

Please Read Instructions on Reverse Side of Yellow copy

Please print in ink or type

Arkansas State Claims Commission

JUL 16 2014

D1

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

RECEIVED

- Mr. Mrs. Ms. Miss

Patrick Fleming, #081731 Claimant

vs.

State of Arkansas, Respondent Dept. of Corr.

Do Not Write in These Spaces Claim No. 15-0028-CC Date Filed July 16, 2014 Amount of Claim \$ 19,500.00 Fund DOC

Failure to Follow Procedure

COMPLAINT

Patrick Fleming, #081731, the above named Claimant, of POB 970, Marianna, AR 72360

County of LEE represented by Pro Se! (Legal Counsel, if any, for Claim)

of P.O. Box 180, Brickley's, AR 72320-018 (879) 295-4700, says:

State agency involved: ARKANSAS DEPARTMENT OF CORRECTION Amount sought: 19,500.00

Month, day, year and place of incident or service: Sunday, February 23, 2014 @ approx. 4:50 p.m., THE

Explanation: Claimant, Patrick Fleming (Fleming or Claimant), was written false information against him by respondent, Capt. Wallace McNary, as to alleged trafficking and trading. McNary stated that claimant had been trafficking and trading with another inmate, which was not substantiated or shown by McNary. THERE WERE NO PHOTOGRAPHS, NO FIRMS OF MATERIAL PROOF WHATSOEVER as to what was given for what. NOT EVEN THAT WHICH THE RESPONDENT, CAPT. McNary claimed. The Claimant, Fleming on or about Tuesday, March 4, 2014, was busted from Class 1-C status to Class J status, plus had to serve FIFTEEN (15) days punitive isolation. All due to the FALSIFIED information within the Sunday, February 23, 2014 disciplinary by McNary. The respondent, Tamika Cody, disciplinary hearing officer, punished claimant on the disciplinary - DESPITE A STATEMENT FROM AN A.D.C. OFFICER, no proof whatsoever. Claimant, Fleming submitted a grievance, dated Monday, March 10, 2014, which REJECTED on Tuesday, March 18, 2014, by Mr. Hill, and again on Tuesday, April 1, 2014 by respondent, Lt. Harris, from Claimant's appeal of Tuesday, March 25, 2014. Policies of AR 225, 18(a) & (b) - Employee Conduct Standards, AR 13-10 (AR 831), Disciplinary Procedures, and other state procedures/practices entitle claimant to THE REVIEW, EVIDENTIARY HEARING AND RELIEF. See attachments NCRS 1 - thru 6, to this claim.

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

Yes; when? See Attached; to whom? See Attached

and that the following action was taken thereon: See Attached

and that \$ was paid thereon: (2) Has any third person or corporation an interest in this claim? No; if so, state name and address

and that the nature thereof is as follows:

and was acquired on, in the following manner:

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

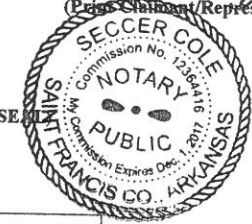
Patrick Fleming #081731 (Print Name/Representative Name) Patrick Fleming #081731 (Signature of Claimant/Representative)

SWORN TO and subscribed before me at Breck AR (City) (State)

on this 01 day of JUNE 2014 (Date) (Month) (Year)

Beccer Cole (Notary Public)

My Commission Expires: Dec 01 2014 (Month) (Day) (Year)



COPY (EXHIBIT)

ISSR100

Arkansas Department of Corrections
East AR Regional Max Unit Unit
MAJOR DISCIPLINARY

If the C.S.O. determines that the violation(s) described on this document are felonious; he/she must hand carry this document to the Unit Warden who must immediately notify the Director.

