

Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

Arkansas
State Claims Commission
SEP 18 2014

D2.

- ☒ Mr.
☐ Mrs.
☐ Ms.
☐ Miss

Charles/Jesus Robinson, #086829 Claimant

vs.

State of Arkansas, Respondent
Dept. of Corr.

Do Not Write in These Spaces	
Claim No.	15-0251-CC
Date Filed	September 18, 2014 (Month) (Day) (Year)
Amount of Claim \$	10,000.00
Fund	DOC

COMPLAINT

Personal Injury, Negligence, Pain
& Suffering, Mental Anguish,
Failure to Follow Procedure
2501 State Farm Rd. Tucker, AR 72168
(Street or R.F.D. & No.) (City)

Charles/Jesus Robinson, #086829, the above named Claimant, of
(Name)

County of _____ represented by _____
(State) (Zip Code) (Daytime Phone No.) (Legal Counsel, if any, for Claim)
of _____ says:
(Street and No.) (City) (State) (Zip Code) (Phone No.) (Fax No.)

State agency involved: ARKANSAS DEPARTMENT OF CORRECTION

Amount sought: \$10,000.00

Month, day, year and place of incident or service: July 27, 2010, EAST ARKANSAS REGIONAL UNIT

Explanation: PLEASE SEE ATTACHED PAGES TITLED "EXPLANATION."

As parts of this complaint, the claimant makes the statement and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof?

NO ; when? N/A ; to whom? N/A
(Yes or No) (Month) (Day) (Year) (Department)
; and that the following action was taken thereon: N/A

and that \$ _____ 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: N/A
; and was acquired on N/A, 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.

JESUS ROBINSON Charles J.
(Print Claimant/Representative Name)

Jesus Charles J. Robinson
(Signature of Claimant/Representative)

SWORN TO and subscribed before me at

on this 10 day of Sept 2014
(Date) (Month) (Year)

(Notary Public)

My Commission Expires: 01 05 2017
(Month) (Day) (Year)



RECEIVED

Answer to Explanation from page one of State Claim form:

On June 27, 2010 at 9:45am while Jesus was housed at the East Arkansas Regional Unit of the Arkansas Department of Correction ("ADC") working as a Law Library Clerk in the Unit Library, then ADC Major Jeremy Andrews ordered that Jesus be locked up and held in a shower stall area (Exhibit No. 13) of Isolation 2 pending an investigation and possible disciplinary court review. Jesus was stripped down to his underwear and placed in the shower stall. Jesus was left in the 3 ft x 6ft shower stall from 9:45am to 9:45pm without being given any water, food denied his 1500 calorie diabetic diet while remaining in this area in the middle of summer with temperatures exceeding over 100 degrees (Exhibit No. 13, 14 and 15 and No. 25). Jesus was practically burning up because of the suffocating heat and inhumane conditions because the shower stall was extremely hot, no air conditioning is in the isolation areas (See Exhibit No. 5) infested with ants, and vermin (Exhibit No. 23). There was no seating in the shower stall and Jesus had to sit down on the extremely hot flooring of this area (Exhibit No. 13, 14 and 15). Jesus repeatedly asked about being moved from the shower stall, his diabetic diet, use the bathroom and was denied by Sgt. Eatmon and CO I Hughes and was told that they could not move him per Major Jeremy Andrews orders. Jesus was left in temperatures exceeding 100 degrees until he passed out from heat exhaustion. (Exhibit No. 25) Sgt. Eatmon, CO I Hughes and CO I McDaniels worked off their shift and left Jesus in the shower stall (Exhibit No. 4). The night shift discovered Jesus in the shower stall passed out around 9:45pm that night and moved Jesus to a punitive isolation cell. (Exhibit No. 4. Isolation 2 Logs) On 7-28-2010 when Jesus noticed that his body had broke out in rashes and blisters on his arms, back and neck. The blisters were large and filled with liquid and Jesus had to sleep on his stomach to avoid the pain. He then requested medical attention by filling out sick call requests and none of the sick call requests were making it to the Unit Infirmary. Jesus repeatedly asked the isolation 2 officers for a informal resolution form to start a grievance process and was repeatedly denied grievance forms. On 8-4-2010, Jesus filed an emergency grievance (See Exhibit No. 1) concerning being locked up in the 3ft x 6ft area that led to his medical injuries. Sgt. Eatmon signed the emergency grievance on 8-4-2010 (See Exhibit No. 1) Since, the grievance happened on 7-27-2010 while

Sgt. Eatmon was supervising over Isolation 2 and never processed the emergency grievance. Jesus got a Sgt. Tinzie to sign his copy to proceed to step two of the grievance process. The responding employees to the grievance (See Exhibit No. 1) supported by Unit Warden Danny Burl gave false information during the grievance process that Jesus was placed in Isolation 2 cell 39 upon arriving in Isolation 2, (Exhibit No. 4) whereas ADC Isolation 2 records accurately reflect that Jesus was not housed in Isolation 2 cell 39 until over a week later. The Isolation 2 area is not air conditioned and EARU officers and staff tried to hide how hot it gets in the summer because the ADC will not keep up with the temperatures in this Isolation 2 area (See Exhibit No. 2). During shower call when Jesus attempted to shower he showed his injuries to Sgt. Eatmon, Sgt. Tinzie, CO I Archer and CO I Smith. At night shower call a Cpl. Burks on night shift was appalled of the injuries and stated, "She had to take off work for 30 days when she had those type of blisters and sores." The Isolation 2 officers seeing the severity of Jesus injuries would not take Jesus to the infirmary because they did not want to have to take pictures of the injuries and have to do 005 incident reports. Eventually, one of Jesus sick calls made it to the Unit Infirmary and he was seen on August 13, 2010 for the blisters and rashes. By this time some of the blisters were busted, bleeding, and turned into sores. The injuries were so bad and the cell conditions unsanitary Jesus had to wash the pus and blood out of his clothing and sheets daily to avoid bacterial infection. Upon seeing the nurse at sick call on 8-13-2010 (See Exhibit No.10 and 11) the nurse informed Jesus that she was not medically qualified to treat the injuries and that Jesus needed to see a physician. On 8-16-2010 claimant was seen by APN Marybeth Floyd who after seeing the injuries immediately ordered emergency antibiotic shots, antibiotic pills and creams for treatment of Jesus' medical injuries. (See Exhibit No.11)

Jesus filed a grievance EAM 10-3141 on 8-18-2010 concerning the injuries he suffered from 7-27-2010. Unit Warden Danny Burl responded on EAM 10-3141 and EAM-03005 (See Exhibit No. 1 and 2) admitting that there is not air conditioning in Isolation 2 and that's just the way it is and that it is a form of punishment for rule violations. Jesus appealed the Unit Warden decisions to Chief Deputy Director Larry May and Mr. May determined that East Arkansas Regional Unit should undergo an investigation for the treatment of Jesus. (See Exhibit No.6) The internal affairs investigation substantiated Jesus allegations and no ADC official denied the personal injuries that Jesus suffered (Exhibit No.7). On January 2011 Deputy Warden Todd Ball called Jesus to his office and apologized to Jesus for what happened to him and that corrective

action would be taken. Sgt. Eatmon the supervisor over Isolation 2 was written up for the incident that led to Jesus personal injuries and disciplined for his inaction. (See Exhibit No.21 and 22) and Sgt. Eatmon was disciplined again for a similar incident (Exhibit No. 22) During a deposition Warden Danny Burl admitted that what happened to Jesus should not have happened and that Jesus should not even have been placed in Isolation 2 and that as a result of what happened to Jesus EARU changed their policy and built holding cages in the hallway so that inmates brought into the EARU Max area could be monitored closely for how long they are being processed and that corrective action was taken and an employee disciplined for his role in the incident. (See Exhibit No.8, p. 20-31) The cages that are built are located in the air conditioned hallway and not in any isolation unit.

No ADC official has ever denied during the entire incident or that Jesus did not experience his personal injuries as a result of an ADC employee behavior or inaction. However, the ADC did discipline Sgt. Eatmon for his inaction that led to the personal injuries that Jesus suffered. (Exhibit No. 21 and 22)

Jesus timely filed a federal lawsuit 42 U. S. C. A. §§ 1983 in 2011 and giving the federal court supplemental jurisdiction over his state law tort claims because of sovereign immunity of the State of Arkansas. On May 24, 2014 United States Magistrate Judge Jerome T. Kearney issued an Order declining to exercise supplemental jurisdiction over Jesus state law tort claims and that Jesus could file these claims back in state court. (Exhibit No. 19)

Jesus's present state claim is properly before the State Claims Commission because *A. C. A. § 16-56-126* tolls the period for bringing a non-suit for a period of one year for dismissal without prejudice for a non-suit and this saving statute guarantees that Jesus has not forfeited his state law tort claims and this present claim for personal injury is the same as was brought in federal court.

All documents and exhibits are accurate to the best of Jesus knowledge to provide evidence and detail concerning the incident that led to his personal injuries and that the Internal Affairs Department of the ADC verifies his injuries and the actions of the ADC employees that were held responsible.

Jesus exhausted all administrative remedies through the grievance process and these grievances are submitted as supporting documentation.

EXHIBIT LIST

1. Grievance No. EA-10-03055
2. Grievance No. EA-10-03141
4. Isolation 2 Logs
5. Isolation 2 Temperature Logs
6. Chief Deputy Director Larry May Internal Affairs Investigation Order
7. Internal Affairs Investigation Report
8. Deposition of Danny Burl
10. Health Care Encounter
11. Health Care Encounter
13. Shower Stall Photo
14. Shower Stall Photo
15. Shower Stall Photo
16. Isolation 2 Photo
19. Order from U. S. Magistrate J. Kearney May 24, 2014
21. Disciplinary Action against Edward Eaton
22. Disciplinary Action against Edward Eaton
23. Pest Management Report
24. Diabetic Diet Medical Script
25. Temperature Settings Policy AD-10-16

UNIT LEVEL GRIEVANCE FORM (Attachment I)

Unit/Center _____

Name _____

ADC# _____

Brks # _____

Job Assignment _____

East Arkansas Regional Unit

AUG 16 2010

FOR OFFICE USE ONLY
GRV. # EAM 10-03055
Date Received: 8-16-10
GRV. Code #: 211

Yellow
copy

(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: _____

(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: _____

Is this Grievance concerning Medical or Mental Health Services? _____ 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): _____

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 _____ (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: _____ Date _____

PRINT STAFF NAME (PROBLEM SOLVER) _____

ID Number _____

Staff Signature _____

Date Received _____

Describe action taken to resolve complaint, including dates: _____

AUG 30 2010

EX. #1

Staff Signature & Date Returned _____

Inmate Signature & Date Received _____

This form was received on 8/11/10 (date), pursuant to **Step Two**. Is it an Emergency? _____ (Yes or No)

Staff Who Received Step Two Grievance: Willie Torres Date: 8/11/10

Action Taken: _____ (Forwarded to Grievance Officer/Warden/Other) Date: _____

If forwarded, provide name of person receiving this form: _____ Date: _____

DISTRIBUTION: YELLOW & PINK – Inmate Receipts; **BLUE**–Grievance Officer; **ORIGINAL**–Given back

6

IGTT450 - Inmate Grievance Investigation Worksheet

Page 1 of 2

IGTT450
3GI

Attachment VIII

**Arkansas Department of Correction
Inmate Grievance Investigation Worksheet**

The below listed inmate has filed a grievance/appeal with this office. In the area for an employee statement, please write a detailed response regarding the issue(s) stated by the inmate in this grievance. The statement "I have no knowledge" is not acceptable. Also, please submit any supporting documentation with your response, i.e., disciplinary, RAs, logs, medical information, other officers and/or inmate statements, etc.

EMPLOYEE: Andrews, Jeremy C.

UNIT: East AR Regional Max Unit

R# INMATE: Robinson/Jesus, Charles J.

ADOC#: 086829

FROM: Smith, Deborah G.

FILE DATE: 08/20/2010

GRIEVANCE#: EAM10-03055


DATE OF INCIDENT: 07/27/2010

Inmate's Complaint:

On 7/27/10 I was stripped to my underwear and placed in a 3ft by 6ft area in Isolation 2 about 9:45 am. This small hot place had no toilet, drinking water or seat. I was forced to remain in this dark, unlighted, extremely hot and infested area from 9:45 am until 9:45 pm that night without the use of a toilet and having to endure extreme heating conditions because I was ordered locked up by Major Andrews from the AM to PM hours. I was treated under these inhumane conditions I made no statement to the MAJOR. Whoever ordered me locked up that long violated my civil rights to be free from cruel and unusual punishments. I was equally Denied my diabetic diet meals during these times. One can check the cameras and the area I was locked up in and verify that its extremely hot with ants crawling all over the place. I was unable to file a grievance because the officers Sgt. Tinzy, Sgt. Ratmon, etc. said no grievances were in the MAX. I finally got a grievance on this date.

Employer Statement:

I have no direct knowledge of when the Robinson was housed at the time of this allegation. However, on 7-27-10 the Robinson was placed in D-R station and placed in the area per my order. He was housed in IS #39 cell per Capt. Jackson. As to other allegations I am not aware of.


Responding Staff Signature

8-19-10
Date

<https://comiscuster.state.ar.us:7002/servlet/com.marquis.eomis.EomisControllerServlet>

8/16/2010

EXHIBIT NO. 1A

INMATE NAME: Robinson/Jesus, Charles J. ADC #: 086829B GRIEVANCE #: EAM10-03055

WARDEN/CENTER SUPERVISOR'S DECISION

You allege that on 7/2/10, you were stripped to your underwear and placed in a 3 x 6 ft. cell in Isolation II, at approximately 9:45 A.M. You allege that Major Andrews ordered you locked up, and you were forced to endure extreme heating conditions. You allege that you remained in this small cell from 9:45 A.M. until 9:45 P.M.,. You were denied your diabetic meals, and your civil rights were violated. You state that the camera can verify the extreme heat ms the ants crawling all over the area. You allege that you request a grievance form from Sgt. Tinzie and Sgt. Eaton, but was told there was none in Isolation. You allege you were not given a form until 8/4/10. Major Andrews advised that he have no direct knowledge of where you were housed at the time of this allegation. However, you were placed on DCR by his orders and escorted to the Max. Per Captain Jackson, you were housed in Isolation cell # 39, and records reflect that you are still assigned to this cell,. However you are currently doing punitive time. He advised that all of the other allegations are false. Inmate Robinson/Jesus, our camera is not equipped to detect the heat or able to detect an insect as small as an ant. They are not focused on the floor or directly on the wall. They are intended to cover a broader area. Therefore they cannot be used to verify ants or heat.

AU Bual

Signature of Warden/Supervisor or
Designee

W Andrews

Title

8/19/10

Date

RECEIVED

AUG 30 2010

INMATE'S APPEAL

INMATE'S APPEAL SUPERVISOR
ADMINISTRATION BUILDING

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.

WHY DO YOU DISAGREE WITH THE ABOVE RESPONSE? I disagree with Warden D. Burtis response because this grievance was not properly investigated and the response from the warden attempts to cover the bad acts that were violative of my civil rights, which only sheds light on the problems that plague the Admin, seg/punitive Isolation areas at this Unit.

First of all the Warden's decision states I alleged the incident happened on 7/2/10, this is inaccurate, I was taken to Isolation 2

(OVER)

INMATE NAME: Robinson/Jesus, Charles J. ADC#: 086829 GRIEVANCE#: EAM10-03055

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

Inmate Robinson/Jesus, my office is in receipt of your inmate grievance appeal in with you stated that you were stripped to your underwear and place in the shower stall for 12 hours. You stated that it was extremely hot and there was no toilet or drinking water. You also stated that the area was infested with ants. You alleged that you were denied your diabetic meal. You stated that you were denied grievance forms by Sgt. Tinzy and Sgt. Eatmon.

I have reviewed your grievance and because of the seriousness of your allegations, I am referring it to the Internal Affairs Division.

