

JUL 14 2014

G10

Please Read Instructions on Reverse Side of Yellow copy

Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

RECEIVED

- Mr. Mrs. Ms. Miss

James McAlphin, #088328

Claimant

vs.

State of Arkansas, Respondent Dept. of Corr.

Do Not Write in These Spaces Claim No. 15-0022-CC Date Filed July 14, 2014 Amount of Claim \$ 35,000.00 Fund DOC

COMPLAINT

Personal Injury, Pain & Suffer Mental Anguish, Failure to Follow Procedure, negligence

James McAlphin, #088328 the above named Claimant, of POB 180, Brickley, AR 72520 County of Lee represented by Pro Se

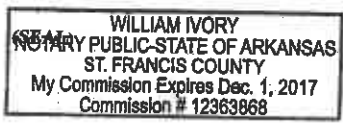
State agency involved: ARKANSAS Department of Corrections Amount sought: 35,000 (Unit Ten-thousand)

Explanation: ON or about June 14 2013 around 3:20pm I was escorted from yard cell by Officer Randall and Cadet Sykes. Upon entering my housing cell the Cadet was allowed to remove one handcuff and I stated "let me take out this sweater shirt" I turned to put my shirt on the table, when I turned back around they were closing the door. I shouted but they kept going leaving one handcuff (tightly) on my wrist. I started calling for assistance but no one came until I called around 10:15 PM when Sgt Williams and Nurse Rouse entered my cell. Not wanting to expose the officers security error in front of Nurse Rouse, I only told Sgt Williams "I have a emergency I need to speak with you about asap". He said he had to go to ISO-2 and he would be back in 10 minutes. I did not see him for a hour during which interval my hand started to swell from lack of circulation so I started trying to pull the cuff off using grease in my right secured knuckle popped and swelled really huge. I worked it in for a while. I did not see the tower officer L. Randle until around

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? when? 6/13 to whom? Corrections Dept. ROC and that the following action was taken thereon: Corrective action taken on Respondents that should be disclosed to Claimants and that \$ 0 was paid thereon: (2) Has any third person or corporation an interest in this claim? no

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. James McAlphin (Print Claimant/Representative Name) Signature of Claimant/Representative

SWORN TO and subscribed before me at Brickley AR on this 16 day of June 2014 William Ivory (Notary Public) My Commission Expires 12/2017



SF1- R7/99

Before the ARKANSAS State Claim Commission

James W. McAlpin #88328

Claimant

v. Claim #15-0022-CC
#15-0033-CC

Ark. Dept. of Correction

Arkansas Claims Commission

Respondent

FEB 19 2015

RECEIVED

Notice

Come ~~the~~ the Claimant for this Request for Commission Notice and hereby states as follows.

The Commission Never indicated which Claim was being given the #15-0022-CC and which one was given #15-0033-CC so the Claimant is force to put both Claim Numbers on Documents and Exhibits for individual Claims.

Claimant will attempt to distinguish these Documents and Claims by referring to one as "Leg Brace" Claim and the other as "Inmate Abuse Claim". Enclose are witness list & Documentary Evidence for hearing.

I swear under Penalty of Perjury the foregoing is true and correct to the best of my knowledge, understanding and belief.

James W. McAlpin

Before the Arkansas State Claim Commission

James M. Alphin #88328

Claimant

↓ Claim # 15-0022-CC
15-0033-CC

ARK. Dept. of Corrections

Respondent

Arkansas Claims Commission

FEB 19 2015

RECEIVED

Witness List

1. I would like to call inmate Lake Spencer ADC # 135041 to testify to events witness by him between claimant and respondent Rendell including similar incident that happen to him.
2. I would like to call Lt. Heath who was the supervisor responsible for processing abuse report.
3. I would like my medical jacket made available for the hearing.

