

SEP 10 2014

RECEIVED

F12

Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

- Mr.
- Mrs.
- Ms.
- Miss

Do Not Write in These Spaces	
Claim No.	15-0224-CC
Date Filed	September 10, 2014
	(Month) (Day) (Year)
Amount of Claim \$?
Fund	DOC

Rodney Poole, #103798 Claimant

vs.
State of Arkansas, Respondent
Dept. of Corr.

Failure to Follow Procedure

COMPLAINT

Rodney Poole, #103798 the above named Claimant, of P.O. Box 500, Grady, AR 71644

N/A County of N/A represented by N/A

of N/A (City) (State) (Zip Code) (Daytime Phone No.) (Legal Counsel, if any, for Claim)

State agency involved: Maximum Security Unit Prison Farm, Tucker, Ark. Amount sought: 90 days GT-Forfeited \$119.00 a day for 30 days Punitive Isolation Served.

Month, day, year and place of incident or service: On November 1st, 2012 Maximum Security Unit.

Explanation: I didn't receive a fair and impartial hearing. My hearing was not fair, and it was partial!! Because if policy and procedure were followed according to AD: 11-51 Inmate Disciplinary Manual, when the Warden William Straughn stated: "Further, after a review of the video footage it was clear that you were standing in your door, however I was unable to determine your actions." Therefore, the officer's eyewitness report was accepted. "Now how is it that a Head Warden was unable to determine my actions after reviewing video taped footage, then turn around and accept CO-Tawanna Michelle Wade's eye witness report? There is no affirmation to be concluded, because the Warden's Eyes didn't see a rule-infraction place, nor was it determinable. Evidently CO-Tawanna Michelle Wade didn't see anything she could possibly determine of a rule infraction of 2-17, 20-3, 11-1, and 12-1. Since the video footage and the Warden's own statement/eyewitness report said "I was unable to determine your actions" This is proof that there was no conclusion of an actual fact. This also proves that there was no conclusive evidence. This also proves by Warden's denial of my appeal, that there was no conclusion of law/rule/policy/procedure, because a conclusion would have been reached through a fair & impartial & thorough application of AD: 11-51 & AD: 12-17 "Surveillance-Visual-Audio-Recordings". According to the documentation and video tape footage what CO-Tawanna Michelle Wade's eyewitness report was and is a presumption of guilt, because the Disciplinary Hearing Officer (Keith L. Waddle) didn't carefully weigh all evidence with special emphasis upon individual pieces of "primary evidence." Rumor or suspicion about an inmate's behavior shall not be taken into account. I should not have been forfeited (90) days GT-Food Time; and 30 days punitive isolation based on rumor or suspicion or presumption of guilt.

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? November 20th 2012; to whom? Warden William Straughn, Disciplinary Hearing Administrator - Raymond Naylor, Ray Hobbs-Direct; and that the following action was taken thereon: Your appeal is denied.

and that \$ _____ was paid thereon: (2) Has any third person or corporation an interest in this claim? _____; 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.

Rodney Lee Poole #103798-C
(Print Claimant/Representative Name)

[Signature]
(Signature of Claimant/Representative)

SWORN TO and subscribed before me at Grady, AR

EDWARD _____ SR. PUBLIC on this 2nd day of September 2014

My Commission Expires March 30, 2017 [Signature] Sr.
County of Jefferson (Notary Public)

SF1- R7/99

My Commission Expires: March 30, 2017
(Month) (Day) (Year)

DEAR MR. NOBBS, ADC - Director

1-7-13

In Re; Step III of disciplinary appeal
Subject; Report Dated November 1, 2012

FACTS: I am pursuing this appeal based on the following reasons.

I.

In the Body of the report the charging officer claim that I while at my cell had my "Erect Penis Exposed" in my hand stroking it and began "yelling" obscenities at her while both her and Sgt. Dora Blunt were feeding chow.

II.

Now as I'd so stated in my earlier appeals that the security camera will show I'd not only didn't have my "Penis Exposed" nor did I stroke my penis. Also the footage will show that Sgt. Dora Blunt was standing next to cpl. T. WADE the entire time while feeding chow. And I was in my doorway (BAR-DOOR) and went to get my food tray then return to my cell.

III.

Now in WARDEN Streugh's response to my appeal he claimed to have re-viewed said camera footage and could not "determine" my actions. And accepted ms. WADE's report.

