

01-246-CD  
GILBERT MCGILL -vs- PENNSYLVANIA DEPARTMENT OF CORRECTIONS et al

## Miscellaneous Docket Sheet

## Commonwealth Court of Pennsylvania

Docket Number: 43 MD 2001

Page 1 of 3

February 16, 2001



01-246-cs

Gilbert McGill,

Petitioner

v.

Pennsylvania Department of Corrections,  
Culinary Department for the Department  
of Corrections,  
Respondents

Initiating Document: Petition for Review

Case Status: Closed

Case Processing Status: February 16, 2001 Completed

Journal Number:

Case Category: Miscellaneous Case Type: Inmate Petition for Review

Consolidated Docket Nos.:

Related Docket Nos.:

## COUNSEL INFORMATION

Petitioner McGill, Gilbert

Pro Se: ProSe

Appoint Counsel Status:

IFP Status: Pending

Attorney: McGill, Gilbert

Bar No.:

Law Firm: Unknown

Address: DD-4927

SCI-Houtzdale, P.O. Box 1000

Houtzdale, PA 16698-1000

Phone No.:

Fax No.:

Certified from the Record

FEB 16 2001

and Order Exit

Receive Mail: Yes

Respondent Culinary Department Department of Corrections

Pro Se:

Appoint Counsel Status:

IFP Status:

Attorney: Hart, Sarah Baseden

Bar No.: 30382

Law Firm:

Address: PA Dept. of Corrections

55 Utley Drive

Camp Hill, PA 17011

Phone No.:

Fax No.:

FILED


 FEB 21 2001  
 10/8/01 (CWP)  
 William A. Shaw  
 Prothonotary

## Miscellaneous Docket Sheet

## Commonwealth Court of Pennsylvania

Docket Number: 43 MD 2001

Page 2 of 3

February 16, 2001



Receive Mail: Yes

## FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Total Fee	Paid Amt	Receipt No.

## TRIAL COURT/AGENCY INFORMATION

Court Below: Department of Corrections

County:

Division:

Date of OrderAppealed From:

Judicial District:

Date Documents Received: January 22, 2001

Date Notice of Appeal Filed:

Order Type:

Judge:

Lower Court Docket No.: DD-4927

## ORIGINAL RECORD CONTENTS

Original Record Item

Filed Date

Content/Description

Date of Remand of Record:

## BRIEFING SCHEDULE

**Miscellaneous Docket Sheet****Commonwealth Court of Pennsylvania****Docket Number: 43 MD 2001****Page 3 of 3****February 16, 2001****DOCKET ENTRIES**

Filed Date	Docket Entry/Document Name	Party Type	Filed By
January 22, 2001	Petition for Review Filed	Petitioner	McGill, Gilbert
January 22, 2001	Application to Proceed In Forma Pauperis	Petitioner	McGill, Gilbert
January 22, 2001	Application for Relief Request to cancel recently filed law suit	Petitioner	McGill, Gilbert
January 25, 2001	Order Filed Transfer to Clearfield County Court of Common Pleas		Per Curiam
February 16, 2001	Transfer to Court of Common Pleas Clearfield County		Commonwealth Court Filing Office

**SESSION INFORMATION**

Journal Number:

Consideration Type:

Date Listed/Submitted:

**REARGUMENT/RECONSIDERATION/REMITTAL**

Reargument/Reconsideration Filed Date:

Reargument Disposition:

Date:

Record Remitted:

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

01-2416-CD

GILBERT McGILL, :  
Petitioner : *T*  
v. :  
ALAN MILLS et al., :  
Respondents : No. 43 M.D. 2001

PER CURIAM

O R D E R

NOW, January 25, 2001, upon consideration of petitioner's pro se complaint, and it appearing that petitioner seeks money damages from respondents for an alleged violation of petitioner's constitutional rights, and it further appearing that this court lacks jurisdiction over tort actions for money damages whether based on common law trespass or 42 U.S.C. §1983 because such actions are in the nature of trespass in that they seek money damages as redress for an unlawful injury and are properly commenced in the court of common pleas, see Fawber v. Cohen, 516 Pa. 353, 532 A.2d 429 (1987); Balshy v. Rank, 507 Pa. 384, 490 A.2d 415 (1985), this matter is transferred to the Court of Common Pleas of Clearfield County.

The Chief Clerk shall certify a photocopy of the docket entries of the above matter and the record to the prothonotary of the Court of Common Pleas of Clearfield County.

