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7

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE DISTRICT OF ARIZONA**

10 Keith Ranieri,
11 Plaintiff,
12 vs.
13 Merrick Garland, et al.,
14 Defendants.
15

CV 22-00212-TUC-RCC

**STATEMENT OF FACTS IN
SUPPORT OF DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT ON EXHAUSTION**

16 Defendants Garland, Carvajal and Colbert, acting in their official capacity by and
17 through the attorneys undersigned, file this Statement of Facts in support of Defendants'
18 Motion for Summary Judgment on Exhaustion pursuant to Fed.R.Civ.P. 56.

19 **A. Plaintiff**

20 1. Plaintiff Keith Ranieri is a federal inmate at the United States Penitentiary
21 (USP Tucson) in Tucson, Arizona. (Doc. 14-2 at 3, 16-17.)

22 2. Plaintiff is serving an aggregate sentence of 120-years for racketeering
23 conspiracy, racketeering, forced labor conspiracy, wire fraud conspiracy, sex trafficking
24 conspiracy, sex trafficking of Jane Doe 5, and attempted sex trafficking of Jane Doe 8 in
25 violation of multiple federal statutes. (Doc. 14-2 at 3, 16-17, 21-24.)

26 3. Plaintiff is projected to be released from custody on June 27, 2120. (Doc.
27 14-2 at 3, 15, 19.)

28 4. On January 21, 2021, Plaintiff was given an Inmate Admission &

1 Orientation (A&O) Handbook, which describes the administrative remedy process. (Ex.
2 A, Diaz Declaration, ¶ 4, Att. 1, Intake Screening Form & A&O Program Checklist.)

3 **B. Administrative Remedy Program**

4 5. The Bureau has a four-tiered Administrative Remedy Program for inmate
5 grievances, which is codified at 28 C.F.R. § 542.10 *et seq.* The first step is informal
6 resolution with prison staff. 28 C.F.R. § 542.13(a). Requests for Informal Resolution
7 Forms (also known as a BP-8) are not assigned a Remedy ID number and are not tracked.
8 B-8 forms require the inmate to identify: (1) the inmate's complaint; (2) the relief the
9 inmate is requesting; and (3) efforts made by the inmate to informally resolve the
10 complaint, including the names of the staff he contacted. *See* 28 C.F.R. § 542.13(a)
11 ("Each Warden shall establish procedures to allow for the informal resolution of inmate
12 complaints."). The second step is the filing of a formal Request for Administrative
13 Remedy (also known as a BP-9) at the institution in which the inmate is incarcerated.
14 *See* 28 C.F.R. § 542.14. The BP-9 must be filed within "20 calendar days following the
15 date on which the basis for the Request occurred." *See* 28 C.F.R. § 542.14(a). If the
16 inmate feels the response to his BP-9 is not satisfactory, within 20 calendar days of the
17 date the Warden signed the response, the inmate may then appeal the complaint to the
18 Regional Director, by filing a Regional Office Administrative Remedy Appeal (also
19 known as a BP-10). *See* 28 C.F.R. § 542.15(a). If dissatisfied with the Regional
20 Director's response, the inmate may appeal to the Director, National Inmate Appeals, in
21 the Office of the General Counsel in Washington D.C., by filing a Central Office
22 Administrative Remedy Appeal (also known as a BP-11). *Id.* An inmate may not raise in
23 an appeal an issue he did not raise in a lower level filing. *See* 28 C.F.R. § 542.15(b)(2).
24 The Administrative Remedy Coordinator at any level may reject and return to the inmate
25 without response a Request for Administrative Remedy or appeal that does not meet
26 procedural requirements as outlined in the Code of Federal Regulations. *See* 28 C.F.R.
27 § 542.17(a). (Doc. 14-2 at 9-10.)
28

1 6. An inmate has not exhausted his administrative remedies until he has
2 properly sought review at all three formal levels. 28 C.F.R. § 542.17(a). (Doc. 14-2 at
3 10.)

4 7. The Administrative Remedy Program Statement regarding the
5 administrative remedy procedures is available to USP Tucson inmates in the main law
6 library and in the Electronic Law Library in the Special Housing Unit (SHU). (Doc. 14-2
7 at 11.)

8 8. The A&O Handbook provides detailed information on how inmates may
9 obtain administrative remedy forms, including that inmates may obtain forms from their
10 Correctional Counselor or any Unit Team member. (Doc. 14-2 at 11, 45-46.)

11 9. The A&O Handbook also recognizes that BP-9's may be filed outside the
12 twenty-day time period when "it was not feasible to file within that period of time," in
13 which case, the BP-9 should document the reason it was not feasible. (*Id.*)

14 **C. Inmate Access to Administrative Remedy Forms at USP Tucson**

15 10. Inmates have access to the Code of Federal Regulations and Bureau Program
16 Statements, including Program Statement 1330.18, *Administrative Remedy Program*,¹
17 through the institution law library and the Electronic Law Library. *See* Program Statement
18 1315.07, *Inmate Legal Activities* at 4, Att. A at 1-2 (identifying required main law library
19 materials such as "Title 28 of the Code of Federal Regulations" and "All current Bureau of
20 Prisons Program Statements which contain rules codified in Chapters III or V of Title 28
21 of the Code of Federal Regulations" which includes the procedures outlined in the
22 Administrative Remedy Program).² (Doc. 14-2 at 11.)