The reasons I disagree with mr. Streugh's decision are as follows;

I.

I wasn't behind a solid door, ~~therefore~~
I was behind bars. Therefore it's not at all possible for mr. Streugh to have

"Clearly" see me yet not see whether or not my penis was "EXPOSED" as the officer so claims.

II.

Also per AD# 12:20 pg 1 of 42 Sec. II (a)(b) "There's no bias in the favor of the charging officer". Yet in the first step of my appeal WARDEN Straughn after not seeing my "EXPOSED PENIS" discounted both my statement and my witnesses statements as well as the LACK of verifiable evidence by NOT seeing my "PENIS EXPOSED".

III.

AD# 12:20 pg. 14 of 42 Sec. VII (D)(3) Policy violation of procedure; Any witnesses to the infraction shall prepare declaration(s) to be attached to the charging person's report of the incident. (Copy included - also see AR#005) And with the mention of Sgt. Dara Blunt's presence she was required to write a statement (005) which she didn't.

Moreover there is a "SERIOUS" problem that borderslines nepotism in the security apparatus of this unit along with the employment of former Security Staff of whom has history of misconduct at other units during previous tenures. Sgt. Blunt has a sister in Pine Bluff whom has a child by the very C.S.O whom signed off on my disciplinary report; Major Marice Williams anything she writes up against inmates stick without proper unit-level investigation. Look

into' this, and you'll see.

Cpl. Tawanna W. Wade was terminated ~~a~~
of the Cummins unit for trafficking ~~and~~
contracted with inmates and lying about
it during the investigation. Simply review
her previous employment history and you'll
find this out

Also Sgt. Dora Woods-Blunt was termin-
ated from the Tucker unit for Staff
misconduct as well, a couple of years ago.

Rouse staff should not fabricate
charges against inmates and have the CSO
Rubber Stamp it due to non-working
relationships this has gone on at this
unit for far too long.

ISSR100

Arkansas Department of Corrections
Maximum Security 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: Poole, Rodney Lee

ADC#: 103798C

Assignment: AM/PM:Discpl Court Review

Class: II is being charged by Wade, Tawanna Michelle
with code violation(s):

Title: Correctional Officer

- 02-17 Creating Unnecessary Noise
- 10-3 Indecent Exposure
- 11-1 Insolence To A Staff Member
- 12-1 Failure to obey verbal and/OR written orders of staff

Date & Time: 11/01/2012 11:35 AM

Notice of Charges:

On November 01, 2012 at approximately 11:35a.m I, Cpl. Tawanna Wade along with Sgt. Dora Blunt was feeding cho in 4 barrack (zone 1) when I observed inmate Rodney Poole #103798 standing at cell #33 with his exposed erect penis in his hand stroking it in a up and down motion while looking at me. I then gave inmate Poole a direct order to stop in which he did comply. Inmate Poole then began yelling at me stating "You gone fuck around and be unemployed again keep fucking with me I'm going to give you what you want, You silly ass mother fucker". As of May of 2007 Inmate Poole has no prior 10-3. Therefore I, Cpl. Tawanna Wade am charging inmate Rodney Poole #103798 with rule violations 2-17, 10-3, 11-1, 12-1

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

Signature of Charging Officer

NOTIFICATION: Officer _____ Date & Time Notified _____

Witness Statements: No X If yes, list:

Inmate's Signature

C.S.O. Review: Outcome: Refer to Hearing Officer/Comm.
By: Williams, Maurice E Date 11/02/2012

Extension: No X 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 _____

F-831-5

ARKANSAS DEPARTMENT OF CORRECTION AR 831
Maximum Security Unit
DISCIPLINARY EXTENSION FORM

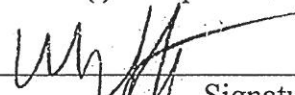
TO: Poole, Rodney #103798
FROM: Warden W. Straughn

RE: Disciplinary Dated 11-1-12 at 11:35am for rule violation(s)

DATE: 11-9-12

This is to inform you I am extending your Disciplinary Hearing for a period of 5 *additional working days for the following reasons:

- Inmate is out to court/hospital, or otherwise off the Unit/Center.
 - Awaiting the decision of the prosecuting attorney regarding the filing of a felony charge.
 - The following is needed: The inmate is under medical quarantine due to an outbreak of the Chicken pox in the barracks where he is housed.
 - Disciplinary system is down.
 - Inmate transferred to another unit.
 - Volume of Disciplinaries scheduled for hearing is excessive and more time is needed to ensure a fair determination in each case.
 - Emergency situation exists at the unit.
- Retroactive extension:
- Escaped inmate, not in custody. Returned to Unit _____



Signature

Date Time
11-13-12 8:20 AM
Date Time

Warden/Center Supervisor, Hearing Officer

Copy delivered to inmate by:  on 11-13-12 @ 12:00pm
(Signature) Date

cc: File
*An Extension may be granted up to five (5) business days. If greater length of time is needed, then the extension must be renewed and will not exceed five (5) days per extension. The Director must approve any extension over thirty (30) days total.

Director's Signature Date Length of Extension

This extension will expire on 11-20-12 at 6:00pm
Date Time

AR 2-25

6

ISSR101

Arkansas Department of Correction

DISCIPLINARY HEARING ACTION

Inmate: Poole, Rodney Lee

ADC#: 103798C

Unit: Maximum Security Unit

Code Violation(s):

- 02-17 Creating Unnecessary Noise
- 10-3 Indecent Exposure
- 11-1 Insolence To A Staff Member
- 12-1 Failure to obey verbal and/OR written orders of staff

Date/Time of Alleged Offense(s): 11/01/2012 11:35 AM

Hearing Date: 11/20/2012 Time: Start 8:39 AM End 8:46 AM

Recorder: Waddle, Keith L Tape#: 7 Side: A Meter: From 190 To 224

Plea: Not Guilty, Not Guilty, Not Guilty, Not Guilty Attendance Waived: No

Has waiver form been completed? _____

Inmate's Statement:

The disciplinary expired. I was not masterbating. I want the camera to be used. I was talking to my neighbor. No, sir.

Signature of Inmate

Court Questions:

Do you have a statement?
Did you speak to this officer?

~~John~~

Sentencing Conditions:

Verdict: Guilty, Guilty, Guilty, Guilty

Restriction Days to Serve

Commissary:	60	Days Suspended:	0
Phone:	60	Days Suspended:	0
Visitation:	60	Days Suspended:	0
Punitive Isolation Days to Serve:	30	Days Suspended:	0
GT Class Reduced to:	IV	Class Suspended:	
GT Days Forfeited:	90	Days Suspended:	0

Disciplinary Hearing Action

11/20/2012 10:11 AM

Page 2

Inmate: Poole, Rodney Lee

ADC#: 103798C

Unit: Maximum Security 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.):

Inmate disobeyed an order, was insolent and exposed his penis to staff.

Evidence Relied Upon:

FI states on the am of 11-1-12, Poole was insolent and exposed his penis to staff thus disobeyed an order of the Unit and ADC. Witness statements.

Reasons Why Information Purporting to Exonerate Inmate was Discounted:

FI report is accepted.

Reasons for Assessment of Punishment:

Inmate is class II and must not expose his penis to staff or be insolent.

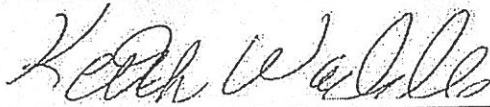
I have read this report and understand that I may appeal to the Warden about any decision made in this matter within fifteen (15) working days by completing the "Disciplinary Appeal" form.

Inmate's Signature _____

Counsel-Substitute _____

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

Hearing Officer _____



Date _____

F-831-4

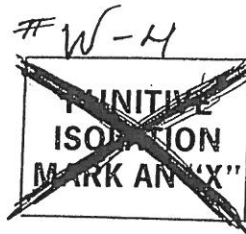
Arkansas Department of Correction

RECEIVED MAX SECURITY UNIT

Maximum Security Unit

NOV 26 2012

MAJOR DISCIPLINARY APPEAL FORM



WARDEN'S OFFICE

Inmate Rodney L. Poole Jr. ADC # 103798 Date Nov. 20, 2012

Concerning Disciplinary Given on (date) 11-1-12 by (officer) Ms. Tawanna M. Wade

APPEAL TO WARDEN: (to be completed by inmate)

State reasons why conviction or punishment should be reversed or modified: For the following reasons I feel that the disciplinary action should be dismissed in its entirety. 1) In the report of C.T. Wade claims that I had my "exposed erect penis in my hand stroking it". And to provide actual evidence that I didn't I ask that the camera footage is viewed. In it I'm in fact standing at my door talking to my neighbor coming out to get my toy then returning to my cell. 2) Also to dispute the claims written in the report I request a Computerized Voice Stress Analysis on both officers Wade and Blunt myself and my neighbor! And both Sgt. Blunt & Ms. Wade were standing close but Sgt. Blunt submitted no statement to support the report per AR#005.

