

Please Read Instructions on Reverse Side of Yellow copy

Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

state Claims Commission
JUL 18 2014

G11

RECEIVED

☒ Mr.
☐ Mrs.
☐ Ms.
☐ Miss

James McAlphin, #088328 Claimant

vs.

State of Arkansas, Respondent
Dept. of Corr.

Do Not Write in These Spaces

Claim No. 15-0033-CC
Date Filed July 18, 2014
(Month) (Day) (Year)
Amount of Claim \$ 15000.00
Fund DOC

COMPLAINT

Loss of Property, Failure to
Follow Procedure, Pain &
Suffering, Negligence
POB 180, Brickeys, AR 72320
(Street or R.F.D. & No.) (City)

James McAlphin, #088328 the above named Claimant, of

(State) (Zip Code) (Daytime Phone No.) County of

represented by (Legal Counsel, if any, for Claim)

of (Street and No.) (City) (State) (Zip Code) (Phone No.) (Fax No.) says:

State agency involved: Arkansas Dept. of Correction Amount sought: \$15,000 (Fifteen thousand)

Month, day, year and place of incident or service:

Explanation: In April of 2014 Capt. Harris did not adhere to policy concerning inmate medical needs of inmates AND she confiscated my medical equipment (1-knee brace) although she seen that I was being transported in a wheelchair during her shift. (See Grievance EAM 14-01978 Attached)
This led to tremendous pain and suffering during transport or just moving around the cell. (When wheelchairs not available)
I've had chronic problems with swelling and joint pain in right leg, and brace was issued for this purpose. I've had this problem for years... Once I recieved, don't keep waiting prescription month after month... But sometimes common sense will suffice. If a inmate leg is swollen so big you cant put leg brace on and he has to sit in a wheelchair while you stroke him down. You dont take his medically issued leg brace. Even if Arkansas failed in their duty to issue the paperwork they should have been checked with first.
I'd like above amount granted.

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/No) 4/14/14 when? 4/14/14 to whom? Grievance to Warden East Regional Unit (Department)

: and that the following action was taken thereon: He just said corrective action would be taken. HE ADMITTED OFFICER WAS WRONG FOR TAKING MED. EQUIPMENT AWAY.
and that \$ 0 was paid thereon: (2) Has any third person or corporation an interest in this claim? NO; if so, state name and address

(Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)
and that the nature thereof is as follows: : and was acquired on : in the following manner:

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.

James McAlphin
(Print Claimant/Representative Name)

James McAlphin
(Signature of Claimant/Representative)

SWORN TO and subscribed before me at

Brickey AR
(City) (State)

on this 14 day of July 2014
(Date) (Month) (Year)

Seccer Cole
(Notary Public)

My Commission Expires: Dec 01 2017
(Month) (Day) (Year)



Before The Arkansas State Claims Commission

James M. Alphin #88328

Claimant

Claim # 15 06-0022
01-0033

Arkansas Claims Commission
MAR 11 2015
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Ark. Dept. of Correction

Respondent

Motion for Late Supplementation of Evidence
Comes Now the Claimant James M. Alphin for
this motion for late supplementation of evidence
and hereby states as follows:

The Claimant "leg brace" claim is a
ongoing situation because the brace has never
been returned (staff say they can't find it) and
the injury resulting from lack of brace is
causing continued swelling for the point of
beating of the skin and infection.

For this reason medical staff wrote
claimant a "lower tier" script to keep him
from having to climb stairs.

However, after hearing about this
claim... the other week Sgt Gresham spoke
with doctor asking that script be ter-
minated...

Claimant has been forced by ADE
staff to either hop on stairs on one leg

MAR 11 2015

RECEIVED

or use (and reimburse) bad leg.

He was injured doing so 2-24-15 and still won't move. The leg swelled so badly that by 2/25/15 an infection and cyst had developed around the tendon of foot and leg causing Gangrene. That day the Claimant was placed on the infirmary ward where he was given 4 bags of 2 different type of I.V. Antibiotics Daily until 3/5/15.