**FILED**

*WAS*  
FEB 21 2001  
8:30 AM  
William A. Shaw  
Prothonotary



## Commonwealth Court of Pennsylvania

Charles R. Hostutler  
Deputy Prothonotary/Chief Clerk

February 16, 2001

P.O. Box 11730  
Harrisburg, PA 17108  
717-255-1650

TO:

RE: McGill v. Mills, et al  
No.43 MD 2001

Trial Court/Agency Dkt. Number: DD-4927  
Trial Court/Agency Name: Department of Corrections

01-246-CD

Annexed hereto pursuant to Pennsylvania Rules of Appellate Procedure 2571 and 2572 is the entire record for the above matter.

**Contents of Original Record:**

Original Record Item	Filed Date	Description
----------------------	------------	-------------

Date of Remand of Record:

Enclosed is an additional copy of the certificate. Please acknowledge receipt by signing, dating, and returning the enclosed copy to the Prothonotary Office or the Chief Clerk's office.

Commonwealth Court Filing Office

Signature

Printed Name

Date

FER 21 2001  
1/8/01  
William A. Shaw  
Prothonotary

copy to Conn. Court

FILED

*original*

*T*

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

*43 M 2001*

FROM: GILBERT MCGILL. PETITIONER/PLAINTIFF  
SCI-HOUTZDALE/P.O.BOX: 1000  
HOUTZDALE, PA. 16698-1000

TO THE PROTHONOTARY OF SAID COURT/ HONORABLE JUDGES OF SAID COURT:

This is a law suit with good merits, and its very important that I receives this "Request For continence of pay from the bakery shop" until the finalization of this case; Whereas, the money is needed to fight for my Rights that was violated, plus, to obtain the materials needed to continue these proceeding "like":

Copies, Paper, mailing fees and etc's.

My Institutional job was taken with malice, that why I request this Temporary Injunction to continue plaintiff bakery shop pay 5-days a week - at last pay rate. ("29¢")

By:

  
GILBERT MCGILL. # DD-4927  
SCI-HOUTZDALE/P.O.BOX: 1000  
HOUTZDALE, PENNSYLVANIA. 16698-1000

DATE: JANURARY 5, 2001

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

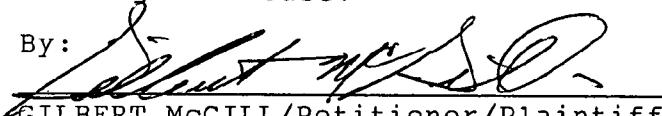
GILBERT MCGILL, : DOCKET NO. 43 MD 2001  
PETITIONER/PLAINTIFF :  
VS. :  
:

ALAN MILLS: IN HIS INDIVIDUAL CAPACITY  
DEFENDANT  
JEREMY NIXON: IN HIS OFFICIAL CAPACITY  
DEFENDANT  
LINDA NEVLING: IN HER OFFICIAL CAPACITY  
DEFENDANT  
MARCIA NOLES: IN HER OFFICIAL CAPACITY  
DEFENDANT

\*PLAINTIFF RESERVE THE RIGHT TO ADD OTHERS DEFENDANTS.

**TO THE HONORABLE JUDGES OF SAID COURT:**

Defendant "Alan Mills" MUST hire his own attorney because he was aware of petitioner's Constitutional Rights '1st'; violations because petitioner informed defendant about his Freedom of Speech several times. Furthermore, it would be a conflict of interest for the Department of Corrections attorneys to represent all defendants from pass experience, and the willingness of the above defendant to not worry about their behavior toward plaintiff in general. "SEE: TRANSCRIPTION OF 621. M.D. 1999/ video conference hearing held August 16th, 2000 by the Honorable JOSEPH McCLOSKEY" - Where defendants made several understatements and was ingenious toward the Court in creating and devising imaginative testimony. Petitioner/Plaintiff have a invested liberty in this Court of Law for any individual capacities that arises from Constitutional violations namely the 8th Amendment. Petitioner states he was "slave-driven" by Alan Mills's mental whip. **Title 18 § 5101: "Obstructing administration of law or other government function".** Defendant "Alan Mills" DID obstruct administration procedures where plaintiff couldn't file relief or counter his action within this administration body here at Houtzdale. ("Attached - Exhibits will follow"); Therefore, defendant Alan Mills under Title 18 5101 is requested to obtain his own attorney until the total disposition of finalizing this case.

By: 

GILBERT MCGILL/Petitioner/Plaintiff, Pro-se.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

GILBERT MCGILL,  
PETITIONER/PLAINTIFF

:

*T*  
43 MD 2001

VS.