Inmate: Fleming, Patrick Wayne

ADC#: 081731A

Assignment: AM/PM:Admin Segregation

Class: II is being charged by McNary, Wallace B
with code violation(s):

Title: Captain

- 12-1 Failure to obey verbal and/OR written orders of staff
- 15-1 The purchase OR exchange of unauthorized articles OR of authorized articles through unauthorized channels

Date & Time: 02/23/2014 4:50 PM

Notice of Charges:

On Feb 23, 2014 at approx. 4:50 pm I Capt. W. McNary Max A & B shift Commander concluded a PREA investigation in Max Captain office zone #1 in which inmate J. McDonald #652307 Max 4 cell #38 alleged that he had been sexually harass by inmate P. Fleming #81731 in Max 4 cell #21 (later both inmates were identified by e-omis to be housed in Max 4 zone#2) in this investigation there were no evidence found that inmate Fleming had sexually harass inmate McDonald, but in the course of my investigation both inmate stated to me (Capt. McNary) that they were trafficking and trading commissary item with each other. Inmate P. Fleming #81731 is aware that his action is a clear violation of ADC and unit policy. Therefore I Capt. W. McNary is charging inmate P. Fleming #81731 with the following rule violations: 12-1 and 15-1 pending disciplinary court. End of statement.

(I affirm that the information in this report is true to the best of my knowledge)

Signature of Charging Officer

NOTIFICATION:	Officer Thorne, Ricky D Jr	Date & Time Notified 03/03/2014 11:25 AM
----------------------	-----------------------------------	---

Witness Statements: No _____ If yes, list:

None

_____ Inmate's Signature

C.S.O. Review:	Outcome: Refer to Hearing Officer/Comm.	Date 02/28/2014
	By: Conner, William M	

Extension:	No <input checked="" type="checkbox"/> Yes _____	Has extension form been completed? _____
-------------------	--	---

Presentation by Counsel - Substitute is required when it is determined that the inmate is illiterate or incompetent or that the issues are extraordinarily complex.

Counsel-Substitute: Assigned (Name) _____ Not Assigned _____

Claimant's Attachment #1 to Claim

DISCIPLINARY HEARING ACTION

Inmate: Fleming, Patrick Wayne

ADC#: 081731A

Unit: East AR Region. Unit

Code Violation(s):

12-1 Failure to obey verbal and/OR written orders of staff

15-1 The purchase OR exchange of unauthorized articles OR of authorized articles through unauthorized channels

Date/Time of Alleged Offense(s): 02/23/2014 4:50 PM

Hearing Date: 03/04/2014

Time: Start 1:48 PM

End 1:54 PM

Recorder: Cody, Tameka L

Tape#: 001

Side: A

Meter: From

457

To 563

Plea: Not Guilty, Not Guilty

Attendance Waived: No

Has waiver form been completed? _____

Inmate's Statement:

Capt. McNary called me down there on the 23rd like he said and asked me was I trafficking and trading with inmate McDonald and I told him no that why inmate McDonald was mad because I wasn't giving him anything. I haven't sexually harrassed him or traffick and traded with him.

Signature of Inmate

Inmate's Affidavit # 2 to Clerk
p. 1 of 2

Court Questions:

Do you have a statement?

Sentencing Conditions:

Verdict: Guilty, Guilty

Punitive Isolation Days to Serve: 15

Days Suspended: 0

GT Class Reduced to: IV

Class Suspended:

3:09 PM
[Signature]
3/4/14

Inmate: Fleming, Patrick Wayne

ADC#: 081731A

Unit: East AR Region. Unit

Additional Sanctions/General Comments:

Factual Basis for Decision (This is a short synopsis of the facts as the Hearing Officer perceives them after reviewing all of the evidence.):

Through the course of an investigation inmate admitted to trafficking and trading with another inmate.

Evidence Relied Upon:

F-1 statement from charging officer states Through the course of an investigation inmate admitted to trafficking and trading with another inmate.
005 from staff supporting F-1 report.

Reasons Why Information Purporting to Exonerate Inmate was Discounted:

Staff report is accepted.

Reasons for Assessment of Punishment:

Inmate is a class IC inmate who must learn that trafficking and trading will not be tolerated.

I have read this report and understand that I may appeal to the Warden about any decision made in this matter within fifteen (15) working days by completing the "Disciplinary Appeal" form.

Inmate's Signature _____

Counsel-Substitute _____

I affirm that the information is true to the best of my knowledge.