However, although Claimant has Dressing on his Foot where Cyst was Surgically removed, Once Medical Staff released Claimant from infirmary ADC Staff placed Claimant back on 2nd floor where he has no choice but hop (one leg) Down Stairs.

There is no accommodation given by staff to Shower with Dressing or Handicap Benches to Shower.

AND the Claimant has been yelling them and Writing Grievance Daily. (They simply Don't Care) Whereby, Claimant would like to present this Affidavit as Evidence ~~to~~ Due to Ongoing Circumstances.

I Swear Under penalty of Perjury the Foregoing is true and correct to the Best of my knowledge, Understanding and belief. This 8th day of March 2015

James M. Apple 3

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 15,000.00 Claim No. 15-0033-CC
James McAlphin #088328 Attorneys Pro se
vs. Claimant
AR Department of Corrections Lisa Wilkins, Attorney
Respondent
State of Arkansas Respondent
Date Filed July 18, 2014
Type of Claim Loss of Property, Pain & Suffering,
Negligence, Failure to Follow Procedure

FINDING OF FACTS

This claim was filed for loss of property, pain & suffering, negligence, and Failure to Follow Procedure in the amount of \$15,000.00 against Arkansas Department of Corrections.

Present at a hearing March 13, 2015 was the Claimant, pro se, and the Respondent, represented by Lisa Wilkins, Attorney.

The Claims Commission hereby unanimously denies and dismisses this claim for Claimant's failure to prove by a preponderance of the evidence any liability on the part of the Respondent.

Therefore, this claim is hereby unanimously dismissed.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

Upon consideration of all the facts, as stated above, the Claims Commission unanimously denied and dismissed this claim for Claimant's failure to prove by a preponderance of the evidence any liability on the part of the Respondent.

March 13, 2015

Date of Hearing

March 13, 2015

Date of Disposition

Chairman

Commissioner

Commissioner

**Appeal of any final Claims Commission decision is only to the Arkansas General Assembly as provided by Act #33 of 1997 and as found in Arkansas Code Annotated §19-10-211.

Travis McAlphin #88328
PO Box 0970
Marionna, AR 72360

Arkansas Claims Commission

MAR 18 2015

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Ms Brenda Wade
Director Ark. State
Claims Commission
101 E. Capitol, Ave
Little Rock, 72201

March 13, 2015
Re McAlphin v. ADC
CC-EB 0083
CC 13-0022

Ms. Wade (Leg Brace Claim)

I don't know if its appropriate procedure to submit information after the hearing but there were a couple of things I didn't think to say at the hearing today (because I could hardly hear and I could only see my own image on the screen) but I would like to say them now.

What ^{said} Ms. Wilkins about Contraband in Leg Braces, I would like it noted that No Contraband or Weapon, Weapon, or has ever been found in my Leg Brace, Nor was the brace altered in any way and I've never given any indication I would do so.

And as for a medical script, Ms. Wade, there is no ADC policy that says you have to have a script for a Leg Brace. The Infirmary only issues those scripts when they are the ones that give you the medical equipment. I went to St. Vincent's Hospital in Little Rock on a Specialist Consult for Ultrasound and was fitted and issued the brace that day by them.

Security can not simply take every wheelchair, brace, cane or prosthetic limb that the Infirmary overlooks writing or renewing a script for. Imagine the damage if that's routinely authorized?

The Infirmary has 1,700 prisoners at this unit to provide treatment for so theres countless many who don't have scripts

And a Man Such as I With Serious Medical Issues Like High Blood Pressure, Heart problems and Diabetes I'm Constantly Being treated for Don't Even Think of a Script for that.

The Brace Was bright Neon Blue, Velcro, Plastic and Nylon... Everybody in the Max See me in the yard with it Every Day - Capt Honner had Seen it 100 times. Just as Every Officer in the Max Know of my Medical Issues with my Leg.

Finally, Mrs. Wode There is a Standing Order for Staff Not to take a Inmates Medical Equipment Without Contacting Intermat (See Attached) This Grievance Was found With merit about this Matter and Correction action Promised for the Negligent act. The ADC Director Concurred With this Decision So There Should be No Dispute.