:

PENNSYLVANIA DEPARTMENT OF :  
CORRECTIONS; CULINARY DEPARTMENT :  
FOR THE DEPARTMENT OF CORRECTIONS, :  
DEFENDANTS

:

:

**PETITION FOR REVIEW IN THE NATURE OF CIVIL ACTION  
OR, SPECIAL RELIEF**

---

TO THE HONORABLE JUDGES OF THE ABOVE SAID COURT:

The Petitioner/Plaintiff, Gilbert McGill, respectfully request this Honorable Court to issue a Emergency Injunction to continue plaintiff inmate Pay from his Job in the Bakery until the final disposition of this Civil Action/Special Relief against the above captioned Respondents, for the relief specified below. This Court has original jurisdiction in this matter are granted by 42.Pa. C.S. §761. In support of his request, the Petitioner/Plaintiff states the following:

1. The Petitioner, Gilbert McGill, is a inmate, currently incarcerated at the State Correctional Institution at Houtzdale, located at 2007 State Route, P.O.BOX: 1000, Houtzdale, Pennsylvania. In Clearfield County.
2. The defendant, Pennsylvania Department of Corrections, is a state agency with state-wide jurisdiction, and has its principle office located at 2520 Lisburn Road, Camp Hill, Pennsylvania, 17001-0598
3. The defendant, the Culinary Department of the Pennsylvania Department of Corrections, who main office is located at the above address, BUT, the Civil action happened at the State Correctional Institution at Houtzdale

located at 2007 State Route 2007, P.O.BOX: 1000, Houtzdale, Pennsylvania. 16698-1000.

4. The defendant, the Chief Supervisor for the Culinary Dept. for the Department of Corrections "whom name Plaintiff could not obtain" therefore, the Commissioner/Secretary for the Dept. of Corrections "Named: Martin Horn" whom is overall Supervisor of all departments within the - Corrections.

5. The defendant, Mr. John Doe <sup>Alan</sup> Mills. Kitchen Supervisor for SCI-Houtzdale. Who works for SCI-HOUTZDALE, located at 2007 State Route, P.O. Box: 1000, Houtzdale, Pennsylvania. 16698-1000.

6. The defendant, Ms. Jane Doe <sup>Linda</sup> Nevling. Kitchen employee for SCI-Houtzdale. Same located as above.

7. The defendant, Mr. John Doe <sup>Jeremy</sup> Nixon. Kitchen employee for SCI-Houtzdale, same address as above.

8. The defendant, Mr. John McCullough. Superintendant for SCI-Houtzdale, located at same above.

9. THIS Court has original jurisdiction to entertain this Petition For Review in the nature of Civil Action and/or Special Relief pursuant to 42 Pa. C.S. §761.

10. The Petitioner/Plaintiff avers that he is suffering irreparable harm from the malicious maneuvers done to him by the Culinary Department of SCI-HOUTZDALE'S personnel named above and avers the following under statement of claim:

#### STATEMENT OF CLAIM:

After losing petitioner case in this same Court at docket 621 M.D. 1999, case law cite as 758 A2d 268, Petitioner/Plaintiff requested a job in the bakery shop on October 10th, 2000. By being denied at first by Unit Manager "Jerry Everhart"; Whereas Security personnel GRANTED petitioner the job.

Once Plaintiff received said job, he was subjected to the followings:

- a) Intimidation
- b) Irritated on purpose.
- c) discriminated against on pay raise.
- d) Denied my Constitution Rights of Freedom of Speech.
- e) Ordered to perform duties on my hands and knees.
- f) Threaten to get FIRE.
- g) Taken advantage of because I am oversided person ( Fat )-  
Weight sides "approx:" 295 to 340 Pounds.

Petitioner filed a complaint to a Captain Britton on December 31, 2000 against the kitchen personnel on all of the above abuses petitioner was going through, which was discoverd all defendants actions was by design of retaliation by unknown personnel and the above defendants. Since writing Captain Britton of the abuses, Mr. John Doe <sup>Alon</sup> Mills spoken about that complaint and on January 3rd, 2000, I was dismiss form the bakery shop "by" filing those papers to Captain Britton. On Janurary 3, 2001, I've wrote Captain Britton, Kathy Emel "Grievance Personnel", and Superintendant John McCullough about all the defendants from the kitchen personnel, and Nothing what done to return petitioner back to his original employment job as a bakery. WILL PROVIDE EXHIBITS AT LATER DATE IN THIS ACTIONS.