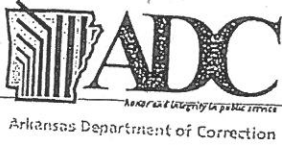
Hearing Officer

T. Coody

Date

3/4/14

*Claimant's Attachment #2 to Claim
P. 2 of 2*



ARKANSAS DEPARTMENT OF CORRECTION
STATEMENT OF WITNESS

NAME: C. Davis Rank/Status/Number CP Unit: E-Max

STATEMENT: on Feb 23, 2014 inmate Fleming was escorted to
Capt. office and he was asked about Tim McDonald and Fleming
explained that inmate McDonald was asking him for coffee and
other items, and that he just ignored him. Fleming also denied
looking at Tim McDonald while he is in the shower EOS

Chalmers's Attachment #3 to Claim

I make this statement freely, under no duress, and without undue coercion against me by any correctional officer or Official of the Arkansas Department of Correction.

[Signature]
Signature

3/9/14
Date:

Witness / Statement Taken By

Exhibit A2

Exhibit 'B'

UNIT LEVEL GRIEVANCE FORM (Attachment I)

Unit/Center E.A.R.U.

GRIEVANCE/RECEIVED

FOR OFFICE USE ONLY	
GRV. #	<u>EAMI4-008002</u>
Date Received:	<u>3-17-14</u>
GRV. Code #:	<u>400</u>

Name Patrick W. Fleming

MAR 17 2014

ADC# 081731 Brks # ISO II - 37 Job Assignment AR REGIONAL UNIT

3-10-014 (Date) STEP ONE: Informal Resolution

3-16-014 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)

If the issue was not resolved during Step One, state why: Because I never told Capt. McNary I had been trafficking and trading And I have Statement From officer.

(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): Capt. W. McNary the A&B Shift Commander Falsified his report in a Major disciplinary I received ON 3-3-014 written by him on 2-23-014 along with a CCS report. In his own writing he states that I inmate P. Fleming #81731 stated to him Capt. W. McNary that I had been trafficking and trading with inmate J. McDonald. That is and was a lie, when Capt. McNary had me escorted to his office by A-Shift officers C. Davis & Varner, I told the Capt. That inmate McDonald had asked me for coffee and stuff quite a few times and I told Capt Numerous amounts of times during this interview that I had never gave or traded McDonald batteries For coffee or anything else. He stated inmate McDonald said that we have been trading coffee and batteries, I told Capt. First of all I dont drink coffee and I go to the store quite often and buy what I want and need all he had to do was have the penstore print out my record for the last few months to verify it and do the same for inmate McDonald and see if he's been going to the store. He then asked if I'd been sexually harassing inmate McDonald and once again I told him no. He then had me after the interview write a witness statement which I denied all allegations. I never told Capt. McNary that I had been trafficking and trading with inmate J. McDonald. Capt. McNary knowingly and willingly falsified his statement which in fact is a violation of AR225 as well AD 1019. I have Notarized Affidavits as well as a statement from officer C. Davis to support this grievance.

Claimant's Attachment #1 to Claim

Patrick W. Fleming
Inmate Signature

March 10, 014
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 3-10-14 (date), and determined to be **Step One** and/or an Emergency Grievance (Yes or No). This form was forwarded to medical or mental health? _____ (Yes or No). If yes, name of the person in that department receiving this form: _____ Date _____

<u>M. Smith</u>	<u>3302</u>	<u>M. Smith</u>	<u>3-10-14</u>
PRINT STAFF NAME (PROBLEM SOLVER)	ID Number	Staff Signature	Date Received

Describe action taken to resolve complaint, including dates: Capt McNary states that No reports were falsified at any time. Per Major Glover.

Sgt M. Smith 3-16-14
Staff Signature & Date Returned

Patrick W. Fleming 3-16-014
Inmate Signature & Date Received

This form was received on 3-16-14 (date), pursuant to **Step Two**. Is it an Emergency? RECEIVED (Yes or No).