17M7

Signature

10.21.10

Date

GRV. Code #:

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

INMATE NAME: Robinson/Jesus, Charles J. ADC #: 086829B GRIEVANCE #: EAM10-03141

WARDEN/CENTER SUPERVISOR'S DECISION

Inmate Robinson, you are complaining about your housing assignment, and the conditions thereof. You allege that because of the area that you are assigned you have suffered from the heat causing blisters, sores, and rashes. You allege that these are injuries that are caused by the ADC for placing you in these conditions of assignment. As a ward of the state of Arkansas Department of Correction it is our duty to provide you with a safe and humane place of confinement, with basic nourishment, adequate medical/mental health care, and a safe environment. You were found guilty of violating departmental rules and regulations, and have been sentenced to a period of confinement in punitive segregation. You received a due process hearing, and it was determined that you committed a serious act of misconduct which warrants this situation. You are being housed in a restrictive environment that is not air conditioned. However, this area is ventilated to the outside with numerous air ducts. You are not being treated inhumanly or abused. Medical attention is available whenever deemed necessary. If you have a medical condition that warrants removal from your present housing assignment this will be determined by the medical department. Once it is corrected you will be returned to punitive status for the duration of your sentence.

J. H. Burt

Signature of Warden/Supervisor or
Designee

W. And W

Title

8/24/10

Date

SEP 09 2010

INMATE'S APPEAL

INMATE CENTER SUPERVISOR
ADMINISTRATION BUILDING

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.

WHY DO YOU DISAGREE WITH THE ABOVE RESPONSE? I am not alleging the medical problems I suffered, Inhuman Records document my personal injury as a result of this State agency's negligence. The Warden's response admits that there is no air conditioning in this area that reached suffocating and painful heat conditions that was well over 100 degrees. My being placed in punitive does not require me to be placed in inhumane conditions. The Warden's response is clearly missing the mark and does not cover up this agency's gross negligence. The excuses does not justify my personal injuries because this agency is admitting

Jesus Robinson, C
(over) 86829
8/31/10

INMATE NAME: Robinson/Jesus, Charles J. ADC#: 086829 GRIEVANCE#: EAM10-03141

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

In your complaint you allege that you are complaining about your housing assignment, and the conditions. You claim that because of the area that you are assigned you have suffered from the heat causing blisters, sores, and rashes. You also claim that these are injuries that are caused by the ADC for placing you in these conditions of assignment.

Inmate Robinson after reviewing this grievance, it is found that this office concurs with the Wardens response in which he states in part, "As a ward of the state of Arkansas Department of Correction it is our duty to provide you with a safe and humane place of confinement, with basic nourishment, adequate medical/mental health care, and a safe environment. You were found guilty of violating departmental rules and regulations, and have been sentenced to a period of confinement in punitive segregation. You received a due process hearing, and it was determined that you committed a serious act of misconduct which warrants this situation. You are being housed in a restrictive environment that is not air conditioned. However, this area is ventilated to the outside with numerous air ducts. You are not being treated inhumanly or abused. Medical attention is available whenever deemed necessary. If you have a medical condition that warrants removal from your present housing assignment this will be determined by the medical department. Once it is corrected you will be returned to punitive status for the duration of your sentence."

Appeal denied


Signature


Date

151

400-5

DEPARTMENT OF CORRECTIONS
SECURITY CHECK LOG

DATE: 7/27/10

Time Check Started	Time Check Ended	1512	1 shift
6:28 am		Cpl. Hughes, Cpl. Levens	HR minutes (1)
6:30		tele. call, flashlight, w/	etad defense (mm)
6:35		and all other equipment	decontrol for
6:40	6:31	Cpl. Hughes conducting c/c	ward list
6:45	6:41	Cpl. Hughes, secure, c/c	off orders read
6:50		Cpl. Hughes, exit door, equipment	it - return
7:01		Hughes count time	yard in m/c
7:04		Sgt. Eaton enter	
7:05		Cpl. Levens enter to assist w/	pulling mats
7:13		Sgt. Eaton, Cpl. Levens pulling	in mats, sk
7:14		all mats pulled, all oppo	le secure, Cpl
7:20		Levens exit	
8:03		unit clear call door 2130	
8:04		visual sc on west hall, all	appear serene
8:21	8:31	Sgt. Eaton enter - exit	appear serene
9:05		release shackman, Sgt. Eaton	enter, door open
9:18	9:16	pass sc - all mats complete	all appear serene
9:20		Sgt. Eaton, Sgt. Sachville, Cpl	Levens, Cpl
9:20		Hughes, Cpl. Graham enter	12 yard hall
9:30		Cpl. Levens conducting search	on yard
9:48	10:03	ward appear serene, Hughes	will begin 9:53
9:52		Sgt. Eaton, Sgt. Eaton, Cpl	Levens
9:52		exit, Cpl. Hughes on yard	
10:03		Sgt. Eaton enter w/ item door	cell #37 - exit
10:04		Sgt. Eaton, Cpl. Robinson enter	cell #37
10:04		Robinson #8139, door lock up	exit
10:49		Sgt. Eaton enter the door - exit	with Cpl. Hughes
11:21		ward complete	
11:23		Cpl. Hughes return to post	
11:29		Cpl. Hughes picking up mats	
11:32		Cpl. Hughes exit door trap	
11:34	12:04	Cpl. Hughes, Cpl. Levens enter	the chair Cpl
12:00		Cpl. Levens enter to secure disc	turner - exit
12:01		Mr. Ede, Sgt. Beradon enter	disciplinary
12:01		Court, Cpl. Hughes exit	Cpl. Levens exit, chair
12:01		all complete	
12:01		Cpl. Levens picking up trap	
12:01		Sgt. Eaton enter to assist w/	disciplinary court
12:25		trap are picked up	
12:30	12:47	Cpl. Hughes return	2750 and 1/2 hour

OFFICER SIGNATURE

EX. NO. 4

13

McClerr

400-5

DEPARTMENT OF CORRECTIONS
SECURITY CHECK LOG

DATE: 7/27/10

Time Check Started	Time Check Ended		
12:30		TSO 2	A shift
12:39		Cpl. Brier enters / commissary	
12:54		Cpl. Hughes exit to assist w/	new B yard
1:00		Mr. Eske, Sgt. Brandon, Sgt. [unclear]	exit, disciplinary
1:13	1:35	circled complete, Cpl. Eske, [unclear]	on B Smith and [unclear]
1:35		commissary exit	
1:50		current time - great clear	
1:50		Cpl. Hughes SIC	
1:56		all appear secure, Cpl. Hughes exit to assist	
1:57		w/ new B yard	
1:58		Mr. Galt (GND) enter for rounds	
2:09		Sgt. Calhoun enter and exit	
2:14		Chapman Wilson, Charles [unclear]	noted enter
2:34		to talk to Jim A. Robinson	
2:39		Charles W. Bond, Charles [unclear]	noted exit
2:40	2:39	Cpl. Hughes enter	
2:44	2:51	Cpl. Hughes SIC - all appear	secure
3:02		Miss Shannon, Cpl. Eske, [unclear]	Eske, Mr. Phillips
3:34	4:01	Cpl. Hughes enter to check in	Tim & Buehler
4:21	4:58	Cpl. Davis enter for alarm	exit
4:43	4:53	alarm call - [unclear]	
4:54	5:00	Sgt. Eaton enter the [unclear]	exit w/
5:00	5:10	alarm on, [unclear] #105380	Return
5:21	5:24	Cpl. Hughes enter and exit w/	Tim S. Smith
5:24	5:24	Mr. Eske call - [unclear]	Return
5:24	5:24	Cpl. Hughes exit w/ Sgt. Eaton	to complete
5:24	5:24	miss	
5:24	5:24	current time @ 5:35	
5:24	5:24	current clear	
5:24	5:24	Sgt. Eaton, Cpl. Hughes enter w/	A. Tammie
5:24	5:24	Mr. Eske to be missed [unclear]	TSO 30.11
5:24	5:24	Sgt. Eaton, Cpl. Hughes exit	
5:24	5:24	Mr. Eske [unclear] by	
5:24	5:24	close due to shift change	Kotz

End of Log

McClerr
OFFICER SIGNATURE

EXNO. 4

14

DEPARTMENT OF CORRECTIONS
SECURITY CHECK LOG

400-5

DATE: 27 July 201

Time Check Started	Time Check Ended	Isolation II Control Booth BShift
6:48	pm	OFC. Dupuy Relieved OFC. McMechan of ISO Control Booth. I have Read and understand the post orders for this Post. All Keys and Equipment are accounted for.
6:49	6:49	Cpl. Archer conducts a security check. Exit
6:52	6:52	Cpl. Archer escorts Tm Millholland (500108 Porter) to ISO II
6:54	7:08	Tm Millholland Cpl Archer process at Mate / Count
7:10	7:10	Tm Millholland E. Cpl. Archer exit ISO II
7:19	7:20	Cpl Archer enters ISO II with Radio & Hand Cuffs
7:20	7:21	Cpl Smith enters ISO II to get soap
7:22	7:18	Count Time / Count Clear
7:31	7:33	Sgt. Robinson, Marlock Cpl / Escort Tm Williamson
7:31	7:33	Cpl Smith / Cpl Archer Escort Tm Coleman to day Room
7:45	—	Visual Security Check All Appears to be secure
8:20	8:21	Cpl Archer enters ISO II to conduct a security check
8:40	8:44	All Appears to be Secure
8:40	8:44	Cpl. Archer / Smith enter ISO 2 to move Robinson & Williamson into #49 / Move completed
9:20	9:36	Lt. Parns, Mr. McGee, Boston ENTER ISO 2 for Move
9:55	9:57	Hunter #281 to 605
9:55	9:57	Lt. Parns, Cpl Archer & Cpl Smith ENTER ISO 2 with N. Hunter
10:20	10:22	143304 to #38 Cell, also Coleman in City Room to #38
10:36	10:42	Visual Security Check All Appears to be Secure
10:40	11:15	Nurse Thomas Cpl Archer enters BKS to conduct
11:02	11:04	Cell Call / All Appears to be Secure / Count /
11:02	11:04	Cpl's Archer & Smith enter ISO 2 taking a mat to
11:07	11:20	B8 Cell Conduct a Security Check; #57 moved to the Shower / Returned to Cell
11:15	11:16	Cpl's Archer & Smith enter BKS, Exit
11:28	11:28	Cpl's Archer & Smith exit ISO 2
11:36	—	Cpl Archer enters ISO II Control Booth
11:40	pm	OFC. Dupuy exit ISO-2. All Appears to be secure.
11:50	pm	OFC. Dupuy enters ISO-2.
12:00	pm	Log Released By OFC. Dupuy due to time/date change

C. Dupuy

50

EX. NO. 4
400-5

15

400-5

DEPARTMENT OF CORRECTIONS
SECURITY CHECK LOG

DATE 27 July 201

Time Check Started	Time Check Ended	ISOLATION 2 Control Booth B Shift
12:01	12:19a	Log opened By OTC Dupuy etc. to tech E-time change
		John Deed and Dupuy etc. and the post order
		for this post. All Keys & Eqs. that are accounted
		to be secure.
12:16	12:17	Parma walking around cell / PRABS to be OK
12:29	12:30	Check on Burns / Appears to be OK
12:42	12:43	Checked on Parma / Appears to be secure
1:00	2:14	1st 2 security check is now complete All appears to be secure. OTC Dupuy is using
1:05	2:14	Counting
1:25	2:14	Count cleared. OTC appears to be secure.
2:00	2:14	Security Check, All Appears to be secure.
2:25	2:14	Col Archer exits to pick up juice & milk
2:30	2:14	Security Check, All Appears to be secure
2:41	2:14	Col Archer / Count clear 3/16
3:00	am	Security Check / All Appears to be secure
3:00	am	Col Archer exits to pick up trays
3:30	am	Col Archer enters with juice & milk
3:45	am	Col Archer exits to pick up trays
4:00	am	Security Check / All Appears to be secure
4:10	am	Sgt Robinson / Exits
4:33	am	Col Archer picks up food trays
4:40	am	Col Archer exits with empty trays
4:50	5:40	Col Archer enters with food trays
5:08	5:25	Nurse Thomas Enter for Pils call
		Col Archer
5:30	5:40	Security Check / Col Archer / All Appears to be secure
5:40	6:16	Col Archer exits to assist with food call
5:55		Checked on Burns / Appears to be secure
6:00		Security Check / All Secure
6:25		OTC McDaniels Relieved OTC Dupuy / Log Closed By

OTC Dupuy
OFFICER SIGNATURE

EX NO. 4

151

DEPARTMENT OF CORRECTIONS
 SECURITY CHECK LOG

400-5

DATE: 7/27/10

Time Check Started	Time Check Ended	
		TSJ2 1st shift
6:28	am	Cpl. Hughes relieved by Cpl. Thompson (11)
1	1	telephone, (2) flashlight, (1) radio detector (mm)
6:30	—	and all other equipment. All in for
6:30	—	Cpl. Hughes conducting, etc. Under list
6:30	10:31	all appear secure, all post orders read
6:30	6:44	Cpl. Hughes exit door equipment — return
6:55	1	Cpl. Hughes exit to assist w/ yard (in mm)
7:01	1	through count time
7:01	1	Sgt. Eaton enter
7:01	1	Cpl. Leuts enter to assist w/ pulling mats
7:05	—	Sgt. Eaton, Cpl. Leuts pulling mats, st
1	7:13	all mats pulled, all appear secure, Cpl.
—	7:14	Leuts exit
7:20	1	Sgt. Eaton exit
8:05	1	unit clear called for 7:30
8:05	1	visual SC on post hall, all appear secure
8:21	8:31	visual SC on west hall, all appear secure
9:05	—	Sgt. Eaton enter — exit
9:05	9:18	all SC — all SC complete, all appear secure
9:18	1	Sgt. Eaton, Sgt. Schmitt, Cpl. Leuts, Cpl.
1	1	Hughes, Cpl. Graham enter, all yard (in mm)
9:20	1	Cpl. Leuts conducting, all SC on yard
1	9:30	all appear secure, all SC begin (9:25)
9:42	10:03	Sgt. Schmitt, Sgt. Eaton, Cpl. Graham, Cpl. Leuts
9:55	1	exit, Cpl. Hughes on yard
9:55	1	Sgt. Eaton enter w/ 1st door, all SC — exit
10:31	10:49	Sgt. Schmitt, Cpl. Thompson enter w/ 1st door
11:21	1	Thompson #8439, door lock up — exit
11:21	1	Sgt. Eaton enter for guard — exit w/ Cpl. Hughes
11:21	1	yard complete
11:21	1	Cpl. Hughes return to post
11:23	1	Cpl. Hughes picking up mats
11:29	1	Cpl. Hughes exit gate trap
11:33	—	Cpl. Hughes, Cpl. Leuts enter, all SC on
11:54	12:04	Cpl. Leuts enter to solve disciplinary — exit
12:00	pm	Mr. Eddy, Sgt. Berardone enter for disciplinary
1	1	court, Cpl. Hughes exit, Cpl. Leuts exit, chair
12:02	1	all complete
12:21	1	Cpl. Hughes picking up trap
12:21	1	Sgt. Eaton enter to assist w/ disciplinary court
12:30	12:47	All traps are picked up
12:30	12:47	Cpl. Hughes return, etc 25 David / for back

