-14101** **AFBS-211L**

On Monday March 21, 2005, At Approximately 1945 HOURS I saw Inmate MENENDEZ, CDC#K-14101, CELL#211L on phone "4" Inmate MENENDEZ used his phone time at 1415 Hours on March 21, 2005. Inmate MENENDEZ was told to get off phone "1" on March 20, 2005 by myself for excessive time. Inmate MENENDEZ continues to ignore policies and procedures on phone usage and takes advantage of his 3/w porter position to get on the phones. Inmate MENENDEZ has been verbally counseled on unauthorized phone usage. Inmate MENENDEZ is aware that any further violations of this nature will result in additional disciplinary actions. Inmate MENENDEZ is aware of this report.



H. RIOS, Correctional Officer
AFBS-Floor #1 3/W
"A" Facility

ORIGINAL: C-FILE
cc: ~~CC-11~~
Writer
Inmate

COUNSELING CHRONO
P.V.S.P.

03/21/05

DATE

CUSTODIAL COUNSELING

RECEIVED RECORDS
PVSP

2005 APR -7 AM 8:43

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS
CDC 128 A (8-87)

NAME AND NUMBER **MENENDEZ** **K-14101** **AFB5-211L**

On Monday March 21, 2005, At Approximately 1945 HOURS I saw Inmate MENENDEZ, CDC#K-14101, CELL#211L on phone "4" Inmate MENENDEZ used his phone time at 1415 Hours on March 21, 2005. Inmate MENENDEZ was told to get off phone "1" on March 20, 2005 by myself for excessive time. Inmate MENENDEZ continues to ignore policies and procedures on phone usage and takes advantage of his 3/w porter position to get on the phones. Inmate MENENDEZ has been verbally counseled on unauthorized phone usage. Inmate MENENDEZ is aware that any further violations of this nature will result in additional disciplinary actions. Inmate MENENDEZ is aware of this report.

ORIGINAL: C-FILE

cc: CC-I
Writer
Inmate



H. RIOS, Correctional Officer
AFB5-Floor #1 3/W
"A" Facility

COUNSELING CHRONO
P.V.S.P.

03/21/05

DATE

CUSTODIAL COUNSELING

RECEIVED RECORDS
PVSP

2005 APR -7 AM 8:25

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

RULES VIOLATION REPORT

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ (W)	RELEASE/BOARD DATE LWOP	INST. P.V.S.P.	HOUSING NO. AFB5-201U	LOG NO. '06/EA-03-018
VIOLATED RULE NO(S) §3175(g) FOR I/M AND VISITORS	STANDARDS OF CONDUCT	SPECIFIC ACTS EXCESSIVE PHYSICAL CONTACT WITH VISITORS	LOCATION VISITING	DATE 03/04/06	TIME 1145

CIRCUMSTANCES

On Saturday, March 04, 2006, at approximately 1145 hours, while monitoring the A Facility Visiting Patio, via the surveillance camera, I observed inmate Menendez, K-14101, AFB5-201U, and his Visitor, Tammy Soccoman, as well as her minor daughter, sitting at a table. Menendez's visitor had her left hand near his crotch area and was moving her arm back and fourth. This behavior was performed in the presence of a minor. I interviewed and called Menendez to the podium. As Menendez stood and walked, I could observe an obvious erection. While interviewing Menendez about his behavior he admitted, "She had her hand on my crotch." Menendez's visit was terminated and he was escorted back to A Facility. The videotape was taken to the visiting Administrative Office where it was reviewed and secured by Lieutenant Webster. Upon review of the videotape it is noted that this behavior occurred at 1145 hours, however, due to the VCR clock not set at current time, the time recorded on the videotape is 1336 hours. Inmate Menendez IS a participant in the Mental Health Delivery System, and has a reading TABE score HIGHER than 4.0. Inmate Menendez is aware of this report.

REPORTING EMPLOYEE (Typed Name and Signature) I. Villa, Correctional Officer	DATE 3-11-06	ASSIGNMENT A-Visit Ofc. #3	RDO'S M/T
REVIEWING SUPERVISOR'S SIGNATURE R. Gray, Correctional Sergeant	DATE 3-12-06	<input type="checkbox"/> INMATE SEGREGATED PENDING HEARING	
CLASSIFIED ADMINISTRATIVE	OFFENSE DIVISION: Admin	DATE 3/13/06	CLASSIFIED BY (Typed Name and Signature) E.H. Beels, Facility "A", Captain
<input checked="" type="checkbox"/> SERIOUS			HEARING REFERRED TO <input checked="" type="checkbox"/> HO <input type="checkbox"/> SHO <input type="checkbox"/> SC <input type="checkbox"/> FC

COPIES GIVEN INMATE BEFORE HEARING

<input checked="" type="checkbox"/> CDC 115	BY: (STAFF'S SIGNATURE) P. Soar	DATE 3-15-06	TIME 0810	TITLE OF SUPPLEMENT
<input type="checkbox"/> INCIDENT REPORT LOG NUMBER:	BY: (STAFF'S SIGNATURE)	DATE	TIME	BY: (STAFF'S SIGNATURE)

HEARING
~~On 03/23/06, at 1005 hours, Inmate Menendez, K-14101, AFB5-201U, appeared before this hearing officer (HO). The purpose~~

On 03/23/06, at 1005 hours, Inmate Menendez, K-14101, AFB5-201U, appeared before this hearing officer (HO). The purpose of the hearing and the inmate's rights were explained. He stated he was in good health, and acknowledged receipt of all reports to be used as evidence more than 24 hours prior to the hearing.

PLEA: The charges were read to the inmate to which he pled: **NOT Guilty.**
INMATE'S STATEMENT: " Her hand was in my lap area, but she was not rubbing or stroking me."

FINDINGS: Inmate Menendez was found GUILTY of violating OCR §3175 for the Specific Act of, EXCESSIVE PHYSICAL CONTACT W/VISITORS The preponderance of the evidence presented at the hearing did substantiate the charge. The specific evidence supporting the finding is: Via surveillance camera I observed Menendez, Tammy Soccoman and minor daughter sitting at a table. Visitor Tammy Soccoman had her left hand near his crotch area and was moving her arm back and forth. This behavior was in the presence of a minor. Menendez admitted, " She had her hand on my crotch." This is the inmates partial admission of guilt.

DISPOSITION: Assessed 30 days loss of ALL VISITING PRIVILEGES to begin on 03/23/06 and end on 04/22/06. Also assessed (10) days C.T.Q, to be served on inmates R.D.O's. He was receptive to counseling. He was advised of his rights and the procedure to appeal this action. He was informed that he would receive a final copy of this report at the completion of the CDO audit.

ADDITIONAL COMMENTS REGARDING DISPOSITION: Menendez admitted, " She had her hand on my crotch." as per CDO#115. The video tape was not used in the disposition of this hearing.

ACTION BY: (TYPED NAME) R. GARZA, CORRECTIONAL SERGEANT	SIGNATURE R. Garza	DATE 4/6/06	TIME 1345
REVIEWED BY: (SIGNATURE) E. H. BEELS, FACILITY "A" CAPTAIN	DATE 4/17/06	CHIEF DISCIPLINARY OFFICER'S SIGNATURE J. M. MATTINGLY ASSOCIATE WARDEN	DATE 04/18/06
<input checked="" type="checkbox"/> COPY OF CDC 115 GIVEN INMATE AFTER HEARING	BY: (STAFF'S SIGNATURE) Go Black	DATE 4/22/06	TIME 0830

STATE OF CALIFORNIA

PIC
DEPARTMENT OF CORRECTIONS
CDC-128A (2-99)

NAME AND NUMBER

MENENDEZ, K-14101, AFB5-201U

The above named inmate is being charged with violation of Director's Rule #3170 General Visiting Policy, Specific Act, EXCESSIVE CONTACT, Location: Facility "A" Visiting.

On Saturday, March 4, 2006, at approximately 1155 hours, I was interviewing inmate Menendez about Excessive Contact between him and his visitor Tammi Saccoman. When asked about his visitor's behavior, Menendez admitted to her having her hand on his crotch, but that there was no skin-to-skin contact. He further added that it was difficult because he cannot get family visits. I asked Menendez why he would behave in that manner in front of his little girl, Menendez said that he was sorry, and for me not to take his visits from his daughter. Menendez was advised that his visits was terminated for Excessive Contact. Menendez was receptive to counseling and he is also aware of this report.



