

The Ninth Circuit noted that there was merit to plaintiffs' contentions as to legislative intent and that as to the tribal plaintiffs, the court observed that tribal contractors for the delivery of BIA-GA were expressly permitted to carry over funds through FY 1983.

Misidentified Plaintiff Alleges Unlawful Detention, False Arrest and False Imprisonment

34,770. Keahna v. McBride, No. CE 1260 (Iowa Dist. Ct., Tama County, filed July 20, 1983). Plaintiff represented by David Challed, Legal Services Corp. of Iowa, 305 2nd St., SE, Cedar Rapids, IA 52401, (319) 364-6108; Christine Luzzie, [Here reported: (Accession No. 1002825) 34,770A Petition (18pp.).]

Plaintiff, a Native American, has brought this section 1983 action charging a local peace officer with unlawful detention, false arrest, and false imprisonment. The charges result from two incidents in which plaintiff was arrested based on a warrant issued for another person with the same last name. Plaintiff alleges that defendant police officers were negligent in failing to ascertain whether plaintiff was the person identified on the arrest warrant. Further, he alleges that defendant sheriff and police chief were negligent in their duties to train or supervise the officers so as to prevent officers from failing to check the particulars of a warrant. Plaintiff seeks damages for his loss of liberty, inconvenience, humiliation, embarrassment, emotional pain, mental suffering and anguish.

PRISONS

Inspection and Confiscation of Inmate's Personal Diary Following Prison Riot Is Constitutional

31,611. DiGuseppe v. Ward, 698 F.2d 602 (2d Cir. 1983). Plf-Appellee represented by Eric Poulos, Mark Spires, Wayne Hawley, Suzanne Berger (law intern), Queens Legal Services Corp., 29-28 41st Ave., Long Island City, NY 11101, (212) 392-5646. [Here reported: (Accession No. 1002552) 31,611D Opinion (4pp.). Previously reported at 15 CLEARINGHOUSE REV. 689 (Dec. 1981).]

The Second Circuit reversed the trial court and held that the examination and seizure of an inmate's personal diary does not violate the fourth amendment when it occurs following a serious prison riot. The court determined that such a reading and seizure was reasonable given the destruction involved in the revolt. The disturbance lasted 10 hours and required that teams of correction officers from other facilities be sent to help secure the prison. During the riot, prisoners had taken over the pharmacy, the hospital and the kitchen. Drugs, scalpels and knives were missing. Each inmate had to be strip searched and a thorough investigation of each cell was mandated to ensure the security of the facility. The court held that it was reasonable for the investigating officer to conclude that riot-related entries in the diary contained information about inmate participation in the disturbance and, therefore, the seizure did not violate the inmate's right to privacy. The matter was remanded for further proceedings consistent with the opinion.

Women Inmates Challenge Denial of Their Right to Participate in Work Furlough Program

34,730. Becker v. County of Merced, No. 71999 (Cal. Super. Ct., Merced County, filed Apr. 13, 1983). Plaintiffs represented by Eugenie Mitchell, Scott Williams, Chris Brown, Fresno-Merced Counties Legal Services, 149 W. 16th St., Merced, CA 95340, (209) 723-5466; Robert Haden. [Here reported: (Accession No. 1002820) 34,730A Complaint (17pp.).]

Women inmates at the Merced County Jail bring this action alleging that they have been discriminated against on the basis of their sex because the county has (1) failed to provide a minimum security penal facility for women, (2) failed to allow women to participate in a work furlough program, and (3) refused to consider the work of homemakers as "work" for purposes of a work furlough program. Plaintiffs allege that convicted male inmates are routinely housed in a minimum security facility and that because of this, they are allowed to be remunerated for work and to engage in outdoor exercise and recreation programs that are not made available to women. On the other hand, all women must serve their maximum security time in the jail and, therefore, they have been denied these advantages that have been enjoyed by male inmates. Plaintiffs maintain that such sex-based discrimination violates the fifth and fourteenth amendments to the U.S. Constitution, the California Constitution and the state's Penal Code. A subclass of pretrial detainees and the class of all inmates at the jail have also alleged a separate cause of action for conditions of confinement at the jail, including overcrowding, failure to segregate certain inmates, lack of adequate medical care, inadequate legal materials and inadequate exercise.

PUBLIC UTILITIES/ENERGY

Eighth Circuit Affirms Invalidation of LIEAP Plan; District Court Approves New Distribution Plan

33,770. Crawford v. Janklow, No. 83-1298-SD (8th Cir. June 30, 1983). Appellees represented by Mark Falk, Dennis Whetzal, Black Hills Legal Services, 1104 Main St., Rapid City, SD 57709, (605) 342-7171. [Here reported: (Accession No. 1002738) 33,770H Appellant's Brief (34pp.); 33,770-I Appellee's Brief (57pp.); 33,770J Reply Brief (18pp.); 33,770K Opinion & Order (10pp.); 33,770L Def's Proposed Plan (2pp.); 33,770M Objections to Plan (8pp.); 33,770N Opinion (4pp.); 33,770-O Plf's Memo in Support of Motion to Reconsider (21pp.); 33,770P Opinion (12pp.). Previously reported at 17 CLEARINGHOUSE REV. 344 (July 1983).]

The Eighth Circuit affirmed the decision of the district court that held that the administration of the South Dakota Low Income Energy Assistance Program (LIEAP) violates 42 U.S.C. §§ 8621-8629 and the fourteenth amendment. The program categorically excluded from eligibility members of plaintiff class, residents of subsidized or public housing who pay energy bills separate from rent. Pursuant to the district court's decision, the state department of social services submitted a new distribution plan to which plaintiffs objected. Plaintiffs argued that the plan continued to discriminate against class members in that it requires only class members to demonstrate overages (an amount