



STATE OF ARKANSAS BUREAU OF LEGISLATIVE RESEARCH

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TO: CLAIMS REVIEW SUBCOMMITTEE

FROM: Legal Division Staff

SUBJECT: Summary of legal issues
Anthony Toombs v. Department of Correction
Denied and dismissed claim/Appealed by Claimant

Date of Occurrence: July 6, 2017
Date of Claim Filed: October 4, 2017
Amount Claimed: \$60,000.00
Amount Awarded: N/A
Claimant's Representative: N/A
Respondent's Representative: Thomas Burns

Allegations of Claimant: The inmate alleges that hard rain falling on the barracks created puddles and flowed under the back door and walls. The water began to smell like human waste and, despite the alleged efforts of the inmate and others to clean up the water, they were allegedly forced to sleep that night with "bacterial water everywhere". The inmate argues that this flooding occurs regularly and nothing has been done to fix it, creating an unsafe living condition. The inmate argues that failure to fix the problem violates agency policy, and he now seeks damages.

Agency Response: The agency moved to dismiss arguing several grounds. First, that the inmate has failed to state facts upon which relief may be granted. Specifically, the agency asserts that the inmate has failed to specifically plead any basis for an award of damages beyond mere speculation. Damages are, the agency contends, an essential element of a tort claim. Second, the agency argues that the inmate is making a claim under the Eighth Amendment of the U.S. Constitution, which is beyond the commission's jurisdiction. For these reasons, the agency argues that the inmate's claim should be dismissed.

Opinion of the Claims Commission: The commission granted the agency's motion to dismiss due to the commission's lack of jurisdiction to hear the claim. The commission likewise denied the inmate's motion for reconsideration.