23 11. In order to file an administrative remedy or appeal, an inmate may obtain
24 the appropriate forms from, and submit completed forms to, any Unit Team member. The
25

26 ¹ Available at https://www.bop.gov/policy/progstat/1330_018.pdf (last visited on July 28,
27 2022).

28 ² Available at https://www.bop.gov/policy/progstat/1315_007.pdf (last visited on July 28,
2022).

1 Unit Team is comprised of the Unit Manager, Case Manager, Correctional Counselor and
2 Unit Secretary. (Doc. 14-2 at 11.)

3 **D. Plaintiff's Administrative Remedies**

4 12. During Plaintiff's incarceration with the Bureau, he has filed two
5 administrative remedies. (Ex. A, ¶ 5, Att. 2, SENTRY Administrative Remedy Index, pp.
6 1-2.)

7 13. Plaintiff filed a BP-10 with the Western Region, which was received on
8 February 25, 2022. (Doc. 14-2 at 59.)

9 14. On June 30, 2022, Plaintiff filed a BP-11 with the General Counsel. (Ex. A,
10 ¶ 7, Att. 2, p. 2; Att. 3, Remedy No. 1111640, p. 9.)

11 15. The BP-10 and BP-11 were Plaintiff's appeals from a disciplinary hearing in
12 which Plaintiff was found to have circumvented mail monitoring by using another inmate
13 to contact a former NXIVM member who had been removed from Plaintiff's contact list
14 for prior misconduct. (*Id.*, ¶ 8.)

15 16. To date, Plaintiff has not submitted a single an administrative remedy
16 regarding the issues in his FAC. (Ex. A, ¶ 9, Att. 2, p. 2.)

17 DATED: August 1, 2022.

18 GARY M. RESTAINO
19 United States Attorney
District of Arizona

20 *s/ Denise Ann Faulk*
21 DENISE ANN FAULK
22 Assistant U.S. Attorney

23 Copy of the foregoing served via EM/ECF to

24 Stacy Scheff
25 LAW OFFICE OF STACY SCHEFF
26 P.O. Box 40611
Tucson, AZ 85717

27 *s/ P. Vavra*
28 /MSJ-SOF

Exhibit List

Exhibit A, Diaz Declaration

Attachment 1, Intake Screening Form & A & O Program Checklist

Attachment 2, SENTRY Administrative Remedy Index

Attachment 3, Remedy No. 1111640

Exhibit A

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9

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

Keith Raniere,

Plaintiff,

vs.

Merrick Garland, US Attorney General, et
al.,

Defendants.

No. 22-cv-00212-RCC-PSOT

**DECLARATION OF
MICHELLE DIAZ**

10 I, Michelle Diaz, pursuant to 28 U.S.C. § 1746, and based upon my personal
11 knowledge and information made known to me from official records reasonably relied
12 upon by me in the course of my employment, hereby make the following declaration
13 relating to the above-titled matter.

14 1. I have been employed with the Federal Bureau of Prisons (Bureau) at the
15 Federal Correctional Complex, in Tucson, Arizona since December 7, 2008. I currently
16 serve as the Unit Manager for Keith Raniere, Federal Register No. 57005-177.

17 2. As a supplement to the prior declarations of Correctional Counselor Daniel
18 Flores (Docs. 14-2 and 17-1), below is additional information regarding Mr. Raniere and
19 the Bureau Administrative Remedy Program. All records attached to this declaration are
20 true and accurate copies of Bureau records maintained in the ordinary course of business.

21 3. The following statements are based on my review of official Bureau files
22 and records, my own personal knowledge, or on information acquired by me through the
23 performance of my official duties.

24 **A. Plaintiff's Administrative Remedy History**

25 4. On January 21, 2021, Mr. Raniere received a copy of the A&O Handbook.
26 *See* Att. 1, Intake Screening Form & A&O Program Checklist (Redacted) at 1. On March
27 9, 2021, Plaintiff was briefed on the Bureau's Administrative Remedy Program as part of
28

1 the A&O Program. *Id.* at 2. I have reviewed the SENTRY information identifying the
2 number and types of administrative remedies and appeals filed by Mr. Raniere.