I swear under penalty of perjury the foregoing is true and correct to the best of my knowledge, understanding and belief. This 13 day Feb. 2015



"Inmate Abuse" Claim

Policy AD-11-63 "Prison Rope Elimination
ACT" (PREA) index of exhibit

1. To Support Claim of "Inmate Abuse"
of Claimant By Co Rondall and Failure
to Adhere to Policy By Lt. Heath.

2. Affidavit of Witness Who've Experienced the
Same or Similar Abuse and Neglect at the hands
of Officer Rondall & Others

Arkansas Claims Commission

FEB 19 2015

RECEIVED

1 of 6

- 3. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument;
- 4. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or the buttocks of any person, with the intent to abuse, arouse or gratify sexual desire;
- 5. Any attempted, threatened or requested sexual touching by staff;
- 6. Indecent exposure, the display by staff of his or her uncovered genitalia, buttocks or breasts, in the presence of an inmate; and,



~~Violation by staff means an invasion of an inmate's privacy by staff for purposes unrelated to official duties, such as compelling an inmate who is unable to perform bodily functions requiring an inmate to expose his buttocks, genitalia, or breasts, or taking images of all or part of an inmate's naked body or an inmate performing bodily functions, and distributing or publishing them.~~



C. ~~Sexual harassment includes:~~

~~Repeated and unwelcome sexual advances, requests for sexual favors or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate toward another, and~~

~~Repeated verbal comments or gestures of a sexual nature to an inmate by staff including demeaning references to gender, sexually suggestive or sexually derogatory comments about body or clothing, or obscene language or gestures.~~

V. CONTRACTS:

Any new contracts or contract renewals for the confinement of ADC inmates with private agencies or other entities, including government agencies, shall include the entity's obligation to adopt a zero tolerance for sexual abuse and allow for monitoring by ADC.

8. Whether the inmate has previously experienced sexual victimization;
9. The inmate's own perception of vulnerability;
10. Whether the inmate has prior history of institutional violence or sexual abuse;
11. Gang affiliation; and,
12. Aggressive attitude at intake.

VIII. REPORTING AND INVESTIGATING SEXUAL ABUSE:

- A. All inmates who are limited English proficient, deaf or persons with a disability shall be able to report sexual abuse to staff directly or through the PREA Hotline without use of inmate interpreter unless there are exigent circumstances.
- B. All allegations of sexual abuse shall be investigated by the Warden or designee using the following protocol:
 1. The victim and the perpetrator shall be immediately separated from one another, and the scene of the incident will be secured if it is believed that a crime has occurred.
 2. The PREA checklist (Attachment 1) will be initiated immediately by the first responder, which requires that the following staff be notified:

- | | | |
|-----------------|----|--------------------------------|
| <u>Not Done</u> | a. | Internal Affairs Administrator |
| <u>Not Done</u> | b. | Medical Personnel |
| <u>Not Done</u> | c. | Mental Health personnel |
| <u>Not Done</u> | d. | Warden or designee |
| | e. | HIV Coordinator |
| <u>Not Done</u> | f. | Chaplain |
| <u>Not Done</u> | g. | Classification |

3. The inmate victim will be taken to the infirmary for medical assessment and the collection of evidence. Medical evidence shall be obtained by the appropriate personnel at the infirmary or at a local hospital, if necessary,

together with appropriate chain of custody documentation. Prompt exams are needed both to identify medical and mental health services needed and to minimize the loss of evidence.

Not Done.
An inmate alleging sexual abuse shall be monitored as necessary to ensure there is no retaliation for making such report.