Staff Who Received Step Two Grievance: M. Smith Date: 3-16-14

Action Taken: _____ (Forwarded to Grievance Officer/Warden/Other) Date: APR 01 2014

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

DISTRIBUTION: YELLOW & PINK – Inmate Receipts; **BLUE**-Grievance Officer; **ORIGINAL** Given back to Inmate After Completion of Step One and Step Two. 6

X7-04
Attachment II

IGTT400
3GR

ACKNOWLEDGMENT OR REJECTION OF UNIT LEVEL GRIEVANCE

TO: Inmate Fleming, Patrick W.
FROM: Hill, Keeiyona M
DATE: 03/18/2014

ADC #: 081731A
TITLE: Administrative Specialist I
GRIEVANCE #: EAM14-00802

Please be advised, I have received your Grievance dated 03/10/2014 on 03/17/2014.
Your grievance was rejected as either non-grievable, untimely, duplicative, frivolous, or vexatious.

RECEIVED

APR 01 2014

Keeiyona Hill
Signature of Administrative Specialist I

CHECK ONE OF THE FOLLOWING

INMATE GRIEVANCE SUPERVISOR
ADMINISTRATION BUILDING

- This Grievance will be addressed by the Warden/Center Supervisor or designee.
- This Grievance is of a medical nature and has been forwarded to the Health Services Administrator who will respond.
- This Grievance involves a mental health issue and has been forwarded to the Mental Health Supervisor who will respond.
- This Grievance has been determined to be an emergency situation, as you so indicated.
- This Grievance has been determined to not be an emergency situation because you would not be subject to a substantial risk of personal injury or other serious irreparable harm. Your Grievance will be processed as a Non-Emergency.
- This Grievance was REJECTED because it was either non-grievable (Disciplinary matter), untimely, was a duplicate of , or was frivolous or vexatious.

Claimant's Attachment #5 to Claim

INMATE'S APPEAL

If you disagree with a rejection, 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. Keep in mind that you are appealing the decision to reject the original complaint. Address only the rejection; do not list additional issues, which were not a part of your original grievance as they will not be addressed. Your appeal statement is limited to what you write in the space provided below.

Patrick Fleming
Inmate Signature

081731
ADC #

3-25-14
Date

MR. Director I no this Grievance is because of a disciplinary but I'm not challenging the verdict of the disciplinary or the disciplinary. I'm seeking help because in the way the disciplinary was written by falsifying document and the integrity of the charging officers. So please accept this grievance and base your decision on the method that was use to write this report and do a investigation on it to determine the truth because that what is really important is the truth.

7

IGTT405
3GT

Attachment V

**ACKNOWLEDGEMENT OF GRIEVANCE APPEAL
or REJECTION OF APPEAL**

TO: Inmate Fleming, Patrick W. ADC #: 081731A
FROM: Harris, Grant E TITLE: Deputy Director
RE: Receipt of Grievance EAM14-00802 DATE: 04/01/2014

Please be advised, the appeal of your grievance dated
03/10/2014
was received in my office on this date 04/01/2014

Your grievance appeal is being returned pursuant to the Administrative Directive on Inmate Grievances due to one of the following:

- The time allowed for appeal has expired
- The matter is non-grievable and does not involve retaliation:
 - (a) Parole and/or Release matter
 - (b) Transfer
 - (c) Job Assignment unrelated to medical restriction
 - (d) Disciplinary matter
 - (e) Matter beyond the Department's control and/or matter of State/Federal law
 - (f) Involves an anticipated event
- You did not send all the proper Attachments:
 - (a) Unit Level Grievance Form (Attachment 1)
 - (b) Warden's/Center Supervisor's Decision (Attachment III); or Health Services Response Attached (Attachment IV for Health Issues Only)
 - (c) Did not give reason for disagreement in space provided for appeal
 - (d) Did not complete Attachment III or IV with your name, ADC#, and/or date
 - (e) Unsanitary form(s) or documents received
 - (f) This Appeal was REJECTED because it was a duplicate of , or was frivolous or vexatious

Claimant's Attachment #6 to Claim

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

PATRICK FLEMING (ADC 081731)

CLAIMANT

V.