3 5. During Mr. Raniere's incarceration with the Bureau, he has filed two
4 administrative remedy appeals. *See* Att. 2, SENTRY Administrative Remedy Index at 1-2.
5 He has not filed a Request for Administrative Remedy (BP-9) on any subject. *Id.*

6 6. On February 25, 2022, in Remedy No. 1111640-R1, Mr. Raniere filed a BP-
7 10 appeal regarding disciplinary sanctions imposed against him following an October 26,
8 2021, disciplinary hearing associated with Incident Report No. 3547878. *Id.* at 2. *See* Att.
9 3, Remedy No. 1111640 at 1-5. On April 1, 2022, the Regional Director denied Mr.
10 Raniere's appeal. *See* Att. 2 at 1; Att. 3 at 6-7. On June 7, 2022, Mr. Raniere received the
11 Regional Director's response. *See* Att. 3 at 8.

12 7. On June 30, 2022, Mr. Raniere appealed the Regional Director's denial to the
13 Office of General Counsel (BP-11). *See* Att. 2 at 2; Att. 3 at 9. The BP-11 response is due
14 on August 29, 2022. *See* Att. 2 at 2.

15 8. In the BP-10 and BP-11, Mr. Raniere appealed the sanctions imposed because
16 he was found to have circumvented mail monitoring procedures by using another inmate to
17 contact a former NXIVM member who had been removed from his contact list for prior
18 misconduct. *See* Att. 3 at 2-5.

19 9. He has not filed any administrative remedies or appeals regarding lack of
20 access to Suneel Chakravorty, lack of access to legal calls, his social telephone contact list,
21 or his general access to his attorneys.

22 //

23 //

24 //

25 //

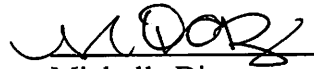
26 //

27 //

28 //

1 Pursuant to the provisions of 28 U.S.C. § 1746, I declare under penalty of perjury
2 that the foregoing is true and correct to the best of my information, knowledge, and belief.

3 Executed on this 1st day of August 2022, in Tucson, Arizona.

4 

5 Michelle Diaz
6 Unit Manager
7 USP Tucson, Arizona
8 Federal Bureau of Prisons

8 **Enclosures**

9 Att. 1, Intake Screening Form & A&O Program Checklist (Redacted)

10 Att. 2, SENTRY Administrative Remedy Index

11 Att. 3, Remedy No. 1111640

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Exhibit A
Attachment 1

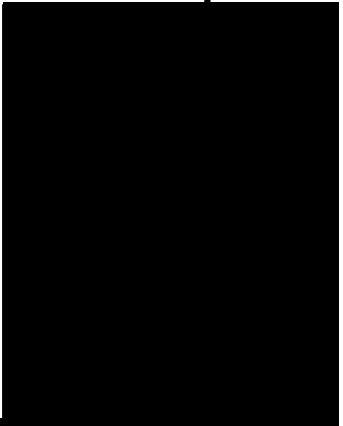
NAME.....: RANIERE, KEITH
REGISTER NO: 57005-177
RACE / SEX.: WHITE / MALE
RESIDENCE..: CLIFTON PARK, NY 12065

UNIT.....: C
DOB (AGE): [REDACTED] 1960 (60)
ETHNIC...: OTHER THAN HISP
RSP OF...: TCP A-DES

***** I N M A T E I N T E R V I E W *****

DATE / TIME ARRIVED: 01-21-2021 19:05 TIME INTERVIEWED: 7:14pm

- 1) DO YOU KNOW OF ANY REASON THAT YOU SHOULD NOT BE PLACED IN GENERAL POPULATION ?
- 2) HAVE YOU ASSISTED LAW ENFORCEMENT AGENTS IN ANY WAY ?
- 3) ARE YOU A CIM CASE ?
- 4) HAVE YOU TESTIFIED AGAINST ANYONE IN COURT ?
- 5) ARE YOU A MEMBER/ASSOCIATE OF ANY GANG ?
- 6A) HAVE YOU EVER BEEN SEXUALLY ASSAULTED ?
- 6B) HAVE YOU RECENTLY BEEN SEXUALLY ASSAULTED ?



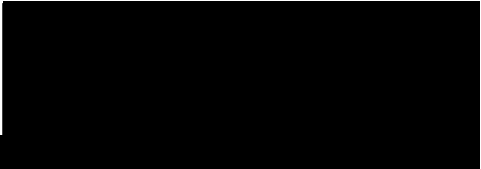
INTERVIEWER COMMENTS:



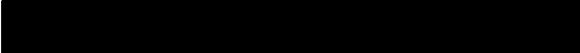
CIRCLE ONE:

I HAVE / HAVE NOT RECEIVED A BUREAU OF PRISONS "ADMISSIONS AND ORIENTATION BOOKLET" DEFINING MY "RIGHTS AND RESPONSIBILITIES" AND THE "PROHIBITED ACTS AND DISCIPLINARY SEVERITY SCALE".

DO YOU WISH TO SELF-IDENTIFY YOUR SEXUAL ORIENTATION, GENDER IDENTITY, ANY DISABILITIES, AND/OR SELF-PERCEPTION OF VULNERABILITY ?