Inmate's Signature: R. L. Poole Jr. 103798-C

RESPONSE FROM WARDEN: (due within ten (10) calendar days of receipt of appeal if punitive)

Affirm: ✓ Reverse: _____ Modify: _____

Reasons Action Taken:

I have reviewed your appeal, and find records show that you were given a fair and impartial Hearing, with no violation of your due process rights. The Hearing Officer found you guilty of violating rules 2-17, 10-3, 11-1 and 12-1, after examination of the Charging Officer's eyewitness statement.

In your appeal, you presented no evidence or witness statement to justify reversal or modification of the punishment assessed against you. Further, after a review of the video footage it was clear that you were standing in your door, however I was unable to determine your actions. Therefore, the officer's eyewitness report was accepted. Your appeal is denied.

You have a right to appeal this decision to the Disciplinary Hearing Administrator, located at Central Office, within fifteen (15) days.

Signature: [Signature] Date: 11/28/12

NOTICE TO INMATE: If you do not agree with the warden's response, you may appeal it to the Hearing Officer Administrator. If you do not agree with the Hearing Officer Administrator's response, then you may appeal it to the

DEAR MR Naylor,

12-4-12

IN RE: Step II of Disciplinary Appeal.

SUBJECT: NOVEMBER 1, 2012 By: T. M. WADE

FACTS: I am pursuing this appeal based on the following reasons.

① IN the body of the report the charging officer claim that I while at my cell had my "Erect Penis Exposed" in my hand stroking it and began "YELLING" obscenities at her while both her and Sgt. D. Blunt were feeding chow.

② Now as I'd so stated in my earlier appeal that the Security Camera will show I'd not only didn't have my "PENIS Exposed" nor did I stroke my penis. Also the footage will show that Sgt. D. Blunt was standing next to cpl. WADE the entire time while feeding chow. And I was in my doorway (BAR-DOOR) and went to get my food tray then returned to my cell.

Now in WARDEN Straughn's response to my appeal he claimed to have reviewed said camera footage and could not determine my actions. And accepted cpl. WADE's report.

The reasons I disagree with MR. Straughn's

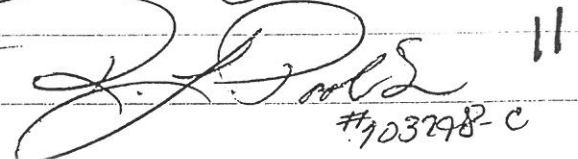
decision are as follows; ① I'm not behind a solid door as in Admin. Sec. But a BAR Door. Therefore it's not physically possible to see me and not see whether or not my penis was "Exposed" as the officer so claims.

② Also for AD#12-20 policy violations of procedure. "Any witnesses to the infraction shall prepare declaration to be attached to the charging persons report" (Also see AR#005). And being present Sgt. D. Blunt didn't write a 005 to the report.

③ Also per AD#12-20; "There's NO bias in favor of the charging officer". Yet in the first step of appeal WARDEN Straughn after not seeing my "Exposed Penis" discounted both my statement and my witnesses statements as well as the LACK of verifiable evidence by not seeing my "Penis Exposed". — END of STATEMENT

With the aforementioned I request this report be REVERSED in its entirety? Also I'd like for a Computerized Stress Test to further prove that cpl. WADE falsified Documents!

Sincerely,

 11
#703798-C



Sworn Before a Notary Public
of December 2012.

17-14-2012



Arkansas Department of Correction

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

MEMORANDUM

TO: Inmate R. Pool, ADC #103798, MSU Unit
FROM: *R-J-c-n-g*
Raymond Naylor, Disciplinary Hearing Administrator
RE: Major Disciplinary Appeal
DATE: 12/14/12

Please be advised I am in receipt of your disciplinary appeal, regarding the major disciplinary you received on 11/01/12, at 11:35am, by T. Wade.