NO. 15-0028-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

Arkansas
State Claims Commission

JUL 30 2014

RECEIVED

Lisa Mills Wilkins
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 29 day of July, 2014, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Patrick Fleming (ADC 081731)
East Arkansas Max Unit
PO Box 180
Brickeys, AR 72320-0180

Lisa Mills Wilkins
LISA MILLS WILKINS Ark. Bar #87190

Monday August 4th 2014

Claims Commission

Attn: Norman L. Hodges, Jr
101 East Capital Avenue, Suite 410
Little Rock, Arkansas 72201-3823

Arkansas
State Claims Commission

AUG 06 2014

RECEIVED

RE: Patrick Fleming #081731 vs. ARK. Dept. of Corr, ~~_____~~^{P.F.}

CLAIM #15-0028-CC

Dear Mr. Hodges

I inmate Patrick Fleming #081731 in regards to the above styled claim, respectfully request and beg that said claim do not be dismissed as the Respondent has requested.

My Constitutional Rights were Violated and I have all the Paper Work "Legal Documents" and Evidence to prove my Claim.

There's No way possible that the Respondent can legitimately dispute the facts of my Claim.

Therefore I respectfully ask that the Respondents request for dismissal of Claim #15-0028-CC be denied, and the Claims Commission set a hearing date. I would like to present my Case/Claim before the Arkansas State Claims Commission. E.D.S. Response....

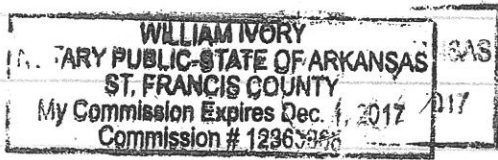
Sincerely

Patrick Fleming #081731

Patrick Fleming #081731

E.R.R. Max P.O. Box 180

Brickys, Arkansas 72320-0180



State of Arkansas }
 } SS

County of Lee }
 } SS

Subscribed and Sworn To Before Me, a Notary Public, on this 3
day of August, 2014

My Commission Expires Dec. 1, 2017

William Ivory
Notary Public

PATRICK FLEMING (ADC #081731)

CLAIMANT

V.

NO. 15-0028-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

RESPONDENT'S MOTION TO DISMISS

COMES NOW the Respondent, Arkansas Department of Correction, and for its MOTION TO DISMISS, states and responds as follows:

1. Claimant alleges that over the past two years he has filed multiple claims against the Respondent which have been dismissed and a failure to follow procedure. He seeks \$19,500.00.
2. Claimant has never filed a grievance and the time is well past over the fifteen (15) days allotted under policy in which to make a grievance. Therefore, the grievance was rejected.
3. Claimant did not exhaust his remedies by appealing his decision to the director and the time for appealing his decision has expired. He only appealed to the Disciplinary Hearing Administrator and the disciplinary was upheld.
4. AD12-16(N). provides that "inmates are hereby advised that they must exhaust their administrative remedies as to all defendants at all levels of the grievance procedure before filing a Section 1983 lawsuit and Claims Commission claim. If this is not done, their lawsuit or claims may be dismissed immediately.
5. Captain McNary would testify that Claimant admitted during a PREA investigation that he and another inmate were not having a sexual relationship, but were trafficking and trading commissary items. Based on his admission, he was written the disciplinary.

WHEREFORE, for the reasons stated above and the evidence submitted, the Claim filed must be dismissed.

Respectfully submitted,

Department of Correction
Office of Counsel

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

Arkansas
 State Claims Commission
 AUG 04 2014
 RECEIVED

CERTIFICATE OF SERVICE

I certify that a copy of the MOTION TO DISMISS has been served this 31 day of July, 2014, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

PATRICK FLEMING (ADC #081731)
EAMU
P. O. BOX 180
BRICKEYS, AR 72320-0180

Lisa Mills Wilkins
 LISA MILLS WILKINS Ark. Bar #87190

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



NORMAN L. HODGES, JR.
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, AR 72201-3823

August 6, 2014

Mr. Patrick Fleming, #081731
P.O. Box 180
Brickeys, AR 72320

Re: Patrick Fleming
Claim #15-0028-CC
Vs.
Department of Correction

This will acknowledge receipt of your recent letter inquiring about attending a hearing regarding your claim. The Respondent has filed a "Motion to Dismiss" this claim on August 4, 2014. Therefore, we cannot proceed to hearing with this claim until the motion is dealt with. The State Claims Commission has received your Response regarding the "Motion to Dismiss". The Commission will likely review the Respondent's motion and your response during its next meeting. You will be notified of the Commission's decision soon thereafter.