Again I Appologize if I'm Causing any Inconvenience, But I'm Not as Educated and Articulate as Mrs. Wilkins and I Think and Write a Lot better When I CAN Speak. I Pray that you Take the Foregoing Document into Consideration.

Thanks Again

James Milgrom

I Swear the foregoing is true to the best of My Belief. This 13 day of March 2015

250-18

IGTT430
3GD

Attachment VI

INMATE NAME: McAlphin, James R.

ADC #: 088328

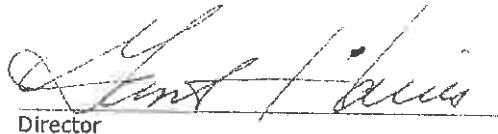
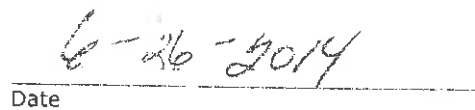
GRIEVANCE#: EAM14-01278

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

Your complaint is on 04/08/2014; Captain Harris shift did not adhere to policy concerning your urgent medical needs and removed medical equipment from you.

After reviewing your appeal and all supporting documentation, I concur with the Warden's response in which he states in part, "Captain Harris stated a cell search was conducted and no information was given about doctor's orders at the time of the search. She also stated you got upside over the disciplinary from contraband and nothing was done to interfere with your medical condition and she is not retaliating against you. Staff has been advised not to remove medical equipment from the inmate. I find your complaint with merit and correct action will be taken."

Appeal denied


Director
Date

3 of 3

Before The Arkansas State Claims Commission

James Mcalphin ADC #88328

Claimant

Arkansas Claims Commission
JUN 12 2015
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VS.

Arkansas Department of Correction

Respondent

Case No. CC-150022, CC-150033

Motion for Reconsideration / Appeal to General Assembly

Come Now the Claimant, James Mcalphin for this Motion for Reconsideration / Appeal to General Assembly and hereby states as follows.

History the claimant herein submitted the above styled claim for Compensation after a negligent act and failure to follow procedures by A.D.C. staff in an April 2014 incident where Staff members Capt. Harris, and Lt. Davis held a retaliatory shakedown of claimants cell and spitefully took a medical leg brace from claimants, causing injury when the claimant was forced to go without a leg brace.

In a hearing held March 13, 2015 this claim was unanimously denied and dismissed for claimants alleged failure to prove liability on part of respondent by a preponderance of evidence.

The claimants requests Reconsideration for the following reasons:

1. Claimant was not given a fair, impartial, proper hearing which includes the opportunity to call witnesses, present evidence and properly hear evidence in defense of claim.
2. Claim submitted a preponderance of Evidence showing liability for negligence and injury on the part of respondent, thus proving claim against them.

ARGUMENT

A. Not Given Fair, Impartial, Proper Hearing.

1. On March 13, 2015 Claimant was escorted to Isolation (3) Dayroom Cage for an Ark. Claims Commission hearing on Claim # CC-15-0022 and CC-15-0033 (in Video Conference) by Lt. Davis and Lt. Liston. (Lt. Davis was one of the actors in the leg brace claim).

2. The first thing the Claimant noticed was all he could see on the video screen was an image of himself sitting in the cage and throughout proceedings he could not see no one from Commission or Respondent.

3. The second thing Claimant Noticed was that the voice from the speaker was distorted and he could barely understand what was being said. When "The Man" spoke it was breaking up. Whereby Claimant Could not intelligently grasp defense presented by respondent and this affected his presentation of his case, the facts and outcome of proceedings.

4. In Addition, Claimant requested that Lt. Davis and Sgt. Smith be called as witnesses in Leg Brace Claim (This requested prior to hearing) however, (according to them) they were Not Contacted by the commission, and their testimony under examination was a key part of Claimants allegations.

5. Respondent (To Claimants Knowledge) presented;

1. No Witness Testimony

2. No Policy references, or otherwise entered any relevant Evidence that support a defense of the Claim.

In contrast, Claimants references to Administrative Regulation on adhering to medical needs of prisoners AD-11-10 and Administrative Grievance response # EAM -- 14 -01278 was given no consideration by Commission although they were the head of ADC Agency Conceding the Respondent Negligence and taking Corrective action.