D. Internal Affairs investigators shall be specially trained in sexual abuse investigations.

- Not Done*
1. Internal Affairs investigators shall collect and preserve evidence, video monitoring, 005s and witness statements, as well as review prior reports of sexual abuse involving the alleged perpetrator.
 2. When the evidence gathered supports criminal investigation, Internal Affairs will conduct interviews of witnesses only after consulting with the Arkansas State Police or prosecutors. Even if the sexual abuse is referred to the Arkansas State Police, copies of all investigative records shall be retained by the Department for as long as the alleged abuser is incarcerated or employed by the Department, plus 5 years.
 3. Credibility assessments shall be determined on an individual basis.
 4. A Department investigation shall continue to completion in spite of staff resignation or termination.
 5. Preponderance of the evidence shall be the standard used in determining whether sexual abuse has occurred.
 6. All information regarding sexual victimization or abusiveness occurring within the Department shall be strictly limited to medical and mental health practitioners and other staff necessary to develop treatment plans and management decisions including housing, bed, work, education and program assignments.
- Not Assessed*


IX. MEDICAL/MENTAL HEALTH EVALUATION AND TREATMENT:

- A. Victims will be offered access to immediate and appropriate qualified medical and mental health practitioners inside the facility who can provide support to the victim.
- B. Treatment services shall be provided to the victim without payment of a medical co-pay and regardless of whether the victim names the abuser. The Unit shall offer ongoing medical and mental health services to victims to include necessary follow-up services and treatment.

- B. Staff shall include employees, volunteers and contractors.
- C. PREA Inmate means an inmate who, since 1985, has been found guilty of the disciplinary charge of Rape in a correctional facility.
- D. Sexual Predator means an inmate who has been found guilty of sexual misconduct within a correctional facility with an unconsenting individual or individuals.
- E. Victim Prone Inmate means an inmate identified at intake or by unit classification committee as susceptible to a sexual assault, rape, or abuse within a correctional facility.
- F. Potential Sexual Predator means an inmate identified at intake or by unit classification committee as having a history of sexual aggression or a potential for sexual aggression based upon an appropriate screening tool.

IV. DEFINITIONS RELATED TO SEXUAL ABUSE:

- A. Sexual abuse by an inmate includes any of the following acts, if the victim does not consent, or the victim is coerced into such act by overt or implied threats of violence, bribe, or is unable to consent or refuse:
 1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 2. Contact between the mouth and the penis, vulva, or anus;
 3. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and,
 4. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of any inmate, excluding incidents in which the intent of the contact is solely to harm or debilitate rather than to sexually exploit.

 B. Sexual abuse by a staff member includes the following regardless of the inmate's consent:

1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
2. Contact between the mouth and the penis, vulva or anus;

STATE OF ARKANSAS)
COUNTY OF LEE)§

AFFIDAVIT

I, Luke Spencer #135x11, after first being duly sworn, do hereby swear, depose and state that: over the past 3-years - since 2017 - I've been housed in Area 8 of the James M. Alphin #88328 and numerous occasions, including in Isolation where I heard officer Randall Vincent to do something to his friend saying, "If I serve you, M=Alphin do better not eat." I have personally been victim to Officer Randall (a homosexual) making sexually suggestive comments in event while escorting me in handcuffs to or from yard cell intentionally sliding his hand down my arm to my butt area. There are many homosexuals who work in male prisons. And it's discouraging when having to report it and being a larger inmate makes those reports seem improbable which also discourages us as inmates to report it. It's also shameful to speak out on the subject when other inmates look at it as being weak or cowardly. Some prisoners eventually succumb to these pressures and this should never have to be. If the Administration would properly enforce the policy of the Prison Act then not only would all prisoners be protected.

I further swear that the statements, matters and things contained herein are true and accurate to the best of my knowledge, information and belief.

2-9-15
DATE

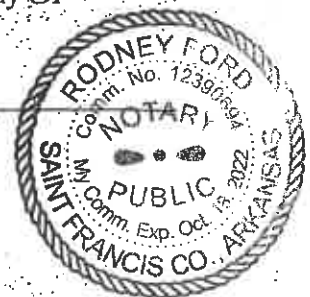
Luke Spencer
AFFIANT

SOCIAL SECURITY #

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, on this 09 day of Feb, 2015.