OFFICER SIGNATURE

EX. NO. 4

17

Medford

400-5

DEPARTMENT OF CORRECTIONS
 SECURITY CHECK LOG

DATE: 7/27/02

Time Check Started	Time Check Ended	
		TSO 2 A shift
12:30	12:31	Cpl. Eather enters / commences
12:31	12:31	Cpl. Hughes exit to assist w/ Mr. B. yard
12:31	12:31	Mr. E. R. S. Brandon Sgt. Eather exit, discipline
12:31	12:31	curt complete Cpl. Eather, Tim B. Smith and
12:31	12:31	commissary skit
12:31	12:31	Count time - count clear
12:31	12:31	Cpl. Hughes sic
12:31	12:31	All appear secure, Cpl. Hughes exit to assist
12:31	12:31	w/ Mr. B. yard
12:31	12:31	Mr. Bay (M.H.) enter for records
12:31	12:31	Sgt. Eather enter and exit
12:31	12:31	Cpl. Eather Wilson, Charles Medford enter
12:31	12:31	to talk to Tim A. Robinson
12:31	12:31	Charles Wilson, Charles Medford exit
12:31	12:31	Cpl. Hughes enter
12:31	12:31	Cpl. Hughes sic - all appear secure
12:31	12:31	Miss Shannon, Cpl. Eather enter for pills
12:31	12:31	Cpl. Hughes enter to check in Tim A. B. yard
12:31	12:31	and exit
12:31	12:31	Cpl. Davis enter for dorm - exit
12:31	12:31	New call - complete
12:31	12:31	Sgt. Eather enter Mr. Bay call - exit w/
12:31	12:31	Tim A. B. yard #105386 - return
12:31	12:31	Cpl. Hughes picking up trays
12:31	12:31	Sgt. Eather enter and exit w/ Tim A. Smith
12:31	12:31	OH 097538 for Mr. Bay call - return
12:31	12:31	Cpl. Hughes exit w/ Sgt. Eather to complete
12:31	12:31	meals
12:31	12:31	Count time @ 5:35
12:31	12:31	Count clear
12:31	12:31	Sgt. Eather, Cpl. Hughes enter w/ A. Tamm
12:31	12:31	Mr. Bay to Mr. Tamm (Sgt. Eather)
12:31	12:31	Sgt. Eather, Cpl. Hughes exit
12:31	12:31	Mr. McDonald relieved by
12:31	12:31	Close due to shift change
End of Log		

OFFICER SIGNATURE

EX. NO. 4

400-5

DEPARTMENT OF CORRECTIONS
SECURITY CHECK LOG

DATE: 27 July 2011

Time Check Started	Time Check Ended	Isolation II Control Booth BS
6:42	pm	OFC Dupuy released OFC McManis of 150 Control Booth I have read and understand the post orders for this Post. All Keys and Equipment are accounted for.
6:47	6:49	Cpl. Archer conducts a Security Check Exits
6:52	—	Cpl. Archer escorts Tm Millholland (500108 Porter) to 150 II
6:54	7:08p	Tm Millholland & Cpl. Archer proceed to Mata / Count
7:10	7:10	Tm Millholland & Cpl. Archer exit 150 II
7:19	7:20p	Cpl Archer enters 150 II with Ralston & Hand Cuffs
7:20	7:21	Cpl Smith enters 150 II to get Soap
7:02	7:18	Count Time / Count Clear
7:31	7:33	Sgt. Robinson, Lock Cpl / Escort Tm Williamson
7:31	7:33p	Cpl Smith / Cpl. Archer Escort Tm Coleman to day Room's
7:45	—	Visual Security Check All Appears to be Secure
8:20	8:21	Cpl Archer enters 150 II to conduct a Security Check
—	—	All Appears to be Secure.
8:40	8:44	Cpl. Archer / Smith enter 150 2 to move Robinson & Williamson into 150 49 / Move completed
9:20	9:36	Lt. Barnes Mr & Mrs McGee & Preston ENTER 150 2 for Moves IT Room Hunter 381 to 605
9:55	9:57	Lt Barnes OFC Archer & Cpl Smith ENTER 150 2 with N. Hunter & 143304 to 381 Cell, also Cpl. Smith in day Room to 381
10:30	10:32	Visual Security Check All Appears to be Secure
10:36	10:42	Nurse Thomas Cpl Archer enters BKs to conduct
—	—	cell call / All Appears to be Secure / Count /
10:40	11:05p	Count Time / Count Clear
11:02	11:09p	Cpl's Archer & Smith enter 150 2 taking a mat to 38 Cell Conduct a Security Check; #57 moved to the Shower / Returned to Cell
11:15	11:16p	Cpl's Archer & Smith enter BKs, Exit
11:20	11:28	Cpl's Archer & Smith exit 150 2
11:36	—	Cpl Archer enters 150 II Control Booth
11:40	PM	OFC Dupuy exit 150-2. All appear to be secure.
11:50	PM	OFC Dupuy enters 150-2.
12:00	PM	Log Closed By OFC Dupuy due to time/date change

R. L. Dupuy



50

400-5

EX NO. 4
19

400-5

DEPARTMENT OF CORRECTIONS
SECURITY CHECK LOG

DATE: 20 July 2011

Time Check Started	Time Check Ended	ISOLATION 2 Control Booth B Shift
12:01	12:19	Log opened By OFC Dupuy to date & time change
		Yellie read and understood and the post order
		for this post. All Keys & Equipment must be accounted
12:16	12:17	for Security Check. All Appears to be Secure.
12:29	12:30	Barra walking around Cell / APPEAR to be OK
12:42	12:43	Checked on Barra / Appears to be OK
1:00	3:14	Checked on Barra / Appears to be Secure
		1st 2. security check is now completed All Appears
		to be secure. Ofc. Dupuy on Wing
1:05	3:14	Counting
1:25	3:14	Count Cleared. All Appears to be Secure.
2:00	3:14	Security Check. All Appears to be Secure.
2:25	3:14	Cpl Archer Exits to pick up juice & milk
2:30	3:14	Security Check. All Appears to be Secure
2:47	3:14	Count down. Count down 3:16
3:00	3:14	Security Check. All Appears to be Secure
3:00	3:14	Cpl Archer exits to pick up Juice Trays
3:30	3:14	Cpl Archer enters with juice & glass
3:45	3:14	Cpl Archer starts taking food trays over to arena
3:53	3:14	Security Check All Appears to be Secure / By
4:40	3:14	Sgt Robinson Exits
4:50	3:14	Cpl Archer picks up food Trays / Passes out food Trays
5:00	3:14	Cpl Archer Exits with Empty food Trays
5:00	3:14	Nurse Thomas Enter for full call / Prior
5:30	3:14	Cpl Archer
5:40	3:14	Security Check / Cpl Archer / All Appears to be Secure
5:40	3:14	Cpl Archer Exits to assist with food call
5:55	3:14	Checked on Barra-Barra / All Appears to be Secure
6:00	3:14	Security Check / All Secure
6:23	3:14	OFC McDaniel Releases all Dupuy / Log Closed By
		OFC Dupuy

OFC Dupuy
OFFICER SIGNATURE

EX. NO 4
20

DAILY TEMP LOG

NAME: James Whitler DATE: 7/27/16

BRKS	AM TEMP	PM TEMP	LOCATION	AM TEMP	PM TEMP
1	78.3	77.6	ODR	73.4	75.7
2	75.8	76.9	ASST. WARDEN		
3	81.1	80.3	INFIRMARY	73.9	74.6
4	77.0	78.4	LIBRARY	73.8	72.9
5	79.4	79.3	NOBBY CRAFT	71.1	72.4
6	76.4	78.6	JAIL HALL	77.5	79.2
7	76.4	77.7	JAIL DECK	74.1	75.8
8	75.9	77.8			
9	77.9	80.3	MAX LOCATION	AM TEMP	PM TEMP
10	77.1	79.9	MAX 1		75.5
11	75.8	78.0	MAX 2		77.6
12	74.9	76.4	MAX 3		76.5
13	71.6	72.0	MAX 4		78.8
14	73.1	75.5	MAX 5		75.2
15	74.3	74.7	MAX 6		74.7
16	71.3	72.6	MAX 7		75.5
17	71.6	72.6	MAX 8		76.6
18	71.7	76.5	INFIRMARY		77.9
19	71.2	70.4	KITCHEN		75.5
20	71.1	71.4	ADMIN. OFFICE		75.4

TIME IN	5:30 AM	ISO 1 NORTH
TIME OUT	9:45 AM	ISO 2 EAST
TIME IN	1:32 PM	ISO 3 EAST

EX.NO.6

21



Arkansas Department of Correction

#3
P.O. Box 8707
Pine Bluff, Arkansas 71611-8707
Phone: (870) 267-6303
FAX: (870) 267-6304
www.state.ar.us/doc

ADMINISTRATOR

OCT 26 2010

INTERNAL AFFAIRS

To: Mr. James Gibson, Internal Affairs Administrator

From: Larry May, Chief Deputy Director

Date: Oct. 20, 2010

Re: Inmate Robinson/Jesus #86829 (Grievance #EAM10-03055)

Larry May by [Signature]

I am referring this grievance to your division for further investigation due to the nature and seriousness of the allegations that Inmate Robinson/Jesus #86829 has made in the above referenced grievance.

LM/DM

Enclosures

XC: Warden Danny Burl; East Arkansas Regional Unit

*3:10 PM 12-8-2010
Policy Gannum - no way
to verify great
always let in isolation*

EX. NO. 6

Polly James

From: Dwayne Meeks

Sent: Friday, October 15, 2010 8:59 AM

To: Polly James

Subject: GRIEVANCE #EAM10-03055

86829

INMATE ROBINSON/JESUS, THE CHIEF DEPUTY WANTS TO KNOW WAS THIS INMATE LEFT IN THE SHOWER STALL FOR 12 HOURS, IF SO WHY? I WILL NEED THE ISOLATION LOG FOR THE DAY IN QUESTION AND THE STATEMENTS FROM NIGHT SHIFT STAFF WHO MOVED HIM. (CPL.MCDANIEL,CPL. HUGHES,CO1 DUPUY) THANK YOU

Dwayne Meeks

Arkansas Department Of Correction

Inmate Grievance Coordinator

Phone # (870)267-6317

Fax # (870)267-6396

E-Mail: Dwayne.Meeks@arkansas.gov

7-27-10
Iso-249

MAK-A Shift
Takelia McDaniel
Jeffery Hughes

Dupuy has transferred

10/15/2010

EX NO. 6B



Arkansas Department of Correction

Internal Affairs Division
P.O. Box 8707
Pine Bluff, Arkansas 71611-8707
Phone: (870) 267-6218
Fax: (870) 267-6226

TO: Larry May, Chief Deputy Director
FROM: Raymond Naylor, Internal Affairs Administrator
RE: Internal Affairs Investigation #10-314
DATE: December 10, 2010

RECEIVED
DEC 14 2010
Chief Deputy Director
Institutions
Arkansas Department of Corrections

adm. closure

My division has conducted the above referenced investigation and the report is attached for your review.

If, after reading the report, you need more information before rendering a disposition, please let me know, as my office stands ready to assist you in any way possible.

4 different allegations

☒

SUSTAINED (ALLEGATION IS TRUE)

Allegation # 1 and # 3

☒

UNFOUNDED (ALLEGATION IS WITHOUT MERIT)

Allegation # 2

☐

EXONERATED (ALLEGATIONS WERE TRUE BUT ACTIONS WERE WITHIN DEPARTMENTAL POLICY)

☒

NOT SUBSTANTIATED (NOT SUFFICIENT INFORMATION TO MAKE DETERMINATION)

4

☐

OTHER (EXPLAIN:)

Signature

LM

Date of Signature

1-12-11

EX. NO. 7

#1 Isolation shower stalls are used as a temporary holding well for inmates awaiting assignment to isolation. Inmate should not be held in the shower stall for the amount of time that occurred in this incident. Staff will be counseled with regards to this matter.

#3 As for not receiving a special diet tray, the inmate did not bring the request to the attention of the staff. Food service staff was not aware of his new assignment until the next day. At that time, he was to receive the special diet tray again.

OK
RCU
1-19-11



Arkansas Department of Correction

Intern
Affairs
Division
P.O. Box 8707
Pine Bluff, Arkansas 71611-8707
Phone: (870) 267-6218
Fax: (870) 267-6226

TO: LARRY MAY, CHIEF DEPUTY DIRECTOR.
FR: *R. Wilcher* RONALD VILCHES, INTERNAL AFFAIRS.
REF: GRIEVANCE #EAM10-03055.
DATE: DECEMBER 10, 2010.

On October 26, 2010 documentation was received from your office pertaining to a grievance filed by Inmate Robinson #86829. Contained in the grievance are several allegations. Inmate Robinson states on July 27, 2010, he was placed in a 3ft. by 6ft area in isolation #2 about 9:45am. He says it was hot, had no toilet or drinking water and it was infested with ants. Robinson also states he remained there until 9:45pm and during this time he was denied his diabetic diet meal. In the documents forwarded to Internal Affairs there is an e-mail from Shelia Henderson (Inmate Grievance Coordinator) to Dwayne Meeks dated October 13, 2010 which says Per Captain Jackson they do not log exactly who escorts inmates for pre lock-up.

Allegation #1. Placed in a 3'x6' area with no toilet and drinking water.
E-Mail from Shelia Henderson to Dwayne Meeks dated October 18, 2010 states "The inmate was left in the isolation shower for 11 hours.

I/A OBSERVATION: Unit showers in isolation areas have no toilet nor drinking water.

Allegation #2. Inmate states it was hot. This occurred on July 27, 2010 therefore it would be prudent to think it probably was hot. However he would not have been the only individual to be uncomfortable since there were other inmates and staff assigned to isolation #2 on July 27, 2010.

Allegation #3. Inmate Robinson states he was denied his diabetic diet meal.

On November 29, 2009 the medical department placed Inmate Robinson/Jesus #86829 on a 1500 ADA Calories/Diabetic Diet. This was not to expire until November 29, 2010. In the information sent to Internal Affairs from your office there is a statement dated October 18, 2010 from Cpl Jeffery Hughes in response to Inmate Robinson/Jesus grievance. Cpl. Jeffery Hughes states the inmate never asked him about his diabetic meal and states Robinson was served a regular tray.

On December 9, 2010 I talked to Captain Moses Jackson and was told he did have an explanation why the inmate remained in the shower for so long a period. I requested a statement from the booth officer concerning the drinking water and use of a bathroom break. On December 10, 2010 I received a Statement of Witness from Officer T. McDaniel which says he does not recall Inmate Robinson/Jesus asking for any water or that he needed to use the bathroom.

Allegation #4. Inmate was placed in an area infested with ants. I am unable to refute or confirm this allegation. However I did receive documentation from purchasing indicating an employee from Eagle Pest Management Services, LLC was at the East Arkansas Regional Unit on July 15, 2010. The document shows the Target Pest were Roaches, Ants, Silverfish, Rats/Mice and Spiders.

In addition to the information received from you I have attached the following:

Statement from Cpl. Jeffery Hughes.

Statement from Officer T. McDaniel.

Special Diet Request from Medical.

Pest Control Document.

After you have had the opportunity to review the documentation and should see the need for any additional investigative task please advise Mr. Raymond Naylor, Internal Affairs Administrator.

EX. NO. 7

**P.O. Box 3943
Batesville, AR 72501
Fax: (870) 307-0583**

Batesville (870) 307-0582
Newport (870) 623-1036
Per Springs (501) 206-0576
Toll Free (877) 313-2453



Customer Name AR Department of Corrections

Time out:

Service Address ADC-E, AR Regional Unit B1-PCM-3373, East Arkansas Regional Unit, 300 Los 601, , Brinkley, AR 72320

Contract Number 1523.00

Cpl. B. Atkins

Date: 10 July 19

15

Check #

Lincoln & Grady: \$105.84

Page Amount	\$0.00
--------------------	---------------

Total Amount Due: \$1,428.84

Weather Conditions:

EPA	MSD	IT	EU	Amesbury
-----	-----	----	----	----------

[illegible]

Robert Mull is contact person.

Demon Max

ST BG 11 gal.

EX. NO. 2 pg. 3

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION

CHARLES J. ROBINSON/JESUS

PLAINTIFF

VS.

2:11-cv-00164-SWW-JTK

JEREMY ANDREWS, et al

DEFENDANTS

ORAL DEPOSITION

OF

DANNY BURL

(Taken December 17th, 2013, at 12:27 p.m.)