Sincerely,

A handwritten signature in black ink, appearing to read "N. L. Hodges", written over a horizontal line.

Norman L. Hodges
Director

NLH/jw

CC: Lisa Wilkins, DOC Attorney

Before The Arkansas State Claims Commission

Patrick Fleming #081131

Claimant

Arkansas Claims Commission

vs. NO. #15-0028-CC

AUG 08 2014

Arkansas Department of Correction

Respondent

RECEIVED

Re: "Claimant's" Response to Respondent's Motion to Dismiss

1. I filed my Grievance's and filed the Appeals all in a timely and fashionable manner, So the Respondent's claims that my Grievance wasn't filed in the appropriate allotted days is frivolous. (see Exhibit B)

2. My complainant is not about a Disciplinary. My complainant is about the Respondent knowingly and purposely lying on me (Falsifying State Documents.)

3. I exhaust^{ed} all necessary Administrative Remedies in regards to and relating to my Claim. But at every level my Grievance was rejected because the Grievance Officer / Administrative Specialist and even the Deputy Director fail to properly investigate my Claim.

4. I've never claimed to have filed multiple Claims against the Respondent that was dismiss because of failure to follow procedure.

5. I have a sworn statement by the Officer who escorted me "The Claimant" to see and speak with Captain W. McNary "Respondent" that disputes Capt. W. McNary's lies on me. I never admitted to Trafficking and Trading and I even wrote a statement for Capt. W. McNary denying all accusations. Which goes to show Capt. W. McNary just plain lied on me and falsified Stated Documents.

Wherefore, for the above stated reasons and because all evidence submitted, The Claim filed must not be dismissed.

Respectfully submitted,

Patrick Fleming #081731

Patrick Fleming #081731

E.H.R.U. Max P.O. Box 180

Beickeys, Arkansas 72320

Certificate Of Service

I certify that a copy of this "Response" to Respondent's Motion To Dismiss has been served this 05th day of AUGUST 2014. To the Arkansas State Claims Commission.

Mr. Norman Hodges Jr

Claims Commission

101 East Capitol Avenue, Suite 410

Little Rock Arkansas 72201-3823

Patrick W. Fleming

PATRICK W. FLEMING #081731

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 19,500.00

Claim No. 15-0028-CC

Patrick Fleming, #081731
vs. Claimant

Attorneys
Pro se Claimant

Department of Correction
State of Arkansas Respondent

Lisa Wilkins, Attorney
Respondent

Date Filed August 4, 2014

Type of Claim Failure to Follow Procedure

FINDING OF FACTS

The Claims Commission hereby unanimously denied and dismissed the Respondent's "Motion to Dismiss." Therefore, this claim will be set for hearing and all parties notified accordingly.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

The Claims Commission hereby unanimously denied and dismissed the Respondent's "Motion to Dismiss." Therefore, this claim will be set for hearing and all parties notified accordingly.

Date of Hearing August 14, 2014

Date of Disposition August 14, 2014

Richard May
Chairman
Jim Baker
Commissioner
Bill Jannet
Commissioner

SEP 24 2014

MR. A. L. Hodges (Director)

Arkansas State Claims Commission

RECEIVED

PATRICK W. Fleming #081731 (Claimant)

CLAIM # 15-0028-CC

VS.

Department of Correction

Dear MR. Hodges,

In response to your letter sent to me on Sept. 16, 2014 relating to hearing date set for 9:15 AM Friday, Oct. 17, 2014 in the above-styled claim, I would like to request that to verify claimants claim that the Arkansas state Claims Commission bring in Cpl. C. Davis (A-shift) E.A.R. MAX. Unit whom is listed as Exhibit "A" in claimants claim.

Claimants also request that the Claims Commission allow the State Police Headquarters, ~~CVSA~~ CVSA Examiner present to test the claimant, Cpl. Davis and Capt. Wallace McNary as to the truthfulness of each ones statement in the above styled case. ^(either before or after) The respondent sent your office and myself a letter on the 29th day of July stating that they were conducting a investigation by the internal affairs, however as of this day and date I dont think it has been complete atleast I was never interviewed therefore I pray that the Commission allow the above requests in the above-styled case.