I. VILLA

Post #RO145, Facility "A" Visiting Officer #3, 2/W
Pleasant Valley State Prison

cc: Visiting File
Central File
Counselor
Inmate
Officer

DATE: MARCH 24, 2006

COUNSELING CHRONO

POOR ORIGINAL

-PIC.

file

STATE OF CALIFORNIA

RULES VIOLATION REPORT

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ (OTH)	RELEASE/BOARD DATE LWOP	INST. P.V.S.P.	HOUSING NO. AFB5-219L	LOG NO. 11/FA-07-038
VIOLATED RULE NO(S). § 3005(d)(1)		SPECIFIC ACTS FIGHTING	LOCATION "A" REC. YARD	DATE 7-20-11	TIME 1130 Hours

CIRCUMSTANCES On Wednesday, July 20, 2011 at approximately 1130 hours, while monitoring inmates during morning yard, I observed inmates Farmer, K-53985 (AFB5-204U), and Menendez, K-14101 (AFB5-219L), striking each other in the head and chest area with their fists, on the grass area. Utilizing the Public Address System (PA), I ordered the yard down. I then utilized my Institutional Radio and notified Central Control that "A" Facility was down. All inmates complied except for Farmer and Menendez who fell to the ground and continued to fight. Responding staff arrived, and gave the combatants verbal orders to get down with positive results. Both combatants separated and assumed prone positions on the ground. Responding staff handcuffed, searched, and escorted Farmer and Menendez to Program Services for interview and medical evaluation without further incident. Inmate MENENDEZ is a participant in the Mental Health Services Delivery System, at the CCCMS level of care. Inmate MENENDEZ is noted as having a T.A.B.E. score higher than a 4.0. Inmate MENENDEZ is aware of this report.

REPORTING EMPLOYEE (Typed Name and Signature) D.B. Brown, Correctional Officer	DATE 7/25/11	ASSIGNMENT A-Observation	RDO'S F/S
REVIEWING SUPERVISOR'S SIGNATURE D. Huckabay, Correctional Sergeant	DATE 7/26/11	INMATE SEGREGATED PENDING HEARING N/A	LOC. N/A
CLASSIFIED <input type="checkbox"/> ADMINISTRATIVE <input checked="" type="checkbox"/> SERIOUS	OFFENSE DIVISION: D (61-90)	DATE 7/26/11	CLASSIFIED BY (Typed Name and Signature) A. Walker, Facility A Captain
COPIES GIVEN INMATE BEFORE HEARING			HEARING REFERRED TO <input type="checkbox"/> HO <input checked="" type="checkbox"/> SHO <input type="checkbox"/> SC <input type="checkbox"/> FC

<input checked="" type="checkbox"/> CDC 115	BY: (STAFF'S SIGNATURE) Yo Black	DATE 7/27/11	TIME 0830	TITLE OF SUPPLEMENT 7/21/11's comp chrono's
<input type="checkbox"/> INCIDENT REPORT LOG NUMBER:	BY: (STAFF'S SIGNATURE)	DATE	TIME	BY: (STAFF'S SIGNATURE) Yo Black

HEARING
The hearing was convened on 8-5-11 at 0830 hours when I introduced myself, Lieutenant L. Ybarra, as the Senior Hearing Officer (SHO) for this disciplinary hearing. Inmate MENENDEZ claims to be in good health and is prepared to proceed with the disciplinary hearing. Inmate MENENDEZ is a participant in the Mental Health Delivery System at the CCCMS level of care and did not exhibit any strange, bizarre or unusual behavior.

Plea: NOT GUILTY Findings: ~~NOT GUILTY~~ **GUILTY**

Inmate MENENDEZ was found GUILTY of violating CCR Title 15, Section §3005(d)(1), for the specific act of FIGHTING, a Division D offense. He was assessed 90 days forfeiture of credit; Assessed 90 days loss of YARD ACCESS/QUARTERLY PACKAGE/FOOD SALE privileges; Counseled and reprimanded regarding his conduct.

(Hearing continued on Part C)

P

REFERRED TO <input type="checkbox"/> CLASSIFICATION <input type="checkbox"/> BPT/NAEA	ACTION BY: (TYPED NAME) L. Ybarra, Correctional Lieutenant		SIGNATURE	DATE 8/5/11	TIME 0830
REVIEWED BY: (SIGNATURE) A. Walker, Facility A Captain	DATE 8/09/11	CHIEF DISCIPLINARY OFFICER'S SIGNATURE M. Davis, Associate Warden A/B		DATE 8/9/11	
<input checked="" type="checkbox"/> COPY OF CDC 115 GIVEN INMATE AFTER HEARING	BY: (STAFF'S SIGNATURE) Yo Black	DATE 8/10/11	TIME 1220		

RULES VIOLATION REPORT - PART C

PAGE 1 OF 3

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ	LOG NUMBER 11/FA-07-038	INSTITUTION P.V.S.P.	TODAY'S DATE 8-5-11
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF:	<input type="checkbox"/> 115 CIRCUMSTANCES	<input checked="" type="checkbox"/> HEARING	<input type="checkbox"/> IE REPORT
<input type="checkbox"/> OTHER _____				

DUE PROCESS: All time constraints have been met.

Date of discovery: 7-20-11

RVR served on: 7-27-11

Supplements served on: 7-27-11

DISTRICT ATTORNEY REFERRAL: No.

DOCUMENTS SERVED: Inmate MENENDEZ acknowledged receiving all documents being used at the hearing at least 24 hours prior to the hearing. 1. 7219's for both involved inmates; 2. Compatibility Chrono; 3. Inmate Menendez reviewed Video DVD on 8-2-11.

T.A.B.E. SCORE: Inmate MENENDEZ has a T.A.B.E. score above 4.0.

STAFF ASSISTANT: A Staff Assistant was not assigned per CCR §3315(d)(2)(a).

EFFECTIVE COMMUNICATION: Effective communication was not a factor, however, the SHO explained the charges, hearing, options, instructions and actions to the inmate by reading the Rules Violation Report (RVR), speaking slowly and clearly, utilizing simple, non-complex Standard American English language. Inmate MENENDEZ had the ability to articulate in his own words that he understood the RVR hearing to the SHO's satisfaction.

MENTAL HEALTH DELIVERY SYSTEM: Inmate MENENDEZ is a participant in the Mental Health Delivery System, at the CCCMS level of care. The behavior leading up to and during this misconduct observed by staff was not bizarre, unusual or uncharacteristic behavior, and therefore a staff assistant will not be assigned.

INVESTIGATIVE EMPLOYEE: An Investigative Employee was not assigned per CCR §3315(d)(1)(a).

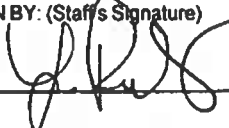
EVIDENCE: Inmate MENENDEZ requested the following evidence at the hearing: Video DVD of this RVR.

CONFIDENTIAL INFORMATION: Confidential information was not used at this hearing.

PLEA: The specific charge was read to inmate MENENDEZ. He pled NOT GUILTY and stated, "I was not the aggressor and never threw a punch." Inmate MENENDEZ also had a written statement at the time of the hearing which is typed verbatim: "On 7-20-11, while on the Facility-A recreation yard field, I was approached by inmate Farmer (K-53985). Farmer called me to him. Farmer then stepped forward and swung his right fist at my face. I blocked the strike and immediately subdued Farmer by pinning him to the ground. I tried to hold him there until the facility staff responded and ordered us to separate. At no time did I ever strike inmate Farmer or attempt to strike inmate Farmer. I acted in self-defense in the only non-violent method to an inmate."

WITNESSES: Inmate MENENDEZ did request witnesses at this hearing. Correctional Lieutenant N. Greene; Correctional Officer A. Nichols; Correctional Officer R. Rodriguez; and Inmate Farmer K-53985. The SHO granted his request. However, inmate Menendez elected to waive his questions at the time of the hearing for Lieutenant Greene, and Officer's Rodriguez and Nichols.

(Continued on Part C)

<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	SIGNATURE OF WRITER L. Ybarra, Correctional Lieutenant	DATE SIGNED 8/5/11
	GIVEN BY: (Staff's Signature) 	DATE SIGNED 8/10/11

RULES VIOLATION REPORT - PART C

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ	LOG NUMBER 11/FA-07-038	INSTITUTION P.V.S.P.	TODAY'S DATE 8-5-11
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF:	<input type="checkbox"/> 115 CIRCUMSTANCES	<input checked="" type="checkbox"/> HEARING	<input type="checkbox"/> IE REPORT
<input type="checkbox"/> OTHER _____				

WITNESS QUESTIONS CONTINUED:

Questions for inmate Farmer (Present at the hearing), from Melendez:

Q1: On 7-20-11, did you approach me on the Facility-A grass field and call me to you?

A1: Yes.

Q2: Did you then swing at me with your fist.

A2: Yes.

Q3: Did I ever throw a punch at you.

A3: No.

Q4: Did you ever even see me attempt to throw a punch at you?

A4: No.

Q5: Were you the aggressor in the incident?

A5: Yes.

Q6: In response to your attack, did I pull you to the ground and restrain you?

A6: Kinda of.

Q7: At any time, while I was restraining you, did I punch you?

A7: No.