INMATE COMMENT:



INMATE SIGNATURE:

X [Signature]

DATE: 1/21/21

INTERVIEWER:

[Signature]

TITLE:

u/m

DATE: 01-21-2021

***** S T A F F C H E C K L I S T *****

IF GENERAL PHYSICAL APPEARANCE IS NOT GOOD, EXPLAIN:

good

OK FOR GENERAL POPULATION: YES NO (IF NO, EXPLAIN)

BP-A0518

U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF PRISONS

JUN 10

INMATE ADMISSION AND ORIENTATION PROGRAM CHECKLIST

Inmate's Name <i>KANURE, Keith</i>	Register No. <i>57005-177</i>	Institution FCC TUCSON
---------------------------------------	----------------------------------	---------------------------

Program Content	AUTHORIZED STAFF	DATE
1. UNICOR Interview	Closed	3/9/21
2. Correctional Services	Correctional Svc <i>CS</i>	3/9/2021
3. Medical Services (including AIDS film & Lecture)	Health Svc <i>smg</i>	<i>James B... 3/9/2021</i>
4. Chaplaincy Services	Religious Svc <i>MM</i>	3/9/2021
5. Inmate Systems/ Records Office/ R6D/ Mail Room	CSD DP	3/9/21
6. Commissary Services/ Inmate Accounts	Trust Fund <i>DM</i>	3/9/21
7. Clothing Requests/ Laundry Procedures	Trust Fund <i>DM</i>	3/9/21
8. Food Service	Food Service <i>ES</i>	3/9/21
9. Psychology Services/Drug Abuse Program	Psychology <i>IXI</i>	3/9/21
10. Sexual Abuse/Assault Prevention and Intervention	Psychology <i>DH</i>	3/9/21
11. Diversity in the Criminal Justice System	Psychology <i>J.H</i>	3/9/21
12. Safety and Sanitation	Safety AL	3/9/21
13. Inmate Accident Compensation	Safety AL	3/9/21
14. Facilities / Mechanical Services	Facilities <i>AS</i>	3/9/21
15. Educational Services	Education <i>ML</i>	3/9/21
16. Veterans / Social Security Benefits	Reentry Coord <i>DM</i>	3/9/21
17. Treaty Transfer of Offenders to Foreign Countries	CMC JS	3/9/21
18. Selective Service System / BOP Registration Program	Reentry Coord <i>DC</i>	3/9/21
19. Inmate Financial Responsibility Program	CMC JS	3/9/21
20. Community-Based Activities	CMC JS	3/9/21
21. Release Preparation Program	Education <i>ML</i>	3/9/21
22. Administrative Remedy Program	Assoc Warden <i>UM</i>	3/9/21
23. Unit Management	Unit Management <i>DM</i>	3/9/21
24. Visiting	Correctional Svc <i>DB</i>	3/9/21
25. Telephone Regulations / Procedures	Correctional Svc <i>DB</i>	3/9/21
26. Reentry/Second Chance Video / <i>REENTRY ENVELOPE</i>	Reentry Coord <i>DC</i>	3/9/21
27. Recreation	Recreation <i>TH</i>	3/9/21
28. Associate Warden	Associate Warden <i>JD</i>	3/9/21
29. Warden	Warden <i>JC</i>	<i>✓ 3/9/2021</i>
30.		
Comments: A&O Completed via DVD		

I have attended all classes of the A & O Program as listed above.

Signature of Inmate: *Keith Kanure* Date: *3/9/2021* Unit: *C Unit*

Central File - Section 3

FILE IN SECTION 3 UNLESS APPROPRIATE FOR PRIVACY FOLDER

SECTION 3

Exhibit A
Attachment 2

PHXC4

*ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL *

07-28-2022

PAGE 001 OF

08:03:00

FUNCTION: L-P SCOPE: REG EQ 57005-177 OUTPUT FORMAT: FULL

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

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

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

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

STS/REAS: _____

SUBJECTS: _____

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

RCV OFC : EQ _____

TRACK: DEPT: _____

PERSON: _____

TYPE: _____

EVNT FACL: EQ _____

RCV FACL.: EQ _____

RCV UN/LC: EQ _____

RCV QTR.: EQ _____

ORIG FACL: EQ _____

ORG UN/LC: EQ _____

ORIG QTR.: EQ _____

G0002

MORE PAGES TO FOLLOW . . .

PHXC4

*ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL *

07-28-2022

PAGE 002 OF 002 *

FULL SCREEN FORMAT

*

08:03:00

REGNO: 57005-177 NAME: RANIERE, KEITH
RSP OF...: TCP UNT/LOC/DST: UNIT C QTR.: Z01-101LAD RCV OFC: WXR
REMEDY ID: 1111640-R1 SUB1: 20DM SUB2: DATE RCV: 02-25-2022
UNT RCV.:UNIT C QTR RCV.: C01-108U FACL RCV: TCP
UNT ORG.:UNIT C QTR ORG.: C01-108U FACL ORG: TCP
EVT FACL.: TCP ACC LEV: WXR 1 BOP 1 RESP DUE: TUE 04-26-2022
ABSTRACT.: DHO HEARING 10-26-21 CODE: 396 / 397
STATUS DT: 04-01-2022 STATUS CODE: CLD STATUS REASON: DNY
INCRPTNO.: 3547878 RCT: P EXT: P DATE ENTD: 02-26-2022
REMARKS..:

REGNO: 57005-177 NAME: RANIERE, KEITH
RSP OF...: TCP UNT/LOC/DST: UNIT C QTR.: Z01-101LAD RCV OFC: BOP
REMEDY ID: 1111640-A1 SUB1: 20BM SUB2: DATE RCV: 06-30-2022
UNT RCV.:UNIT C QTR RCV.: C01-108U FACL RCV: TCP
UNT ORG.:UNIT C QTR ORG.: C01-108U FACL ORG: TCP
EVT FACL.: TCP ACC LEV: WXR 1 BOP 1 RESP DUE: MON 08-29-2022
ABSTRACT.: DHO HEARING 10-26-21 CODE: 396 / 397
STATUS DT: 07-11-2022 STATUS CODE: ACC STATUS REASON:
INCRPTNO.: 3547878 RCT: N EXT: N DATE ENTD: 07-11-2022
REMARKS..:

G0000 2 REMEDY SUBMISSION(S) SELECTED
TRANSACTION SUCCESSFULLY COMPLETED

Exhibit A
Attachment 3

U.S. Department of Justice

Federal Bureau of Prisons

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

From: RANIERE, Keith, A S7005-177 C-1 USP Tucson
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - REASON FOR APPEAL I have a high-profile case which I believe adversely affects my dealings with the B.O.P. I am taking this step, even though I have finished my sanctions, hoping an injustice will be rectified, and to document the journey. Here are 3 issues:
1) No one will tell me which policy I violated. S.I.S. claimed I didn't violate any policy but knowing/circumvent one unnamed. DHO claims I didn't circumvent one, but broke one - they will not tell me which. I have searched all my resources; I did not violate any policy. I have a right to know which policy I violated.
2) Not knowing what policy I violated deprives me of the ability to defend myself. I need this policy and time to defend.
3) DHO additionally deprived me of fair notification. DHO threw out the original charges but instated different charges which contradicted the S.I.S. charges. I should be allowed to defend against these new charges.

Here are the uncontested events:
1) I gave the phone number of my 15-year romantic partner to another inmate urging him to call her. She runs a national effort to help inmates. I felt this inmate could benefit from her services.
2) Unbeknownst to me she began to have email correspondence with him. After the fact, the inmate told me he suggested they call me "K-dog". We both thought that was funny.
3) I was not restricted from communicating with my partner. I called her sometimes multiple times per day. I also saw her for 12 hours every two weeks - she came every time we had visiting and we visited for every available minute.
4) At some point, when I heard the inmate might speak to my partner, I told him to "Send my love".
5) I will see her Saturday. This is my crime. Which policy do these actions violate?

My DHO report claims I make statements and admissions to S.I.S. yet claims I remained silent. It also says I denied the charge yet it says I neither admits nor denies charges. The report claims no delays. My S.I.S. investigation was extended 30 days with no additional activity. My correspondent had his hearing one month before mine. This delay effectively lengthened my sanctions - almost doubling them. I was told this delay was because my staff rep. was away. Staff from her unit confirmed this was not true. Please expunge these shots and make this situation right.

DATE 1/6/22 [This was not given to me on 1/17, it was slipped under my door 1/31] SIGNATURE OF REQUESTER Keith A Ranier
SEE CAMERA FOOTAGE

Part B - RESPONSE

RECEIVED

FEB 25 2022

RECEIVED

DATE REGIONAL DIRECTOR

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

ORIGINAL: RETURN TO INMATE CASE NUMBER:

Part C - RECEIPT

Return to: Ranier, Keith, A S7005-177 C-1 USP Tucson
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: Expunging shots and rectifying situation

DATE SIGNATURE, RECIPIENT OF REGIONAL APPEAL



BP-A0304

DISCIPLINE HEARING OFFICER REPORT

Dept. of Justice Federal Bureau of Prisons

Institution: TUCSON USP	Incident Report Number: 3547878	
NAME OF INMATE: RANIERE, KEITH	REG.NO.: 57005-177	UNIT: UNIT C
Date of Incident Report: 09-16-2021	Offense Code(s): 196 197 199	
Date of Incident: 07-22-2021		

Summary of Charges:
(199 -- DISRUPTIVE CONDUCT-GREATEST) MOST LIKE, 196 -- MAIL ABUSE, CRIMINAL. 197 -- PHONE ABUSE, CRIMINAL.