(This Claim was only file because A.D.C. has no Provision for Monetary Compensation for those Negligent Acts).

Whereby, Claimant herein was not given a fair, impartial, proper hearing and allowed to properly present evidence in the form of Eyewitness testimony, hear all evidence respondent presented in defense, and he hereby requests this Motion for Reconsideration be granted and decision reversed.

B. Claimant submitted a preponderance of evidence to prove liability on part of Respondent.

Argument

1. Negligence is defined as to "disregard", "omit" "leave undone" Ect. Negligence can happen when an individual dose something against Policy and Procedure, or fails to do something they know they should do and are obligated to do.

Thus, if a Claimant can show: 1. That a negligent act occurred committed by Respondent; 2. Show he has injury; 3. Show that the negligent act caused the injury, then he has sufficiently proved liability for negligence on part of respondent.

Negligence

Herein Claimant Submitted Evidence documenting that his leg brace was taken in April 2014 by Respondents (See Exhibit – A) and evidence of medical documentation of extensive injury to his leg(See Record) showing likely hood of need for brace and in grievance # EAM 14-01278 (See Exhibit - A) demonstrated that the warden of East Arkansas Regional Unit Along with the Director of ADC Agency on appeal stating that staff shouldn't have taken medical equipment

(they were negligent), that the Grievance had merit and Corrective Action would be taken. This evidence proved negligence occurred.

Injury

Prior to hearing Claimant submitted extensive medical evidence showing swelling in his leg after brace was taken... At the hearing there was evidence that this swelling created cellulites in the diabetic Claimant from which he had to be hospitalized for one week on I.V. Antibiotics for infection in leg. (Cleverly the respondent presented this evidence themselves in order to negate its relevance in establishing injury to claimant). However, their assertion that Claimant has Cellulites dose not negate the fact the swelling in lower extremities was the cause of injury and infection. As Claimant is still waiting to be fitted for another brace. Swelling caused by absence of brace

Negligence Caused Injury

The evidence that was submitted prior to hearing showed in abundance that pain, increased swelling, and infection was caused by absence of brace.. Including the inability to go on yard recreation and hospitalization.

Thus the Claimant supplied evidence that all three pronges were proven and meritous grievance # EMA 14-01278 , medical consult report, medication administrative records , and encounter reports were a preponderance of evidence showing liability.

Additionally, claimant requested witnesses but they were not made available by respondent or Claims Commission.

Furthermore, respondents presented no evidence.

No witnesses testifying in defense of Claims. No policy indicated a necessity of an (Arbitrary referenced) "script" to have a brace on a bad leg.

No affidavits, Reports, or statements supporting their position is as if they knew it is not necessary for them to present a case because we don't matter... that they will automatically win whether a prisoner makes a sufficient showing of negligence or not.

This is called discrimination and it's supposed to be illegal in America.

Ms. Wilkin simply indicated that some inmates use braces for other purposes and she didn't see an (arbitrary) "Script" in Claimant medical file. However, what Warden / Director said in response to (exhibit -A) was disregarded.

"Preponderance" is defined as having greater weight. The respondents offer no substantial evidence in dispute of Claim and Claimants clearly outweighed any opposing and proved all allegations.

Failure of the Commission to properly adjudicate the negligent act would give tacit authorization for state staff members to take any brace, wheelchair, cane, crutch or prosthetic limb in which a crippled prisoner has no (arbitrary) "script" for. Where do we draw the line?

Conclusion

It's understandable the Commission may consider the amount of relief requested to be excessive and reduced the award. But to award nothing and deny claim in which ADC Agency has already determined the negligent act occurred and ordered corrective action is totally unfair and defeats the purpose of the establishment of the commission to adjudicate all claims against state of Arkansas Agencies Fairly.

If certain individuals subject to negligence by state actors are not going to be treated equally by the commission because of their incarceration, race or whatever reason, then they shouldn't even be allowed to file claims. Why put on pretence of giving them a just hearing and create farce that's a waste of taxpayer's money? Just bar prisoners from filing claims.