[Signature]
NOTARY PUBLIC

My Commission Expires: Oct 13, 2022



Arkansas Claims Commission

MAR 18 2015

RECEIVED

(Concerning Inmate Abuse Claim)

I'd like to point out that the statement made today by Ms. Wilkins about the cuffs not being tight and me trying to accomplish some unknown end by concealing (thus staying in) handcuffs is purely speculation and conjecture. Generated by Lt. Heath (who wasn't there) who set out to somehow make the incident my fault in his report for disciplinary purposes.

Also, this claim addressed sexual assault in violation of state and federal "Prison Rape Elimination Act" (PREA) and the failure of the staff to uphold this policy (PD-11-603) in investigating, questioning witness gathering evidence which deprived claimant of opportunity for a foundation to his allegations against Officer Randle. As stated in Complaint (10-19)

These issues and the resulting retaliation were not defended by Ms. Wilkins at the hearing, so there should be no dispute. (see attached)

I'd like to apologize for any inappropriate process but I just want to make sure I make my position as clear as possible.

As always your help is greatly appreciated

Sincerely, Brandon M. Alphin

I swear under penalty of perjury the foregoing is true.
This 13 day of March 2015.

IGTT430
3GD

Attachment VI

INMATE NAME: McAlphin, James R.

ADC #: 088328

GRIEVANCE#: EAM13-02039

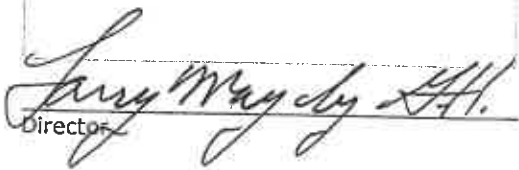
CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

Inmate McAlphin, I have received your formal grievance dated 6/23/2013, where you allege on 6/ 15/ 2013, you submitted a grievance concerning inmate abuse and harassment in violation of the PREA Act. You claim this grievance was given to Sgt. Smith, who said he gave it to Capt. McNary who supposedly gave it to Lt. Heath to run an investigation and notify him. You also claim the next evening Sgt. Smith brought a copy of it back to you saying he found it just laying on the hall desk.

After reviewing all supporting documentation, it was determined that your grievance EAM13-01884 was a PREA issue and should have been investigated handled as an emergency due to your allegations. Officer Smith states in part, "I did sign his informal and turned it over to Captain McNary for investigation and did find it at the hall desk the next day and took it back to the inmate to proceed to step two." Captain McNary states in part, "No, I did not know of this allegation." Due to the evidence submitted in your appeal and conflicting staff statements, I find this issue was not handled according to policy, therefore, I find your appeal with merit.

Appeal upheld

By way of this response I will instruct the unit Warden to take corrective actions and forward a copy to my office.


Director

9-12-2013
Date

AFFIDAVIT

MAR 13 2015

STATE OF ARKANSAS

COUNTY OF LEE

RECEIVED

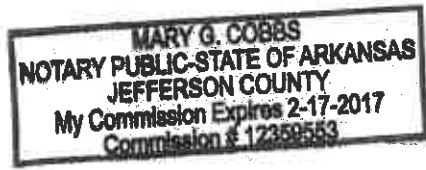
"I, Deangelo Earl, being of sound and mind, hereby make this Affidavit based upon my own personal knowledge and information for the purposes for which it is submitted, do hereby declare and state under oath:

I am the Deputy Warden for East Arkansas Regional Unit. There is no pin number required for an Inmate to place a call to the PREA hotline. There is no Internal Affairs hotline for an inmate to call in a complaint. Inmate McAlphin's complaint against Officer Randle was investigated by Internal Affairs and was UNFOUNDED.

AFFIANT FURTHER SAYETH NOT."

Deangelo Earl
Deangelo Earl

Subscribed to and sworn to before me this 12th day of March, 2015.



Mary G. Cobbs
Notary Public

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

JAMES McALPHIN (ADC 088328)

CLAIMANT

V.

NO. 15-0022-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.