I. NOTICE OF CHARGE(S)

- A. Advanced written notice of charge (copy of Incident Report) was given to inmate on 09-16-2021 at 1614 hrs (by staff member) K.FALCONER
- B. The DHO Hearing was held on 10-26-2021 at 1152 hrs
- C. The inmate was advised of the rights before the DHO by (staff member):
S. Watson on 09-18-2021
and a copy of the advisement of rights form is attached.
- D. Delay in Process None

II. STAFF REPRESENTATIVE

- A. Inmate waived right to staff representative: [Yes] [No]
- B. Inmate requested staff representative and
A. Lopez appeared.
- C. Staff Representative's Statement:
"I reviewed everything, and met with him. He admitted that he gave the inmate the information and made the statements, so there's nothing else I can say."
- D. Requested staff representative declined or could not appear but inmate was advised of option to postpone hearing to obtain another staff representative with the result that:
NA
- E. Staff representative NA was appointed.

III. PRESENTATION OF EVIDENCE

- A. Inmate neither admits nor denies the charge(s).
- B. Summary of Inmate Statement:
Inmate Keith Ranieri, Reg. No. 57005-177 stated "I suggested he contact her because she runs a inmate program and her information on a DNA site."



BP-A0304

DISCIPLINE HEARING OFFICER REPORT

Dept. of Justice Federal Bureau of Prisons

C. Witnesses

- 1. The inmate waived right to witnesses. [Yes] [No]
- 2. The following persons were called as witness at this hearing and appeared (Each witness name and statement listed below):
NA
- 3. The following persons requested were not called for the reason(s) given (Each witness name and statement listed below):
NA
- 4. Unavailable witnesses were requested to submit written statements and those statements received were considered (Each witness name and statement listed below):
Inmate Timothy Brooks 86832-079 provided a written statement.

D. Documentary Evidence. In addition to the Incident Report and Investigation, the DHO considered the following documents:

- Incident Report -- (BP-A288)
- Inmate Rights at Discipline Hearing -- (BP-A293)
- Notice of Discipline Hearing Before the (DHO) -- (BP-A294)
- DHO Report - Witness Statement -- (DHO-WITSTM)
- Incident Report - SIS Reports -- (BOP-IRSI)
- Incident Report - Threat Assessments -- (BOP-IRTHRA)
- Incident Report - TRU System Documentation -- (BOP-IRTRU)
- Duties of Staff Representative -- (BP-A306)

E. Confidential information was used by DHO in support of his findings, but was not revealed to the inmate. The confidential information was documented in a separate report. The confidential information has been (confidential informants have been) determined to be reliable because:
NA

IV. FINDINGS OF THE DHO

- A. The act was committed as charged.
- B. The following act was committed:
397 396
- C. No prohibited act was committed:
Expunge according to inmate discipline PS.

V. SPECIFIC EVIDENCE RELIED ON TO SUPPORT FINDINGS (Physical evidence, observations written documents, etc.)

DHO FINDINGS:

The inmate s due process rights were read and reviewed by the DHO to the inmate. The DHO confirmed the inmate received a copy of his incident report and did want a staff representative and she was present during the DHO hearing. The inmate did request a witness and the witness statement was received in writing and read to you. You signed the acknowledgement to allow the witness statement to be written and read to you in the DHO hearing. The Inmate had no documentary evidence to submit. The inmate understood his due process rights, and was ready to proceed with the DHO Hearing.



BP-A0304

DISCIPLINE HEARING OFFICER REPORT

Dept. of Justice Federal Bureau of Prisons

Based on the evidence, the DHO finds you committed the prohibited act of Code 396- Use of the mail (email) for abuses other than criminal activity and Code 397 -Use of the telephone for abuses other than criminal activity. To make this finding the DHO relied upon the following:

It was made aware on September 16, 2021, at approximately 11:00 a.m., the SIS investigation was closed for inmates Keith Raniere, Reg. No. 57005-177 and Inmate Timothy Brooks, Reg. No. 86832-079. It is concluded both inmates Raniere and Brooks, knowingly and admitted to circumventing the Bureau of Prisons communication policy. Specifically, Inmate Brooks sent email correspondence to a "Nicki Clyne" at the email of "moonwalk4me@protonmail.com" and stated if there was a need to have contact with Raniere that they can do it through the email. In the email it also describes a nickname for Raniere of "K-Dog" to be discreet in their communications. Inmate Raniere's TRULINCS account has been restricted for public messaging. In a memorandum authored by the Bureau of Prisons, Counter Terrorism Unit, discovered "Nicki Clyne" was under several inmates TRULINCS accounts under false pretenses while inmate Raniere was housed at MDC Brooklyn. "Nicki Clyne" at this time is an un-indicted co-conspirator of Raniere's "Inner Circle" or "First line masters" of the NXIVM cult. In an interview with inmate Raniere, he admits to utilizing inmate Brooks to send messages to "Nicki Clyne" on his TRULINCS account and in visitation to pass along messages to his co-conspirator, Carol Bronfman, Reg. No. 91010-053, who is housed at FDC Philadelphia.

The DHO notes during the investigation you elected to remain silent. During your UDC hearing you stated " This does not violate policy. I didn't pass any messages. I didn't admit anything to SIS."

The DHO asked if you admitted or denied the charge against you. You denied the charge stating, " I suggested he contact her because she runs a inmate program and her information on a DNA site."

