

**EXHIBIT 5**

THAAX	*	INMATE DISCIPLINE	*	10-20-2012
PAGE 001 OF 001	*	UPDATE CHARGES	*	17:46:01

REGISTER NUMBER...	29214-112	NAME.....	JAMES
REPORT NUMBER.....	2365681	FUNCTION.....	REP
INCIDENT DATE/TIME:	10-12-2012 0810	INCIDENT FACL..	THA
REPORT DATE/TIME...	10-20-2012 1545	INVESTIGATOR...	M CAMPBELL
STATUS.....	PEND UDC	STATUS UPDT BY:	M CAMPBELL
STATUS DATE/TIME...	10-20-2012 1746	STATUS FACL....	THA
REPORT REMARKS....	( INMATE ADMITS TO INSOLENCY ONLY )		

CHARGE: 212 ENGAGING IN GROUP DEMONSTRATON

CHARGE: 312 BEING INSOLENT TO STAFF MEMBER

CHARGE: \_\_\_\_\_

CHARGE: \_\_\_\_\_

CHARGE: \_\_\_\_\_

CHARGE: \_\_\_\_\_

CHARGE: \_\_\_\_\_

CHARGE: \_\_\_\_\_

CHARGE: \_\_\_\_\_

G0005 TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

BP-A0288

INCIDENT REPORT CDFRM

AJG 11

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Part I - Incident Report

# 2365681

1. Institution:				
2. Inmate's Name James, Kevin		3. Register Number 29214-112	4. Date of Incident 10-12-2012	5. Time 8:10 a.m.
6. Place of Incident CMU 01 & 03 Range common area		7. Assignment CMU REC	8. Unit CMU	
9. Incident Encouraging a Group Demonstration Insolence towards staff			10. Prohibited Act Code(s) 212 312	

11. Description Of Incident (Date: 10-20-2012 Time: 3:20 p.m. Staff became aware of incident)

On October 20, 2012, at 3:20 p.m., SIS completed a review of an incident which occurred in the Communications Management Unit on October 12, 2012 at approximately 8:10 a.m. Upon a review of video and audio documentation of 01 & 03-ranges in the CMU on October 12, 2012 (7:50 a.m. to 8:20 a.m.) it was determined inmate James, Kevin, Reg. No. 29214-112, argued with staff, and became insolent when medical staff were attending to inmate [redacted] Reg. No. [redacted]. Inmate James was observed and heard on video and audio documentation stating, "Harvey did that. He told them (medical) not to give it to him (referring to medication). They did not bring his shit yesterday. Punk ass kid. Every day there is something different with this clown (referring to staff)." Inmate James is further heard stating, "This guy is a coward, he hides behind his uniform." Additionally, after staff instructed inmate James to calm down and be quiet, inmate James is heard stating to staff, "You ain't doing anything to fix the situation. Somebody has to speak up." Inmate James knowingly was loud, and spoke as if was on a stage in the presents of approximately 6 to 8 inmates from the unit upper tier for the purpose of effect, or inciting other inmates regarding the situation with inmate Smadi's medication.

12. Typed Name/Signature of Reporting Employee S. Winterberg, SIS LT.		13. Date And Time 10-20-2012, 3:45 p.m.		
14. Incident Report Delivered to Above Inmate By (Type Name/Signature)		15. Date Incident Report Delivered	16. Time Incident Report Delivered	

Part II - Committee Action

17. Comments of Inmate to Committee Regarding Above Incident

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18. A. It is the finding of the committee that you:  <input type="checkbox"/> Committed the Prohibited Act as charged. <input type="checkbox"/> Did not Commit a Prohibited Act. <input type="checkbox"/> Committed Prohibited Act Code(s) _____	B. <input type="checkbox"/> The Committee is referring the Charge(s) to the DHO for further Hearing. C. <input type="checkbox"/> The Committee advised the inmate of its finding and of the right to file an appeal within 20 calendar days.
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19. Committee Decision is Based on Specific Evidence as Follows:

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20. Committee action and/or recommendation if referred to DHO (Contingent upon DHO finding inmate committed prohibited act)

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21. Date And Time Of Action \_\_\_\_\_ (The UDC Chairman's signature certifies who

Part III - Investigation

22. Date And Time Investigation Began  
10/20/2012 4:40 pm

23. Inmate Advised Of Right To Remain Silent: You are advised of your right to remain silent at all stages of the discipline process. Your silence may be used to draw an adverse inference against you at any stage of the discipline process. Your silence alone may not be used to support a finding that you have committed a prohibited act.

The Inmate Was Advised Of The Above Right By M Campbell At (Date/time) 10/20/12 00:40

4:40p

24. Inmate statement and attitude

Inmate James 29214-112, was given a copy of this report and read his rights. Inmate stated he understood his rights and made the following statement of his own free will. Inmate admitted he was disrespectful / insolence towards the staff, but disputes the encouraging a group demonstration. Inmate James stated he spoke with Lt. Clark who handled the incident explaining policy. James went on to state Lt. Clark told him the incident was over. James explained he got involved in the incident because he felt inmate [redacted] was in extreme pain and it was extremely difficult for Smadi to walk down the stairs. Inmate James wanted to know why he was not charged on October 12 2012, instead of being placed in administrative Detention days later and receiving an incident report today instead of Oct 12, 2012, when staff became aware of the incident.