In Austin v. Pa. Dept. Of Corrections, (herein known as 'DOC') 876 F.Supp 1437. \*Civil Rights ¶135 States:

The rehabilitation Act applies with the same force and effect in correctional institution as it does in other federally funded programs.

By petitioner/plaintiff weighting close on more to 340-Pound and refused treatment, he fall under the unbella of that plan language.

In violation of FARMER V. BRENNAN, 114 S.Ct. 1970 (1994), petitioner was subjected to "deliberate indifference" toward his complaints of said institutional job, the bakery shop. Plaintiff claim it was 'cruel and unusual punishment in violation of the Eight Amendment of the Constitution. Petitioner/Plaintiff was fired from his job for filing a complaint to Captain Britton; The defendant "Mr. Mills" violated petitioner exercise of freedom of expression by filing said complaint to Captain Britton. Now, plaintiff is suffering adversity effects by not having his High paying job, whereas, he cannot support his self through the Commissary with the making his time bearable with humane conditions while lockin his cell at during the day and night - which plaintiff is used to. See - ROSS V. KEELING, 2 F.Supp 810. Plus petitioner cannot save any money toward going home whereas petitioner was beginning to save money to start supporting his daughter which is 11-years old as of August 4th, 2000. Petitioner need money for cloths and self support toward his discharge once petitioner leave this institution, and now by filing this complaint about my job, I was dismissed. My U.S.C.A. Const.Amendment 1, 8, and 14 was violated. Civil Rights ¶214(2); Officials knew they were violated plaintiff rights upon getting fire from his job AFTER filing such paper work with Captain Britton.

**Defendants** (by last name presented here) Nevling, Nixon, DID continue their Intimidation, Irritation on purpose and Drove petitioner with mental anguish as stated above. When petitioner complained to them, he was rejected over and over.

**STATEMENT OF CLAIM PART II :**

On January 5, 2001, I was informed through the unit manager "Jerry Everhart" that I was now "Suspended" without pay for a hearing date; This is their ways to cover-up Mr. Mills misdeeds toward justification of his malicious actions of behavior toward Plaintiff. Plaintiff needs his financial support to continue this rightfully law suit, and the defendant at Houtzdale's prison know this.

**WHEREFORE**, the Petitioner/Plaintiff pray this Honorable Court will GRANT the following:

1. Disciplinary Actions against all kitchen staff employee named as Defendants.
2. Punitive Damages for the Mental Anguish in the sum of - Twenty Five Thousand Dollars (\$25,000.00) by each defendant.
3. Pay all Court cost and attorneys fee.
4. Back pay awarded to the Petitioner/Plaintiff since 01/03/01 of Eight Hours five days a week at the top pay rate.

RESPECTFULLY SUBMITTED:



Gilbert McGill. Pro-se  
SCI-HOUTZDALE/P.O.BOX: 1000  
HOUTZDALE, PA. 16698-1000

ORIGINALLY TYPED ON JANURARY 3, 2001. PART 2 TYPED ON JANURARY 5, 2001  
THIS DATE IS: JANURARY 5, 2001

STATEMENT OF CLAIM PART III :

DISCRIMINATION CLAIMS:

It is well documented that the kitchen job at SCI-HOUTZDALE is consider the worst job in this prison. It's a known fact that the staff here send Blacks peoples there for punishment, knowing its a less favorable job. It's also well known that kitchen staff issue more misconduct reports than the regular employment jobs in the institution.

You also will find that a few whites are in the kitchen too, but the administration put the majority of whites in Key positions for trades in the manufactory department where they could learn the following:

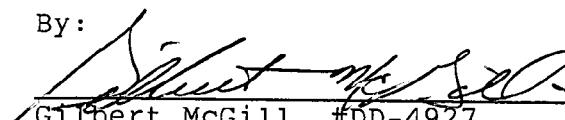
- 1.(1). Carpentry. (2). Electronics 2. (3). Building Mati.
- (4). Machine shop - working with metals and etc's. (5). Small engines - repairs, and etc's...

Therefore, the bakery was the only trade one could learn toward going home and that 'too' was the majority Caucasians. Mr. Mills stated "he" will place me into the bakery, but, that was a total understatement compared to his majority in the shop.

Wherefore, plaintiff would prove that he was denied a trade to take home because of his freedom of speech violations.

Staff members have deliberately punish me in retaliation for my legitimate complaints. Exhibits will follow on petitioner claims.