The DHO finds credible the staff member's account of this incident as stated above. The supporting documentation (TRUFONE/TRUVIEW reports, staff memo, SIS investigation, copies of email correspondence) submitted corroborates the incident. Specifically, email correspondence from inmate Brooks states "anytime you need to get work to Keith you can contact me. Just be discrete and maybe we can call him K-dog, that keeps everything out of the man's face and me kosher." Also sent via inmate Brooks, "K-dog say see you Sat.". These emails support messages being sent on your behalf and an attempt to try and circumvent communication by having message sent to inmate Brooks for you via his email account, and to use a coded name. This information supports the charges. Further, the investigation showed a phone number connected to "Nicki Clyne" was on several inmate accounts in an attempt to send messages without monitoring. Your staff representative was present during the DHO hearing, and stated that you gave inmate Brooks the information to your contacts, so there was no further information or defense she could assist with. You stated during the DHO hearing that you didn't know you could not have another inmate contact your personal contact on your behalf, which was false, as the DHO had previously met with you and informed you of the rules regarding telephone, and email due to a previous incident. This showed a lack of credibility to the DHO.

Although the inmate denied the charge, the DHO based her decision on the greater weight of the evidence. Specifically, the DHO relies upon the reporting officer's eyewitness statement. The DHO found no reason to question the validity of the reporting officer, since his observations were made strictly in the performance of his duties, without any reason to submit a false report.

The DHO advised the inmate that the code was being amended to support the description of the incident. The inmate had no objection to the changing of the charge.

Therefore, based on the facts, evidence presented, the DHO finds you committed the prohibited act of 396 -Use of the mail (email) for abuses other than criminal activity and Code 397- Use of the telephone for abuses other than criminal activity.



BP-A0304

DISCIPLINE HEARING OFFICER REPORT

Dept. of Justice / Federal Bureau of Prisons

VI. SANCTION OR ACTION TAKEN
396 - LP EMAIL 45 DAYS, 397 - LP PHONE 45 DAYS

VII. REASON FOR SANCTION OR ACTION TAKEN

396

Use of the mail for abuses other than criminal activity which do not circumvent mail monitoring; or use of the mail to commit or further a Moderate category prohibited act.

397:

The action on the part of any inmate to use the telephone in an unauthorized manner poses a serious threat to the ability of staff to control the use of the telephone and monitor whether inmates are making calls for prohibited or illegal purposes. It is indicative of the intent to participate in unauthorized activities that could lead to disruptive behavior. The use of telephones is a privilege for inmates to maintain contact with their family and to maintain ties with them and not for criminal use. The sanctions imposed by the DHO were taken to express the seriousness of the infraction.

Loss of Privileges:

The sanctions of loss of privileges were given to remind the inmate that he and he alone is responsible for his behavior. The DHO imposes the sanctions listed above to convey the seriousness and inappropriate of your actions. The above listed sanctions are imposed to deter you and others from exhibiting future acts of misbehavior. Sanctions are imposed to encourage you to use better judgment in further interactions and you must be accountable for you actions.

VIII. APPEAL RIGHTS: The inmate has been advised of the findings, specific evidence relied on, action and reasons for the action. The inmate has been advised of his right to appeal this action within 20 calendar days under the Administrative Remedy Procedure. A copy of this report has been given to the inmate.

IX. Discipline Hearing Officer

Printed Name	Signature	Date
A. ESTRADA	A. ESTRADA <i>[Signature]</i>	11-17-2021

DHO Report Delivered to Inmate by:

[Signature]
Printed Name of Staff

[Signature]
Signature of Staff

[Signature]
Date & Time Delivered

12-21-2021 / 12:00 (~6pm)

The Government Paperwork Elimination Act (GPEA) of 1998 authorized Federal Agencies the use of electronic forms, electronic filing, and electronic signatures to conduct office business.

1111640-R1
FCC TUCSON
Page 1 of 2

You are requesting administrative relief regarding the decision of the Discipline Hearing Officer (DHO) on October 26, 2021, in which you were found to have committed the prohibited act of Mail Abuse-No Circumvention, Code 396 and Phone Abuse - No Circumvention, Coe 397. You make various claims which are addressed below. For relief, you seek to have this incident expunged from your discipline record.

On appeal, the appropriate reviewing authority shall consider: a. Whether the UDC or DHO substantially complied with the regulations on inmate discipline; b. Whether the UDC or DHO based its decision on some facts, and if there was conflicting evidence, whether the decision was based on the greater weight of the evidence; and c. Whether an appropriate sanction was imposed according to the severity level of the prohibited act, and other relevant circumstances.

A review of the disciplinary action indicated that you were provided due process as required by Program Statement 5270.09, Inmate Discipline Program. You were given advanced written notice of the charge against you more than 24 hours prior to your appearance before the DHO. You were afforded the opportunity to have staff representation and to call witnesses. Your staff representative appeared and your witness provided a written statement. You were afforded the opportunity to make a statement to the DHO and present documentary evidence on your behalf. Your statement is reflected and addressed in the DHO report and there was no indication in the record that you presented written documentary evidence.

