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Arkansas
State Claims Commission

NOV 24 2017

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

RECEIVED

- ☒ Mr.
☐ Mrs.
☐ Ms.
☐ Miss

Jeremy Laymonce, #163960

Claimant

vs.

State of Arkansas, Respondent

Dept of Human Services

Jeremy Laymonce, #163960

COMPLAINT

300 Corrections Dr, Newport, AR 72112

_____, the above named Claimant, of _____
 (Name) (Street or R.F.D. & No.) (City)
 _____, County of White, represented by Pro Se
 (State) (Zip Code) (Daytime Phone No.) (Legal Counsel, if any, for Claim)
 or 1404 Stone Street Jacksonville Ar 72076
 (Street and No.) (City) (State) (Zip Code) (Phone No.) (Fax No.) says:

State agency involved: Department of Human Services Amount sought: 5,000.00

Month, day, year and place of incident or service: 03-02-2017 at 806 Rhoden Road Judsonia Arkansas 72081

Explanation: On March 2nd, 2017, caseworker Cassy Walker of the Department of Human Services came out to private residence located at 806 Rhoden Road Judsonia Arkansas 72081 to engage in the wrongful removal and retention of a minor child (Claimant's son) without legal authority. In other words, the caseworker lacked probable cause and a warrant directing her to seize a named minor child and remove him from both of his natural parents in the middle of the night. Documentation and/or justification wasn't given as the caseworker left with the child.

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof?
Yes; when? 10-30-2017; to whom? Department of Human Services Administrator Ricky Smith
 (Yes or No) (Month) (Day) (Year) (Department)
and caseworker Cassy Walker; and that the following action was taken thereon: No response

and that \$ 0.00 was paid thereon: (2) Has any third person or corporation an interest in this claim? Yes; if so, state name and address

Morgan Mosley 1404 Stone Street Jacksonville Arkansas 72076
 (Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)

and that the nature thereof is as follows: Natural mother having right of custody to child removed
 : and was acquired on 03-02-2017, in the following manner:

Same hereinabove Explanation

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verily believes that they are true.

Jeremy Laymonce
 (Print Claimant/Representative Name)

Jeremy Laymonce
 (Signature of Claimant/Representative)

SWORN TO and subscribed before me at

NewportAR

(City)

(State)

on this 20th day of November
 (Date) (Month) (Year)

Antonio Garcia
 (Notary Public)

(Notary Public)

My Commission Expires: 04 07 2026
 (Month) (Day) (Year)

ANTONIO GARCIA
 NOTARY PUBLIC-STATE OF ARKANSAS
 (SEAL) INDEPENDENCE COUNTY
 My Commission Expires 04-07-2026
 Commission # 12693285

SF1- R7:99

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

JEREMY LAYMONCE (ADC 163960)

CLAIMANT

V.

CLAIM NO. 180463

**ARKANSAS DEPARTMENT OF
HUMAN SERVICES**

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Claims Commission”) is a motion filed by the Arkansas Department of Human Services (the “Respondent”) to dismiss the claim of Jeremy Laymonce (the “Claimant”). Based upon a review of the motion, the Claimant’s responses, the arguments made therein, and the law of Arkansas, the Claims Commission hereby finds as follows:

1. Claimant filed his claim on November 24, 2017, seeking \$5,000,000.00 in damages from Respondent for removing Claimant’s child “without legal authority.”
2. Respondent filed a motion to dismiss, arguing that dismissal is proper because (1) Claimant does not have custody and the juvenile and, thus, does not have standing to pursue this claim; (2) circuit courts have exclusive jurisdiction of proceedings in which a juvenile is alleged to be dependent-neglected; and (3) Arkansas law permits Respondent to take a juvenile into protective custody without a warrant.
3. Claimant filed a response stating that he is the parent of the juvenile and has a right to custody. Claimant also argues that Respondent’s admission that it took the juvenile into custody amounts to an admission that Respondent violated Claimant’s and the juvenile’s constitutional rights. Claimant states that the facts did not warrant Respondent taking the juvenile into custody without a warrant.

4. Claimant then filed an additional response, titled “Motion for Supplemental Pleading,” in which Claimant stated numerous cases for the proposition that Respondent’s actions violated his and the juvenile’s rights under the Fourth Amendment to the United States Constitution. Claimant also argued that Respondent did not satisfy its statutory requirements under Ark. Code Ann. §§ 9-27-313 and 12-18-1001. Claimant insists that he was the legal guardian of the juvenile on the day of the juvenile’s removal.