Because there is no doubt had I been a patient in a state hospital, or traveler on an Arkansas Highway, a student at Arkansas University and an Arkansas Officer took a leg brace without regards for need or contacting Medical., and the incident was investigated and in the opinion of the Director of the agency was a finding that staff had previously been told not to take medical equipment, that the claim was with merit, Staff was wrong and corrective action would be taken in the form of suspension, reprimand, termination, Ect. And the Claimant in that case presented this as substantial evidence at a hearing, that claim would have been upheld. Especially if respondents presented no evidence in dispute of these facts. They only alluded to the fact that some prisoners make weapons out of braces and traffic braces from other prisoners, and they found "no Script"

Which should have been irrelevant because they presented no evidence that claimant (or Anyone for that matter) has ever hid contraband in a brace, made a weapon out of a brace or that any official policy exists saying a "script" is necessary to retain a brace you were fitted within a free world hospital or otherwise.

Claimant submitted extensive evidence for need of brace. He further requested to call on witnesses who could have testified to leg problems, inability for claimant to recreate without brace. And a disproportionate number of retaliatory shake downs that deprived Claimant of property that was legal, to no avail.

Claimant herein requests to be treated just as any other citizens violated by the state, as if our lives and suffering matters. We're paying a debt to society for conviction of a crime, but we're still human and entitled to humane treatment, civil rights and consideration given to claimants elsewhere under similar circumstances of equal standing in the community, of equal worth. Even detained by state, all persons are equal before the law. The law is no more respectful of one

person then another, and all persons, including inmates, detainees, patients, and prisoners stand as equals before the law, and are to be dealt with equally in administrations of justice.

Whereby, due to claimants not receiving a proper hearing, and claimant proving allegation by a preponderance of the evidence showing liability on the part of respondent. Claimant request this court grant motion for reconsideration and award relief it deems appropriate.

Respectfully submitted


James McAlphin

I Swear under penalty of perjury the forgoing is true and correct to the best of my knowledge, understanding and belief this 20th day of April 2015.

x




IGTT410
3GS

(Exhibit-A)

1504/M89L
Attachment IIIINMATE NAME: McAlphin, James R.ADC #: 088328DGRIEVANCE #: EAM14-01278

WARDEN/CENTER SUPERVISOR'S DECISION

Inmate McAlphin, you grieve on 04/08/2014, Captain Harris shift is not adhering to policy on urgent medical needs. Your complaint is intod. Captain Harris stated a cell search was conducted and no information was given about doctors orders at the time of the search. She also stated you got upside over the disciplinary from contraband and nothing was done to interfere with your medical condition and she is not retaliating against you. Staff has been advised not to removed medicals equipment from the inmate. I find your complaint with merit and correct action will be taken.


Signature of Warden/Supervisor or Designee


Title


Date

INMATE'S APPEAL

If you are not satisfied with this response, you may appeal this decision within five working days by filling in the information requested below and mailing it to the appropriate Chief Deputy/Deputy/Assistant Director along with the Unit Level Grievance Form. Keep in mind that you are appealing the decision to the original grievance. Do not list additional issues, which are not part of your original grievance as they will not be addressed. Your appeal statement is limited to what you write in the space provided below.

WHY DO YOU DISAGREE WITH THE ABOVE RESPONSE?

Because Capt. Harris is Bluntantly falsifying documents and you know this is wrong & 20 minutes before Capt. Harris shook me down, while Sgt. Smith and Co. Clinton was taking me to the infirmary... they accidently pulled the chair from under me causing me to hit the floor head first on area (because I was cuffed in the front) and Capt. Harris had officers to take a picture of me copping in Hall. So its a lie that she didn't know of my medical condition... this Capt. Has a history of Harassing me. And I would like to be transferred and for action taken against her for falsifying documents, Covel treatment of violations or policy for handling urgent med. needs, and a investigative


Inmate Signature


ADC#


Date

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MAY 14 2014

INMATE GRIEVANCE SUPERVISOR
ADMINISTRATION BUILDING

15

JUL 08 2014

IGTT430
3GD

East Arkansas Regional Unit

Attachment VI

INMATE NAME: McAlphin, James R.