Thank you,

Patrick W Fleming
PATRICK W. Fleming #081731

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



NORMAN L. HODGES, JR.
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, AR 72201-3823

September 24, 2014

Mr. Patrick Fleming
P.O. Box 180
Brickeys, AR 72320

Re: Patrick Fleming
Claim #15-0028-CC
Vs.
Department of Correction

Dear Mr. Fleming:

As per your letter dated September 24, 2014, the Claims Commission does not provide CVSA tests for claims. It is the responsibility of the Claimant to provide such tests.

Sincerely,

A handwritten signature in black ink that reads "N. L. Hodges".

Norman L. Hodges
Director

NLH/jw

CC: Lisa Wilkins, DOC Attorney

DEAR MR. Hodges, JR.

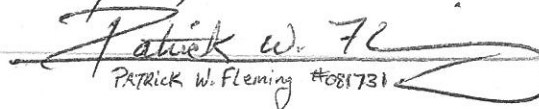
Thurs. Oct. 9, 014

PATRICK W. Fleming
claim # 15-0028-cc
Department of Corrections

Sir, I would like to advise you and the Committee that while I was on my 1-hour yard call this morning, I was approached by inmate Jessie McDonald whom is the one that led Capt. McNary, W. to falsify a written report on me on Feb. 23, 014. He told me that on the evening of Oct. 7th that Ms. L.M. Wilkins, (State Attorney) Capt. W. McNary had him escorted to the Capt's. Office by a Lt. & Sgt. where Capt. told him he needed him to testify against myself that we were fishing with strings Trafficking and trading.

This same inmate whom made all these false statements an charges to begin with then told me that he had a witness statement for me if I would agree to pay him. Sir This is the same thing as before this inmate and his friend tried to extort things from and when I wouldn't give them anything they or he made false accusations against me. Sir Capt. McNary is no longer a MAX unit Capt. he works in general Population why was he even back here in the presence of this inmate? There is ~~lot~~^{of} a lot of deceitfulness and its not on my behalf. I wanted to make you and the Committee aware of this and send you this statement that inmate J. McDonald sent me. He told me that no officers would sign it as a witness once they read it.

Thank you,


PATRICK W. Fleming #081731 #081731

Arkansas
State Claims Commission
OCT 14 2014

NEW address:

P.O. Box 970

EA. RL.
Marianna, AR.

72360

RECEIVED

18



ARKANSAS DEPARTMENT OF CORRECTION
STATEMENT OF WITNESS

Arkansas
State Claims Commission
OCT 14 2014

RECEIVED

NAME: Jessy McDonald Rank/Status/Number 652307 Unit: SHRU

STATEMENT: I J. McDonald on oct. 6 or 7th 2014 was escorted by Lt. Dean Sgt Williams to the Warrants office. Where Capt. McFarly, W and the State Attorney Lisa Mulkins were all in presence and at which time Capt. McFarly and Ms. Wilkins told me they wanted me to testify on a video screen that myself and Inmate R Fleming were trafficking and trading commissary items with each other with the use of a Fishing line when we were housed in the same barracks in Feb 2014, when in fact Fleming never gave me nothing it was all a set up by me and another inmate and I agreed to play along

I make this statement freely, under no duress, and without undue coercion against me by any correctional officer or Official of the Arkansas Department of Correction.

Jessy McDonald
Signature

10/09/2014
Date:

Witness / Statement Taken By

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 19,500.00

Claim No. 15-0028-CC

Patrick Fleming, #081731 Claimant
vs.

Attorneys
Pro se Claimant

AR Department of Corrections
State of Arkansas Respondent

Lisa Wilkins, Attorney Respondent

Date Filed July 16, 2014

Type of Claim Failure to follow procedure

FINDING OF FACTS

This claim was filed for failure to follow procedure in the amount of \$19,500.00, against the Arkansas Department of Corrections.