COPY

Marna R. O'Neal, CCR

Bushman Court Reporting
(501)372-5115

Exhibit 8

29

APPEARANCES

ON BEHALF OF THE PLAINTIFF:

MR. ALEC GAINES, ESQUIRE
MS. S. KATE FLETCHER, ESQUIRE
WILLIAMS & ANDERSON
111 CENTER STREET, TWENTY-SECOND FLOOR
LITTLE ROCK, ARKANSAS 72201
AGAINES@WILLIAMSANDERSON.COM
FLETCHER@WILLIAMSANDERSON.COM

ON BEHALF OF THE DEFENDANT:

MS. ALI NOLAN, ESQUIRE
ARKANSAS ATTORNEY GENERAL'S OFFICE
323 CENTER STREET, SUITE 200
LITTLE ROCK, ARKANSAS 72201
(501) 682-0790
ALI.NOLAN@ARKANSASAG.GOV

EX. NO. 8

30

INDEX

STYLE AND NUMBER	1
APPEARANCES	2
CAPTION	4
WITNESS: DANNY BURL	
Examination by Mr. Gaines	5
Deposition Concluded	47
COURT REPORTER'S CERTIFICATE	48

EXHIBITS

Exhibit 1 - Photographs	12
Exhibit 2 - Warden's Decision for Grievance EAM10-03055	19
Exhibit 3 - Warden's Decision for Grievance EAM10-03002	22
Exhibit 4 - Warden's Decision for Grievance EAM10-03141	24
Exhibit 5 - Letter to James Gibson from Larry May	25
Exhibit 6 - Letter to Edward Eaton from Danny Burl	26
Exhibit 7 - Religious Holidays Recognized	31
Exhibit 8 - Policy and Procedure - Religious Services	32
Exhibit 9 - Warden's Decision for Grievance EAM10-00319	33
Exhibit 10 - Inmate Appeal for Grievance EA-12-00018	34
Exhibit 11 - Transfer Requests	41

CAPTION

ANSWERS AND ORAL DEPOSITION OF DANNY BURL, a witness produced at the request of the Plaintiff, taken in the above-styled and numbered cause on the 17th day of December, 2013, before Marna R. O'Neal, Arkansas Supreme Court Certified Court Reporter #715, at 12:27 p.m., at the offices of Williams & Anderson, 111 Center Street, 22nd Floor, Little Rock, Arkansas, pursuant to the agreement hereinafter set forth.

* * * * *

STIPULATIONS

IT IS STIPULATED AND AGREED by and between the parties through their respective counsel that the oral deposition of DANNY BURL may be taken for any and all purposes according to the Arkansas Rules of Civil Procedure.

* * * * *

PROCEEDINGS

THEREUPON,

DANNY BURL,

THE WITNESS HEREINBEFORE NAMED,
having been first duly cautioned and
sworn by me to testify to the truth, the
whole truth, and nothing but the truth,
testified on their oath as follows, to-
wit:

EXAMINATION

BY MR. GAINES:

Q Can you state your full name, please?

A Danny Andre Burl.

Q And your date of birth?

A August 17th, 1963.

Q And your home address?

A 8606 Spring Lake Road, Pine Bluff, Arkansas.

Q Have you ever been sued before?

A Have I been sued before, quite a bit. Well, not quite
a bit, but yes, I have. Quite a bit by my standards. One
time is too many.

Q How many on average do you think per year?

A One or two.

Q Do all those lawsuits come because of your status as
warden?

1 A Correct.

2 Q Have you ever been found guilty of anything?

3 A No, sir.

4 Q Have you ever had your deposition taken before?

5 A Yes, I have.

6 Q Can you describe those experiences, were they good?

7 Not too painful?

8 A It wasn't too painful. It was -- it was okay.

9 Q Well, hopefully this one will not be painful either.

10 Did you prepare for this deposition with Ms. Noland?

11 A Yes.

12 Q Did you review any documents in preparation for this
13 deposition?

14 A Yes.

15 Q Can you tell me about those?

16 A Those documents that I reviewed?

17 Q Yes.

18 A I just looked at who the inmate was and what the
19 situation was about.

20 Q So just the grievances and --

21 A Yes, sir.

22 Q Okay. Did you bring anything with you today?

23 A No, sir.

24 Q I'm going to ask you questions about Mr. Robinson's
25 lawsuit, do you understand that?

1 A Yes, sir.

2 Q If you don't understand the question, will you let me
3 know?

4 A Yes, sir.

5 Q And if you don't understand a question, I will try to
6 rephrase it. Do you understand?

7 A Yes, sir.

8 Q If you don't hear a question or if I talk too quickly,
9 which can happen, will you tell me?

10 A Yes, sir.

11 Q You understand that your answers must be verbal. She
12 can't pick up nods of heads or shakes.

13 A Yes, sir.

14 Q And if you don't know the answer to a question, will you
15 let me know?

16 A Yes, sir.

17 Q Please speak clearly so she can catch what you're
18 saying.

19 A Yes, sir.

20 Q Please wait until I finish the question before you
21 answer; in turn I will wait for you to answer before I ask
22 another question, do you understand that?

23 A Yes, sir.

24 Q If you need a break or to go to the restroom, cup of
25 coffee, water, anything, just let me know. We will finish

1 the question before we take any sort of break. Do you
2 understand?

3 A Yes, sir.

4 Q Finally, you've taken an oath to tell the truth, do you
5 understand that?

6 A Yes, sir.

7 Q What can you tell me about this lawsuit?

8 MS. NOLAND: I object to the form of the
9 question as being vague.

10 BY MR. GAINES:

11 Q What's your understanding of Mr. Robinson's claims?

12 A My understanding of the claim is that -- well, there's
13 several claims, so I don't know which you're speaking of.

14 Q Okay. What's your job history?

15 A What's my job history?

16 Q Yes.

17 A In terms of?

18 Q What did you do before you were warden? What's your
19 job now?

20 A I was assistant warden before I was warden.

21 Q Okay. Before that?

22 A Records intake supervisor before that.

23 Q Okay. And before that?

24 A I was a correction officer before that.

25 Q And before that?

1 A I was a student.

2 Q Okay. So, from the time -- did you go to college?

3 A Yes, sir.

4 Q So, after college you went directly to the ADC?

5 A I was working with ADC while I was in college.

6 Q Oh, really, like an internship?

7 A No. Like a job.

8 Q A full job?

9 A Yes, sir. I worked full time and went to school full
10 time.

11 Q Okay. Where did you go to college?

12 A University of Arkansas, Pine Bluff.

13 Q Okay. I'm trying to think of their mascot.

14 A Golden Lion. I've been working for the department since
15 I was 19. I'm 50.

16 Q Okay. Now, have you been at EARU for most of your
17 time?

18 A No, sir. I've only been there for four years.

19 Q Four years. Where were you before that?

20 A Before EARU, I was at Calico Rock for approximately 14
21 months; before Calico Rock I was at Cummins for three years;
22 before Cummins I was at Grimes for three years; and before
23 Grimes I was Diagnostic for 19.

24 Q Okay. How would you describe -- are all of those
25 maximum security prisons, or are some of them minimum

1 security? Is Calico Rock minimum?

2 A Minimum, yes, sir. Diagnostic was a minimum. Cummins
3 we had some maximum inmates there. And, of course, at East
4 Arkansas I have a maximum unit there at East Arkansas.

5 Q Okay. And you were working at East Arkansas the summer
6 of 2010?

7 A Yes, sir.

8 Q Okay. At the same job position you have now?

9 A Yes, sir.

10 Q Which is warden?

11 A Yes, sir.

12 Q It's not chief warden or head warden; it's just warden?

13 A Well, I'm the -- yes, sir, just warden.

14 Q Okay.

15 A I'm the only warden there. Everybody else -- all the
16 other wardens are assistant wardens or deputy wardens.

17 Q You're the head honcho, so to speak, at EARU?

18 A Yes, sir, I'm the head warden.

19 Q Okay. Are you familiar with this particular inmate?
20 I will refer to him as Mr. Robinson, but he also goes by
21 "Jesus."

22 A I am familiar with him. I know him.

23 Q Okay. I do have a picture if you need --

24 A I'm familiar with him.

25 Q Did you view him as a problem inmate?

1 MS. NOLAND: Object to the form of the
2 question. Can you be specific as to the time?

3 BY MR. GAINES:

4 Q In the summer of 2010?

5 A No, not that I remember.

6 Q Did you view him as a problem inmate before summer 2010?

7 A Not that I remember.

8 Q What is the policy at EARU for placing an inmate into
9 the isolation unit?

10 A We place inmates in isolation for a couple of reasons.
11 One, the fear of safety for themselves, fear of safety for
12 their lives. They've broken any rules or infractions,
13 they've broken rules to where they have to do punitive time

14 Q What kind of rules would an inmate have to break to do
15 punitive time?

16 A Discourteous treatment to staff or fighting or using
17 abusive language. We have, I think, 27 or so rules that
18 inmates have to abide by.

19 Q Is it usually the worse offenses?

20 A Not necessarily, no, sir.

21 Q Okay. Is there a holding area in the isolation area?

22 A Is there a holding area?

23 Q Correct. Just say all the isolation units are currently
24 occupied, are there --

25 A Yes, sir.

1 Q -- somewhere -- okay. And are those on either side of
2 the isolation unit?

3 A We have -- now we have holding cells out in the hallway.

4 Q Before you go into the isolation unit?

5 A Uh-huh.

6 Q Okay.

7 A Yes, sir. I'm trying to follow you.

8 Q Okay. I'm going to back up a little bit. How many
9 isolation units are there?

10 A Three.

11 Q Okay. I'm going to introduce an exhibit. These are
12 pictures of the isolation unit.

13 (WHEREUPON, the document was marked for
14 identification as Exhibit No. 1 and is attached
15 hereto:)

16 MS. NOLAND: Is this entire packet Exhibit 1?

17 MR. GAINES: Yes.

18 BY MR. GAINES:

19 Q I have a specific date, but I do not have it written
20 down here, but this was taken sometime in October or November
21 of this year.

22 Can you look through these and tell me if these look
23 familiar to you?

24 A These are shower stalls.

25 Q Correct. Is this what the stalls looked like in

1 July of 2010?

2 A I would -- you said the pictures were taken when?

3 Q October or November of this year.

4 A Of '13?

5 Q Yes.

6 A I wouldn't have any knowledge of that.

7 Q You would have knowledge of what they looked like in
8 July of 2010?

9 A I would not have any knowledge of what they looked like
10 in July '10 compared to what I have here.

11 Q Do you remember what they looked like in July of 2010?

12 A No, sir.

13 Q Do you remember if they had mats in the stalls in --

14 A Yes, sir.

15 Q -- in 2010?

16 A Well, I mean, they're all supposed to have mats. Well,
17 I don't know. I don't remember -- I would have to see
18 something to remind me of what they looked like in 2010.

19 We had just finished accreditation and scored 100 on all
20 our accreditations, so I'm quite sure they were all in tip-
21 top shape.

22 Q So you would know what they looked in 2010?

23 A I would not know what they looked like in 2010. I can
24 only speculate that.

25 Q Okay. Can you tell me what these lights are on picture

1 No. 4 -- I'm sorry, picture No. 5?

2 A What the lights are?

3 Q Correct. What type of lighting it is.

4 A (No response.)

5 Q Do you notice the green glow?

6 A Well, from the picture -- the first picture of the cell
7 it's a white light. I have -- I have no idea what the green
8 glow is there. It's -- if it's the same picture as the first
9 picture, it's a white light.

10 Q Correct. Do you know if they're doing work to those
11 units?

12 A Yes. We've -- we painted -- we have repainted getting
13 ready for accreditation again. We have repainted some cells
14 and did some ceiling work on one or two.

15 Q If you had to hypothesize, are pictures 1 and 2 what
16 it would look like after the work is finished?

17 MS. NOLAND: I'm going to object to
18 speculation.

19 MR. GAINES: You can answer.

20 A Is this picture 1 and 2?

21 BY MR. GAINES:

22 Q This is 1 (indicating.)

23 A Okay. Are you saying -- what's your question again?

24 Q Is that what it looks like after the work is finished?

25 A No.

1 Q What needs to be done?

2 A You can tell painting needs to be done here

3 (indicating.)

4 Q Okay. If you'll look at picture No. 5 again.

5 A (Witness complies.)

6 Q Do you notice at the end of the hallway there, there's a

7 room?

8 A Yes, sir.

9 Q Is that the holding cell?

10 A What -- what are we talking about? No, sir.

11 Q What is that?

12 A That is an indoor recreation.

13 Q Indoor recreation?

14 A Uh-huh.

15 Q And what would you use that for?

16 A Recreation, storage, if we had to re -- recreate an

17 inmate inside to put in there.

18 Q So you wouldn't use that as a holding area for an

19 inmate?

20 A No, sir.

21 Q Have you ever used that as a holding area for an inmate?

22 A Not to my knowledge.

23 Q Do you know who would have knowledge of that?

24 A Do I know who would?

25 Q Yes.

1 A No. You don't have the whole picture there, but that's
2 a big 12 by --
3 Q Correct.
4 A That's a big 12 by 12 room.
5 Q With a toilet, correct?
6 A I'm not sure.
7 Q Okay.
8 A I would have to look at another picture. I've been in
9 too many units. I'm not sure that one has a toilet in it or
10 not.
11 Q It does. Would it surprise you to know it does?
12 A No, it wouldn't surprise me. I just couldn't definitely
13 say it does or not. I would have to see it.
14 Q Okay. Now if you look to the next picture.
15 A Uh-huh.
16 Q Oh, the next one, I'm sorry. Can you tell me what that
17 is?
18 A That is the shower timer, I believe.
19 Q Okay. And is that inside the control booth --
20 A Right.
21 Q -- where the officers are stationed?
22 A Correct.
23 Q So the inmates cannot turn on the water themselves;
24 is that correct?
25 A That's correct.

1 Q If you'll turn two more pictures.

2 A (Witness complies.)

3 Q Is the picture of this ceiling, is that normal or is
4 that --

5 A No, sir.

6 Q Okay. What has happened with this?

7 A That ceiling is in need -- matter of fact, it's been
8 repaired, but it was in need of repair for moisture.

9 Overtime moisture deteriorates the ceiling.

10 Q Okay. Was this shower stall used in this condition?

11 A No, that shower was out of order.

12 Q Okay. If we go to the last picture.

13 A Okay.

14 Q If you look at the end of the hallway there, there's
15 another room.

16 A Yes, sir.

17 Q Is that a holding cell that is directly next to the
18 control room?

19 A Let me clarify -- if I could clarify your question.
20 You're calling that holding cell in means of holding inmates
21 for a particular reason?

22 Q Correct.

23 A Or is it just a name of a room that you're calling a
24 holding cell?

25 Q I'm calling it a holding cell because it's my

1 understanding that inmates can be placed in there if there's
2 nowhere to go if there's no available isolation cells for
3 them. Is that your understanding of what that room is used
4 for?

5 A No, sir.

6 Q Okay. So where are they placed?

7 A Where are inmates placed?

8 Q Yes, sir.

9 A Inmates are placed in holding cells. We have holding
10 cages outside in the hallway.

11 Q And those are really small as I remember, cages --

12 A That's correct.

13 Q -- they can stand up in?

14 A Yes, sir. It's basically just short term -- it's
15 intended for short-term placement until we can place them in
16 a cell.

17 Q When were those built?

18 A Those were built shortly after I got there, maybe in
19 2010, 2011.

20 Q And they would have been in place July of 2010?

21 A I'm not sure if they were built then. I don't think
22 they were built in July of 2010, shortly after that.

23 Q Okay. And just to clarify for the record, those are in
24 an air-conditioned area?

25 A The cells outside in the hallway?

1 Q Yes.

2 A Yes, sir.

3 Q Okay.

4 A Well, --

5 Q And everything past that door leading into isolation
6 is --

7 A I say air-conditioned areas in the hallway . . .

8 Q It's air conditioned as the area can be?

9 A Yes, sir. I would say -- I would say -- I would say
10 because necessarily -- I don't necessarily think all my halls
11 are air conditioned. I would have to look at that and see.
12 I wouldn't know that question right off hand.