ADC #: 088328


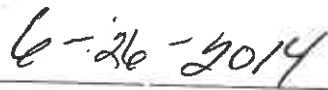
GRIEVANCE#: EAM14-01278

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

Your complaint is on 04/08/2014; Captain Harris shift did not adhere to policy concerning your urgent medical needs and removed medical equipment from you.

After reviewing your appeal and all supporting documentation, I concur with the Warden's response in which he states in part, "Captain Harris stated a cell search was conducted and no information was given about doctor's orders at the time of the search. She also stated you got upside over the disciplinary from contraband and nothing was done to interfere with your medical condition and she is not retaliating against you. Staff has been advised not to remove medical equipment from the inmate. I find your complaint with merit and correct action will be taken."

Appeal denied


Director
Date

UNIT LEVEL GRIEVANCE FORM (Attachment I)

GRIEVANCE/RECEIVED

Unit/Center

East side Max Unit

APR 28 2014

Name

James W. Alpha

EAST AS REGIONAL UNIT

ADC#

88328

Brks #

MAX 6/14 15083

Job Assignment

N/A

FOR OFFICE USE ONLY

GRV. #

EAM14-01278

Date Received:

4-28-14

GRV. Code #:

803

(Date) STEP ONE: Informal Resolution

(Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)

If the issue was not resolved during Step One, state why: She knew I was ill because

(Date) EMERGENCY GRIEVANCE (An emergency situation is one in which you may be subject to a substantial risk of physical harm; emergency grievances are not for ordinary problems that are not of a serious nature). If you marked yes, give this completed form to the designated problem-solving staff, who will sign the attached emergency receipt. If an Emergency, state why: Because the Capt. Harris is

indifferent to serious medical needs of prisoners

Is this Grievance concerning Medical or Mental Health Services? NO If yes, circle one: medical or mental

BRIEFLY state your one complaint/concern and be specific as to the complaint, date, place, name of personnel involved and how you were affected. (Please Print):

On Tue April 8, 2014 I wrote a Grievance against Officers in Capt. Harris Shift for not adhering to policy on urgent medical needs.

ON Fri April 11, 2014 I was awakened by mental health ms. Smith. my heart was racing, I was dizzy and I couldn't breathe. She asked if I wanted to go to infirmary, I said yes. She asked the Lt. they didn't want to take me. She insisted. When I got to infirmary my oxygen reading was low. The doctor prescribed antibiotics for my lungs and told me to go back to cell and rest. When we got back to the cell Lt. Davis and Capt. Harris were in my cell shaking down. She was reading me low words, she took a knee brace. She saw four razors that we never seen. She made sit outside cell for nearly 1-hour. Ignoring doctors orders. This was retaliation.

Inmate Signature

Date

If you are harmed/threatened because of your use of the grievance process, report it immediately to the Warden or designee.

THIS SECTION TO BE FILLED OUT BY STAFF ONLY

This form was received on 4-18-14 (date), and determined to be Step One and/or an Emergency Grievance (Yes or No). This form was forwarded to medical or mental health? (Yes or No). If yes, name of the person in that department receiving this form: 557 H Williams 3644 Date 4-18-14

PRINT STAFF NAME (PROBLEM SOLVER)

ID Number

Staff Signature

Date Received

Describe action taken to resolve complaint, including dates: Per Cpl Harris she was

never refused of any medical order for this inmate but the inmate was sitting in a wheel chair while his cell was being searched.

Staff Signature & Date Returned

Inmate Signature & Date Received

This form was received on 4-26-14 (date), pursuant to Step Two. Is it an Emergency? (Yes or No).

Staff Who Received Step Two Grievance:

Action Taken:

(Forwarded to Grievance Officer/Warden/Other) Date: 4-26-14

If forwarded, provide name of person receiving this form:

Date:

DISTRIBUTION: YELLOW & PINK - Inmate Receipts; BLUE - Grievance Officer; ORIGINAL - Given back to Inmate After Completion of Step One and Step Two.