FINDINGS: Inmate MENENDEZ was found GUILTY of violating CCR §3005(d)(1), for the specific act of FIGHTING. The following evidence was utilized in the finding of guilt:

1. The Reporting Employee's written report, which states in part that "... On Wednesday, July 20, 2011 at approximately 1130 hours, while monitoring inmates during morning yard, I observed inmates Farmer, K-53985 (AFB5-204U), and Menendez, K-14101 (AFB5-219L), striking each other in the head and chest area with their fists, on the grass area. Utilizing the Public Address System (PA), I ordered the yard down. I then utilized my Institutional Radio and notified Central Control that "A" Facility was down. All inmates complied except for Farmer and Menendez who fell to the ground and continued to fight."
2. Video DVD reviewed by the SHO at the time of the hearing, which shows inmate Menendez and Farmer engaged in a fight.
3. In accordance with the California Code of Regulations (CCR), Title 15 section: 3005(d)(1), which states in part, "Inmates shall not willfully commit or assist another person in the commission of an assault or battery to any person or persons, nor attempt or threaten the use of force or violence upon another person."

DISPOSITION: Inmate MENENDEZ was found GUILTY of violating CCR Title 15, Section §3005(d)(1), for the specific act of FIGHTING, a Division D offense. He was assessed 90 days forfeiture of credit loss which is consistent with a division D offense; Assessed 90 days loss of YARD ACCESS/QUARTERLY PACKAGE/FOOD SALE privileges to begin on 8-5-11 and concludes on 11-4-11; Inmate MENENDEZ was counseled and reprimanded regarding his conduct.

(Continued on Part C)

<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	SIGNATURE OF WRITER L. Ybarra, Correctional Lieutenant	DATE SIGNED 8/5/11
	GIVEN BY: (Staff's Signature) [Signature]	DATE SIGNED 8/10/11

RULES VIOLATION REPORT - PART C

PAGE 3 OF 3

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ	LOG NUMBER 11/FA-07-038	INSTITUTION P.V.S.P.	TODAY'S DATE 8-5-11	
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF:	<input type="checkbox"/> 115 CIRCUMSTANCES	<input checked="" type="checkbox"/> HEARING	<input type="checkbox"/> IE REPORT	<input type="checkbox"/> OTHER _____

ENEMY CONCERNS: There are no enemy concerns related with this disciplinary hearing. This disciplinary hearing was the result of FIGHTING. During the hearing inmate MENENDEZ revealed to this SHO that he does not consider inmate FARMER (K-53985) an enemy, and can program on the same yard, as both inmates signed compatibility chronos dated, 7-20-11.

APPEAL RIGHTS: Inmate MENENDEZ was advised of his appeal rights per CCR Section §3084.1(a). He was further advised of the procedures for restoration of credit for a division D offense. He was informed that he will receive a copy of the completed RVR upon final review by the Chief Disciplinary Officer.

<input checked="" type="checkbox"/>	SIGNATURE OF WRITER L. Ybarra, Correctional Lieutenant	DATE SIGNED 8/5/11
	GIVEN BY: (Staff's Signature)	DATE SIGNED 8/10/11
COPY OF CDC 115-C GIVEN TO INMATE		


FARMER

K-53985

AFB5-04U

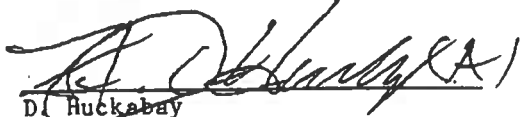
NAME and NUMBER

On 7-20-11, I interviewed inmate FARMER, K-53985, and inmate MENENDEZ, K-14101, regarding enemy concerns with one another. Both inmates claimed that they DO NOT consider each other enemies; therefore, they can be housed safely on the same facility.


FARMER K-53985


MENENDEZ K-14101

Original: Central File
cc: Writer
Inmate


D. Huckabay
Correctional Lieutenant (A)
Facility A 2/W

DATE 7-20-11

COMPATIBILITY CHRONO

PVSP GENERAL CHRONO

MENENDEZ

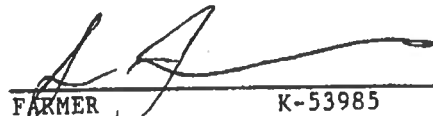
K-14101

AFB5-219L


NAME and NUMBER

On 7-20-11, I interviewed inmate MENENDEZ, K-14101, and inmate FARMER, K-53985, regarding enemy concerns with one another. Both inmates claimed that they DO NOT consider each other enemies; therefore, they can be housed safely on the same facility.


MENENDEZ K-14101


FARMER K-53985

Original: Central File
cc: Writer
Inmate


D. Huckabay
Correctional Lieutenant (A)
Facility A 2/W

DATE 7-20-11

COMPATIBILITY CHRONO

PVSP GENERAL CHRONO

MEDICAL REPORT OF INJURY OR UNUSUAL OCCURRENCE

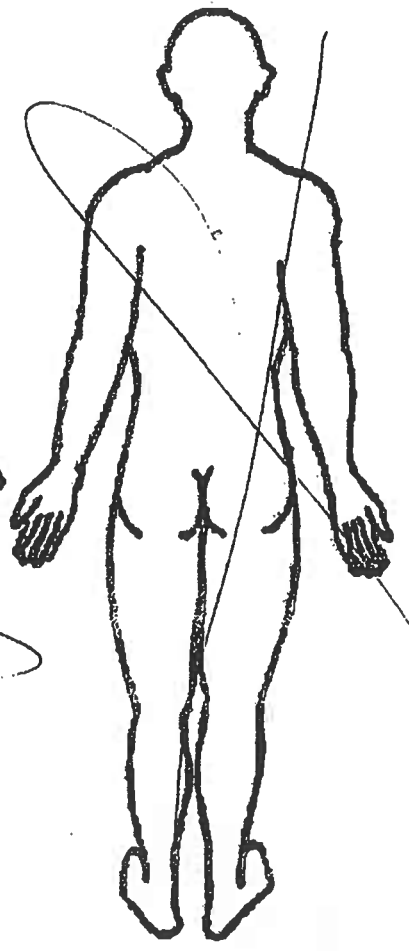
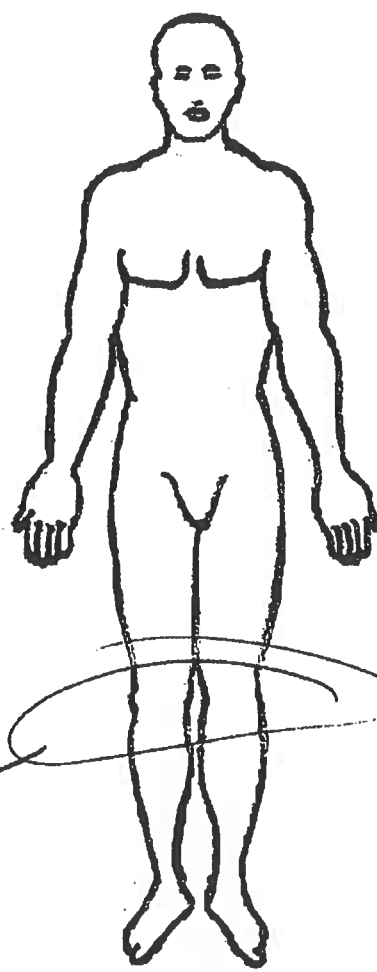
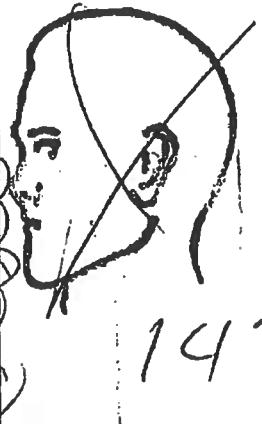
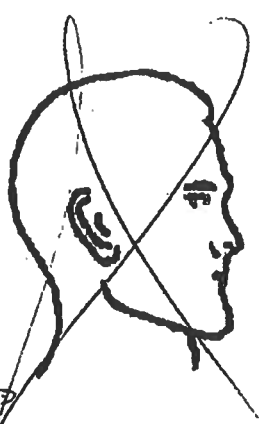
NAME OF INSTITUTION PVSP	FACILITY/UNIT A Yard	REASON FOR REPORT (circle) INJURY UNUSUAL OCCURRENCE	ON THE JOB INJURY PRE AD/SEG ADMISSION	DATE 7/20/11
THIS SECTION FOR INMATE ONLY	NAME LAST Mendez	FIRST Enk	CDC NUMBER K14101	HOUSING LOC. A5-219
THIS SECTION FOR STAFF ONLY	NAME LAST _____	FIRST _____	BADGE #	RANK/CLASS
THIS SECTION FOR VISITOR ONLY	NAME LAST _____	FIRST _____	MIDDLE _____	DOB
HOME ADDRESS _____		CITY _____	STATE _____	ZIP _____
				HOME PHONE _____

PLACE OF OCCURRENCE A yard	DATE/TIME OF OCCURRENCE 7/20/11 @ 1130	NAME OF WITNESS(ES)
TIME NOTIFIED 1130	TIME SEEN 1135	ESCORTED BY Custody
MODE OF ARRIVAL (circle) AMBULATORY	LITTER ON SITE	WHEELCHAIR
AGE 40	RACE W	SEX M

