

Arkansas
State Claims Commission
MAY 22 2015

Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

RECEIVED

- Mr.
- Mrs.
- Ms.
- Miss

Lawrence Eirvin #117323

Claimant

vs.

State of Arkansas, Respondent

AR Dept. of Corrections

Do Not Write in These Spaces		
Claim No.	15-0885-CC	
Date Filed	May 22, 2015	
	(Month)	(Day) (Year)
Amount of Claim \$	10,000.00	
Fund	DOC	
Failure to Follow Procedure		

COMPLAINT

Lawrence Eirvin #117323, the above-named Claimant, of P.O. Box 500, Grady, AR 71644

Arkansas 72036, N/A County of Lincoln represented by Myself Pro se

of Cummins Unit / P.O. Box 500 Grady, Ark 71644-0500 N/A N/A says:

State agency involved: Cummins Unit - ADC Amount sought: \$10,000

Month, day, year and place of incident or service: On 3-4-15, that morning Lt. Starks was in front of 8A BKS.

Explanation: Year of 2015 at Cummins Unit / Grady, Ark. 71644-0500 in Lincoln County. On 3-4-15, that morning Lt. Starks was in front of 8A BKS, while inmate Walker and myself argued and CO Jefferson was also witness to it on C-Shift. I was outside 8A BKS, see camera inside 8A BKS and outside BKS, 8A for incident, West hall. Lt. Starks and CO Jefferson on (C-Shift) were present including me. Lt. Starks counselled with me and calmed me. He Lt. Starks (smiled) and told me to go back into the BKS, and that was the end of it. Inmate Wilford, #109525 had nothing to do with that incident, ask Lt. Starks about the incident. Lt. Cherry after that altercation, so how could Lt. Cherry be a witness / first hand witness? If Lt. Starks was present the morning of the incident? Lt. Starks and officer Jefferson had first hand knowledge. Lt. Cherry falsified document in question and arrested me that evening in which inmate Craig Wilford falsified information to Lt. Cherry, by the way I never threatened to inflict bodily harm or any other threats or harm. CO Jefferson was present that evening of 3-4-15 (C-Shift), when I stated to inmate Craig Wilford presently of 8A who worked as a trash compactor worker. I said to CO Jefferson inside the BKS, while CO Jefferson was at C-Shift bunk in front of 8A BKS, while other inmates were present. "That's the one who called you a Bitch", see camera inside 8A BKS, evening time, 8A BKS. So how could I threaten inmate Craig Wilford of 8A and that time with bodily harm, when I stated "That's the one who called you a Bitch"! Ask CO Jefferson C-Shift 8A. Lt. Cherry locked me in East Building for 15 days

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? NO (Yes or No) when? (Month) (Day) (Year) to whom? (Department) ON DC

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

Lawrence D. Eirvin (Print Claimant/Representative Name) [Signature] (Signature of Claimant/Representative)

SWORN TO and subscribed before me at Grady AR

on this 20th day of May 2015



J.D. Rana Jr. (Notary Public) My Commission Expires: 04 06 2019 (Month) (Day) (Year)

Arkansas Department of Corrections
Cummins Unit Prison Farm
3001 Hwy, 388 P.O. Box 620
Grady, Ark. 71644-0620
Date: 4/14/2015

RETURNED TO INMATE
FOR THE FOLLOWING
REASON(S): NOT
PROCESSED, PREVIOUSLY
ANSWERED/REJECTED,
OR A DUPLICATE

From: L. Firvin #117323
East Hall /10-8

To: Marshall D. Reed (Chief Deputy Director)
Central Office - ADC

Re: Proper Attachments:

Dear Chief Deputy Director - M. D. Reed,
On 4/14/2015, I received an acknowledgement of
grievance appeal Attachment V. It indicated that my grievance
was being returned to me because I did not send all the proper
Attachments: (a) Unit Level Grievance Form (Attachment 1).

So I am sending the proper sufficient attachment.

With Warm Regards,
Respectfully Submitted By,
X Laurence Firvin

UNIT LEVEL GRIEVANCE FORM (Attachment I)

Unit/Center Cummins

Name L. Eirvin

ADC# 117323 Brks # 10B Job Assignment Utility

3-23-15 (Date)-STEP ONE: Informal Resolution

3-23-15 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)

If the issue was not resolved during Step One, state why: I am not satisfied with the disciplinary I am grieving his conduct. He did not follow policy procedure

(Date) EMERGENCY GRIEVANCE (An emergency situation is one in which you may be subject to a substantial risk of physical harm; emergency grievances are not for ordinary problems that are not of a serious nature). If you marked yes, give this completed form to the designated problem-solving staff, who will sign the attached emergency receipt. If an Emergency, state why:

Is this Grievance concerning Medical or Mental Health Services? If yes, circle one: medical or mental

BRIEFLY state your one complaint/concern and be specific as to the complaint, **date**, place, name of personnel involved and how **you** were affected. (Please Print):

On 3-4-15 this morning Lt. Starks was inf of 8A bks. while inmate Walker and myself argued and officer Jefferson was also with it, on C-Shift, I was outside 8A bks. see camera or 3-4-15 outside in West Hall came Lt. Starks and Co Jefferson on (C-Shift) were present including me. Lt. Starks counseled with and calmed me. Lt. Starks (smiled) and told me to go back into the bks and that was the of it. Inmate Wilford had nothing to do with that incident, ask Lt. Starks about this inci. Lt. Cherry came after that altercation. So how could Lt. Cherry be a witness/ first hand witness? If Lt. Starks was present the morning of the incident? Lt. Starks and officer Jefferson had first hand knowledge. Lt. Cherry falsified document in question and arrested me that evening in which inmate Craig Wilford falsified information to Lt. Cherry by the way I never threatened to inflict bodily harm or any other threats or harm. Co Jefferson was prese that evening of 3-4-15 - C-Shift, when I stated to inmate Craig Wilford presently of 8A, who works as a trash compactor worker. I said to ~~inmate~~ Co Jefferson inside the bks. while Co Jefferson was at C. Wilford bunk in front of 8A bks. while other inmates were present, "that the one who called you a bitch". See camera inside 8A bks. evening time 8A bks. So how could threaten inmate Craig Wilford of 8A with bodily harm when I stated, "that's the one who called y a bitch." Ask Co Jefferson. Lawrence Eirvin

Inmate Signature

Date

If you are harmed/threatened because of your use of the grievance process, report it immediately to the Warden or designee.

THIS SECTION TO BE FILLED OUT BY STAFF ONLY

This form was received on 3/23/15 (date), and determined to be **Step One** and/or an Emergency Grievance Yes (Yes or No). This form was forwarded to medical or mental health? No (Yes or No). If yes, name of the person in that department receiving this form: Co D. Owen Date 3/23/15

PRINT STAFF NAME (PROBLEM SOLVER) Co D. Owen ID Number 97340 Staff Signature Co D. Owen Date Received 3/23/15

Describe action taken to resolve complaint, including dates: Lt. Cherry started disciplinary stands as giving disciplinary is non negotiable.

Co D. Owen 3/23/15
Staff Signature & Date Returned

Lawrence Eirvin 3-23-15
Inmate Signature & Date Received

This form was received on _____ (date), pursuant to **Step Two**. Is it an Emergency? _____ (Yes or No). Staff Who Received Step Two Grievance: _____ Date: _____

Action Taken: _____ (Forwarded to Grievance Officer/Warden/Other) Date: _____
If forwarded, provide name of person receiving this form: _____ Date: _____

DISTRIBUTION: YELLOW & PINK - Inmate Receipts; **BLUE**-Grievance Officer; **ORIGINAL**-Given back to Inmate After Completion of Step One and Step Two.

Reject
Major
Drop

FOR OFFICE USE ONLY
RETURNED TO INMATE
DATE RECEIVED
REASON(S): NOT
MAR 24 2015
CU-15-00470

PROCESSED
GUMMINS UNIT
ANSWERED BY OFFICE

IGTT405
3GT

RETURNED TO INMATE
FOR THE FOLLOWING REASON(S): NOT
PROCESSED, PREVIOUSLY
ANSWERED/REJECTED,
OR A DUPLICATE

**ACKNOWLEDGEMENT OF GRIEVANCE APPEAL
or REJECTION OF APPEAL**

TO: Inmate Eirvin, Lawrence D. ADC #: 117323A
FROM: Reed, Marshall (Dale) D TITLE: Chief Deputy Director
RE: Receipt of Grievance CU-15-00470 DATE: 04/03/2015

Please be advised, the appeal of your grievance dated
03/23/2015
was received in my office on this date 04/03/2015

Your grievance appeal is being returned pursuant to the Administrative Directive on Inmate Grievances due to one of the following:

- The time allowed for appeal has expired
- The matter is non-grievable and does not involve retaliation:
 - (a) Parole and/or Release matter
 - (b) Transfer
 - (c) Job Assignment unrelated to medical restriction
 - (d) Disciplinary matter
 - (e) Matter beyond the Department's control and/or matter of State/Federal law
 - (f) Involves an anticipated event
- You did not send all the proper Attachments:
 - (a) Unit Level Grievance Form (Attachment 1)
 - (b) Warden's/Center Supervisor's Decision (Attachment III); or Health Services Response Attached (Attachment IV for Health Issues Only)
 - (c) Did not give reason for disagreement in space provided for appeal
 - (d) Did not complete Attachment III or IV with your name, ADC#, and/or date
 - (e) Unsanitary form(s) or documents received
 - (f) This Appeal was REJECTED because it was a duplicate of , or was frivolous or vexatious