5. The threshold question is whether Claimant has standing to bring this claim. *See Farm Bureau Ins. Co. of Arkansas, Inc. v. Running M. Farms, Inc.*, 366 Ark. 480, 485, 237 S.W.3d 32, 36 (2006) (“Without standing, a party is not properly before the court to advance a cause of action”).

6. Respondent has asserted that did not have legal custody of the juvenile. In response, Claimant appears to argue that he has a constitutional and statutory right to custody. However, Claimant does not dispute that Claimant did not have legal custody of the juvenile.

7. Without legal custody of the juvenile, the Claims Commission finds that Claimant does not have standing to contest the removal of the juvenile.

8. Given this finding, the Claims Commission need not reach Respondent’s other bases for dismissal.

9. If Claimant believes that his constitutional rights were violated by the actions of Respondent, Claimant can pursue that claim elsewhere. Claims asserting constitutional violations are outside the jurisdiction of the Claims Commission because these claims can be filed in another court. *See* Ark. Code Ann. § 19-10-204(b)(2)(A) (“The Commission shall have jurisdiction only over those claims which are barred by the doctrine of sovereign immunity from being litigated in a court of general jurisdiction.”)

10. Respondent's motion is GRANTED, and Claimant's claim is DENIED and DISMISSED.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION

Dexter Booth
Henry Kinslow, Co-Chair
Bill Lancaster
Sylvester Smith
Mica Strother, Co-Chair

DATE: March 2, 2018

Notice(s) which may apply to your claim

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(b). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(b)(3). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(b). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

JEREMY LAYMANCE (ADC 163960)

CLAIMANT

V.

CLAIM NO. 180463

**ARKANSAS DEPARTMENT OF
HUMAN SERVICES**

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Claims Commission”) is a motion filed by Jeremy Laymance (the “Claimant”) seeking reconsideration of the Claims Commission’s March 2, 2018, order denying and dismissing his claim against the Arkansas Department of Human Services (the “Respondent”). Based upon a review of Claimant’s motion, the arguments made therein, and the law of Arkansas, the Claims Commission hereby finds as follows:

1. Claimant filed his claim on November 24, 2017, seeking \$5,000,000.00 in damages from Respondent for removing Claimant’s child “without legal authority.”
2. Respondent filed a motion to dismiss, which was granted by the Claims Commission on March 2, 2018, based upon Claimant’s lack of standing to bring a claim for removal of a child of whom he does not have custody.
3. Claimant then filed the instant motion for reconsideration, stating that he did have legal custody of his child on March 2, 2017. In support of his motion, Claimant attached a document titled “Citation” dated November 17, 2016, which was issued to Morgan Lynn Mosley; a pleading titled “Original Petition in Suit Affecting the Parent-Child Relationship (AOP)” filed November 15, 2016, regarding Claimant’s child; and a transcript of a hearing held March 3, 2017,

in the district court of Anderson County, Texas, in which there was testimony from the caseworker with the Texas Department of Family and Protective Service regarding the following:

- Claimant's child tested positive for methamphetamines;
- The child's mother voluntarily placed the child with the mother's grandparents;
- Claimant was on felony parole during this time;
- Claimant was given permission by his parole officer to travel to Palestine, Texas to take care of some warrants;
- Claimant was never given permission to travel to Texas for the purpose of getting his child;
- Claimant unsuccessfully attempted to get his child in January and "committed an assault upon" the grandparents with whom the child had been placed;
- The child's mother was given visitation access to the child by her grandparents;
- There was a restraining order in place;
- The child's mother arrived at her grandparents' house on March 2, 2017, with Claimant hiding in the car;
- Claimant and the child's mother absconded with the child; and
- Claimant and the child's mother have a history of drug use and domestic violence.

Claimant also attached the first page of an order entered March 3, 2017, in the district court of Anderson County, Texas, although the substance of the order is not included; a docket sheet from the district court case describing the March 3, 2017, order as "extending TRO;" as well as citations dated March 14, 2017, demanding that Claimant and the child's mother appear to answer the petition.

4. In analyzing a motion for reconsideration, Rule 7.1 of the Claims Commission Rules and Regulations states that motions for reconsideration "will only be entertained if they set forth new or additional evidence which was not [previously] available"

5. Claimant does not include any information in his motion as to why this information was not previously available.

6. The Claims Commission finds that the motion does not set forth any new or additional evidence not previously available.