Arkansas
State Claims Commission

JUL 30 2014

RECEIVED

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 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:

James McAlphin (ADC 088328)
East Arkansas Max Unit
PO Box 180
Brickeys, AR 72320-0180


LISA MILLS WILKINS Ark. Bar #87190

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 35,000.00

Claim No. 15-0022-CC

James McAlphin #088328
Claimant

Attorneys
Pro se Claimant

vs.
AR Department of Corrections

Lisa Wilkins, Attorney
Respondent

State of Arkansas
July 14, 2014
Respondent

Personal Injury, Pain & Suffering, Mental
Anguish, Failure to Follow Procedure
Type of Claim

Date Filed

FINDING OF FACTS

This claim was filed for Personal Injury, Pain & Suffering, Mental Anguish and Failure to Follow Procedure in the amount of \$35,000.00 against Arkansas Department of Corrections.

Present at a hearing March 13, 2015 was the Claimant, pro se, and the Respondent, represented by Lisa Wilkins, Attorney.

The Claims Commission hereby unanimously denies and dismisses this claim for Claimant's failure to prove by a preponderance of the evidence any liability on the part of the Respondent.

Therefore, this claim is hereby unanimously dismissed.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

Upon consideration of all the facts, as stated above, the Claims Commission unanimously denied and dismissed this claim for Claimant's failure to prove by a preponderance of the evidence any liability on the part of the Respondent.

Date of Hearing March 13, 2015

Date of Disposition March 13, 2015

H. Moore
Chairman
Paul King
Commissioner
Bill Jancik
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.

Before The Arkansas State Claims Commission

Arkansas
State Claims Commission
JUN 12 2015
RECEIVED
Claimant

James Mcalpin ADC #88328

VS.

Arkansas Department of Correction

Respondent

Case No. CC-150022, CC-150033

Motion for Reconsideration / Appeal to General Assembly

Come Now the Claimant, James Mcalpin for this Motion for Reconsideration and hereby states as follows.

History the claimant herein submitted the above styled. Claim for Compensation after a Chain of negligent and abusive acts by ADC Staff members in June Of 2013. The Actors of this Negligence / Abuse were Officer Randle, Lt. Heath. Capt. McNeary, and Raymond Naylor. The claim addressed (3) three Issues.

1. That Officer Randle was liable for negligence when he left Claimant in handcuffs for hours causing injury to his hands.
2. That Officer Randle was negligent and guilty of abuse when he groped and propositioned Claimant inappropriately.
3. That Supervisors Lt. Heath, Max Commander Capt. McNeary, and Internal Affairs Director Raymond Naylor was liable for failure to adhere to policy concerning Prisoner Rape Elimination Act (PREA) statute and failed to properly investigate the assault.

In a hearing held March 13, 2015 that claim was unanimously denied and dismissed for claimants alleged failure to prove liability on the part of respondent by a preponderance of evidence.

The Claimant requests reconsideration for the following reasons:

1. Claimant was not given a fair, impartial, proper hearing which included being allowed to call witnesses in support of claim and present evidence and hear evidence in defense of claim.

2. Claimant Submitted a preponderance of evidence proving all (3) issues thus showing liability for negligent injury on part of respondent.

A. Not Given Fair, Impartial, Proper Hearing.

1. On March 13, 2015 Claimant was Escorted To Isolation (3) Dayroom Cage for a Ark. Claims Commission hearing on Claim # CC-15-0022 and CC-15-0033 (in Video Conference) by Lt. Davis and Lt. Liston.

2. The first thing the Claimant noticed was all he could see on the video screen was an image of himself sitting in dayroom cage and throughout proceedings he could not see no one from Commission or Respondent.

3. The second thing Claimant Noticed was that the voice from the speaker was distorted and he could barely hear or understand what was being said. When "The Man" spoke it was breaking up. Whereby Claimant Could not intelligently grasp defense presented by respondent and this affected his presentation of his case, the facts and outcome of proceedings.