By:



Gilbert McGill. #DD-4927  
Pro se litigator  
SCI-HOUTZDALE  
P.O.BOX: 1000  
HOUTZDALE, PA. 16698-1000

DATE: JANURARY 5, 2001

01-246-cs  
T

APPLICATION TO PROCEED IN FORMA PAUPERIS

I, Gilbert McGill, hereby state that the information concerning my inability to pay the cost of this proceeding, pursuant to Rule 561 of the PA. R. APP. Proc., is true and correct, and subjected to the penalties set forth in 18PA. C.S.A. §4904 relating to unsworn falsification to authorities.

I, state under the penalties provided in PA. C.S.A. §4904 that;

1. I am the petitioner in the matter within and, because of my financial situation, I am unable to pay the fees and costs of this proceeding.
2. The questions to my inability to pay for the fees in applying judicial action are true and correct.
3. I am presently unemployed. *Even within the institutional*
4. I have not been employed due to my incarceration, and so not have any income, pensions, annuity, social security benefits, support payments, etc., of any source.
5. I do not own any real estate, stocks, bonds, notes, automobiles, or any other valuable property.

I understand that a false statement in this verified statement will subject me to the penalties provided by law in the second degree.

Respectfully Submitted:

/s/ 

Gilbert McGill

# DD-4927

Date: Jan. 5, 2001

SCI-HOUTZDALE

FILED  
FEB 21 2001  
M 18:26 AM  
William A. Shaw  
Prothonotary

By: 

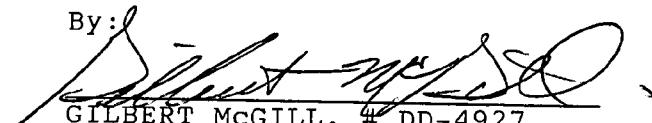
IN THE COMMONWEALTH COURT OF PENNSYLVANIA

GILBERT MCGILL,  
PETITIONER/PLAINTIFF :  
VS. :  
: DOCKET NO. \_\_\_\_\_  
:  
:

PENNSYLVANIA DEPARTMENT OF CORRECTIONS; CULINARY DEPARTMENT  
OF THE DEPARTMENT OF CORRECTIONS, et al.,  
DEFENDANTS /RESPONDENTS

VERIFICATION:

I, Gilbert McGill, do hereby verify that the facts and information set forth in this PETITION FOR REVIEW IN NATURE OF CIVIL ACTION et al., and supporting documents are true and correct to the best of my personal knowledge, information and belief. I understand that any false statements is made subject to the penalties of 18 Pa. C.S. § 4904, relating to the unsworn falsification to authorities.

By:   
GILBERT MCGILL. # DD-4927  
SCI-HOUTZDALE  
P.O.BOX: 1000  
HOUTZDALE, PA. 16698-1000

ON THIS DATE: JANUARY 12, 2001

**PROOF OF SERVICE:**

I, Gilbert McGill, the Petitioner herein, certified that I on this date served a true and correct copy upon the persons and in the manner listed below, which service satisfies the requirements of Pa. R.A.P. 121(b).

**FIRST CLASS MAIL, POSTAGE-PAID FROM HOUTZDALE, PENNSYLVANIA:**

Daniel R. Schuckers, Prothonotary (Original and One copy)  
Office of the Prothonotary, Commonwealth Court of Pennsylvania  
621 South Office Building/Harrisburg, Pa. 17008

Martin Horn, Secretary for the Department of Corrections  
P.O.BOX: 598/Camp Hill, Pa. 17001-0598 (One copy)

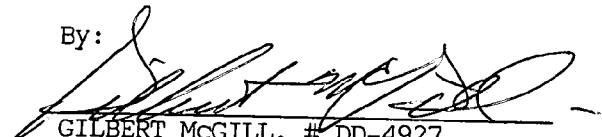
Marcia Noles. Culinary Department Chief Supervisor/For Department Of Corrections. / P.O.BOX: 598 /Camp Hill, Pa. 17001-0598 (One Copy)

Alan Mills. Culinary Department of SCI-Houtzdale (State Correctional Inst.)  
Individual Capacity/ State Route 2007 - P.O.BOX: 1000 (One copy)  
Houtzdale, Pa. 16698-1000.

