



STATE OF ARKANSAS BUREAU OF LEGISLATIVE RESEARCH

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TO: CLAIMS REVIEW SUBCOMMITTEE

FROM: Legal Division Staff

SUBJECT: Summary of legal issues
David H. Johnson v. Department of Correction
Denied and dismissed claim/Appealed by Claimant

Date of Occurrence: January 8, 2017
Date of Claim Filed: December 7, 2017
Amount Claimed: \$8,000.00
Amount Awarded: N/A
Claimant's Representative: N/A
Respondent's Representative: Thomas Burns

Allegations of Claimant: The inmate alleges that he and another inmate were sprayed inside of a cooler in the kitchen area in what apparently was an attempt to separate them, as they were allegedly fighting. The inmate alleges he was then locked in the cooler with the other inmate. The ADC personnel who allegedly sprayed the inmate and locked him in the cooler was a food preparation supervisor, not security personnel. The inmate now alleges that the ADC failed to follow procedure by neglecting to provide security personnel for the kitchen workers. He also alleges unnecessary use of force through the use of the spray.

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 attempting to appeal a disciplinary action, which is beyond the jurisdiction of the commission.

Opinion of the Claims Commission: The commission treated the agency's motion to dismiss as one for summary judgment and found that the inmate failed to demonstrate any genuine issue of material fact. As such, the commission dismissed the claim due to the fact that the inmate is essentially contesting a disciplinary violation, over which the commission has no jurisdiction.