13 Q Okay. I'm going to introduce another exhibit. Why
14 don't you read through this for one second.

15 (WHEREUPON, the document was marked for
16 identification as Exhibit No. 2 and is attached
17 hereto:)

18 A (Witness complies.)

19 Q Do you stand by everything that's said in this
20 statement?

21 A Excuse me?

22 Q Do you stand by everything still?

23 A (No response.)

24 Q Is there anything you disagree with?

25 A No, sir.

1 Q Did you write this?

2 A I signed this.

3 Q Who wrote it?

4 A I have grievance officers that write grievances.

5 Q Do you know which grievance officer wrote this?

6 A No, I don't.

7 Q Do you individually investigate these grievances?

8 A Yes, I do.

9 Q Do you do that personally or do you rely on the
10 judgment of the grievance officer?

11 A Depends on the situation if I send it to other staff
12 to investigate or whatever.

13 Q Was it appropriate for Mr. Robinson to be placed in the
14 shower stall?

15 A At that time, yes.

16 Q Why at that time?

17 A That's the -- that was the process we basically used
18 then to hold inmates temporary until we could find them
19 housing.

20 Q Do you know if there was no housing available in
21 isolation 2 unit?

22 A Did I know if there was any housing available?

23 Q Uh-huh.

24 A I wouldn't know. Obviously, -- well, no, there couldn't
25 be any housing, because we housed them in the shower. We

1 Q So, Mr. Robinson would not have been placed in the
2 isolation cell before he was given punitive time?

3 A Correct.

4 Q Okay. This is Exhibit 3.

5 (WHEREUPON, the document was marked for
6 identification as Exhibit No. 3 and is attached
7 hereto:)

8 Q I will let you read through this, just let me know
9 when you're done.

10 A Okay.

11 Q You state here there's no air conditioning where he was
12 held in the shower area; is that correct?

13 A Correct.

14 Q Where are the fans to circulate the air in that area?

15 A They are in the ceiling.

16 Q Ceiling?

17 A Uh-huh.

18 Q Is it in the hallway area?

19 A No, sir. In the isolation.

20 Q Okay. So it would be where the units are, not in the
21 shower area?

22 A Well, they're all right there together. It's a -- it's
23 a square, so all of it -- I mean there's the control booth
24 for isolation when you walk in, showers, cells down the side.

25 Q Correct. Is there not a door between -- to get to the

1 hallway where all the cells are?

2 A Yes, sir. On both sides.

3 Q Is that usually closed or is it usually open?

4 A Open.

5 Q Okay. How hot does it get in there?

6 A When?

7 Q In the middle of summer, perhaps July.

8 A It gets in the 80s, mid-80s.

9 Q In July?

10 A Uh-huh.

11 Q Even with no air conditioning?

12 A Even with no air conditioning. Sometimes late 80s, when
13 you turn on the ceiling fans -- not ceiling fans, the fans,
14 it blows that wind pretty well, pretty good. We also have
15 ventilated flaps on the outside that we take off.

16 Q That's down the hallways, correct?

17 A That's down the hallways.

18 Q Not where Mr. Robinson was?

19 A Well, it's all -- the same air is all circulating
20 throughout the whole isolation.

21 Q Okay. My research found it was between 91 and 95
22 degrees that day. Do you agree with that, on July 27th,
23 2010?

24 MS. NOLAND: Are you talking about outside or
25 inside?

1 MR. GAINES: Outside.

2 A I have no idea.

3 BY MR. GAINES:

4 Q Okay. Would it surprise you to learn that?

5 A No, not in -- not in Arkansas in July. No, sir.

6 Q Okay. This is Exhibit 4. Please let me know when
7 you're done reading.

8 (WHEREUPON, the document was marked for
9 identification as Exhibit No. 4 and is attached
10 hereto:)

11 A Okay.

12 Q Are you aware of when Mr. Robinson had his hearing?

13 A His --

14 Q His hearing on the particular grievance that Mr. Andrews
15 decided to place him in isolation unit?

16 A Am I aware of when he had it, no, sir.

17 Q Okay. Would it surprise you to know he was placed in
18 the isolation unit doing punitive time before he was given a
19 hearing?

20 A That he was placed in isolation doing punitive time
21 before he was given a hearing, that would surprise me.

22 Q That would surprise you?

23 A Yes.

24 Q Okay. Have you ever heard of that happening?

25 A That inmates are serving punitive time before they're --

1 no, sir.

2 Q Okay. Are you aware that Mr. May disagreed with your
3 assessment regarding the actions taken against Mr. Robinson?

4 A On what?

5 Q On his treatment in the shower area.

6 A Yes.

7 Q Okay. What is your --

8 A Well, I'm not -- let me take that back. No, not
9 disagree with me. I think we agreed that corrective action
10 was to be handled on staff that left him there for a period
11 of time.

12 Q Exhibit 5. So, it is part of the grievance process for
13 your decision to go to Larry May?

14 (WHEREUPON, the document was marked for
15 identification as Exhibit No. 5 and is attached
16 hereto.)

17 A Yes, sir.

18 Q And does that go directly or is there --

19 A If it's appealed, it goes to him.

20 Q So that was appealed by Mr. Robinson and went to Mr.
21 May?

22 A This letter here is coming from Mr. Gibson who was over
23 internal affairs.

24 Q This is --

25 A From Larry May --

1 Q Correct.

2 A -- references, for further investigation.

3 Q So, Mr. May decided this was a serious allegation and
4 referred to it to internal affairs?

5 A I mean, I can't speak for why he forwarded it to
6 internal affairs. I have no idea.

7 Q It just says due to the nature and seriousness of the
8 allegations.

9 A This is also -- let me clarify something here for the
10 record. This is also Larry May signed by Grant Harris.

11 Q Who is Grant Harris?

12 A He's another deputy director.

13 Q He's not the chief deputy director?

14 A No.

15 Q Okay. This is Exhibit 6. If you need to read through
16 it, just let me know.

17 (WHEREUPON, the document was marked for
18 identification as Exhibit No. 6 and is attached
19 hereto.)

20 A Okay.

21 Q Now, is this after the internal investigation, this
22 memo?

23 A I don't remember internal investigation on the
24 situation. I would have to see that paperwork. I don't
25 remember internal investigation on the situation. This was

1 after my investigation into the situation of exactly what
2 happened and why the inmate was left in there for so long.

3 Q Okay. You said they can be left in temporary cells for
4 short periods of time. How do you define short periods of
5 time?

6 A It depends on what's going -- it depends on what's going
7 on. If I -- if I've got 600 cells and I've got 600 inmates
8 and they're all full and I have somebody that I have to lock
9 up, it might take an hour or two to get somebody removed out
10 of their cell, get it cleaned up before we put somebody in.
11 It all depends on what's going on and what's the issue on
12 that day.

13 Q Well, what is the longest appropriate period of time?

14 A I think we can make room for an inmate, it shouldn't
15 take us any longer than three or four hours to get somebody
16 out, to get a cell cleaned, to get the other inmate
17 inventoried, and get them in.

18 Q But it's your view that leaving them in there from 9:52
19 to 8:47 was unreasonable?

20 A Yes, sir.

21 Q Was placing him on one day of disciplinary leave, was
22 that appropriate? Is that normal?

23 A Well, if I had to Monday morning quarterback it, --

24 Q As we're all prone to do.

25 A At that time, I thought it was -- it was what -- because

1 you lose pay, you're not able to promote, you're not able to
2 get your pay incentive, you're not able to clip, and you're
3 on probation for a year.

4 Q So, that's a substantial punishment?

5 A Yes, sir.

6 Q Okay. Did you investigate anybody else in connection
7 with this?

8 A I think some other names came up in the investigation.
9 The final -- final act basically led me to Sergeant Eaton.

10 Q Okay.

11 A He just failed to do what he was supposed to have done
12 that day.

13 Q Do you believe he was acting alone?

14 A Acting alone?

15 Q Was he told to place him in the cell?

16 A I'm quite sure somebody told him to -- I'm quite sure
17 that it -- an order had to come down that this inmate needs
18 locked up, let's get him processed. He didn't lock him up.

19 Q Do you know who that came from?

20 A No, sir.

21 Q Did you ever investigate Mr. Jeremy Andrews' involvement
22 in this?

23 A Looked at Mr. Andrews and Mr. Andrews did the
24 investigation, locking up the inmate. You have to understand
25 when myself or a major or whatever, the warden is usually

1 given somebody -- somebody else usually gets the inmate,
2 somebody bring them down to the max, placement forms have to
3 be done, have to secure them, have to go through his
4 property, and then place him in a cell.

5 As far as Mr. Andrews and my investigation of this, he
6 basically did give the order, but was out of the picture
7 after that. We did give the order to lock the inmate up,
8 hey, we need to lock up inmate such-and-such, and then the
9 captains and lieutenants, and sergeants carry it out.

10 Q Okay. Was placing Mr. Robinson in that shower cell, is
11 that punitive in nature to punish him?

12 A No, sir.

13 Q You do acknowledge the treatment of Mr. Robinson was
14 unreasonable?

15 A I do acknowledge that we could have did some things
16 better. And I do acknowledge that I've done corrective
17 action on staff that I felt that didn't do things that they
18 should have done that was in their power to do.

19 Q That's Mr. Eaton?

20 A Yes, sir.

21 Q And that's all the disciplinary action that was taken?

22 A Yes, sir.

23 Q Were any directives sent out after this?

24 A I believe -- I don't -- don't quote me -- well, you've
25 got to quote me.

1 I really, just to be perfectly honest, I really believe
2 this is what brought us on to building the cages out in the
3 hallway. I can't say that definite, but from my
4 investigation -- because it's not good practice, we should
5 not hold inmates in shower areas for that period of time.

6 And without a doubt this incident had a great bearing on
7 us placing the holding cages out in the hallway where we can
8 visually see every inmate and we visually know how long
9 they've been out there.

10 Q Okay. So this event caused changes to be made in
11 policy?

12 A Most certainly.

13 Q Okay. We're going to switch gears a little bit. Can
14 you explain EARU's policy on religious observances?

15 A We have a whole religious policy handbook. I mean, I
16 wouldn't know where to start. We -- we have religious
17 activities that have been approved by the chaplaincy service
18 that we do at all facilities.

19 Q Does that mainly go through the chaplaincy service or
20 does that go through you?

21 A Chaplaincy service.

22 Q Do you have much input into that or is that --

23 A Well, I have input on it when it's done and how it's
24 done.

25 Q Okay. Do you know about a list of special holidays?

1 By special holidays, I mean, where inmates can congregate
2 together with people from the free world.

3 A We do have certain times of the year we do have special
4 programs, a list of special holidays.

5 Q Let me show you an example.

6 A Okay.

7 MR. GAINES: I believe this is Exhibit 7; is
8 that correct?

9 COURT REPORTER: It is.

10 (WHEREUPON, the document was marked for
11 identification as Exhibit No. 7 and is attached
12 hereto:)

13 BY MR. GAINES:

14 Q So, as you can see this is a list of religious holidays
15 for inmates at EARU.

16 A Uh-huh. Okay.

17 Q Do you know why this only has three religions on this?

18 A I've never this.

19 Q You've never seen this?

20 A I have no idea. I've surely never seen this one. No,
21 I've never seen this.

22 Q I apologize. This is actually not a directive;
23 this is a response to a request for production I sent over.

24 A Okay.

25 Q This is a list of what's recognized at the EARU. Let me

C E R T I F I C A T E

STATE OF ARKANSAS)

) ss

COUNTY OF PULASKI)

I, MARNA R. O'NEAL, Certified Court Reporter #715 and Notary Public, do hereby certify that the facts stated by me in the caption on the foregoing proceedings are true; and that the foregoing proceedings were reported verbatim through the use of the stenomask and thereafter transcribed by me or under my direct supervision to the best of my ability, taken at the time and place set out on the caption hereto.

I FURTHER CERTIFY, that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action.

WITNESS MY HAND AND SEAL this 5th day of January, 2014.

Marna R. O'Neal
 MARNA R. O'NEAL
 Certified Court Reporter #715
 Arkansas Supreme Court

MARNA R. O'NEAL
 PULASKI COUNTY
 NOTARY PUBLIC - ARKANSAS
 My Commission Expires May 14th, 2020
 Commission No. 12376656

was unaware that Plaintiff was placed in the 3ft x 6ft area and that Plaintiff was placed in isolation cell 39. (Doc. No. 30-1 pg. 11-14). Plaintiff then appealed the decision to Defendant May who ordered an administrative remedy of an internal affairs investigation based on Defendant Burl's falsified information and the physical abuse of the Plaintiff under AD-10-15 Internal Affairs Investigations. (Exhibit No. 9) and (Exhibit No. 1). Raymond Naylor the Internal Affairs Investigator submitted a report that substantiated the allegations of the Plaintiff in his grievance EAM10-03055 (Doc. No. 30-1 page 3-4 & page 10-14). See Exhibit No. 2 pages 1-4 for Internal Affairs report). The results of the internal affairs report and the subsequent corrective action of Defendant Eatmon by Defendant Burl (Exhibit 3 pg. 1-3) shows that the investigation uncovered the involvement of Defendant Eatmon that was previously unknown to the Plaintiff. In January 2011, Deputy Warden Todd Ball called the Plaintiff to his office in the "EARU" Max and told the Plaintiff that an internal affairs investigation was conducted of the incident that happened on 7-27-10 that the apologize for the incident happening to me. (Doc. 2 pg. 6 paragraph 38).

Plaintiff had shown Sgt. Tinzy and Defendant Eatmon the medical injuries and neither one of them wanted to become involved because they would have had to take photos of the injury and file a 005 report concerning the matter.(Doc. 2 pg. 4 paragraph 28-29). Thus, hiding the medical injuries of the Plaintiff.

Plaintiff put in numerous sick calls between 7-28-10 and 8-12-10 and these sick call requests apparently never made it to the infirmary. It was the duty of the Sergeants working the isolation 2 area to pick up the sick calls and place them in the sick call box. Plaintiff was not seen for his medical injuries until 8-12-10. (Exhibit No. 12). The medical injuries from 7-27-10 were somewhat healing and reoccurring. Plaintiff reviewed his medical jacket on 11-12-11 and wrote down the following from his medical jacket:

1:20:52am

2. Health Services Encounter August 12, 2010-Sick Call

Pt does have a coarse rough looking rash on his back and shoulders. It does not appear irritated at this time. It does appear dry. Pt. has blisters on the inside of both elbows with rash on up the inside of the arm.

(a) Notes:alteration of skin integrity

(b) Notes:Put pt. on book to be seen by mid level practioner for this before it becomes infected. Gave Abt oint to prevent infection.

EX. NO. 9

60

3. Sick call dated 8/6/10 finally received-severe break out of bumps/blisters rash all over body. Received 8-9-10.

5. Health Services Encounter August 16, 2010 Marybeth Floyd

Notes: Pt has blistering rash to bil arms and back for about 2 weeks.

Drug Prescribed:cephalexin/500 mg capsule, triamcinolone acetonide cream.

Lab test ordered

(B) Notes: ccform Decadron 8mg inj. to be given ASAP

As noted above the medical injuries to Plaintiff was so severe that he had to receive an emergency antibiotic shot to combat the medical injuries that developed from the 7-27-10 incident.

Plaintiff filed additional grievances concerning the extremely hot conditions of the isolation cells because the heat was further complicating his medical injuries he developed on 7-27-10 (Doc. 30-1 pg.7; Doc. 30-1 pg.15; and Doc. 30-1 pg. 18). It was not until Defendant Burl responded to grievance EAM10-03141 on 8-24-10 that the Defendants offered the Plaintiff some relief of staying in the infirmary until his medical injuries healed. (Doc. 30-1 pg. 19). Nevertheless, by the time the Plaintiff received the response he had been released from the "EARU" Max back into regular inmate population.

The actions of the Defendants on 7-27-10 subjected the plaintiff to cruel and unusual punishment and the resulting medical injuries. The Defendants own internal affairs investigation supports the claims of the Plaintiff(Exhibit No. 2) and the Defendants cannot pretend that this Eighth Amendment violation did not occur.

