

Arkansas State Claims Commission
OCT 21 2013

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Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

Mr.
 Mrs.
 Ms.
 Miss
Tommie Mason

083024 Claimant

Do Not Write in These Spaces		
Claim No.	14-0338-CC	
Date Filed	October 21, 2013	
	(Month)	(Day) (Year)
Amount of Claim \$	10,000.00	
Fund	DOC	

vs.
State of Arkansas, Respondent
Dept. of Correction

COMPLAINT Pain & Suffering, Failure to Follow Procedure, Negligence
Tucker

Tommie Mason, the above named Claimant, of P. O. Box 2400-240, Tucker, Arkansas 72168, N/A, County of Jefferson, represented by Sheila F. Campbell (City)

(State) (Zip Code) (Daytime Phone No.) (Street or R.F.D. & No.) (City)

of 2510 Percy Machin Drive North Little Rock, AR 72114, represented by 501-374-0700 501-372-5375 (Legal Counsel, if any, for Claimant) (Phone No.) (Fax No.)

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

State agency involved: Arkansas Department of Correction Amount sought: \$10,000

Month, day, year and place of incident or service: August 4, 2012 Tucker Unit

Explanation: On Sunday August 4, 2012, Claimant Tommie Mason became ill with symptoms of vomiting and diarrhea. The illness was caused by Salmonella bacteria found in the chicken salad which was served to claimant at lunch on Saturday August 3, 2012 by the Arkansas Department of Correction at the Tucker Unit. The chicken used in the chicken salad was not properly refrigerated prior to being served to the claimant. The inmates serving the food did not use preparation gloves to prevent the spread of the Salmonella and they used their bare hands to handle the food in the kitchen. Due to the negligence of the ADC-Tucker Unit in preparing the chicken salad without the use of proper hygiene and good food handling techniques, Mr. Mason was infected by the Salmonella bacteria. The Salmonella bacteria infection caused Mr. Mason to be ill for several days. Negligence of the Arkansas Department of Correction was the proximate cause of the pain and suffering by the plaintiff.

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? ; to whom? Arkansas Department of Corrections (Yes or No) (Month) (Day) (Year) (Department)

and that \$ 0.00 was paid thereon: (2) Has any third person or corporation an interest in this claim? None; if so, state name and address (Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)

and that the nature thereof is as follows: ; and was acquired on ; in the following manner:

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

Sheila F. Campbell (Print Claimant/Representative Name) Sheila F. Campbell (Signature of Claimant/Representative)

SWORN TO and subscribed before me at Little Rock, Ar (City) (State)

(SEAL) on this 18th day of October, 2013 (Date) (Month) (Year)

Laurence E. Jackson (Notary Public)

SF1- R7/99

My Commission Expires: (Year)

LAURENCE E. JACKSON (Notary Public)
NOTARY PUBLIC-STATE OF ARKANSAS
PULASKI COUNTY
My Commission Expires 3/31/2017
Commission # 12359503

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TOMMIE MASON (ADC 083024)

CLAIMANT

V.

CLAIM NO. 14-0338-CC

ARKANSAS DEPARTMENT OF
CORRECTION

RESPONDENT

ORDER

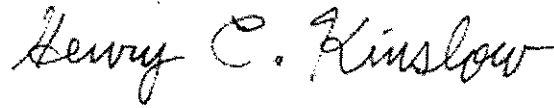
Now before the Arkansas State Claims Commission (the "Claims Commission") is the claim of Tommie Mason (the "Claimant") against Arkansas Department of Correction (the "Respondent"). At the hearing held November 16, 2018, Claimant was in attendance, along with Claimant's counsel, Sheila Campbell. Thomas Burns appeared on behalf of Respondent.

At the beginning of the hearing, Respondent increased its settlement offer to \$175.00. Claimant declined the settlement offer and elected to proceed with the hearing.

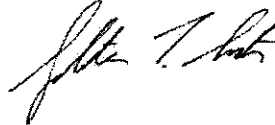
Claimant testified that he was sick for three to four days following the August 2012 food poisoning incident. Claimant's symptoms included stomachache, vomiting, and diarrhea. Claimant stated that he was not able to eat while he was sick and could only drink water for the duration of his illness. Claimant's counsel introduced Claimant's grievance filings regarding the incident as hearing exhibits.

The Claims Commission found Claimant's testimony to be credible but agrees with Respondent's valuation of Claimant's damages. As such, upon a review of the pleadings, testimony, and evidence, the Claims Commission **ALLOWS** this claim in the amount of \$175.00 and directs the Claims Commission clerk to issue a voucher in payment thereof.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow, Co-Chair



ARKANSAS STATE CLAIMS COMMISSION
Sylvester Smith



ARKANSAS STATE CLAIMS COMMISSION
Mica Strother

DATE: November 16, 2018

Notice(s) which may apply to your claim

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

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TOMMIE MASON (ADC 083024)

CLAIMANT

V.