7. Even if Claimant could justify why these documents were not previously available to him, the documents attached to his motion for reconsideration show that there was a temporary restraining order in effect, which Claimant violated when he absconded with the child. The March 3, 2017, hearing extended the temporary restraining order and added a requirement that the Claimant and the child's mother could have no contact with the child. The documents contain no information confirming that Claimant had custody of his child on March 2, 2017.

8. As such, Claimant's motion for reconsideration is DENIED, and the March 2, 2018, Claims Commission order remains in effect.

IT IS SO ORDERED.

Henry C. Kinslow

ARKANSAS STATE CLAIMS COMMISSION

Dexter Booth
Henry Kinslow, Co-Chair
Bill Lancaster
Sylvester Smith
Mica Strother, Co-Chair

DATE: April 17, 2018

Notice(s) which may apply to your claim

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(b). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(b)(3). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a).
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- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

APR 30 2018

APPEAL TO THE GENERAL ASSEMBLY

RECEIVED

JEREMY LAYMAN

CLAIMANT

V.

Claim No. 180463

ARKANSAS DEPARTMENT OF
HUMAN SERVICES

RESPONDENT

NOTICE OF APPEAL

COMES NOW, Jeremy Layman, the Claimant herein and for his pro se notice of appeal hereby alleges and states:

1.) Respondents have misled the Arkansas State Claims Commission by asserting custody against Claimant to preclude his standing to pursue this claim, although, the fact is that the custody ordered in Cause No. DCU17-070-369 shares custody between non-parents and Claimant. (See Attachment 1)

2.) The Claims Commission held that the "documents contain no information confirming that Claimant had custody of his child on March 2nd, 2017" and/or got lost in the "substance" of the foreign tribunals order negating the argument before them such as the Complete Reporter's Record in Cause No. DCU17-070-369 which shows the transcripts of the ex parte hearing that recited no service (page 4:21-5:11) on it respondents to further bind them and that non-parents were absent from the hearing due to traveling to Arkansas to get the child from Respondent while the hearing was taking place (Somehow Respondents and non-parents

knew the outcome of the March 3rd hearing so on March 2nd, after disregarding the parents and their child's rights as irrelevant, removed and retained the child).

3.) The ONLY issue Clement is pursuing in this claim is that on March 2nd, 2017, a child was wrongfully removed and retained by Respondents from both natural parents and grandparents in Arkansas and released to a non-parent PRIOR to any award of custody.

4.) On March 2nd, 2017, the fact is that two separate lawsuits were pending in the interest of the child (one by parents - cause no. CC-16-15316 and another by non-parents - cause no. DC-17-070-369) in Texas, yet, only the parents suit had personal service obtained so Respondents therefore lack authority or discretion, without cause or an Arkansas State interest, to encroach into familial affairs and make placement decisions without providing the required procedure for the deprivation in their (DHS) cause.

5.) Respondents cannot reasonably assume that the laws (Arkansas Code Annotated § 9-27-306; 9-27-312; 9-27-313; and 12-18-1001) permit them to involve themselves in a foreign tribunal's cause and/or to be able to remove children from their parents and release them to non-parents who present only a foreign tribunal's protection order obtained ex parte that has no definite outcome, at the scheduled hearing, favoring either party and that has no force or effect in this State or in any State without service to further bind the respondents listed within.

(c.) Claimant requests the General Assembly to remand this claim
for a proper re-litigation of the issues partially contained hereinabove.

WHEREFORE, Claimant prays unto the General Assembly to grant any
relief to which he may be entitled. Claimant prays for general relief.

Date: April 26th, 2018

Respectfully submitted,

Jeremy Layman

Jeremy Layman

1200 East Lucy Street

Palestine, Texas 75801

CERTIFICATE OF SERVICE

I, Jeremy Layman, Claimant herein, hereby certify that a copy
of the foregoing Notice of Appeal was mailed by U.S. Mail, postage paid, by
depositing the same in the mail on the 26th day of April 2018 to:

Attorney for Respondents

Michael Boettner

700 Main Street

P.O. Box 1437-Slot 5260

Little Rock, Arkansas 72203

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Arkansas State Claims Commission

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201-3823

Jeremy Layman

Jeremy Layman