I, Jesus a/k/a/ Charles James Robinson, the Plaintiff in this cause of action swear under the penalty of perjury 28 U. S. C. 1746 that the above matter is true to the best of my knowledge.

/s/

Jesus

Date:

July 30, 2012

EX. NO. 9

61

10/13/2010 10:19

07025 40

Page 1 of 1

CHSS027J - Condensed Health Services Encounter

ADC #: 086829B PID #: 1086829

Name: Robinson/Jesus, Charles J.

Wednesday October 13, 2010
02:36:49 PM

CHSS027J

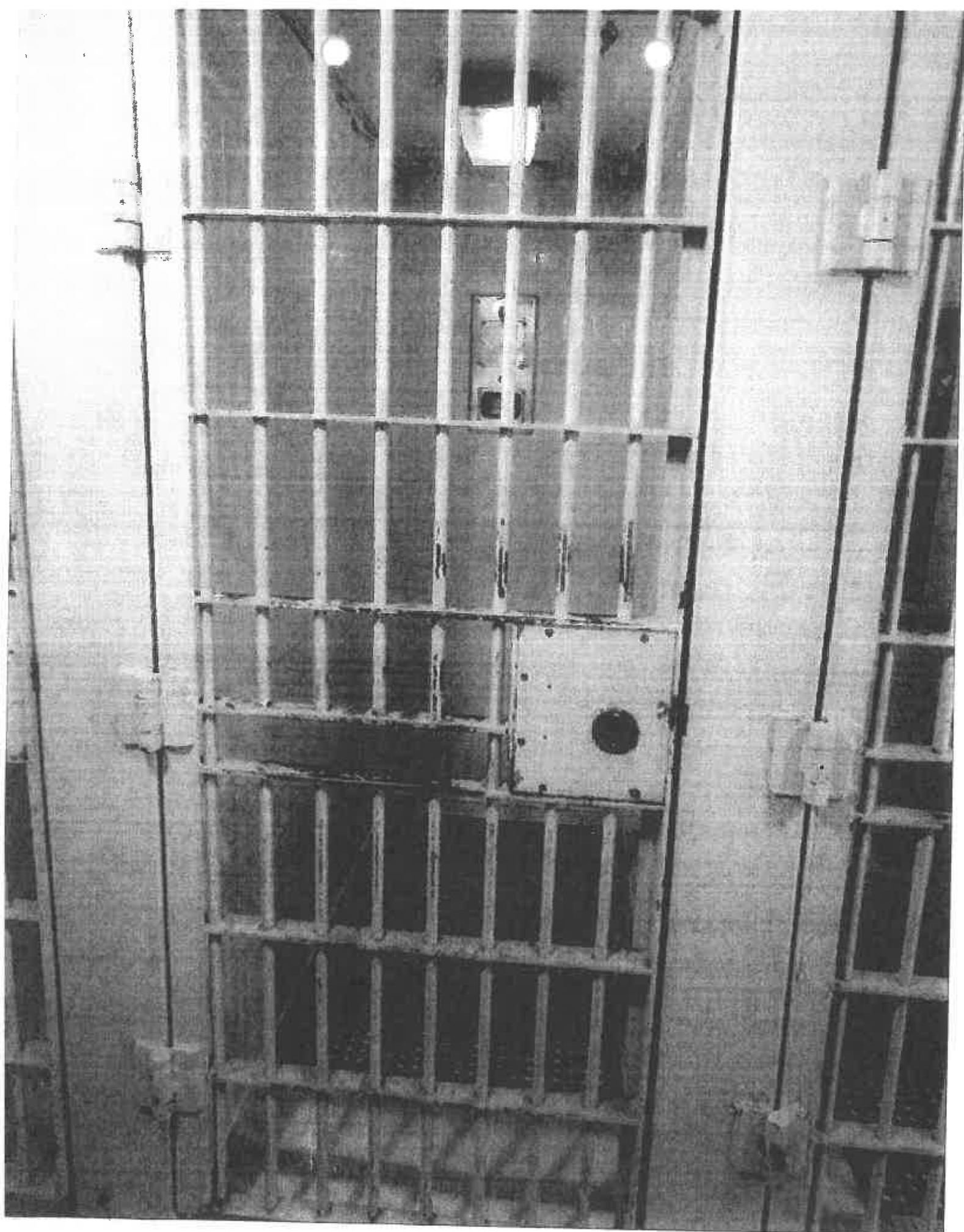
Condensed Health Services Encounter

ADC #: 086829B Inmate Name: Robinson/Jesus, Charles J.

ADC #: 086829B Inmate Name: Robinson/Jesus, Charles J.	
ENCOUNTER DATE: 07/27/2010 TIME: 09:40:59 AM DURATION: minutes TYPE: Pre-lockup (Nurse)	
LOCATION: East AR Region. Unit [L01] SETTING: Health Services Office	
S	NOTES: i/m states i dont know why im being locked up ,denies any injuries homicidal or suicidal thoughts at this time
O	CURR: 09:40:59 AM TEMP: 97.5 PULSE: 78 RP: 18 BP: 142/90 HT: 6 ft. 0 in. WT: 225 lb BLOOD SUGAR: NA NOTES: vss no cuts brusles abrasions or visible injuries noted at this time no meds noted
A	NOTES: pre-lock up
P	NOTES: release to security
E	NOTES: None
H/S: P: 1 U: 1 L: 3 H: 1 E: 2 D: 9 M: 1	
STAFF: Sims, Crystal G, LPN Lic Practical Nurse	
NURSE SIGNATURE:	

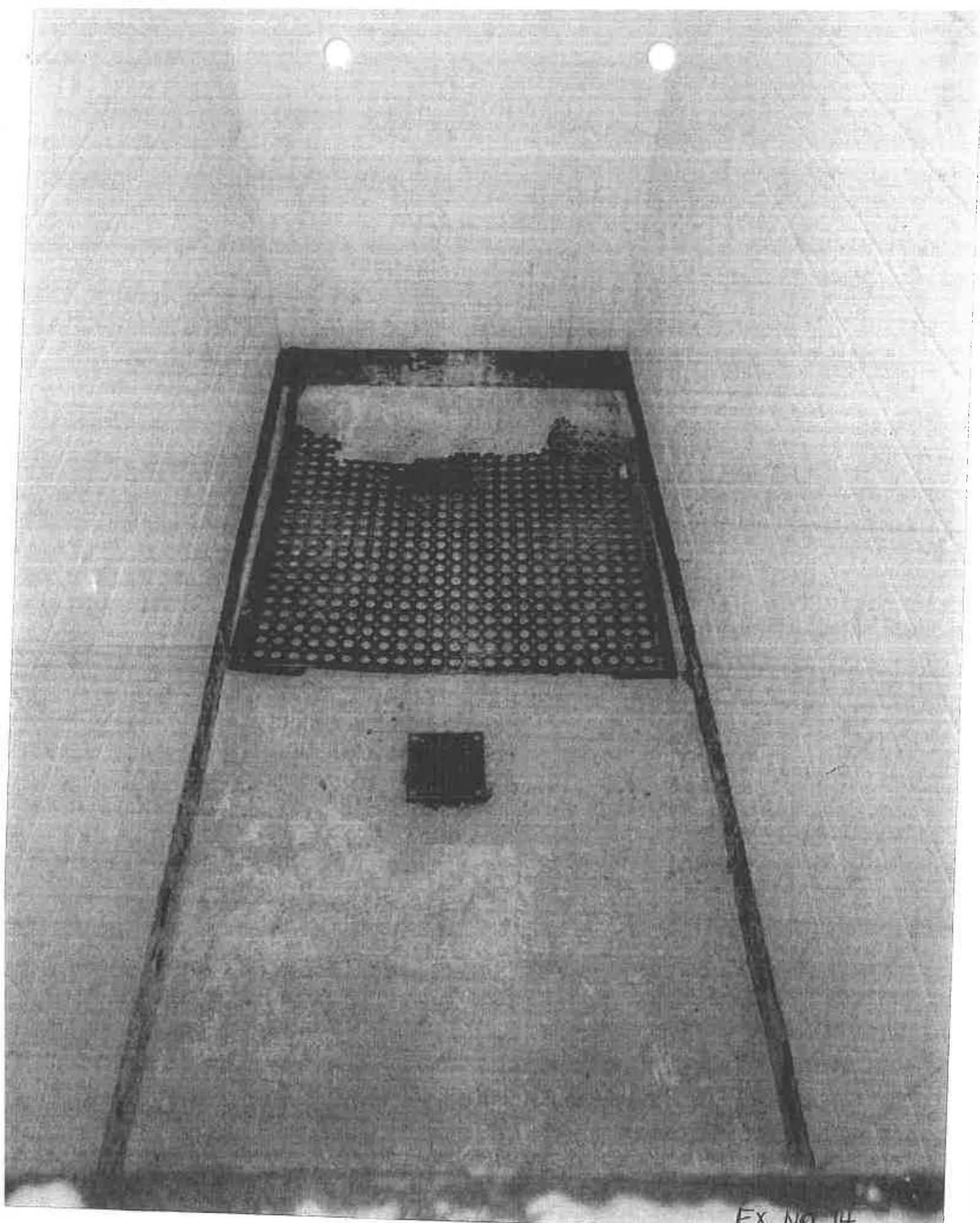
Post-It® Fax Note	
To: <u>Wayne</u>	7671
Co./Dept.	Date: <u>10-13-10</u>
Phone # <u>2AM-10</u>	From: <u>J. L. L.</u>
Fax #	To: <u>3055</u>
	Phone #
	Fax #

EXHIBIT NO. 10

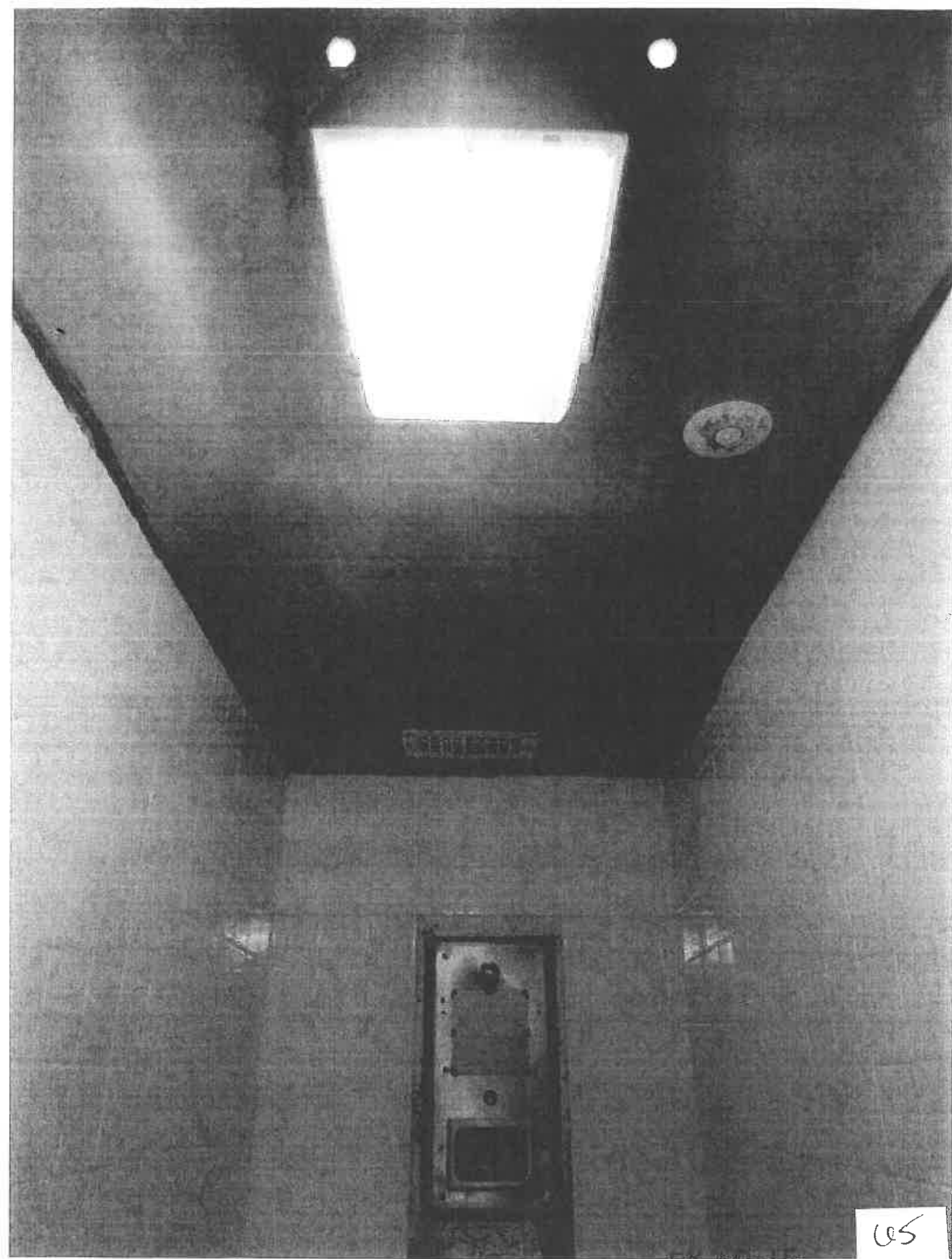


EX NO. 13

03

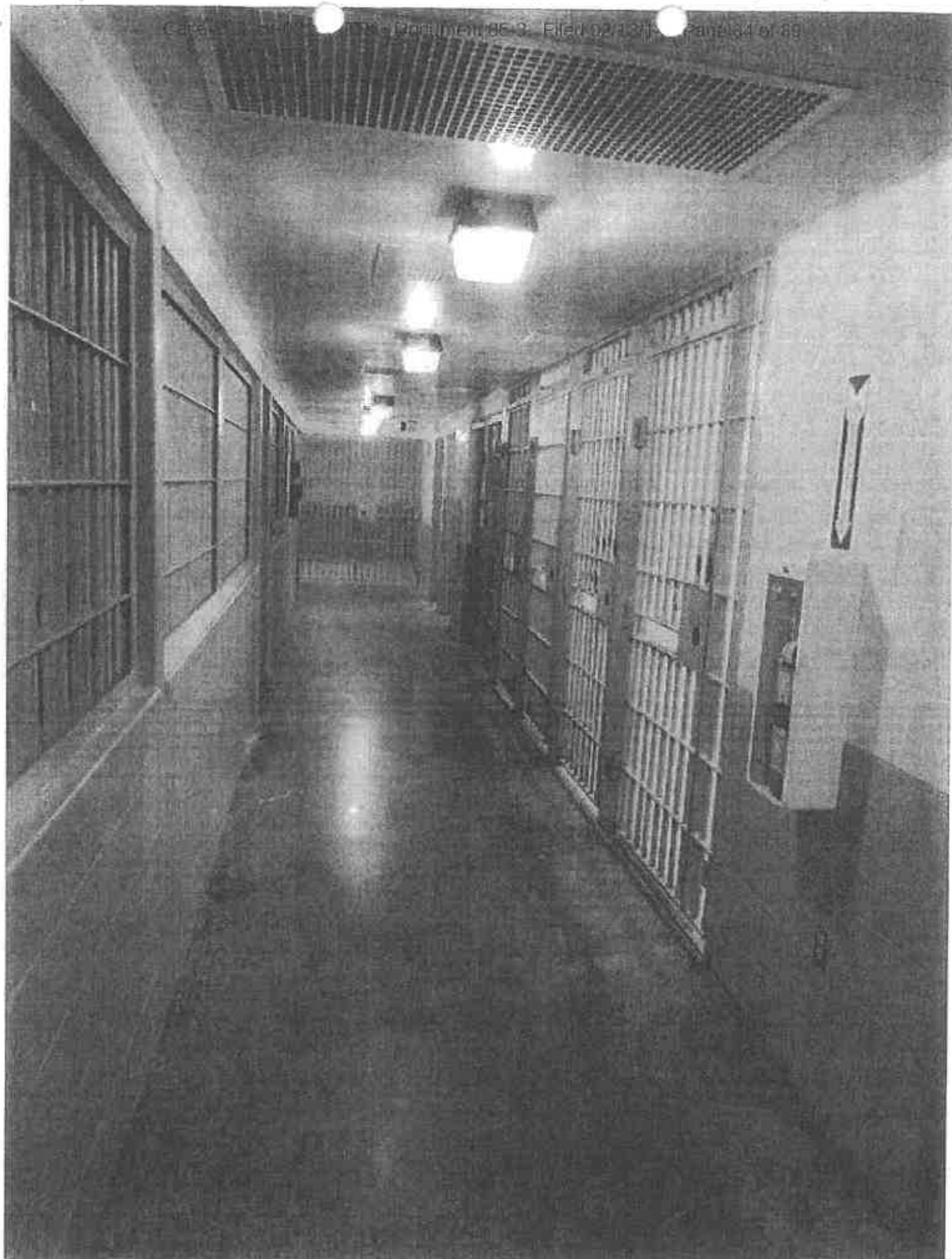


E EX NO. 14



EX NO. 15

05



EX. NO. 16

66

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION

CHARLES J. ROBINSON/JESUS,
ADC #086829

PLAINTIFF

v.