After a thorough review of all the documents pertaining to this matter, I find that I must Affirm the decision of the major disciplinary hearing office.

If you so desire, you may appeal further to the Director of the Department of Correction.

RN(x)

cc: Warden
File

punctuation; however, the actual content of the disciplinary report must not be changed.

2. The Major Disciplinary Form (F-831-1) must be signed by the charging person, affirming that the information in the report is true and correct. Any relevant supporting documents (such as incident reports) should be attached to the major disciplinary form. The completed form with any attachments should be forwarded immediately to the chief security officer. When available this process will be completed electronically in the electronic Offender Management Information System.
3. Any witness(es) to the infraction shall prepare declaration(s) to be attached to the charging person's report of the incident. Witnesses include any inmates, employees, and/or free world persons who have firsthand knowledge of the infraction. Witnesses who appear to testify before the Disciplinary Court will have their statements recorded. If written witness statements are submitted to the Disciplinary Court, those will be read into the record.
4. It will be the responsibility of the Disciplinary Hearing Officer to thoroughly review all available documents concerning the major disciplinary reports. He/she will determine whether or not additional information is necessary and may grant an extension of time pursuant to these guidelines if necessary.

E. Hearings

1. The Major Disciplinary Court shall meet or be held by video conference as often as necessary at a convenient place and time between the hours of 6:00 a.m. and 6:00 p.m., in order to administer the institutional disciplinary functions as expeditiously as possible. It is recommended that hearings be held at least weekly. The court should avoid convening on weekends and holidays to minimize interference with inmate visitation; however, if security or administrative necessity as determined by the Warden/Center Supervisor dictate, then the hearings may be held on a weekend or holiday. Any weekend or holiday hearings will be limited to business as necessary to alleviate the concerns expressed by the Warden/Center Supervisor.
2. A charged inmate must be given at least twenty-four (24) hours prior notice of a disciplinary proceeding. The inmate may call witnesses by giving the serving officer the names of the individuals he/she wishes to call. The manner in which the witnesses' statements are presented to the court shall be within the discretion of the Disciplinary Hearing Officer.




Arkansas Department of Correction

Director's Office
P.O. Box 8707
Pine Bluff, Arkansas 71611-8707
Phone: (870) 267-6200
Fax: (870) 267-6244
www.arkansas.gov/doc

MEMORANDUM

TO: Inmate R. Poole, ADC #103798
Maximum Security Unit

From:  Ray Hobbs, Director

Date: February 15, 2013

RE: Disciplinary Appeal

I am in receipt of your disciplinary appeal regarding a major disciplinary you received on 11/01/2012, at 11:35 a.m., by Corporal T. Wade.

After reviewing your appeal, I find that you have failed to provide any additional evidence that would warrant modification or reversal of the disciplinary hearing officer's decision. Therefore, I find no evidence to support modification or reversal of this disciplinary.

Your appeal is denied.

RH/cv

cc: Warden/Inmate File
Hearing Officer Administrator
File

Arkansas
State Claims Commission
SEP 29 2014

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

RODNEY POOLE (ADC 103798)

RECEIVED
CLAIMANT

V. NO. 15-0224-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
 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:

Rodney Poole (ADC 103798)
Cummins Unit
P.O. Box 500
Grady, AR 71644-0500

Lisa Mills Wilkins
 LISA MILLS WILKINS Ark. Bar #87190

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

CLAIMANT RECEIVED

RODNEY POOLE (ADC #103798)

V.

NO. 15-0224-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

RESPONDENT'S MOTION TO DISMISS

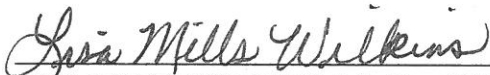
COMES NOW the Respondent, Arkansas Department of Correction, and for its MOTION TO DISMISS, states and responds as follows:

1. Claimant alleges that he was denied a fair and impartial hearing. Claimant is seeking unspecified damages. Claimant has failed to state a claim upon which relief can be granted under ARCP Rule 12(b)(6) and the matter should be dismissed.
2. Claimant's argument is that he was denied a fair and impartial hearing. He states that because Warden Straughn reviewed the video and could only substantiate the charging officer's allegation that Claimant was standing at his door and the Warden could not tell from the video tape if he was masturbating, but still found him guilty, then the hearing was not impartial. The disciplinary was later affirmed on appeal at all levels.
3. Claimant is mistaken in the difference between impartial and weight of the evidence. The hearing officer is entitled to weigh the evidence of the party's and come to a conclusion.
4. Claimant has not shown that the officer had no way of seeing what the Claimant was doing, but merely that the camera, mounted in a corner of the building at a different angle than the officer standing in front of the Claimant's cell, did not show what the Claimant was doing.
5. What the camera did show was that the officer was at the cell at the time she stated and the Claimant was standing at his door. It was reasonable for the hearing officer to conclude the remainder of the charging officer's disciplinary statement was true and accurate, that Claimant was masturbating and using obscene language towards her.
6. Claimant's disciplinary conviction for the above has not been reversed, expunged or challenged by a court; therefore, his claim should be dismissed.
7. A motion to dismiss is proper when there are no facts upon which relief can be granted. ARCP 12(b)(6). Respondent moves that the commission dismiss this claim.

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

Respectfully submitted,

Department of Correction
Office of Counsel

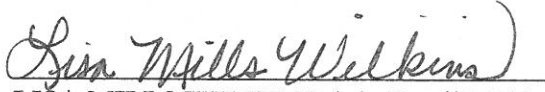

LISA MILLS WILKINS Ark. Bar #87190
Attorney Supervisor
Post Office Box 8707
Pine Bluff, AR 71611

(870)267-6844 Office
(870)267-6373 Facsimile

CERTIFICATE OF SERVICE

I certify that a copy of the above MOTION TO DISMISS has been served this 30 day of September, 2014, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

RODNEY POOLE (ADC #103798)
MSU
2501 STATE FARM ROAD
TUCKER, AR 72168


LISA MILLS WILKINS Ark. Bar #87190

ARKANSAS DEPARTMENT OF CORRECTION
CUMMINS UNIT PRISON FARM
3001 HWY 388/ P.O. BOX 500
GRADY, ARKANSAS
71644-500

Arkansas
State Claims Commission
OCT 13 2014
RECEIVED

RODNEY L. POOLE SR.

-CLAIMANT-

VS.

CASE NO. 15-0224-CC

ARK. DEPT. OF CORR.

-RESPONDENT-

**CLAIMANT'S REBUTTAL TO RESPONDENT'S MOTION
TO DISMISS/SUMMARY JUDGMENT**

Comes now the Claimant's Rebuttal to the Respondent's Motion To Dismiss, hereby states as follows:

1. Respondent states that Claimant was not specific in the damages sought, and further stated "Claimant failed to state a claim upon which relief can be granted under AR.CP. Rule 12 (B)(6)."

Yet the Claimant clearly stated on the claim application he is seeking relief in the amount of \$119.00 per day served in Punitive Segregation and for the 90 days of good time forfeited.

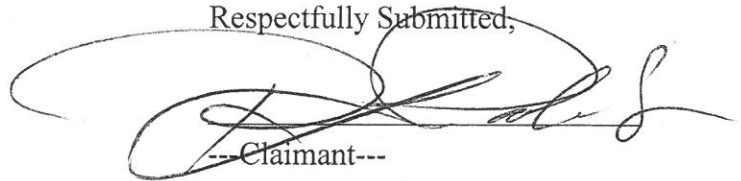
2. Claimant also states that the Respondent's actions and/or failure to act is equivalent to Denial of Claimant's Right to Due Process as outlined in the (see Edwards v. Balisok, 520 U.S. 614, 647, 117 S.Ct. 1584 (1997) and Wolff v. McDonnell, 418 U.S. 539, 94 S. Ct. 2963, 41 L. Ed. 2d 935 (1974))
3. Respondent proclaims the Claimant misinterpreted the difference between impartial and weight of evidence. On two separate occasions it had been made very clear to the Claimant as to the differences;
 - A.) The Hearing Officer openly argued belligerently against the Claimant's request for viewing of the camera as exonerate evidence.
 - B.) The in spite of a multitude of witnesses for the Claimant the charging officer's lone account was accepted as factual without any proof or supporting evidence.
4. The Respondent knowingly and intentionally failed to mention a secondary camera in the housing area in hopes of misleading the commission. When in fact there are two (2) cameras in the housing area. One is mounted in the rear corner of the cell-block above the Third tier facing the front and the second camera is mounted in the central region of the cell-block facing the rear portion of the cell-block thus to eliminate blind spots for safety and security. (see AD #12:17- Audio & Video Surveillance Recordings.)
5. The Claimant was housed in a corner cell in the rear of the cell-block on the second tier and out of the line of view from the rear camera. At the alleged time of incident the