4. In Addition, Claimant Requested Inmates Luke Spencer and Sgt. Smith be called as witnesses for the Claimant. (This Request was made Timely prior to Hearing). As far as the Claimant knows they were not contacted by Commission. And their testimony under Examination was a Key to proving Claimants Allegations.

5. To Claimants knowledge, Respondent presented no evidence in the form of eye witness statement, testimony, or policy references to support and defense of this Claim.

In Contrast, Claimants references to PREA Policy (AD 11-63) and use of restraint regulation, Grievance # EAM 13-02039, EAM 13-01883 was given No Consideration by Commission although they were the head of ADC agency Conceding Negligence on part of Respondent and taking corrective action.

(This Claim is only filed Due ADC Agency having No Policy or provision for Monetary Compensation for their Negligent Acts.)

B. Claimant Submitted a preponderance of Evidence To Prove Liability on part of Respondent.

Argument

This Claim Addresses (3) Issues.

1. That Claimant was negligently left in restraints longer then Necessary Causing injury to hands.
2. Claimant was abused by staff when he was inappropriately groped.
3. That Staff failed to fallow PREA Policy and properly investigate incident and take action.

Left in handcuffs

1. At the March 13, 2015 hearing Claimant presented Evidence that Officer Randle had indeed left Claimant handcuffed in an Isolation Cell for hours and it caused injury to his hand....And although Respondent Attorney Ms. Wilkins made reference to Statements that Attempted to put Claimant at fault for the incident, Claimant References the Administrative Grievance # EAM 13-01892 in which the Warden of EAMU and Director of ADC Agency Concluded that Officer Randle shouldn't have left Claimant in handcuffs and Corrective action would be taken for the negligence.
2. Furthermore Claimant made Reference to Policy AR 403 Which Mandates that Officers be trained in the use of restraints and inmate not be left in restraints longer than necessary. Claimant

Provided by the preponderance of evidence that he received injury to his Right hand as a direct Result of the negligence of respondent. (See Ex B Attached)

2. Inmate Abuse

1. ADC Representative Did Not Defend the Sexual assault Claim Against Officer Randle ~~for~~ ^{for} inappropriately Groping Claimant. The Commissioner Conducting the Hearing erroneously assumed that Claimant was not pursuing this Issue although it's clearly a part of the complaint (10-17).

2. And Claimant made it clear at hearing he was pursuing this claim... According to Directors Response to Administrative Grievance # EAM 13-02039 (Attached as Ex- C) the incident wasn't handled according to Policy. As a Result of this Mishandling... No Witnesses were Questioned, No Evidence gathered to give Foundation to Claimants allegation and he had to endure the subjection to this assault without remedy.

Whereby due to no tolerance Policy for PREA incidents this claim should have been granted as to the assault.

Not Adhering to (PREA) Policy By Staff

1. At the March 13, 2015 hearing claimant submitted evidence in Grievance #EAM 13-02039 that Reveled Lt. Heath Left a Confidential Grievance Concerning a sexual assault by Staff on hall desk for all Staff to see.

2. He failed to investigate or question possible witnesses... He failed to separate the perpetrator and the victim Pre-Hearing Claimant submitted Relevant Sections of PREA Policy (AD -- 11-63) that these things must be done.

Claimants Presented testimony and proof that he was retaliated against by Officer Randle and even written up after Contacting the PREA Hot Line and reporting this incident to internal affairs.

ADC Agency Director Conceded the Negligence of Respondent in (Ex -C Attached) and ordered corrective Action.

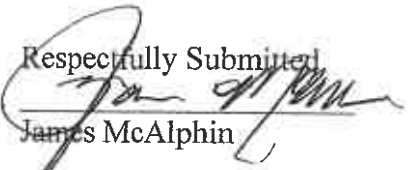
Whereby this Claim that was not defended by Respondent attorney and should have been Granted.