BRIEF STATEMENT IN SUBJECT'S WORDS OF THE CIRCUMSTANCES OF THE INJURY OR UNUSUAL OCCURRENCE

"NO"

INJURIES FOUND?	YES / NO
Abrasion/Scratch	1
Active Bleeding	2
Broken Bone	3
Bruise/Discolored Area	4
Burn	5
Dislocation	6
Dried Blood	7
Fresh Tattoo	8
Cut/Laceration/Slash	9
O.C. Spray Area	10
Pain	11
Protrusion	12
Puncture	13
Reddened Area	14
Skin Flap	15
Swollen Area	16
Other	17
	18
	19



O.C. SPRAY EXPOSURE? YES/NO	YES/NO
DECONTAMINATED? YES/NO	YES/NO
Self-decontamination instructions given? YES/NO	YES/NO
Refused decontamination? YES/NO	YES/NO
Q 15 min. checks	
Staff issued exposure packet? YES/NO	
RN NOTIFIED/TIME N/A	PHYSICIAN NOTIFIED/TIME N/A
TIME/DISPOSITION Released Custody	

REPORT COMPLETED BY/TITLE (PRINT AND SIGN) L. Mills Amb	BADGE # 19608	RDOs TH Fr
---	-------------------------	----------------------

(Medical data is to be included in progress note or emergency care record filed in UHR)

RULES VIOLATION REPORT - PART C

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ	LOG NUMBER 11/FA-07-038	INSTITUTION P.V.S.P.	TODAY'S DATE 7-20-11
<input type="checkbox"/> SUPPLEMENTAL	<input type="checkbox"/> CONTINUATION OF:	<input type="checkbox"/> 115 CIRCUMSTANCES	<input type="checkbox"/> HEARING	<input type="checkbox"/> IE REPORT
<input checked="" type="checkbox"/> OTHER EFF. COMM.				

DISABILITY AND EFFECTIVE COMMUNICATION SYSTEM (DECS) QUERY WORKSHEET

IDENTIFICATION OF EFFECTIVE COMMUNICATION (EQ) ISSUES: Review of the Disability and Effective Communication System (DECS) as well as interview, conversation and communication with the Principal indicates the following:

- No Disabilities or EC issues noted.
- Or: Hearing Vision Speech Learning Disability Developmental Disability
- TABE Score 4.0 or Below MHSIS - CCMS FOP / MCB Language Barrier

METHOD USED TO ESTABLISH EC:

- HEARING [1] Written Notes [2] Lip Reading - Simple English Spoken, Slowly, and Clearly
- [3] Sign Language [4] Hearing Aids [5] Speaking Loudly
- VISION [6] Prescription Glasses [7] Text Magnifier [8] Documents Read to Principal
- SPEECH [9] Foreign Language Interpreter Provide - Language _____

OTHER:

- [10] The Principal was able to reiterate what was explained to him in his own words.
- [11] The Principal was able to provide appropriate responses to questions asked and information explained.
- [12] The Principal asked appropriate questions regarding information provided.

PRE-HEARING COPY OF RULES VIOLATION REPORT ISSUED BY: Ch. Black Date: 7/27/11

EC was achieved by: 1 [] 2 [] 3 [] 4 [] 5 [] 6 [] 7 [] 8 [] 9 [] 10 [] 11 12
Additional EC issues noted and addressed as follows: _____

ASSIGNED STAFF ASSISTANT: N/A Date: _____

EC was achieved by: 1 [] 2 [] 3 [] 4 [] 5 [] 6 [] 7 [] 8 [] 9 [] 10 [] 11 [] 12 []
Additional EC issues noted and addressed as follows: _____

ASSIGNED INVESTIGATIVE EMPLOYEE: N/A Date: _____

EC was achieved by: 1 [] 2 [] 3 [] 4 [] 5 [] 6 [] 7 [] 8 [] 9 [] 10 [] 11 [] 12 []
Additional EC issues noted and addressed as follows: _____

ADJUDICATING OFFICER: L. Kumbes Date: 8/5/11

EC was achieved by: 1 [] 2 [] 3 4 [] 5 [] 6 [] 7 [] 8 [] 9 [] 10 [] 11 12
Additional EC issues noted and addressed as follows: _____

FINAL COPY OF RULES VIOLATION REPORT ISSUED BY: L. Kumbes Date: 8/10/11

EC was achieved by: 1 [] 2 [] 3 [] 4 [] 5 [] 6 [] 7 [] 8 [] 9 [] 10 [] 11 12
Additional EC issues noted and addressed as follows: _____

<input checked="" type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	SIGNATURE OF WRITER <u>Ch. Black</u>	DATE SIGNED <u>7/27/11</u>
	GIVEN BY: (Staff's Signature) <u>J. K...</u>	DATE SIGNED <u>8/10/11</u>

SERIOUS RULES VIOLATION REPORT

CDC NUMBER K-14101	INMATE'S NAME MENENDEZ	VIOLATED RULE NO(S). § 3005(d)(1)	DATE 7-20-11	INSTITUTION P.V.S.P.	LOG NO. 11/FA-07-038
------------------------------	----------------------------------	---	------------------------	--------------------------------	--------------------------------

REFERRAL FOR FELONY PROSECUTION IS LIKELY IN THIS INCIDENT YES NO

POSTPONEMENT OF DISCIPLINARY HEARING

<input type="checkbox"/> I DO NOT REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE <i>N/A</i>	DATE
<input type="checkbox"/> I REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE <i>N/A</i>	DATE

DATE NOTICE OF OUTCOME RECEIVED	DISPOSITION
---------------------------------	-------------

<input type="checkbox"/> I REVOKE my request for postponement.	INMATE'S SIGNATURE <i>N/A</i>	DATE
--	----------------------------------	------

STAFF ASSISTANT

STAFF ASSISTANT	INMATE'S SIGNATURE <i>[Signature]</i>	DATE 7/27/11
<input type="checkbox"/> REQUESTED <input type="checkbox"/> WAIVED BY INMATE		
<input type="checkbox"/> ASSIGNED	DATE	NAME OF STAFF
<input checked="" type="checkbox"/> NOT ASSIGNED	REASON Inmate does not meet the criteria per CCR Title 15 § 3315(d)(2).	

INVESTIGATIVE EMPLOYEE

INVESTIGATIVE EMPLOYEE	INMATE'S SIGNATURE <i>[Signature]</i>	DATE 7/27/11
<input type="checkbox"/> REQUESTED <input type="checkbox"/> WAIVED BY INMATE		
<input type="checkbox"/> ASSIGNED	DATE	NAME OF STAFF
<input checked="" type="checkbox"/> NOT ASSIGNED	REASON Inmate does not meet the criteria per CCR Title 15 § 3315(d)(1).	

EVIDENCE / INFORMATION REQUESTED BY INMATE:

WITNESSES

WITNESSES REQUESTED AT HEARING (IF NOT PRESENT, EXPLAIN IN FINDINGS)

REPORTING EMPLOYEE STAFF ASSISTANT INVESTIGATIVE EMPLOYEE OTHER NONE

WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)		GRANTED	NOT GRANTED	WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)		GRANTED	NOT GRANTED
<i>Co Rodriguez</i>		<input checked="" type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>

INVESTIGATIVE REPORT: Investigative Employees must interview the inmate charged, the reporting employee, and any others who have significant information, documenting the testimony of each person interviewed. Review of files, procedures, and other documents may also be necessary.

<input checked="" type="checkbox"/> COPY OF CDC 115-A GIVEN INMATE	BY: (STAFF'S SIGNATURE) <i>Co Black</i>	TIME 0830	DATE 7/27/11
		INVESTIGATOR'S SIGNATURE	DATE

08-12-11 10:30



DISCIPLINARY HEARING RESULTS

Institution Name: RJ Donovan Correctional Facility	Facility: RJD-Facility E	Log Number: 00000004913541
Inmate Name: MENENDEZ, ERIK G.	CDC #: K14101	Bed Number: RJD-E - E 024D2 - 201002L
TABE Score: 12.9	Mental Health LOC: GP	DDP Designation: NCF

DUE PROCESS

Rule Violation #: 3006(a)	Specific Act: Possession of a cellular telephone			
Level: Serious	Offense Division: Division D			
Offense Occurrence: <u>1st Occurrence</u>				
Violation Date: 04/15/2018	Violation Time: 08:15:00			
Hearing Date: 04/25/2018	Hearing Time: 13:45:04			
Did a laboratory confirm the evidence tested positive for Controlled substances?: <u>N/A</u>				
Actions Taken				
Date	Time	Type/Reason	Staff	Elapsed Days
04/24/2018	06:37:55	RVR Ready for Review by Supv.	C. Godinez	9
04/24/2018	07:31:55	RVR Approved by Supervisor	E. Garcia	9
04/24/2018	10:09:35	RVR Classified	E. Garza	9
04/24/2018	11:09:09	Notice of Pending Charges Sent to Rcds.	A. Delavega	9
04/24/2018	11:29:00	Inmate Copy Served Initial Rules Violation Report	A. Delavega	9
04/24/2018	11:30:00	Inmate Copy Served Photograph(s)	A. Delavega	9
04/24/2018	11:31:00	Inmate Copy Served Other	A. Delavega	9
All Time Constraints Met?: Yes		SHO/HO DDP Certified?: <u>Yes</u>		
Due Process Additional Information:				

HEARING

Subject elected not to participate in the adjudication process by refusing to attend the hearing. An Subject Informational Chrono was generated documenting the refusal to attend the hearing.

was Present, in good health and ready to proceed.