ADMINISTRATION BUILDING


IGIT410
3GS

(Exhibit - B)

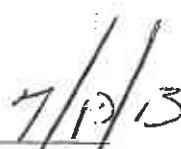
1801/M754
Attachment IIIINMATE NAME: McAlphin, James R.ADC #: 088328DGRIEVANCE #: EAM13-01892

WARDEN/CENTER SUPERVISOR'S DECISION

Inmate McAlphin, you grieve on 06/14/2013 you were escorted back from yard call and left in restraints for over an hour. Your complaint is noted. Corporal Randle stated you were double cuffed and the restraints were removed leaving a single handcuff on your right wrist. He also stated you did not notify any one until he noticed the A-band wrist wrap which you were covering up. Sergeant Williams stated you did tell him you needed to speak with him but it was not an emergency while he was escorting the nurse for pill call. He also stated no one heard you calling to let them know you were still in restraints, but you were seen by medical on that day. Documentation reflects you were in fact seen by medical on 06/14/2013. Although I find your complaint with merit; you should have notified staff that the second set of restraints was still on your wrist. Staff should not have left you in restraints; therefore, corrective action will be taken.


 Signature of Warden/Supervisor or Designee


 Title



 Date



INMATE'S APPEAL

If you are not satisfied with this response, you may appeal this decision within five working days by filling in the information requested below and mailing it to the appropriate Chief Deputy/Deputy/Assistant Director along with the Unit Level Grievance Form. Keep in mind that you are appealing the decision to the original grievance. Do not list additional issues, which are not part of your original grievance as they will not be addressed. Your appeal statement is limited to what you write in the space provided below.

WHY DO YOU DISAGREE WITH THE ABOVE RESPONSE?


 Inmate Signature


 ADC#


 Date

18

 COPY

 C

Y

Attachment VI

INMATE NAME: McAlphin, James R.

ADC #: 088328

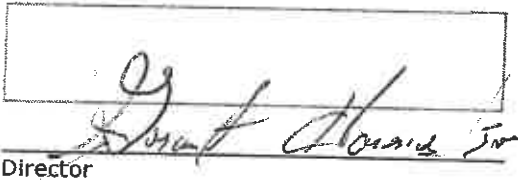
GRIEVANCE#: EAM13-01892

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

Inmate McAlphin, I have received your formal grievance dated 6/16/2013, where you allege on 6/14/2013, you were escorted back from yard call and you were left in restraints for over (1) hour.

After reviewing all supporting documentation, I find Corporal Randle stated the restraints were removed leaving a single handcuff on your right wrist. He also stated you did not notify any one until he noticed the A-band wrist wrap which you were covering up. Sergeant Williams stated while he was escorting the nurse for pill call you did tell him you needed to speak with him but it was not an emergency. He also stated no one heard you calling to let them know you were still in restraints. It was staff responsibility to insure your restraints were removed. Therefore, I concur with the Warden's response.

By way of this response, I will instruct the unit Warden to forward a copy of Corrective Actions taken to my office.
Appeal denied


Director

Date

9-12-13

(Exhibit C)

WARDEN'S OFFICE

Page 1 of 1

IGTT430
3GD

SEP 18 2013

East Arkansas Regional Unit

Attachment VI

INMATE NAME: McAlphin, James R.

ADC #: 088328

GRIEVANCE#: EAM13-02039

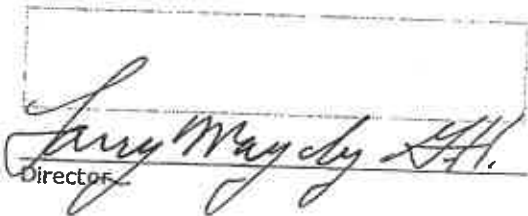
CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

Inmate McAlphin, I have received your formal grievance dated 6/23/2013, where you allege on 6/15/2013, you submitted a grievance concerning inmate abuse and harassment in violation of the PREA Act. You claim this grievance was given to Sgt. Smith, who said he gave it to Capt. McNary who supposedly gave it to Lt. Heath to run an investigation and notify him. You also claim the next evening Sgt. Smith brought a copy of it back to you saying he found it just laying on the hall desk.