CLAIM NO. 14-0338-CC

ARKANSAS DEPARTMENT OF
CORRECTION

RESPONDENT

**ORDER ON CLAIMANT'S
MOTION FOR RECONSIDERATION**

Now before the Arkansas State Claims Commission (the "Claims Commission") is a motion filed by Tommie Mason (the "Claimant") for reconsideration of the Claims Commission's November 16, 2018, order awarding Claimant \$175.00 on his claim against the Arkansas Department of Correction (the "Respondent"). Based upon a review of the pleading, the arguments made therein, and the law of Arkansas, the Claims Commission hereby unanimously finds as follows:

1. Claimant filed his claim on October 21, 2013, seeking \$10,000.00 in damages related to a food poisoning incident in August 2012.

2. On November 16, 2018, this claim was heard by the Claims Commission. Claimant attended via videoconference with his counsel, Sheila Campbell. At the beginning of the hearing, Respondent increased its settlement offer to \$175.00, which Claimant declined. The Claims Commission agreed with Respondent's valuation of Claimant's damages and awarded Claimant \$175.00.

3. Claimant thereafter filed the instant *pro se* motion for reconsideration, arguing that the Claims Commission "cannot measure the amount of pain and suffering that Claimant experienced during and after the food poisoning incident." Claimant also argued that the Claims Commission did not consider that Respondent "knowing[ly] and willingly denied medial treatment

for Claimant” and that Respondent has “openly admitted [its] failure to exercise the care that a reasonable[y] prudent person would exercise in like circumstances.” In that motion, Claimant increased his requested award to \$1,000,000.00.

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

5. The Claims Commission finds that the motion does not set forth new or additional evidence not previously available. The Claims Commission finds that it is improper for the Claimant to increase his claimed damages at the motion for reconsideration stage. The Claims Commission finds that there was no evidence that Respondent “knowingl[y] and willingly denied [Claimant] medical treatment” or that Respondent “fail[ed] to exercise the care that a reasonable[y] prudent person would exercise.”

6. As such, Claimant’s motion for reconsideration is DENIED, and the November 16, 2018, Claims Commission order remains in effect.

7. The Claims Commission is aware that Claimant has filed a notice of appeal. This order will be transmitted to the parties, and the claim will be transmitted to the Arkansas General Assembly pursuant to Ark. Code Ann. § 19-10-211.

IT IS SO ORDERED.

Henry C. Kinslow

ARKANSAS STATE CLAIMS COMMISSION

Courtney Baird
Dexter Booth
Henry Kinslow, Co-Chair
Paul Morris, Co-Chair
Sylvester Smith

DATE: April 1, 2019

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Before The ARKANSAS
STATE CLAIMS COMMISSION

TOMMIE MASON (ADC#83024)

VS.

CLAIM No. 14-0338-CC

Arkansas
State Claims Commission
MAR 15 2019

CLAIMANT

ARKANSAS DEPARTMENT
OF CORRECTION

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RESPONDENT

Notice of Appeal

NOW BEFORE THE ARKANSAS STATE CLAIMS COMMISSION IS CLAIMANT TOMMIE MASON WITH HIS MOTION FOR NOTICE OF APPEAL IN ACCORDANCE WITH ARK. CODE ANN. 19-10-211(6)(3).

ON OR ABOUT DECEMBER 27, 2018, CLAIMANT MAILED HIS MOTION FOR RECONSIDERATION TO THE STATE CLAIMS COMMISSION. THE STATE CLAIMS COMMISSION HAS NOT RESPONDED TO CLAIMANT MOTION. CLAIMANT IS TAKING THE STATE CLAIMS COMMISSION NONE RESPONSE AS A DENIAL AND NOW PROCEED WITH HIS NOTICE OF APPEAL. THE STATE CLAIMS COMMISSION HAS HAD OVER (70) DAYS TO RESPOND TO CLAIMANT'S MOTION FOR RECONSIDERATION BUT FAILED TO DO SO.

THEREFORE, FOR THE ABOVE STATED REASONS, THE CLAIMANT'S NOTICE OF APPEAL SHOULD BE GRANTED.

Respectfully,

Tommie Mason

TOMMIE MASON # 83024
P.O. BOX 500
BRADY, ARKANSAS

71644-500

Subscribed and sworn before me this 8
day of March 2019

My Notary Public: Bobby Jones

My Commission Expires: 04-28-2027

BOBBY R. JONES
Notary Public - Arkansas
Lincoln County
Commission #12361203
My Commission Exp. 04/28/2027