25. Other facts about the incident, statements of those persons present at scene, disposition of evidence, etc.

See attached memorandum written by Officers S. Harvey and S. Butler.

I conducted an interview with Inmate [redacted] on Oct 20, 2012, at 5:00 p.m.. Inmate [redacted] stated inmate James was only trying to help him because he could see he, Smadi, was in very bad pain. Inmate [redacted] than wanted to talk about his filing a BP9, inmate [redacted] had nothing substantial to this investigation.

I conducted a telephonic interview with Lt. A. Clark on October 20, 2012, at approximately 5:20p.m. Lt. Clark stated he did in fact speak to inmate James on October 12, 2012, and as far as he was concerned after explaining policy the issue was done. Lt. Clark stated if he had felt inmate James had done anything suggesting he was encouraging a group demonstration he would have locked him up.

26. Investigator's comments and conclusions

It is the opinion of this investigator the facts stated in section 11 of this report are true and correct as written. This is supported by staff documentation of the incident and the inmates admission he was in fact insolent. It is this investigators belief Lt. Clark was not presented with all the facts on October 12, 2012, and the incident was referred to the Special Investigation Supervisors Office for further investigation resulting in the investigation being completed on October 20, 2012, and the incident report being written eight days later.

27. Action taken

Inmate remains in administrative detention pending UDC / DHO review.

Date and Time Investigation Completed 10/20/2012 5:45 am

Printed Name/Signature Of Investigator M Campbell

Title Lieutenant



U.S. Department of Justice

Federal Bureau of Prisons

*United States Penitentiary  
Terre Haute, Indiana*

Date: 10-12-12

Reply To  
Attn Of:

*S. Harvey*  
S. Harvey

Subject: CMU confrontation

To: Lt. Winterberg *[Signature]*

On the date of 10-12-2012 at approximately 7:50 am Nurse Golish arrived in the unit to pass morning medication, as soon as nurse Golish entered the unit, he announced "medication" loudly to the unit. Inmates then began stopping by the medical office requesting Nurse Golish to take pain medication to inmate [REDACTED]. Mr. Golish instructed the inmates to inform [REDACTED] he needed to come down from the top range to receive his medication. I then herd inmate [REDACTED] yelling, "mother fucker" towards nurse Golish. Inmate James #29214-112 then walked down to the medical office and began to argue with Golish. Saying inmate [REDACTED] couldn't walk. Inmate James then began voicing to the unit I (S. Harvey) had told Nurse Golish not to give inmate [REDACTED] his medication. Inmate James then proceeded back to the top range still yelling "Harvey told the nurse not to give him his meds". Inmates in the unit helped to walk inmate [REDACTED] down to the medical office. Inmate [REDACTED] then began yelling "Bin laden mother fuckers" and continued while nurse Golish offered his medication. At that time other inmates herd inmates [REDACTED] and James yelling and arguing with the Nurse and started to gather around staff. The unit control officer called the Lieutenant and informed him of the situation and advised him to report to the unit with additional staff. Inmate James was on the top range yelling demands to Officer Halfhill to call a Lieutenant. Inmate James also said he had to "stand up for other inmates", by that time 7-8 inmates were gathered and listening to inmates James and Smadi's complaints and demands. Officer Halfhill was attempting to calm inmates down but inmate James began to argue with Officer Halfhill stating "who are you to tell us to be quiet?" Inmate James then continued to anger other inmates by stating staff hide behind their uniforms and are "cowards." The Lieutenant entered the unit and both inmate James and [REDACTED] tone and wording changed in front of the Lieutenant. The Lieutenant spoke with inmate [REDACTED] and the unit calmed down. During the remainder of my shift I heard inmate James continuing to speak with other inmates, stating that I (S. Harvey) told Nurse Golish to keep inmate [REDACTED] s medication, because of this actions. I believe inmate James kept trying to upset inmates in the unit.



U.S. Department of Justice

Federal Bureau of Prisons

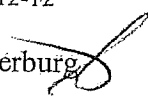
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*United States Penitentiary  
Terre Haute, Indiana*

Date: October 20, 2012

Reply To:   
Attn Of: S. Butler, Senior Officer

Subject: CMU 10-12-12

To: Lt. Winterburg 

On 10-12-12 at 7:50 am I Senior Officer S. Butler was working CMU control center and did observe the incident in CMU with [REDACTED] and James #29214-112. RN Golish came in to pass medication [REDACTED] yelled and cursed at Mr. Golish because he did not want to walk downstairs to receive his meds. James and several other inmates started to congregate on the range to see what was going on. [REDACTED] came downstairs with the help of another inmate and took his meds and returned to his cell still cussing and yelling at Mr. Golish. I called Lt. Clark to step down with a couple staff to help defuse the situation. Lt. Clark talked to the staff and inmates about the situation. James was on the range talking to the other inmates to keep them upset about what had happened after Lt. Clark left the unit.