After reviewing all supporting documentation, it was determined that your grievance EAM13-01884 was a PREA issue and should have been investigated handled as an emergency due to your allegations. Officer Smith states in part, "I did sign his informal and turned it over to Captain McNary for investigation and did find it at the hall desk the next day and took it back to the inmate to proceed to step two." Captain McNary states in part, "No, I did not know of this allegation." Due to the evidence submitted in your appeal and conflicting staff statements, I find this issue was not handled according to policy, therefore, I find your appeal with merit.

Appeal upheld

By way of this response I will instruct the unit Warden to take corrective actions and forward a copy to my office.


Director

9-12-2013
Date

A.C.A. § 19-10-210

West's Arkansas Code Annotated Currentness

Title 19. Public Finance (Refs & Annos)

■ Chapter 10. Claims Against the State

■ Subchapter 2. Arkansas State Claims Commission (Refs & Annos)

➔ **§ 19-10-210. Hearings--Notice--Procedure**

(a) The Director of the Arkansas State Claims Commission shall notify each claimant and also the head of each state agency, department, or institution against which a claim is filed of the time and place set for the hearing thereof.

(b)(1) In conducting hearings, the Arkansas State Claims Commission shall not be bound by the formal rules of evidence and shall conduct all hearings publicly and in a fair and impartial manner, giving the parties full opportunity for presentation of evidence, cross-examination of witnesses, and argument.

(2) To the extent practicable, the commission shall adopt the procedure used by the circuit courts, and its hearing shall be conducted in a judicial manner.

CREDIT(S)

Acts of 1949, Act 462, § 4; Acts of 1951, Act 373, § 2; Acts of 1983, Act 470, § 4; Acts of 2005, Act 1962, § 88, eff. Aug. 12, 2005.

Formerly A.S.A. 1947, § 13-1404.

HISTORICAL AND STATUTORY NOTES

Arkansas Code Revision Commission

Technical changes were made in 2005 to conform with the official Arkansas Code of 1987 as approved by the Arkansas Code Revision Commission.

CROSS REFERENCES

Workers' compensation, definitions, see § 11-9-102.

LIBRARY REFERENCES

States ◊ 184.29.

Westlaw Topic No. 360.

C.J.S. States §§ 510 to 512.

A.C.A. § 19-10-210, AR ST § 19-10-210

Current through 2014 2nd Ex. Sess. and the Nov. 4, 2014, election, including changes made by the Ark. Code Rev. Comm. received through 3/1/2015. Also included are 2015 Regular Session laws effective through March 27 from the 2015 Reg. Sess. of the 90th Arkansas General Assembly.

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END OF DOCUMENT

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STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 15,000.00

Claim No. 15-0033-CC

<u>James McAlphin #088328</u> Claimant		<u>Attorneys</u>	
vs.		<u>Pro se</u> Claimant	
<u>AR Dept. of Correction</u> Respondent		<u>Lisa Wilkins, Attorney</u> Respondent	
<u>State of Arkansas</u>			
<u>Date Filed</u>	<u>July 18, 2014</u>	<u>Type of Claim</u>	<u>Failure to Follow Procedure,</u> <u>Negligence, Pain & Suffering,</u> <u>Loss of Property</u>

FINDING OF FACTS

The Claims Commission hereby unanimously denies Claimant's "Motion for Reconsideration" for the Claimant's failure to offer evidence that was not previously available. Therefore, the Commission's March 13, 2015, order remains in effect.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

The Claims Commission hereby unanimously denies Claimant's "Motion for Reconsideration" for the Claimant's failure to offer evidence that was not previously available. Therefore, the Commission's March 13, 2015, order remains in effect.

Date of Hearing July 9, 2015

Date of Disposition July 9, 2015

W. Moore
Chairman
M. Spafford
Commissioner
Paul [Signature]
Commissioner

**Appeal of any final Claims Commission decision is only to the Arkansas General Assembly as provided by Act #33 of 1997 and as found in Arkansas Code Annotated §19-10-211.