Hearing Additional Information

DISABILITY

Hearing; Vision; Mobility; Learning; Developmental/Cognitive
 Other; None

Requires Accommodation? No

DDP Specific Information

128-C2 Reviewed? No

DDP Designation Date:
04/22/2011

Did the Reporting Employee document the use of Adaptation Support(s)? N/A

Adaptive Support	Contribute	How
<input type="text"/>		<input type="text"/>
Victimization	Contribute	How
<input type="text"/>		<input type="text"/>

Disability Additional Information:

MENTAL HEALTH ASSESSMENT

Mental Health Assessment Requested: No

Reason for Mental Health Assessment Request:

Clinical Staff Recommended Staff Assistance Assignment: N/A

Clinical Staff determined Mental Health Symptoms strongly influenced behavior and recommended alternate documentation: N/A

Clinical Staff determined Developmental Disability strongly influenced behavior and recommended alternate documentation: N/A

Clinical Staff determined Mental Health Symptoms contributed to behavior: N/A

Clinical Staff determined Developmental Disability contributed to behavior: N/A

Clinical Staff provided information when assessing the penalties: N/A

STAFF ASSISTANT

Staff Assistant Assigned: No

Reason for assignment of Staff Assistant:

SA Name	Date Assigned	Certified?	Meet 24 hours prior to hearing?	Present?	

Staff Assistant Additional Information:

INVESTIGATIVE EMPLOYEE

Investigative Employee Assigned: No

Reason for assignment of Investigative Employee:

Investigative Employee Additional Information:

CONFIDENTIAL INFORMATION

Confidential Information Used: No

Confidential Document Number	Author of Confidential Document	Date of Confidential Document	Reviewed by SHO/HO	Deemed Confidential	Reason(s) Information was Deemed Confidential
					<input type="checkbox"/> Information which, if known to inmates, would endanger the safety of person(s). <input type="checkbox"/> Information which, if known to inmates, would jeopardize the security of the institution. <input type="checkbox"/> Specific medical or Psychological information which, if known to inmates, would be medically or psychologically detrimental to the inmate. <input type="checkbox"/> Information provided and classified confidential by another governmental agency. <input type="checkbox"/> A Security Threat Group debrief report, reviewed and approved by the debriefing subject, for placement in the confidential section of the central file.
		Confidential			

Confidential Document Number	Confidential Source Number	Disclosure Form Issued	Sufficient Information Disclosed	Reason(s) Deemed Reliable
				<input type="checkbox"/> The confidential source has previously provided information which has proved to be true. <input type="checkbox"/> Other confidential sources have independently provided the same information. <input type="checkbox"/> The information provided by the confidential source is self-incriminating. <input type="checkbox"/> Part of the information provided by the confidential source is corroborated through investigation or by information provided by non-confidential sources. <input type="checkbox"/> The confidential source is the victim. <input type="checkbox"/> This source successfully completed a polygraph examination.

Confidential Additional Information:

WITNESSES

Witnesses requested at Hearing

- Reporting Employee
 Staff Assistant
 Investigative Employee
 Other
 Inmate
 None

Non-Inmate Witness(es)			
Name	Rank	Type	Granted?
Questions Asked			

Inmate Witness(es)			
CDC#	Name	Bed	Granted?
AN6510	SALGUERA, CARLOS	RJD-E - E 024D2 - 201002U	Yes

Questions Asked

Q.) The cell phone found in our dorm, is it Menendez?
 R.) No
 Q.) Who does the Cell phone and cell phone related components belong to?
 R.) Me
 Q.) Did you let anyone else use the cell phone?
 R.) No
 Q.) Did you take the photos identified in the RVR?
 R.) Yes
 Q.) Was the cell phone in the cell before Menendez arrived in the cell to live there?
 R.) Yes

SHO Questions

Q.) Is this your arm holding the phone in the picture?

R.) No

Q.) Where were you when you took the picture?

R.) I was on the bunk with Menendez

K70576

WHITMER, DALE C.

RJD-E - E 024D2 - 201004L

Yes

Questions Asked

Q.) The cell phone found in our dorm, is it Menendez?

R.) No

Q.) Who does the Cell phone and cell phone related components belong to?

R.) Carlos Salguera

Q.) Was the cell phone in the cell before Menendez arrived in the cell to live there?

R.) Yes

Q.) Did you actually see anyone using the cell phone identified? If yes who was it?

R.) Yes, Carlos (Salguera)

SHO Questions

Q.) How long was the cell phone in the cell?

R.) 2 months

J97776

KIKUYAMA, DEREK M.

RJD-E - E 024D2 - 201003U

Yes

Questions Asked

Q.) The cell phone found in our dorm, is it Menendez?

R.) No

Q.) Who does the Cell phone and cell phone related components belong to?

R.) Carlos Salguera

Q.) Was the cell phone in the cell before Menendez arrived in the cell to live there?

R.) Yes

Q.) Did you actually see anyone using the cell phone identified? If yes who was it?

R.) Yes, Carlos (Salguera)

Q.) What bunk does Menendez sleep in up or low?

R.) 2 up. No wait 2 low. I got mixed up.

SHO Questions

Q.) Was the cell phone in the cell prior to Menendez arriving?

R.) Yes

Witness Additional Information:

The SHO notes that Inmate Kikuyama changed his response to the last question from Inmate Menendez. Inmate Menendez shouted "I sleep on what bunk?" to Inmate Kikuyama after his initial response to the question.

PLEA AND STATEMENT

PLEA/STATEMENT: The above circumstances were read aloud to subject and elected to plea: Not Guilty

Subject declined to make a statement

Subject made a statement

Comments:

The cell phone found in the mattress on inmate Salguera's assigned bunk did not belong to me and I have never possessed it. The cell phone related items found in inmate Salguera's assigned locker did not belong to me and have never been in my possession. I never used the phone. The photos on the device mentioned in the report were not taken by me. I never used Inmate Salguera's locker. I was temporarily on Salguera's bunk at the time of the search because Salguera puts boxes on my lower bunk to clean the floor every morning after breakfast. My locker and assigned bunk were searched and no contraband was found as indicated on the lower bunk cell search slip. Inmate Salguera has admitted to being the only one possessing the cell phone and related items found in the mattress and locker. At the time of the search I had only been on echo yard less than 2 weeks.

FINDINGS

Subject was found: Guilty as Charged based on a preponderance of evidence:

Lesser Included Charge:

Level:

Offense Division:

Offense Occurrence:

Comments:

MENTAL HEALTH ASSESSMENT CONSIDERATION

(Documentation of opinions to be used for consideration by the hearing official and the reasoning shall be documented in this section.)

Comments:

EVIDENCE

The following evidence was used to support the findings:

Comments:

During the hearing the SHO utilized the following preponderance of evidence to formulate a Guilty finding.

1.) The written report by Correctional Sergeant C. Godinez which states in part; " I observed Inmate Facio (P96825) sitting on bed 201-1L, Inmate Menendez (K14101) lying down on bed 201-2U, Inmate Derlux (F13631) lying on bed 201-3L, Inmate Kikuyama (J97776) sitting down on bed 201-3U and Inmate Salguera (AN6510) sitting on the toilet at the far end of the cell. All inmates were positively identified by state issued identification cards.", " As I initiated a systematic search of bed area 201-2U and its contents, I discovered Inmate Menendez' state issued identification card, legal documents and his registered personal property on the mattress. I examined the mattress on which Inmate Menendez had been lying on. During the course of the search, I discovered the mattress had an opening on the side altering it from its original form. I looked inside of the mattress and discovered one (1) Black/Grey Samsung Galaxy S5 Mini smart phone", "During the course of the search I discovered a second state identification belonging to Inmate Menendez and a container of Nescaf Tasters Choice Coffee. I removed the lid of the coffee container and discovered it contained a hidden compartment inside the lid with the following items hidden inside: Seven (7) SanDisk Ultra Micro SD cards, Two (2) Samsung EVO Micro SD cards and Two (2) T-Mobile SIM Cards. I maintained sole custody of the coffee container with the entire contraband still inside, securing it inside my right cargo pocket. At the conclusion of the search I confiscated the following items which were altered and belonged to Inmate Menendez: twenty two (22) compact discs", "I instructed Inmate Menendez to report to Housing Unit 24 Core, where I advised him of the discovered contraband and the confiscated items. I advised Inmate Menendez that possession of property which is not registered on his property card and not engraved with his information is cause for disciplinary action, including confiscation of the items. Inmate Menendez identified his personal property and picked ten (10) compact discs and returned twelve (12) compact discs. Inmate Menendez elected to mail the excess confiscated items", "On April 17, 2018, Investigative Services Unit contacted me and provided me with three (3) photos that were recovered from the Samsung Galaxy S5 Mini smart cellular phone. The three (3) photos that were forensically downloaded from the Samsung Galaxy S5 Mini smart cellular phone are as follows: photo #1, Inmate Menendez lying on an upper bunk wearing a gray tank top, photo #2, Inmate Menendez wearing a white t-shirt, holding a puppy with a red dog harness, photo #3, Inmate Menendez sitting on an upper bunk wearing a gray Under Armour shirt, with a fan hanging from the ceiling and a white sheet hanging from the ceiling partially covering a clear television."