Present at a hearing October 17, 2014, was the Claimant, pro se, and the Respondent, represented by Lisa Wilkins, Attorney.

The Claims Commission unanimously finds liability on the part of the Respondent and unanimously awards Claimant the amount of \$50.00.

The Claims Commission hereby unanimously awards this claim in the amount of \$50.00, 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 hereby unanimously awarded this claim in the amount of \$50.00 and hereby directs the Claims Commission Clerk to issue a voucher in payment thereof.

Date of Hearing October 17, 2014

Date of Disposition October 17, 2014

[Signature] Chairman
[Signature] Commissioner
[Signature] Commissioner

**Appeal of any final Claims Commission decision is only to the Arkansas General Assembly as provided by Act #33

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 19,500.00

Claim No. 15-0028-CC

Patrick Fleming, #081731 Claimant
vs.

Attorneys
Pro se Claimant

AR Department of Corrections Respondent
State of Arkansas

Lisa Wilkins, Attorney Respondent

Date Filed July 16, 2014

Type of Claim Failure to follow procedure

FINDING OF FACTS

This claim was filed for failure to follow procedure in the amount of \$19,500.00, against the Arkansas Department of Corrections.

Present at a hearing October 17, 2014, was the Claimant, pro se, and the Respondent, represented by Lisa Wilkins, Attorney.

The Claims Commission unanimously finds liability on the part of the Respondent and unanimously awards Claimant the amount of \$50.00.

The Claims Commission hereby unanimously awards this claim in the amount of \$50.00, 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 hereby unanimously awarded this claim in the amount of \$50.00 and hereby directs the Claims Commission Clerk to issue a voucher in payment thereof.

Date of Hearing October 17, 2014

Date of Disposition October 17, 2014

[Signature] Chairman
[Signature] Commissioner
[Signature] Commissioner

21

PATRICK Fleming #081731 claimant

vs

AR Department of Corrections: Respondent
State of Arkansas

CLAIM NO. 5-0028-CC

TYPE OF CLAIM: Failure to Follow Procedure

DATE filed: July 16, 014

APPEAL TO STATE CLAIMS COMMISSION

FOR DECISION RENDERED CONCERNING HEARING ON FRIDAY, OCT. 17, 014

Arkansas Claims Commission
NOV 05 2014
RECEIVED

I would like to ask for reconsideration in the above claim because on Feb. 23, 014 I was a Class 1^c inmate and had been for approx. 90 days, however because of Capt. W. McNary's failure^{ff} to follow the procedures set out within the Employee Conduct standards of AR #225, #12(a) § (b) as well as AD 13-10 (AR #831) Disciplinary Procedures, and other state procedures.

I was written a false report as during disciplinary hearing on March 4, 014 claimant was found guilty of all charges written in said report and reduced in class from 1^c to Class 4 and given 15 days to serve in punitive isolation, thereafter it took approx. 120 days for claimant to obtain his class 1^c status back.

Based on the Claims Commission's findings that Capt. McNary failed in his job description which further caused myself unjust punishment by being placed in solitary confinement as well as contributed to claimant's continued confinement in the Maximum Security unit because of the falsified report written by Capt. W. McNary. Claimant further states that because of the Deceit & Negligence on behalf of the respondent the claimant asks the Claims Commission to reconsider the amount of \$50.00 awarded to the claimant, with a stiffer penalty against the respondent to deter the respondent from these same type of actions in the future.

Thank you,

Patrick W. Fleming #081731
PATRICK W. FLEMING #081731

I, PATRICK W. FLEMING, After first being duly sworn do hereby swear, depose and state that: All matters and things written in the above statement are accurate and true to the best of my knowledge, information & belief.

NAME: PATRICK W. FLEMING #081731

Date: OCT. 26, 014

Patrick W. Fleming
signature

State of Arkansas }
County of LEE }

Subscribed and sworn to before me, A Notary Public, on this 26 day of Oct, 2014.

10/18/2022
My Commission Expires;

CLEASTER DEAN
NOTARY PUBLIC-STATE OF ARKANSAS
SAINT FRANCIS COUNTY
My Commission Expires 10-18-2022
Commission # 12390700

Cleaster Dean
Notary Public

22