2:11CV00164-JTK

JEREMY ANDREWS, et al.,

DEFENDANTS

ORDER

This matter is before the Court on Plaintiff's Motion for Relief from Judgment (Doc. No. 101). Defendants filed a Response in opposition to the Motion (Doc. No. 102).

Plaintiff Robinson/Jesus is a state inmate incarcerated at the Maximum Security Unit of the Arkansas Department of Correction (ADC). He filed this action pro se¹ pursuant to 42 U.S.C. § 1983, alleging an Eighth Amendment violation with respect to his placement in a shower stall for twelve hours, and First and Fourteenth Amendment violations with respect to the denial of his request to observe his religion's "Saviour's Day." (Doc. No. 2.) On April 1, 2014, this Court issued a Memorandum and Order and Judgment granting the Defendants' Motion for Summary Judgment and finding them entitled to qualified immunity from liability on Plaintiff's claims against them (Doc. Nos. 99, 100).

Plaintiff now asks the Court to grant him relief from that Judgment, pursuant to FED.R.CIV.P. 59 and 60.²

In their Response to Plaintiff's Motion, Defendants state that although it is unclear which

¹The Court appointed counsel to represent the Plaintiff on November 20, 2012. (Doc. Nos. 55, 58.) Although Plaintiff remains represented by appointed counsel, Plaintiff chose to file the present Motion, pro se.

²Although Plaintiff cites to FED.R.CRIM.P. 59 and 60 in support of his Motion, the Court assumes he intended to cite to the civil rules.

provision of the rules on which Plaintiff relies, motions filed pursuant to FED.R.CIV.P. 59(e) and FED.R.CIV.P. 60(b)(2) are analyzed in the same manner, citing United States v. Metropolitan St. Louis Sewer District, 440 F.3d 930, 933 n. 3 (8th Cir. 2006). Defendants note the broad discretion afforded to the Court in ruling on such motion, and that the motion “cannot be used to introduce new evidence, tender new legal theories, or raise arguments which could have been offered or raised prior to entry of judgment.” Id. Defendants state that Plaintiff reasserts the same arguments set forth in his response to the Summary Judgment Motions, and has presented no new evidence or legal theories which could not have been presented at the time of his response.

The Court agrees with Defendants. Having carefully reviewed Plaintiff’s thorough Motion and supporting documents, the Court finds that he re-states the arguments originally set forth in the Response to the Summary Judgment Motion, and provides no new evidence or legal theories to support a finding that the Judgment should be altered, amended, or set aside. Motions filed pursuant to Rule 59(e) are limited to correcting “manifest errors of law or fact or to present newly discovered evidence.” Innovative Home Health Care v. P. T.-O.T. Association of the Black Hills, 141 F.3d 1284, 1286 (8th Cir. 1998), quoting Hagerman v. Yukon Energy Corp., 839 F.2d 407, 414 (8th Cir. 1988). In addition, Plaintiff must show: the evidence was discovered after trial, he exercised due diligence to discover the evidence prior to the end of trial, the “evidence is material and not merely cumulative or impeaching” and a new trial would probably produce a different result. Innovative Home Health Care, 440 F.3d at 933.

In this particular case, the evidence and arguments presented by the Plaintiff are not material, and are merely cumulative. To the extent that he occasionally raising new facts and arguments, he does not explain why such were not previously raised. Therefore, the Court finds that the Motion should be denied, with one exception.

At the end of his Motion, Plaintiff mentions that the Court did not address the state law claims of tort and negligence which he asserted against Defendants (Doc. No. 101, p. 21.) Having reviewed the original Complaint, the Court notes that in the introduction, he stated, "the Plaintiff also alleges the torts of personal injury and negligence." (Doc. No. 2, p. 6.) Therefore, the Plaintiff correctly notes the lack of a disposition of these claims by the Court. Having found in favor of the Defendants on the federal constitutional claims, the Court declines to exercise jurisdiction over the state law tort and negligence claims. McLaurin v. Prater, 30 F.3d 982, 984-85 (8th Cir. 1994). Therefore, the Judgment will be amended to reflect a dismissal of those claims without prejudice. Accordingly,

IT IS, THEREFORE, ORDERED that Plaintiff's Motion for Relief from Judgment (Doc. No. 101) is GRANTED IN PART, with respect to the state law claims asserted in his Complaint, and DENIED in all other respects.

IT IS FURTHER ORDERED that the April 1, 2014 Judgment is Amended to include the following: "Plaintiff's state law claims are DISMISSED without prejudice."

IT IS SO ORDERED this 12th day of May, 2014.



JEROME T. KEARNEY
UNITED STATES MAGISTRATE JUDGE



Arkansas Department of Correction

East Arkansas Regional Unit
Human Resource Department
P. O. Box 180

Brickeys, Arkansas 72329-0180

Phone: (870) 295-4700 Fax: (870) 295-5806

RECEIVED
MAR 12 AM 11:17
HUMAN RESOURCES

To: Edward Eaton

From: Warden Danny Burl

Hubert #7339

Date: September 15, 2011

RE: Disciplinary Actions

On September 15, 2011, I met with you along with Ms. Humphrey in reference to an Employee Review Hearing that was held by Deputy Warden Payne. You were referred to the Committee by Deputy Warden Ball. Deputy Warden Ball stated that on 7/27/2010, you left an inmate in the shower from 9:52 am to 8:47 pm without making sure he had a cell assignment.

After reviewing all facts and based on the hearing that I held with you, I find that you are in violation of AD 10-19, Sections 1 (P) - Violation of Published Policies; 6(A)-Unsatisfactory work performance; 17-(A) Failure to perform or carry out work related instructions, when such instructions are reasonable and within the employee's ability to perform and would not pose a safety or welfare hazard to the employee; 14(B) - Inattentiveness while on duty.

Due to the seriousness of this incident, you are being placed on one (1) day of disciplinary leave without pay effective 9/19/2011 and will be scheduled to return to your regular schedule on 9/20/2011. This disciplinary also carries a one year probationary period. If a similar or more substantial violation occurs then a more severe disciplinary action may occur.



**ARKANSAS DEPARTMENT OF CORRECTION
ACKNOWLEDGEMENT OF DISCIPLINARY ACTION**

I have reviewed the attached with the employee. He/She is aware of the infraction and possible consequences if the action is repeated.

[Signature] 9/15/11
SUPERVISOR SIGNATURE DATE

This is to certify that the attached letter, which is being placed in my personnel file, has been discussed with me. I have been given a copy of the attached. My signature does not necessarily indicate agreement with the attached.

[Signature] 09202011
EMPLOYEE SIGNATURE DATE

Employee refused to sign.

WITNESS DATE

NOTE: This form should be completed on any letter of formal disciplinary action, which is placed in the employee's personnel file.

cc: Central Human Resources File
Unit Human Resources File
Employee
AD 10-19

EX. NO. 21



East Arkansas Regional Unit
Human Resource Department
P. O. Box 180

Brickeys, Arkansas 72320-0180

Arkansas Department of Correction Phone: (870) 295-4700 Fax: (870) 295-5806

To: Edward Eaton

From: Danny Burl *D. Burl*

Date: November 8, 2011

RE: Disciplinary Actions

On November 8, 2011, I met with you along with Ms. Raja Humphrey in reference to an Employee Review Hearing that was held by Deputy Warden Payne. You were referred to the Committee by Deputy Warden Ball. Deputy Warden Ball stated that on March 30, 2011, you left an inmate in the shower for approximately 9 hours without placing him in a cell. During the time period that the inmate was left in the shower he claims to have urinated on himself and had to eat in the shower.

After reviewing all facts, documents, and statements involved in this hearing, I find that you violated AD 10-19. Section 1 (P) - Violation of published policies; 6 (A) - Unsatisfactory work performance; 17 (A) - Failure to carry out work related instructions, when such instructions are reasonable and within the employee's ability to perform and would not pose a safety or welfare hazard to the employee; and 14 (B) - Inattentiveness while on duty.

Due to the seriousness of the violation and your recent one day suspension on 9/19/2011, you are being placed on seven (7) days of disciplinary leave without pay effective November 11, 2011 and you will be scheduled to return to your regular schedule on November 25, 2011. This suspension carries an extended one year probationary period. If a similar or more substantial violation occurs, then a more severe disciplinary action will be enforced.

~~Ex. NO. 3 pg. 3~~
EXHIBIT NO. 22
12

225-1

**ARKANSAS DEPARTMENT OF CORRECTION
ACKNOWLEDGEMENT OF DISCIPLINARY ACTION**

I have reviewed the attached with the employee. He/She is aware of the infraction and possible consequences if the action is repeated.

JUBW
SUPERVISOR SIGNATURE

11/8/11
DATE

This is to certify that the attached letter, which is being placed in my personnel file, has been discussed with me. I have been given a copy of the attached. My signature does not necessarily indicate agreement with the attached.

[Signature]
EMPLOYEE SIGNATURE

Nov. 08. 2011
DATE

Employee refused to sign.

WITNESS

DATE

NOTE: This form should be completed on any letter of formal disciplinary action, which is placed in the employee's personnel file.



cc: Central Human Resources File
Unit Human Resources File
Employee

AD 10-19

EX. NO. 22

15th

Eagle Pest Management Services, LLC

		Mailing Address		Offices			
		P.O. Box 3943		Batesville (870) 307-0582			
		Batesville, AR 72501		Newport (870) 523-1036			
		Fax: (870) 307-0583		Heber Springs (501) 206-0576			
				Toll Free (877) 313-2453			
Customer Type: 0.00		Branch: B4		Grid:		Route: B1-PR2	
Customer Name: AR Department of Corrections						Date: 7/1/2010	
Billing Address: AR Department of Corrections, 2403 E Harding Ave., Pine Bluff, AR 71601						Time In:	
Service Address: ADC-E. AR Regional Unit B1-PCM-3373, East Arkansas Regional Unit, 300 Lee 601, Brickeys, AR 72320						Time out:	
Service Phone: (870) 295-4700		Alternate Phone:		Contract Number: 1323.00			
Customer Signature: <i>Cpl. D. Atkins</i>						Date:	
Technician Signature: <i>Max</i>						Date: 15 July 10	
Service Type:		Amount Paid \$ <u>0</u>		Subtotal: \$1,323.00			
Initial: <u>Regular</u>		Cash <u>Bill</u> Check #		Lincoln & Grady: \$105.84			
				Job Total: \$1,428.84			
				Past Amount: \$0.00			
Extr One-Time		Weather Conditions:		Fuel Surcharge:			
				Total Amount Due: \$1,428.84			
Target Pest:		Products Used		EPA #		MFG	
						TT	
						EU	
						Amounts	
Roaches		Wasp freeze (d-trans Allethrin .120% and S-Phenoxycarbonyl .120%)		499-362		Whitlire	
Ants		CB-80 (Pyrethrins 0.6%)		9444-176		CB	
Silverfish		Intruder HPX (Cyano 0.10% and Pyrethrins 0.6%)		9444-183		CB	
Rats/Mice		Precor 2000 Plus (S-Methoprene 0.09% Permethrin 0.50%)		2724-483		Zoecon	
Spiders		Kicker (Pyrethrins) Per Gallon 0.25% 0.5% 0.1%		432-1145		Aventis	
Carp. Ants		Suspend SC (Deltamethrin)		432-763		Aventis	
Ticks		Tempo Ultra (Cyfluthrin)		3125-498		Bayer	
Fleas		Phantom (Chlorfipropyl)		241-392		BASF	
Wasp		Termidor SC (Fipronil) 0.08%		432-901		BASF	
		Tempo 20WP (Cyfluthrin) 0.05% 0.1%		3125-377		Bayer	
Res/Comm		Permethrin SFR (Permethrin) 0.5% 1.0% 2.0%		70506-6-53883		Zanini Solutions	
Kitchen		Demize EC (Linalool)		4768-161-57076		Paragon	
Dinning		Gentrol (S) Hydroxypropene		2724-351		Zoecon	
Storage Areas		Precor IGR (S) Methoprene 1.2%		2724-352		Zoecon	
Bedrooms		Maxforce Roach Gel (Hydramethylnon 2.15%)		64248-5		Maxforce	
Bathroom		Avert Roach (Abamectin B1)		499-492		Whitlire	
Work Areas		Advance Ant (Sodium Tetraborate Decahydrate Borax 5.4%)		499-492		Whitlire	
Offices		Pre-Empt Roach Gel (Imidacloprid 2.16%)		3125-525		Bayer	
Com Areas		Maxforce Roach Station (Fipronil 0.05%)		64248-11		Maxforce	
Outside Perimeter		Maxforce Ant Station (Hydramethylnon 1.0%)		64248-2		Maxforce	
Crawl Space							
Treatment Type		Delta Dust (Deltamethrin 0.05%)		432-772		Aventis	
A Genera		Rorid Dust (Orthoboric Acid 89.0%)		8444-129		CB	
GC Crack Cravice		Driana Dust (Pyrethrins 1.0% / Amorphous Silica Gel 40.0%)		432-992		Aventis	
ST Spot		Tempo 1% Dust (Cyfluthrin 1.0%)		3125-569		Bayer	
SP Space		Advance 375A Granular (Abamectin B1 0.011%)		499-370		Whitlire	
V Void		Delta Guard Granular (Deltamethrin 0.1%)		432-836		Aventis	
U ULV		Maxforce Granular (Hydramethylnon 1.0%)		64248-6		Maxforce	
OB Outside Band		Niban Granular (Orthoboric Acid 6.0%)		84405-2		Nisus	
OT Outside Treatment		B Contact Blox (Bromoflone 0.005%)		12455-WI-1		Bell Lab	
B Bat		Rat / Mice / Catchall / Tin Cat / Snap					
GB Glass Board		Rat / Mice / Catchall / Tin Cat / Snap					
E Equip. Used		Molting (Sodium Salt of Diphacione 0.106%)		12455-WI-1		Bell Lab	
BG Band Com		Uqua Tox II (Imidacloprid 0.6% 2,3-Tricoseno 0.10%)		3125-673		Bayer	
PT Pressure Treat		Maxforce Flyball					
A Aerosol							
D Duster							
F Fogger							
BS Ball Gun/Stations							
T Traps							

Robert Mull is contact person.

Demon Max *ST BG 11 gal.*

EX. NO. 23

74

DEPARTMENT OF CORRECTION

SPECIAL DIET REQUEST

Name: Robinson/Jesus, Charles J.

ADC#: 086829

DOB#: 05/07/1965

To: Facility Food Services Supervisor
 From: Medical Department
 Date: 11/29/2009

The following special diet is required for the above named patient. Please initiate action to provide such dietary requirement within 24 to 72 hours of the receipt of this request. The Medical Department must be advised if a delay greater than 72 hours is required in providing this diet.