2.) Evidence photograph #10 which shows the subject with his arm extended in the direction of the camera and the subject posing and facing the camera (phone).

3.) Evidence photograph #8 which shows the subject on a bunk facing the posing and facing the camera (phone).

DISPOSITION

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Sanction Type	Quantity	Mitigated	Interest of Justice	DDP	MH LOC	MH-A	Start Date	End Date
Credit Loss	90 Days	<input checked="" type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Confined to Quarters Days			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Confined to Quarters Weekends			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Disciplinary Detention			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Privilege Group C			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Loss of Pay								
Canteen Privileges			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Phone Privileges	30 Days	<input checked="" type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	04/25/2018	05/25/2018
Extra Duty			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Yard Recreation Privileges	30 Days	<input checked="" type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	04/25/2018	05/25/2018
Day Room Privileges			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Packages Privileges			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Property Restrictions			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Visiting Privileges			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Contact Visiting Privileges			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Contact Visiting (Permanent Loss)								

Trust Account Hold									
Mandatory Drug Testing									
IEX Control Suit									

Counseled Regarding Misconduct: with reprimand

Impose Suspended Sanctions

Reinstate Suspended Sanctions

Sanction Mitigation Additional Information:

(Hearing officials are required to document whether a mitigation, based on a MH-A, is appropriate and the reasoning used to arrive at their decision.)

Comments:

Referred to Classification Committee. ICC

For SHU Term Assessment Program Review Un-Assignment Substance Abuse Treatment

Disposition Additional Information:

ENEMY CONCERNS

Not Applicable
 Subject states he/she does not have Enemy or Safety Concerns:
 One or more of the inmates involved has stated there is lingering animosity towards one another. Therefore, the SHO has entered non-confidential separation alerts for the following inmates:
 Based on the totality of circumstances and/or information gathered by staff, the Hearing Official has determined an enemy situation exists and ensured the below non-confidential separation alerts were entered:

SECURITY THREAT GROUP

Security Threat Group Nexus?: No

Security Threat Group Nexus Additional Information:

FINAL SECTION

Additional Information:

CREDIT RESTORATION


Subject was advised of his/her right to restoration of credits under CCR 3327, 3328, and 3329.

Subject was advised Credit Forfeiture for a Division 'A', 'B' or 'C' offense will not be restored.

Subject was advised he/she would not be able to file for restoration of credits under CCR 3327(a)(4).

At the conclusion of the hearing Subject was advised of the findings, disposition, and his/her right to appeal per CCR 3084.1.

Hearing Official

G. Ortiz 

TITLE: LT DATE: 05/01/2018

FINDINGS (BY CDO)

Subject was found: Guilty as Charged based on a preponderance of evidence.

Lesser Included Charge:

Level: Offense Division:

Offense Occurrence: CDO Summary: Affirming The Hearing Results

Comments:

DISPOSITION (BY CDO)

Sanction Type	Quantity	Mitigated	Interest of Justice	DDP	MH LOC	MH-A	Start Date	End Date
Credit Loss	90 Days	<input checked="" type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Confined to Quarters Days			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Confined to Quarters Weekends			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Disciplinary Detention			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Privilege Group C			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Loss of Pay								
Canteen Privileges			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Phone Privileges	30 Days	<input checked="" type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	04/25/2018	05/25/2018
Extra Duty			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

Yard Recreation Privileges	30 Days	<input checked="" type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	04/25/2018	05/25/2018
Day Room Privileges			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Packages Privileges			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Property Restrictions			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Visiting Privileges			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Contact Visiting Privileges			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Contact Visiting (Permanent Loss)								
Trust Account Hold								
Mandatory Drug Testing								
IEX Control Suit								

Impose Suspended Sanctions

Reinstate Suspended Sanctions

Comments:

Chief Disciplinary Officer:

Comments:

J. Juárez



TITLE:
AW

DATE:
05/02/2018

Memorandum

GENERAL FILE

Date : June 24, 2018

To : MENENDEZ, E. (CDCR# K14101)
Facility E Housing Unit 24D2-201002L
Richard J. Donovan Correctional Facility

Subject: **SECOND LEVEL DISCIPLINARY APPEAL RESPONSE LOG NO.: RJD-E-18-03394**

Appeal Issue:

You have filed a CDGR 602, Inmate Appeal, alleging the following:

1. That you were issued a Rules Violation Report (RVR) Log# 4913541, specifically for, "Possession of a Cellular Telephone" where you were found guilty. You stated that the cellular telephone was discovered in E-24D2-201, secreted in a mattress on Bunk 2U. You stated that you are assigned to Bunk E24D2-201-2L, where no cellular telephone was discovered in your assigned mattress.
2. That CCR Title 15 Section 3000, defines "Possession as either actual possession or constructive possession of an object. Actual possession exists when a person has physical custody of an object. You state that the SHO rendered a finding of guilt and failed to identify whether you were in actual possession or constructive possession or how SHO concluded that you had actual physical custody or control of the object.
3. That Inmate Salguera, AN6510 during the hearing was called as a witness and testified that the cellular telephone and components were his and the cellular telephone was in the cell before you arrived. You state the SHO chose to disregard Inmate Salguera's testimony.
4. That a cell search receipt you provided with appeal shows clearly no contraband was found on your bunk or in your mattress. You state the SHO failed to identify why the cell search receipt was not considered as evidence.

Action Requested:

Your requested action is:

1. RVR dismissed or Re-Issued and Re-heard based on the aforementioned.

REGULATIONS: The rules governing this issue are:

CCR 3000	Definitions
CCR 3001	Subject to Regulations
CCR 3005	Conduct
CCR 3006	Contraband
CCR 3084.1	Right to Appeal
CCR 3084.7	Levels of Appeal Review and Disposition
CCR 3312	Disciplinary Methods

CCR 3313 **Classification of Rules Violation Report and Notice of Pending Charges**
CCR 3314 **Administrative Rules Violation**
CCR 3315 **Serious Rule Violations**
CCR 3320 **Hearing Procedures and Time Limitations**

FIRST LEVEL DECISION: By passed to Second Level Review (SLR).

INTERVIEWED BY: A. Sanchez, Correctional Lieutenant on June 11, 2018, in the Facility E Program Lieutenant's Office.

A review of the Disability and Effective Communication System (DECS) on June 11, 2018, indicated your TABE score is: 12.9; as well as, your DPP code is: None; DDP code is: NCF and you are a NOT a participant in the Mental Health Services Delivery systems (MHSDS) program.

Due to your case factors, effective communication was achieved by reading the appeal to you in plain, simple English. You were able to reiterate in your own words what was explained to you. You were also able to provide appropriate, substantive responses to questions asked by Lt. A. Sanchez. Furthermore, you asked appropriate questions regarding the information provided by the interviewer along with reiterating the issues and action request.

You were advised by the reviewer that the appeal process is not an opportunity to rehear the RVR or gain a different finding from a different reviewer; but rather to review the disciplinary process to ensure that all due process protections were afforded to you and regulatory procedures were adhered.

Appeal Response:

A review of all relevant information in this disciplinary process indicated that you were afforded due process and that all time constraints were met.

- Date of discovery was April 15, 2018.
- The classified copy of RVR and supplemental information was provided, on April 24, 2018, within 15 days from the date information leading to the charges is discovered by staff.
- You were issued copies of all relevant documentation more than 24 hours prior to the hearing. All relevant documentation was issued by April 24, 2018.
- You were afforded a fair hearing by an impartial Senior Hearing Officer (SHO) on April 25, 2018, within 30 days from the day you received your classified first copy of the RVR.
- The findings of the disciplinary hearing were supported by the evidence presented at the hearing. The SLR found a preponderance of evidence was

considered by the SHO which clearly supported a finding of guilt for your RVR.