Conclusion

Due to claimant not receiving opportunity to observe all proceeding... And not being given the opportunity to examine or call witnesses in support of the claim and Respondent not defending Claim as to sexual Abuse, Failure to follow PREA Policy.

And the injury to claimants hand by being negligent left in the handcuff, claimants requests the Commission Grant this Motion for Reconsideration and award the relief it deems appropriate.

Respectfully Submitted


James McAlphin

I Swear under penalty of perjury the forgoing is true and correct to the best of my knowledge, understanding and belief this 15 day of June 2015.

x 

IGTT430
3GD

Attachment VI

INMATE NAME: McAlphin, James R.

ADC #: 088328

GRIEVANCE#: EAM13-02039


CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

Inmate McAlphin, I have received your formal grievance dated 6/23/2013, where you allege on 6/ 15/ 2013, you submitted a grievance concerning inmate abuse and harassment in violation of the PREA Act. You claim this grievance was given to Sgt. Smith, who said he gave it to Capt. McNary who supposedly gave it to Lt. Heath to run an investigation and notify him. You also claim the next evening Sgt. Smith brought a copy of it back to you saying he found it just laying on the hall desk.

After reviewing all supporting documentation, it was determined that your grievance EAM13-01884 was a PREA issue and should have been investigated handled as an emergency due to your allegations. Officer Smith states in part, " I did sign his informal and turned it over to Captain McNary for investigation and did find it at the hall desk the next day and took it back to the inmate to proceed to step two." Captain McNary states in part, " No, I did not know of this allegation." Due to the evidence submitted in your appeal and conflicting staff statements, I find this issue was not handled according to policy, therefore, I find your appeal with merit.

Appeal upheld

By way of this response I will instruct the unit Warden to take corrective actions and forward a copy to my office.


Director

9-12-2013
Date

20

IGTT430
3GD

Attachment VI

INMATE NAME: McAlphin, James R.

ADC #: 088328

GRIEVANCE#: EAM13-01883

Inmate McAlphin, I have received your formal grievance dated 6/16/2013, where you allege Security checks of cells are not being performed at regular intervals in isolation 3. You claim on 6/14/13, you were left in restraints for over (1) hour and no officer knew about this because security checks were not conducted.

After reviewing all supporting documentation, I find Corporal Randle stated you were double cuffed and the restraints were removed leaving a single handcuff on your right wrist. He also stated you did not notify any one until he noticed the A-band wrist wrap which you were covering up. Sergeant Williams stated while he was escorting the nurse for pill call you did tell him you needed to speak with him but it was not an emergency. He also stated no one heard you calling to let them know you were still in restraints. Documentation reflects you were in fact seen by medical on 06/14/2013. Staff should not have left you in restraints. However, you should have notified staff that the restraints were still on your wrist. I find your complaint with merit.

Appeal upheld

By way of this response, I will instruct the unit Warden to take Corrective Actions and forward a copy to my office.

17M7

Director

Date

8.19.13

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 35,000.00

Claim No. 15-0022-CC

James McAlphin #088328 Claimant

Attorneys

vs.

Pro se Claimant

AR Dept. of Correction Respondent

Lisa Wilkins, Attorney Respondent

State of Arkansas

Date Filed July 14, 2014

Type of Claim Failure to Follow Procedure,
Negligence, Pain & Suffering,
Personal Injury, Mental Anguish

FINDING OF FACTS

The Claims Commission hereby unanimously denies Claimant's "Motion for Reconsideration" for the Claimant's failure to offer evidence that was not previously available. Therefore, the Commission's March 13, 2015, order remains in effect.

IT IS SO ORDERED.


(See Back of Opinion Form)

CONCLUSION

The Claims Commission hereby unanimously denies Claimant's "Motion for Reconsideration" for the Claimant's failure to offer evidence that was not previously available. Therefore, the Commission's March 13, 2015, order remains in effect.

Date of Hearing July 9, 2015

Date of Disposition July 9, 2015



Chairman



Commissioner



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.