Charging Officer was on the ground level and to the far left of the Claimant's cell and well beyond the vantage point of camera #2 which is in the central most location of the cell-block facing the Claimant's cell. Thus affording this camera an un-obstructed clear view not only of the Claimant's cell but also into his cell as so observed by the Warden in the disciplinary appeal process. and at no time did the Charging Officer stand before the Claimant's cell.

6. The Claimant so pray that it is also noted that there's no rule violation against standing in the cell doorway while talking to the neighboring cells (see. AD #13:10- Inmate Disciplinary Manual) which in fact is what the Claimant was doing and this can and will be seen by the second camera of which the Respondent does not wish to disclose for this fact.

Wherefore for the reasons aforementioned the Claimant does hereby Rebut the Respondent's Motion To Dismiss.

Respectfully Submitted,



---Claimant---

3001 HWY 388/ P.O. 500
GRADY, ARKANSAS
71644-0500

STATE CLAIMS COMMISSION DECISION
OPINION

Amount of Claim \$ _____ ?

Claim No. 15-0224-CC

Rodney Poole, #109798 Claimant
vs.

Attorneys
Pro se Claimant

Department of Correction Respondent
State of Arkansas

Lisa Wilkins, Attorney Respondent

Date Filed September 10, 2014

Type of Claim Failure to Follow Procedure

FINDING OF FACTS

The Claims Commission hereby unanimously granted the Respondent's "Motion to Dismiss," for reasons set forth in paragraphs 1-6 contained in the motion. Therefore, this claim is hereby unanimously denied and dismissed.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

The Claims Commission hereby unanimously granted the Respondent's "Motion to Dismiss," for reasons set forth in paragraphs 1-6 contained in the motion. Therefore, this claim is hereby unanimously denied and dismissed.

Date of Hearing October 15, 2014

Date of Disposition October 15, 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 of 1997 and as found in Arkansas Code Annotated §19-10-211.

20

MR. HODGES,

Arkansas Claims Commission

NOV 10 2014

11-10-14

RECEIVED

SIR,

I'VE REASON TO BELIEVE THAT MY CLAIM #15-0224-CC HAD BEEN TAMPERED WITH BY ADC OFFICIALS HERE AT THE CUMMINS UNIT.

FORE I'VE RECENTLY RESPONDED TO THE COMMISSIONS ~~DECISION~~ ^(RP) DECISION TO DISMISS MY CLAIM WITH A REQUEST FOR AN APPEAL FORM AS APPROVED BY ACT #33 OF 1997.

AND BY THE FAILURE TO RESPOND TO MY REQUEST GIVES ME THE SUSPICION THAT ADC OFFICIALS HAVEN'T BEEN SEND-ING OUT MY LEGAL MAIL OUT! ALSO BY A MORE THOROUGH REVIEW OF THE COM-MISSIONS DECISION IT APPEARS AS IF THE COMMISSION NEVER RECEIVED MY REBUTTAL TO THE RESPONDANT'S "MOTION TO DISMISS".

PLEASE NOTE THAT I'M INDIGENT AND THUS HAVE TO RELY ON ADC FOR MY POSTAGE & ENVELOPES AND LAW LIBRARY TIME. I'D FILED A TWO (2) PAGE 6 REASON REBUTTAL TO THE RESPONDANT'S MOTION TO DISMISS ON OR ABOUT 10-9-14 AND I'D SENT MY REQUEST FOR APPEAL FORM ON 10-22-14. ALL TO NO 21

AVAIL!

SIR I'M DOING ALL I CAN TO PROPERLY
PERSUE THIS CLAIM BUT WITH MY LIMITED
KNOWLEDGE AND THE UNDERMINE TACTICS
OF ADC OFFICIALS FURTHER COMPLICATES
MY EFFORTS. AND THEREFORE I'M IN NEED
OF ASSISTANCE WITH THIS CLAIM.

Respectfully
Submitted
D. J. Poole Sr.