In reaching a decision on these issues, below you find an itemized response:

Issue:

1. That you were issued a Rules Violation Report (RVR) Log# 4913541, specifically for, "Possession of a Cellular Telephone" where you were found guilty. You stated that the cellular telephone was discovered in E-24D2-201, secreted in a mattress on Bunk 2U. You stated that you are assigned to Bunk E24D2-201-2L, where no cellular telephone was discovered in you assigned mattress

You failed to provide evidence that SHO Lieutenant G. Ortiz violated your due process rights when he conducted the hearing adjudicating RVR Log# 4913541 which resulted in a "Guilty" finding. In review of the RVR Log# 4913541, you stated that the cellular telephone was discovered on Bunk 2U and you are assigned to Bunk 2L, stating it is grounds for dismissal. However, in review of the RVR it articulates in detail the scene where the cellular telephone was located. Sergeant Godinez states you were lying down on Bunk 2U at the time of the search due to suspected strong odor of Marijuana coming from your assigned cell. During the search Sergeant Godinez described seeing you on Bunk 2U with your belongings on the mattress to include your state issued Identification Card, legal documents, and your registered property in addition to discovering a clearly visible opening on the side of the mattress where the contraband cellular telephone was found along with additional cellular telephone components. Sergeant Godinez further describes searching the locker 201-2U, assigned to Inmate Salguera, however during the search your property was discovered in the Upper Bunk Locker area to include an additional Inmate Identification Card noting Inmate Menendez's name. In conclusion, additional contraband next to your property was discovered on the Upper Bunk Locker. An inspection of the cellular telephone by the Richard J. Donovan Correctional Facility (RJDCF) Investigative Services Unit (ISU) also discovered photographs of you depicted holding a puppy (dog). RJDCF Pooch Program is only existent on Facility E. Also discovered was a photograph depicting you on the upper bunk. All evidence indicates that you, even though are assigned to Bunk 2L has established your personal area as Bunk 2U by having your personal belongings on the top bunk, top bunk locker, contraband inside the top mattress containing your personal photographs. You were afforded a fair hearing by the SHO who adhered with all due process rights. You did not provide any relevant evidence to substantiate your alleged issue. Based on the preponderance of evidence a guilty finding was deemed appropriate.

2. That CCR Title 15 Section 3000, defines "Possession as either actual possession or constructive possession of an object. Actual possession exists when a person has physical custody of an object." You state that the SHO rendered a finding of guilt and failed to identify whether you were in actual possession or constructive possession or how SHO concluded that you had actual physical custody or control of the object. Based on the preponderance of evidence a guilty finding was deemed appropriate.

In review of CCR Title Section, 3000, which states in part; "Possession" is defined as either actual possession or constructive possession of an object. Constructive Possession exists where a person has knowledge of an object and control of the object or the right to control the object, even if the person has no physical contact with it. In review of the RVR the body of the report describes all the elements to determine either actual possession or constructive possession by you to include knowledge of the mentioned contraband. SHO determined in review of all evidence there was enough preponderance evidence to confirm a Guilty finding per CCR Title 15 Section 3000. Based on the preponderance of evidence a guilty finding was deemed appropriate.

3. That Inmate Salguera, AN6510 during the hearing was called as a witness and testified that the cellular telephone and components were his and the cellular telephone was in the cell before you arrived. You state SHO chose to disregard Inmate Salguera's testimony.

You failed to provide any evidence that SHO chose to disregard Inmate Salguera's testimony. You also failed to provide any evidence to have SHO disregard all evidence described in the RVR over the testimony of Inmate Salguera. SHO afforded you a fair hearing and granted witness's requested by you. Based on the preponderance of evidence a guilty finding was deemed appropriate.

4. That a cell search receipt you provided with appeal shows clearly no contraband was found on your bunk in your mattress. You state SHO failed to identify why the cell search receipt was not considered as evidence.

In review of cell search receipt it described Inmate Salguera as assigned on 2L by another Officer who searched it. In review of items searched it appears Inmate Salguera had his personal belongings on the lower bunk and also had in his possession a contraband radio. This provides a rational reason why he had his personal belonging to include his contraband on the top shelf and the top bunk. In review this is a separate issue along with a separate time of incident. Based on the preponderance of evidence a guilty finding was deemed appropriate.

MENENDEZ, E. (CDCR# K14101)
Appeal Log No. RJD-E-18-03391
PAGE 5

DECISION: The appeal is Denied.

Action requested:

1. RVR dismissed or Re-Issued and Re-heard based on the aforementioned. Based on the preponderance of evidence a guilty finding was deemed appropriate.

MODIFICATION ORDER: None

Be advised that this issue may be submitted for a Third Level of Review, if desired, by completing section "F" of the CDCR form 602 and mailing the appeal to the Chief of the Office of Appeals at the address listed on the back of the CDCR form 602.



Daniel Paramo
Warden
Richard J. Donovan Correctional Facility



LAB USE ONLY			Institution/Parole Region:	Log #:	Category:
			RJD-E-18-3291		1
FOR STAFF USE ONLY					

Attach this form to the CDCR 602, only if more space is needed. Only one CDCR 602-A may be used.

Appeal is subject to rejection if one row of text per line is exceeded. WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First):	CDC Number:	Unit/Cell Number:	Assignment:
MENENDEZ, ERIC	414101	E24-D-201-2L	ITA .002.006

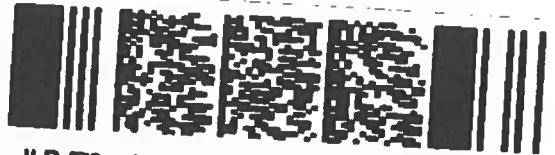
A. Continuation of CDCR 602, Section A only (Explain your issue): NO CELLULAR TELEPHONE WAS FOUND IN THE MATTRESS ON APPELLANT'S ASSIGNED BUNK. ISSUE 2: CCR TITLE 15 § 3000,
"Possession is defined as either actual possession or constructive possession of an object. Actual possession exists when a person has physical custody of an object." GRIEVANCE: IN RENDERING A FINDING OF GUILT, THE SHO FAILS TO IDENTIFY WHETHER APPELLANT WAS IN ACTUAL POSSESSION OR CONSTRUCTIVE POSSESSION, NOR HOW THE SHO CONCLUDED THAT APPELLANT HAD ACTUAL PHYSICAL CUSTODY OR CONTROL OF THE OBJECT. ISSUE 3: ON PAGE 4 OF 10, INMATE SALQUERA ANGULO STATES THAT THE CELLULAR TELEPHONE AND COMPONENTS ARE HIS; AND THAT THE CELL PHONE WAS IN THE CELL BEFORE APPELLANT ARRIVED. GRIEVANCE: THE SHO DOES NOT EXPLAIN WHY HE DISREGARDED I/M SALQUERA'S WITNESS TESTIMONY. ISSUE 4: THE CELL SEARCH RECEIPT SHOWS CLEARLY NO CONTRABAND WAS FOUND ON APPELLANT'S BUNK IN APPELLANT'S MATTRESS. GRIEVANCE: THE SHO DOES NOT IDENTIFY WHY THE CELL SEARCH RECEIPT WAS NOT CONSIDERED AS "EVIDENCE." THANK YOU

STAFF USE ONLY

B. Continuation of CDCR 602, Section B only (Action requested): _____

Inmate/Parolee Signature: _____

Date Submitted: _____



ILB:f73aef58-ae20-4072-a48b-cf0cd8933339

RULES VIOLATION REPORT

CDC NUMBER K14101	INMATE'S NAME MENENDEZ, ERIK G.	MEPD 01/25/9999	FACILITY RJD-Facility E	HOUSING LOCATION RJD-E - E 024A2 - 203003U
VIOLATION DATE 09/23/2021	VIOLATION TIME 08:00:00	VIOLATION LOCATION RJD-Facility E - DAYROOM		WITH STG NEXUS No

Did the reporting employee ensure the inmate understands (to the best of his/her ability) the consequences of the continued misconduct? N/A

Did the reporting employee take into consideration the severity of the inmate's disability and the need for adaptive support services when determining the method of discipline? N/A

CIRCUMSTANCES OF VIOLATION

On September 23, 2021, at approximately 0800 hours, while performing my duties as Housing Unit 24 Floor Officer #2, while performing a random systematic cell search of 24-A203 occupied by Inmates Henderson (V19686) FE-24-A-203-1L, Hobbs (H46341) FE-24-A-203-2L, Callis (J47712) FE-24-A-203-2U, Avery (C71043) FE-24-A-203-3L, Menendez (K14101) FE-24-A-203-3U, and Menendez (K13758) FE-24-A-203-4L. Sergeant A. Gonzalez performed a clothed body search on Inmate E. Menendez K14101. Upon completion of the clothed body search, Sergeant Gonzalez handed me a Pillow Case that was folded multiple times. I unfolded the Pillow Case and discovered (1) White Samsung cellular phone which also included a cell phone charger and a Micro SD card secured on the back of the phone. I took sole possession of the Samsung cell phone and charger and proceeded to create an Evidence Photograph Placard. I took (2) digital photographs of the Samsung cellular phone with charger and secured them into Facility E Complex Control Evidence Locker #112. It should be noted that Inmate E. Menendez (K14101) previously received a Rules Violation Report (RVR) for the same violation on April 15, 2018, Log #000000004913541. I returned to my assigned post and informed E. Menendez that he would be receiving an RVR for Possession of a cellular telephone. This concludes my report.