John McCullough. Superintendant at SCI-HOUTZDALE  
State Route 2007/ P.O.BOX: 1000 (One copy)  
Houtzdale, Pa. 16698-1000

The Honorable Michael Fisher. ATTORNEY GENERAL. (One copy)  
Commonwealth of Pennsylvania  
Strawberry Square, 16th Floor  
Harrisburg, Pa. 17108

By:



GILBERT MCGILL. # DD-4927  
SCI-HOUTZDALE  
P.O.BOX: 1000  
HOUTZDALE, PA. 16698-1000

DATE: JANUARY 12, 2001

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

GILBERT McGILL,  
PETITIONER/PLAINTIFF

: DOCKET No. NONE

01-246-C

VS.

CULINARY DEPARTMENT FOR THE  
PENNSYLVANIA DEPARTMENT OF  
CORRECTIONS, et al.,  
DEFENDANTS/RESPONDENTS

:  
T  
:

**FILED**

FEB 21 2001

William A. Shaw  
Prothonotary

**TO THE PROTHONOTARY OF SAID COURT. FOR EXPEDITED RESPOND OF CANCELLATION:**

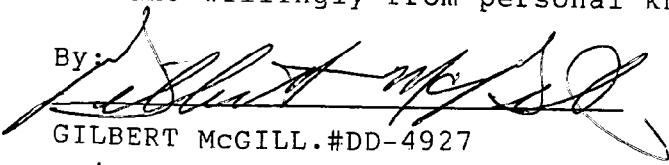
**PETITIONER/PLAINTIFF REQUEST to CANCEL this recently filed Law Suit**  
**dated January 5, 2001.** The following is averred in support:

1. On or about January 18, 2001 petitioner mailed his law suit to this Court along with Proof Of Service - which petitioner DID do.
2. Within the package of this law suit petitioner Verification was dated: "January 12, 2001".
3. AS of this date: "January 20, 2001. Petitioner/Plaintiff **DO NOT** wish to pursuant this Action NONE at this time.
4. Petitioner wish not to PAY any Litigation FEES to START this action. Any Fees would HURT petitioner at this time.
5. Petitioner/Plaintiff is under no threat(s) and of SOUND mind and bcdy.

**THEREFORE**, Petitioner GRANT this Honorable Court to NOT send any papers of fees none what so ever to petitioner and DISMISS this claim before any docket Number what so ever.

VERIFICATION:

I, Gilbert McGill, the petitioner verify that the facts related to the above is true and correct and petitioner wish NOT to pursuant any further action. Petitioner cannot afford any fees none what so ever at this time. Petitioner makes this statement free and willingly from personal knowledge information and belief.

By:   
GILBERT MCGILL. #DD-4927  
sci-houtzdale/p.o.box; 1000/Houtzdale, Pa.

PROOF OF SERVICE:

I, Gilbert McGill, the petitioner/plaintiff herein, certifies that I on this date (January 20, 2001) served a true and correct copies upon the persons listed below by first class mail and institutional process:

Martin Horn. SECRETARY FOR THE D.O.C.  
P.O.BOX: 598/Camp Hill, Pa. 17001-0598 - BY FIRST CLASS MAIL.

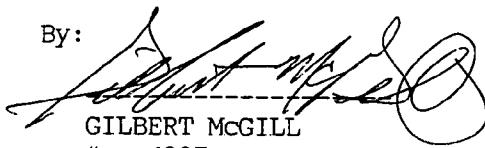
Marcia Noles. CHIEF SUPERVISOR FOR THE CULINARY DEPT. OF THE Pa.DEPT. OF CORRECTIONS/P.O.BOX: 598/CAMP HILL, Pa. 17001 BY FIRST CLASS MAIL.

John McCullough. SUPERINTENDANT OF SCI-HOUTZDALE  
2007 STATE ROUTE/HOUTZDALE, Pa. 16698-1000 BY INSTITUTIONAL PROCESS

ALAN MILLS. KITCHEN SUPERVISOR OF SCI-HOUTZDALE  
2007 STATE ROUTE/HOUTZDALE, Pa. 16698-1000 -BY INST. PROCESS

THE HONORABLE MIKE FISHER: ATTORNEY GENERAL FOR THE COMMONWEALTH OF PENNA.  
STRAWBERRY SQUARE/16, FLOOR/HARRISBURG, Pa. 17108- BY FIRST CLASS MAIL.

By:



GILBERT MCGILL  
#DD-4927  
SCI-HOUTZDALE  
P.O.BOX: 1000  
HOUTZDALE, Pa. 16698-1000

JANUARY 20, 2001

261 100-210 A 423

FILE  
FEB 17 1981  
William A. Shaw  
Prothonotary