General Diet:

- ☒ High calorie high protein diet
☒ Pre-natal diet

Modifications in Consistency:

- ☒ Clear liquid diet
☒ Full liquid diet
☒ Pureed diet
☒ Mechanical soft diet

Modifications in Calories/Diabetic Diet:

- ☒ 1500 ADA ☒ 2200 ADA ☒ 2600 ADA ☒ 3000 ADA
☒ 1800 ADA ☒ 2400 ADA ☒ 2800 ADA ☒ 3500 ADA

Modifications in Calories - Weight Reduction:

- ☒ 1500 ADA ☒ 1800 ADA ☒ 2200 ADA

Modifications for Gastrointestinal Diseases:

- ☒ Low fiber bland diet ☒ High fiber diet

Modifications in Fat:

- ☒ Low fat/cholesterol controlled diet ☒ Low triglyceried/cholesterol controlled diet

Modifications in Protein:

- ☒ Low protein (40 gm protein)

Modifications in Sodium

- ☒ 2 gram (low sodium) diet

Modifications in Fat and Sodium:

- ☒ Cardiovascular Diet - no added salt, low fat, low cholesterol

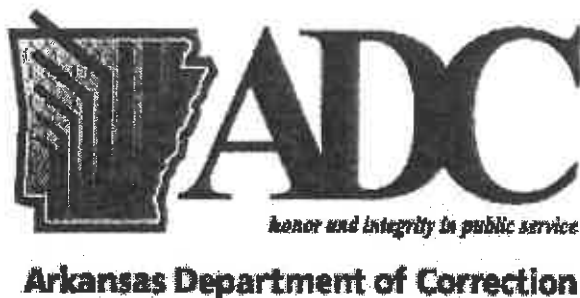
Diagnosis:

MEDICAL

Diet Expires: 11/29/2010

Signature

Date



PO Box 8707
Pine Bluff, AR 71611-8707
Phone: 870-267-6200
Fax: 870-267-6244
www.adc.arkansas.gov

ADMINISTRATIVE DIRECTIVE

SUBJECT: Temperature Settings

NUMBER: 10-16

SUPERSEDES: New

APPLICABILITY: All Staff

REFERENCE: AR 841 – Inmate Property Control
AR 407 – Safety and Sanitation

PAGE 1 of 1

APPROVED: Original signed by Ray Hobbs,
Interim Director

EFFECTIVE DATE: 6/11/2010

I. POLICY:

To establish guidelines to follow Governor's Directive regarding indoor working conditions during cold and hot weather for the Department of Correction buildings and facilities.

II. PROCEDURES:

- A. Temperature settings for air conditioning season (summer) are 74-78 degrees for all administrative buildings.
- B. Temperature settings for heating season (winter) are 70-74 degrees for all administrative buildings.
- C. Inmate living quarters should be maintained between 70-74 degrees in the winter and between 74-78 degrees in the summer except for non-air conditioned living areas.

10-16
10June9

EX. NO. 25

76

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

CHARLES JESUS ROBINSON (ADC 086829)

RECEIVED
CLAIMANT

V. NO. 15-0251-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT


ANSWER

COMES NOW the Respondent, Arkansas Department of Correction, and for its Answer, states and alleges as follows:

1. Respondent denies liability in this claim and asserts it will hold the Claimant to strict proof on each allegation unless admitted by Respondent. Respondent reserves the right to plead further upon completion of the investigation by internal affairs and requests the matter be held in abeyance until the investigation is complete.
2. The applicable account information required by the Commission is:
 - a. Agency number: 0480
 - b. Cost Center: HCA 0100
 - c. Internal Order: 340301
 - d. Fund Center: 509

WHEREFORE, for the reasons cited above the Respondent prays that the claim be dismissed with prejudice and that Claimant take nothing, or in the alternative that the matter be held in abeyance until completion of the investigation by internal affairs.

Respectfully submitted,
Department of Correction Office of Counsel


LISA MILLS WILKINS Ark. Bar #87190
Attorney Supervisor
Post Office Box 8707
Pine Bluff, AR 71611
(870)267-6844 Office
(870)267-6373 Facsimile

CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been served this 26 day of September, 2014, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Charles Jesus Robinson (ADC 086829)
Maximum Security Unit
2501 State Farm Road
Tucker, AR 72168


LISA MILLS WILKINS Ark. Bar #87190

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

JESUS

CLAIMANT

A/K/A CHARLES J. ROBINSON (ADC#086829)

V.

NO. 15-0251-CC

ARKANSAS DEPARTMENT OF CORRECTIONS

RESPONDENT

Arkansas
State Claims Commission
OCT 01 2014

RECEIVED

REPLY TO RESPONDENT'S ANSWER

COMES NOW, the Claimant Jesus a/k/a Charles J. Robinson and for his reply to the Respondent's Answer does so state:

1. Respondent has answered that there has not been an Internal Affairs investigation and that this matter should be held in abeyance until after an investigation has been completed. However, the internal affairs investigation has already been completed concerning this matter. (See Original Complain/Claimant's Exhibit No. 6 and Exhibit 7).
2. The internal affairs investigation and the Unit Warden Danny Burl as well as Director's Office of the ADC have confirmed that the personal injury happened and that it should not have occurred.
3. This matter should not be held in abeyance and this claim should move forward without any unnecessary delay.

Respectfully submitted,


Jesus

a/k/a Charles J. Robinson

ADC# 086829

Maximum Security Unit

2501 State Farm Road

Tucker, AR 72168

CERTIFICATE OF SERVICE

I, Jesus ADC#086829 certify that an exact copy of this reply has been served this 29th day of September 2014, on the Respondent's attorney Lisa Mills Wilkins Attorney Supervisor, Post Office Box 8707 Pine Bluff, AR 71611 by placing a copy of the same in the U. S. Mail, postage prepaid.

/s/ 
Jesus

State of Arkansas

County of Jeff

SUBSCRIBED AND SWORN to before me a Notary Public on this 29 day of September 2014.

My commission expires: 01/05/2017

/s/ 
Notary Public



RECEIVED

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

JESUS

CLAIMANT

A/K/A CHARLES J. ROBINSON (ADC#086829)

V.

NO. 15-0251-CC

ARKANSAS DEPARTMENT OF CORRECTIONS

RESPONDENT

REQUEST FOR ADMISSIONS TO RESPONDENT

COMES NOW, the Claimant Jesus a/k/a Charles J. Robinson and for his Motion for Admissions to the Respondent under Arkansas Rules of Civil Procedure Rule 33 does so state:

1. Admit. Jesus ADC#086829 was ordered to be locked up in EARU Maximum Security by Jeremy Andrews on July 27, 2010.
2. Admit. Jesus ADC#086829 was locked up in a shower stall for twelve hours on July 27, 2010 in the middle of the summer.
3. Admit. There is no air conditioning in the isolation 2 unit.
4. Admit. Jesus ADC#086829 should not have been housed in punitive isolation prior to receiving punitive time.
5. Admit. Jesus ADC#086829 properly exhausted all of his administrative remedies concerning the July 27, 2010 incident.
6. Admit. Jesus ADC#086829 suffered personal injury while in isolation 2 and had to be treated by medical staff.
7. Admit. Deputy Director Larry May ordered an internal affairs investigation of the July 27, 2010 incident.
8. Admit. The internal affairs investigation substantiated the claims of Jesus ADC#086829.

9. Admit. The ADC took corrective action against employees and made changes at the EARU because of the July 27, 2010 incident.
10. Admit. According to Jesus ADC#086829 medical records he had to receive emergency antibiotic shots and treatment for his personal injury he suffered in isolation 2.
11. Admit. Sgt. E. Eatmon was disciplined for his role in the July 27, 2010 incident.

Respectfully submitted,

Jesus

a/k/a Charles J. Robinson
ADC# 086829
Maximum Security Unit
2501 State Farm Road
Tucker, AR 72168

CERTIFICATE OF SERVICE

I, Jesus ADC#086829 certify that an exact copy of this reply has been served this 26th day of ~~September~~ ^{October} 2014, on the Respondent's attorney Lisa Mills Wilkins Attorney Supervisor, Post Office Box 8707 Pine Bluff, AR 71611 by placing a copy of the same in the U. S. Mail, postage prepaid.

/s/

Jesus

State of Arkansas

County of Jefferson

SUBSCRIBED AND SWORN to before me a Notary Public on this 26th day of October 2014.

My commission expires Sept. 17, 2017

/s/

Barbara A. Montgomery
Notary Public



BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

JESUS, CHARLES J. ROBINSON (ADC #086829)

CLAIMANT

V.

NO. 15-0251-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

RESPONSE TO MOTION FOR REQUEST INTERROGATORIES TO RESPONDENT

COMES NOW the Respondent, Arkansas Department of Correction, and for its Response to Motion for Interrogatories to Respondent, states and responds as follows:

1. Response No. 1: Yes
2. Response No. 2: No
3. Response No. 3: Yes
4. Response No. 4: The log does not reflect that Claimant was temporarily secured in the shower stall.
5. Response No. 5: No
6. Response No. 6: Yes
7. Response No. 7: Objection, Claimant is not entitled to have copies of Internal Affairs investigation reports.
8. Response No. 8: No
9. Response No. 9: On August 12, 2010, Claimant received treatment for a rash and blisters on his back, shoulders, and the inside of his arms he stated he had had for over a week. He saw the mid-level physician on August 16th for the itching stating the that OTC ointment was not helping. No other treatment records exist.
10. Response No. 10: Objection. Claimant is not entitled to know the disciplinary imposed on staff as this can jeopardized the safety and security of the institution.
11. Response No. 11: No
12. Response No. 12: Objection. Claimant is not entitled to know the disciplinary imposed on staff as this can jeopardized the safety and security of the institution.
13. Response No. 13: Unknown at this time. This will be supplemented at a later date.
14. Response No. 14: The answer to the first question is 'yes.' The answer to the second question is 'no one should be SERVE punitive isolation TIME before they are found GUILTY of a violation and SENTENCED to PUNITIVE ISOLATION.'
15. Response No. 15: Holding cages have been installed in the hallway to allow for constant monitoring of the inmates transfers to other housing assignments.

16. Response No. 16: Unknown at this time. This will be supplemented at a later date.
17. Response No. 17: Unknown at this time. This will be supplemented at a later date.
18. Response No. 18: Unknown at this time. This will be supplemented at a later date.

Respectfully submitted,
Department of Correction
Office of Counsel



LISA MILLS WILKINS Ark. Bar #87190

Attorney Supervisor

Post Office Box 8707

Pine Bluff, AR 71611


(870)267-6844 Office

(870)267-6373 Facsimile

CERTIFICATE OF SERVICE

I certify that a copy of the DISCOVERY RESPONSE has been served this 26 day of November, 2014, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

JESUS, CHARLES J. ROBINSON (ADC #086829)
MSU
2501 STATE FARM ROAD
TUCKER, AR 72168



LISA MILLS WILKINS Ark. Bar #87190

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

JESUS, CHARLES J. ROBINSON (ADC #086829)

CLAIMANT

V.

NO. 15-0251-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT


RESPONSE TO CLAIMANT'S REQUEST FOR ADMISSIONS TO RESPONDENT

COMES NOW the Respondent, Arkansas Department of Correction, and for its RESPONSE TO CLAIMANT'S REQUEST FOR ADMISSIONS TO RESPONDENT, states and responds as follows:

1. Response to Request No. 1: Admit
2. Response to Request No. 2: Deny
3. Response to Request No. 3: Admit
4. Response to Request No. 4: Admit.
5. Response to Request No. 5: Deny
6. Response to Request No. 6: Deny
7. Response to Request No. 7: Admit
8. Response to Request No. 8: Deny
9. Response to Request No. 9: Admit
10. Response to Request No. 10: Lack sufficient information to admit or deny; therefore deny.
11. Response to Request No. 11: Admit

Arkansas Claims Commission
DEC 01 2014
RECEIVED

Respectfully submitted,
Department of Correction
Office of Counsel


LISA MILLS WILKINS Ark. Bar #87190
Attorney Supervisor
Post Office Box 8707
Pine Bluff, AR 71611
(870)267-6844 Office
(870)267-6373 Facsimile

CERTIFICATE OF SERVICE

I certify that a copy of the DISCOVERY RESPONSE has been served this 26 day of November, 2014, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

JESUS, CHARLES J. ROBINSON (ADC #086829)

MSU
2501 STATE FARM ROAD
TUCKER, AR 72168


LISA MILLS WILKINS Ark. Bar #87190

84

**STATE CLAIMS COMMISSION DOCKET
OPINION**

10,000.00

15-0251-CC

Amount of Claim \$ _____

Claim No. _____

Charles Jesus Robinson #086829

Attorneys

Pro se

Claimant

Claimant

vs.

AR Department of Corrections

Lisa Wilkins, Attorney

Respondent

Respondent

State of Arkansas

September 18, 2014

Date Filed

Type of Claim

Personal Injury, Negligence, Pain &
Suffering, Mental Anguish & Failure
to Follow Procedure

FINDING OF FACTS

This claim was filed for the personal injury, negligence, pain & suffering, mental anguish & failure to follow procedure in the amount of \$10,000.00 against Arkansas Department of Corrections.

Present at a hearing December 9, 2015, was the Claimant, pro se, and the Respondent, represented by Lisa Wilkins, Attorney.

After hearing extensive testimony, the Claims Commission unanimously finds on behalf of the Claimant, Charles Jesus Robinson, in the amount of \$10,000.00, for injuries and pain and suffering sustained on July 27, 2010, at the East Arkansas Department of Corrections unit. Inmate Robinson was wrongfully kept in a 3X6 foot shower stall (no water) for twelve (12) hours without food or access to restroom facilities. According to the testimony Deputy Warden Warren who testified before the Claims Commission "Did he (inmate Robinson) stay in there too long: Yes- 4 to 5 hours would be a long day." "Was twelve (12) hours excessive-yes". Because of this, two DOC employees were disciplined and new hold cells were constructed to prevent inmate from being housed in this space in the future.

The Claims Commission therefore, unanimously finds for the Claimant in the amount of \$10,000.00 and hereby directs the Claims Commission Clerk to issue a voucher in payment thereof.

IT IS SO ORDERED.

(See Back of Opinion Form)


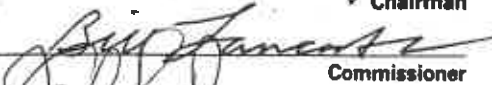

CONCLUSION

Upon consideration of all the facts, as stated above, the Claims Commission unanimously finds for the Claimant in the amount of \$10,000.00 and hereby directs the Claims Commission Clerk to issue a voucher in payment thereof.

Date of Hearing December 9, 2015

Date of Disposition December 9, 2015

Date of Disposition


Chairman

Commissioner

Commissioner

IN THE CLAIMS REVIEW SUBSOMMITTEE
OF THE ARKANSAS GENERAL ASSEMBLY

CHARLES 'JESUS' ROBINSON (ADC #086829)

Arkansas Claims Commission

CLAIMANT

V.

NO. 15-0251-CC

DEC 18 2015

ARKANSAS DEPARTMENT OF CORRECTION

RECEIVED

RESPONDENT


NOTICE OF APPEAL

COMES NOW the Respondent, Arkansas Department of Correction, and for its Notice of Appeal, states and alleges as follows:

Notice is hereby given that the Respondent is appealing the granting of the decision by the Arkansas State Claims Commission rendered DECEMBER 9, 2015, in the above matter to the General Assembly of the State of Arkansas in accordance with Arkansas Statute 19-10-211.

Respondent hereby designates the entire record, and all proceedings, exhibits, evidence and documents introduced in evidence to be contained in the record on appeal.

Respectfully submitted,
Department of Correction Office of Counsel


LISA MILLS WILKINS Ark. Bar #87190
Attorney Supervisor
Post Office Box 8707
Pine Bluff, AR 71611
(870)267-6844 Office
(870)267-6373 Facsimile

CERTIFICATE OF SERVICE

I certify that a copy of the NOTICE OF APPEAL has been served this 17 day of December, 2015, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

CHARLES 'JESUS' ROBINSON (ADC #086829)
MSU
2501 STATE FARM ROAD
TUCKER, AR 72168


LISA MILLS WILKINS Ark. Bar #87190