PRNR# 11018

REPORTING EMPLOYEE DANIEL G. TORRES	TITLE Correctional officer	ASSIGNMENT E24 Floor 2	RDO S/M	DATE: 09/23/2021
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RVR LOG NUMBER: 000000007122554

VIOLATED RULE NUMBER: 3006(a)

SPECIFIC ACT: Possession of a cellular telephone

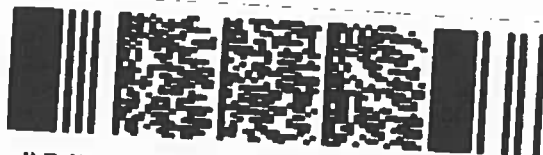
CLASSIFICATION

LEVEL: Serious

OFFENSE DIVISION: Division D

REFERRED TO: Senior Hearing Officer

FELONY PROSECUTION LIKELY: No



ILB:73ae158-ae20-4072-a48b-cf0cd8933339

RULES VIOLATION REPORT

CDC NUMBER K14101	INMATE'S NAME MENENDEZ, ERIK G.	MEPD 01/25/9999	FACILITY RJD-Facility E	HOUSING LOCATION RJD-E - E 024A2 - 203003U
VIOLATION DATE 09/23/2021	VIOLATION TIME 08:00:00	VIOLATION LOCATION RJD-Facility E - DAYROOM		WITH STG NEXUS No

Did the reporting employee ensure the inmate understands (to the best of his/her ability) the consequences of the continued misconduct? N/A

Did the reporting employee take into consideration the severity of the inmate's disability and the need for adaptive support services when determining the method of discipline? N/A

CIRCUMSTANCES OF VIOLATION

On September 23, 2021, at approximately 0800 hours, while performing my duties as Housing Unit 24 Floor Officer #2, while performing a random systematic cell search of 24-A203 occupied by Inmates Henderson (V19686) FE-24-A-203-1L, Hobbs (H46341) FE-24-A-203-2L, Callis (J47712) FE-24-A-203-2U, Avery (C71043) FE-24-A-203-3L, Menendez (K14101) FE-24-A-203-3U, and Menendez (K13758) FE-24-A-203-4L. Sergeant A. Gonzalez performed a clothed body search on Inmate E. Menendez K14101. Upon completion of the clothed body search, Sergeant Gonzalez handed me a Pillow Case that was folded multiple times. I unfolded the Pillow Case and discovered (1) White Samsung cellular phone which also included a cell phone charger and a Micro SD card secured on the back of the phone. I took sole possession of the Samsung cell phone and charger and proceeded to create an Evidence Photograph Placard. I took (2) digital photographs of the Samsung cellular phone with charger and secured them into Facility E Complex Control Evidence Locker #112. It should be noted that Inmate E. Menendez (K14101) previously received a Rules Violation Report (RVR) for the same violation on April 15, 2018, Log #000000004913541. I returned to my assigned post and informed E. Menendez that he would receiving an RVR for Possession of a cellular telephone. This concludes my report.

PRNR# 11018

REPORTING EMPLOYEE DANIEL G. TORRES	TITLE Correctional officer	ASSIGNMENT E24 Floor 2	RDO S/M	DATE: 09/23/2021
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RVR LOG NUMBER: 000000007122554	VIOLATED RULE NUMBER: 3006(a)
SPECIFIC ACT: Possession of a cellular telephone	

CLASSIFICATION	
LEVEL: Serious	OFFENSE DIVISION: Division D
REFERRED TO: Senior Hearing Officer	FELONY PROSECUTION LIKELY: No

REVIEWING SUPERVISOR A. Gonzalez	TITLE Sergeant	DATE 09/23/2021
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CLASSIFIED BY E. Benyard	TITLE capt	DATE 09/23/2021
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CDCR SOMS ISST120 - RULES VIOLATION REPORT



RULES VIOLATION REPORT

CDC NUMBER K14101	INMATE'S NAME MENENDEZ, ERIK G.	MEPD 01/25/9999	FACILITY RJD-Facility E	HOUSING LOCATION RJD-E - E 024A2 - 203003U
VIOLATION DATE 09/23/2021	VIOLATION TIME 08:00:00	VIOLATION LOCATION RJD-Facility E - DAYROOM		

INMATE NOTIFICATION			
POSTPONEMENT OF DISCIPLINARY HEARING			
<input checked="" type="checkbox"/> I DO NOT REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE SIGNATURE	DATE	
<input checked="" type="checkbox"/> I REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE SIGNATURE	DATE	
<input checked="" type="checkbox"/> I REVOKE my request for postponement.	INMATE SIGNATURE	DATE	
STAFF ASSISTANT			
<input checked="" type="checkbox"/> REQUESTED	<input checked="" type="checkbox"/> WAIVED BY INMATE	INMATE SIGNATURE <i>DMC</i>	DATE
INVESTIGATIVE EMPLOYEE			
<input checked="" type="checkbox"/> REQUESTED	<input checked="" type="checkbox"/> WAIVED BY INMATE	INMATE SIGNATURE <i>DMC</i>	DATE

No witnesses

[Signature]

K14101

SUMMARY OF DISCIPLINARY PROCEDURES AND INMATE RIGHTS

See California Code of Regulations, Title 15 (CCR) for details

A. TIME CONSTRAINTS -

1. A classified copy of the Rules Violation Report and any additional/supplemental information containing any elements of the violation charged shall normally be provided to the inmate within 15 days from the date the information leading to the charges is discovered by staff.
2. The charges shall be heard within 30 days from the date the inmate is provided a classified copy of the Rules Violation Report unless the charges were referred for possible prosecution and the inmate has been granted a request for postponement of the disciplinary proceedings pending the outcome of the referral, if exceptional circumstances exist pursuant to CCR Section 3000, or the inmate is transferred out of the custody of the department. Postponement shall not bar any credit forfeiture.
3. **REFERRAL FOR PROSECUTION - (Serious Rules Violations Only)** - Referrals for prosecution will not delay a disciplinary hearing unless you submit a request in writing for postponement of the hearing pending the outcome of such referral. You may revoke such request in writing at any time prior to the filing of accusatory pleadings by the prosecuting authority. A disciplinary hearing will be held within 30 days of staff receiving your written revocation of your request to postpone the hearing or within 30 days of receiving a response from the prosecuting authority. (CCR Section 3316-3320)
4. Failure to meet the time constraints outlined in CCR Section 3320 shall preclude forfeiture of credits.

B. INVESTIGATIVE EMPLOYEE/STAFF ASSISTANCE -

1. **General Information** - You may request to have an Investigative Employee to assist in the investigation and/or a Staff Assistant assigned, to assist in the preparation, or presentation of your defense at the disciplinary hearing. Staff shall evaluate your request along with the criteria outlined in CCR Section 3315 (d)(1) and CCR Section 3315(d)(2) and determine if an Investigative Employee and/or Staff Assistant shall be assigned.
2. **Staff Assistant** - If assigned, the Staff Assistant will inform inmates of their rights and of the disciplinary hearing procedures, advise and assist in the inmate's preparation for a disciplinary hearing, represent the inmate's position at the hearing, ensure that the inmate's position is understood, and that the inmate understands the decisions reached. (CCR Section 3318)
3. **Investigative Employee - (Serious Rules Violations Only)** - If assigned, will gather information, question staff and inmates, screen witnesses, and complete and submit a written, non-confidential report to the disciplinary hearing officer. You have the right to receive a copy of the investigative employee's report 24 hours before a hearing is held. (CCR Section 3318)
4. **Witnesses - (Serious Rules Violations Only)** - You may request the presence of witnesses at the hearing who can present facts related to the charges against you. You may also request the presence of the reporting employee and the investigative employee. You may, under the direction of the hearing officer, question any witness present at the hearing. The hearing officer may deny the presence of witnesses when specific reasons exist. (CCR Section 3315)
5. **Personal Appearance** - A hearing of the charges will not normally be held without your presence, unless you refuse to attend. (CCR Section 3320)

C. DISPOSITION - At the end of the hearing, you will be advised of the findings and disposition of the charge. Within five working days, following review of the Rules Violation Report by the Chief Disciplinary Officer, you will be given a copy of the completed rule violation report, which will contain a statement of the findings and disposition and the evidence relied upon to support the conclusions reached. (CCR Section 3320)

D. APPEAL - If you are dissatisfied with the process, findings or disposition, you may submit an inmate appeal within 30 days following receipt of the finalized copy of the Rules Violation Report and any other pertinent documentation (CCR Section 3084)