The DHO report clearly indicates the basis for the finding that you committed the prohibited act and explains the purpose of imposing the sanctions which are within policy.

You claim or infer you are innocent. Bureau of Prisons policy directs the DHO to consider all evidence presented at the hearing and to make a decision based on some facts, and if there is conflicting evidence, to base the decision on the greater weight of the evidence. Evidence weighted against you included the statement provided by the reporting office and other documentary evidence contained in the discipline packet. Such evidence supports the fact that on the said date, time and place of the incident, staff reviewed an email and discovered that you were utilizing another inmate's Trulincs and Trufone account to receive messages. That evidence, coupled by the fact that you were unable to present credible or verifiable evidence which exonerates you from the charge, reasonably led the DHO to make a guilty finding.

You claim you were not advised of your rights before the DHO. Bureau of Prison policy and Federal Regulations state that the investigator will specifically inform you of the charge(s) against you; and that you may remain silent at all stages of the discipline process. Evidence reflects that on September 16, 2021, you were advised of that right. Evidence found in the record also reflects that on October 26, 2021, you were advised of your rights before the DHO. The advisement forms bear what appears to be your signature. Contrary to your claim, evidence found within the record reflects you were advised of all rights afforded during the discipline process.

1111640-R1
FCC TUCSON
Page 2 of 2

You claim you did not receive written notice of the charge against you in a timely manner. Specifically, you allege staff became aware of the incident on July 22, 2021, but staff did not write the incident report until September 16, 2021. Upon review of the record, we note your incident report was written at the conclusion of a SIS Investigation. Reasons for conducting an investigation before writing an incident report are to ascertain if there is sufficient evidence or information to charge an inmate with misconduct, as well as to rule out, or rule in, potential suspects. Contrary to your belief, your incident report was issued to you in a timely manner as it was written and issued to you after the official investigation was closed on September 16, 2021.


You claim you did not receive advance notice of the charge levied against you after the DHO found you guilty of a different act. Policy states that the DHO shall find that the inmate committed the prohibited act charged and/or a similar prohibited act if reflected in the incident report. The record indicates you were initially charged with committing two offenses (Codes 196 and 197). After reviewing all the facts, and since the incident report clearly describes your behavior, the DHO felt (Code 396 and 397) best describes your misconduct and held you accountable for committing that prohibited acts (Code 396 and 397), rather than (Codes 296 and 297). We find no abuse of discretion in this matter.

You claim the DHO misstated you. Specifically, you claim you did not make statements and admission to SIS. Policy requires the DHO to prepare a record of the proceedings which need not be verbatim. This record must be sufficient to document the advisement of inmate rights; the DHO's findings, the DHO's decision and the specific evidence relied on by the DHO, and must include a brief statement of the reasons for the sanctions imposed. The evidence relied upon, the decision, and the reasons for the actions taken must be set out in specific terms unless doing so would jeopardize institutional security. Contrary to your claim, we found evidence which indicates the record was adequately documented.

The allegations presented in your request for relief have been investigated and determined to be without merit. Thus, your request for relief from the discipline action or sanctions is denied.

If dissatisfied with this response, you may appeal to the Office of the General Counsel, Bureau of Prisons, 320 First Street, NW, Washington, D.C., 20534. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

4/1/22
Date


M. Rios, Regional Director



FEDERAL BUREAU OF PRISONS
UNITED STATES PENITENTIARY
TUCSON, ARIZONA

Unit	<input type="checkbox"/>	Region	<input type="checkbox"/>	Central	<input type="checkbox"/>
		WDN	<input type="checkbox"/>	REJ	<input type="checkbox"/>

ACKNOWLEDGMENT OF RECEIPT OF ADMINISTRATIVE REMEDY APPEAL

I, Shapiro, Reg. 57005 17A further acknowledge by my signature, receiving Administrative Remedy Appeal, 111640 R1. The Administrative Remedy Appeal was hand-delivered to me.

Received on this 7 day of June, 2022.

Signature of Inmate

Register Number

[Signature]

Signature/Title of Staff Witness

Federal Bureau of Prisons

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

From: RANIERE KEITH A. 57005-177 C-1 TUCSON USP
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - REASON FOR APPEAL

The regional report by M. Rios appears to ignore the 3 issues raised and, additionally, claims evidence that does not exist in the OHA report or SIS investigation. Specifically, M. Rios claims I received messages through another inmate. Nowhere else is this even alleged. It did not happen.

You will be contacted by my attorney Stacy Scheff or you can contact her at (520)-471-8333 or stacy.scheff@gmail.com

6/9/22
DATE

[Signature]
SIGNATURE OF REQUESTER

Part B - RESPONSE

RECEIVED

JUN 30 2022

Administrative Remedy Section
Federal Bureau of Prisons

DATE

GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 1118604

Part C - RECEIPT

CASE NUMBER: _____

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

SUBJECT: _____

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