FAILURE TO FOLLOW
POLICY HAS RESULTED IN
A REJECTION FOR THIS
APPEAL AND MARKS THE END
OF THE APPEAL PROCESS

APR 01 2015

INMATE GRIEVANCE SUPERVISOR

ACKNOWLEDGMENT OR REJECTION OF UNIT LEVEL GRIEVANCE

TO: Inmate Eirvin, Lawrence D.
FROM: Hall, Lisa Renee
DATE: 03/24/2015

ADC #: 117323A
TITLE: ADC Inmate Grievance Coord
GRIEVANCE #: CU-15-00470

RETURNED TO INMATE
FOR THE FOLLOWING
REASON(S): NOT
PROCESSED, PREVIOUSLY
ANSWERED/REJECTED,
OR A DUPLICATE

Please be advised, I have received your Grievance dated 03/23/2015 on 03/24/2015. Your grievance was rejected as either non-grievable, untimely, duplicative, frivolous, or vexatious.

Signature of ADC Inmate Grievance Coord

CHECK ONE OF THE FOLLOWING

- This Grievance will be addressed by the Warden/Center Supervisor or designee.
- This Grievance is of a medical nature and has been forwarded to the Health Services Administrator who will respond.
- This Grievance involves a mental health issue and has been forwarded to the Mental Health Supervisor who will respond.
- This Grievance has been determined to be an emergency situation, as you so indicated.
- This Grievance has been determined to not be an emergency situation because you would not be subject to a substantial risk of personal injury or other serious irreparable harm. Your Grievance will be processed as a Non-Emergency.
- This Grievance was REJECTED because it was either non-grievable (Disciplinary matter), untimely, was a duplicate of , or was frivolous or vexatious.

INMATE'S APPEAL

If you disagree with a rejection, you may appeal this decision within five working days by filling in the information requested below and mailing it to the appropriate Chief Deputy/Deputy/Assistant Director. Keep in mind that you are appealing the decision to reject the original complaint. Address only the rejection; do not list additional issues, which were not a part of your original grievance as they will not be addressed. Your appeal statement is limited to what you write in the space provided below.

FAILURE TO FOLLOW
POLICY HAS RESULTED IN
A REJECTION FOR THIS
APPEAL AND MARKS THE END
OF THE APPEAL PROCESS

Inmate Signature

117323
ADC #

3 26 15
Date

This is not on the disciplinary this is the actual events of what actually happened, and I quote Lt. Starks and CO Jefferson will give a statement of what happens the morning of 3-4-15 (C-shift) outside 8A barracks. Lt. Cherry was not present. Lt. Starks was present as the commanding officer and so was CO Jefferson. (I am not speaking about the disciplinary.) Lt. Cherry conduct is of a forger and falsifying documents he is also a lyer. The incident or argument was with Inmate Walker and Myself. I have been cleared by Judge Wattle. I said to CO Jefferson that evening when she was shaking down Inmate Craig Wilford ADC# 109525, "this is the one that called you a Bitch". And that was at Inmate Craig Wilford ADC# 109525, went to Lt. Cherry and lied saying I want to inflict bodily harm on him in which I was locked down that evening for here-say on 3-4-15. Lt. Cherry lied on reports and documents on the word of Inmate Craig Wilford ADC# 109525. See Camera for the day of 3-4-15 in barrack and outside of 8A bks. Inmate Craig Wilford has been wrote up for calling CO Jefferson a "bitch" just recently. Page 1 of 1 I was only protecting the honour of CO Jefferson. Ask CO Jefferson. Lt. Cherry's conduct is of a lyer and a forger of documents.

1-0
honour 5

Arkansas
State Claims Commission
JUN 03 2015

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

LAWRENCE EIRVIN (ADC 117323)

RECEIVED
CLAIMANT

V. NO. 15-0885-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 2 day of June, 2014, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Lawrence Eirvin (ADC 117323)
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

Arkansas Claims Commission

LAWRENCE EIRVIN (ADC #117323)

CLAIMANT

DEC 03 2015
RECEIVED

V.

NO. 15-0885-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 a claim of failure to follow procedure. Claimant is seeking \$10,000.00. Claimant has failed to state a claim upon which relief can be granted under ARCP Rule 12(b)(6) and for failure to exhaust and the matter should be dismissed.
2. Claimant's argument is that he didn't say what he was accused of saying and Lt. Cherry falsified documents. He was placed in DCR on March 4, 2015 for an investigation which resulted in disciplinary charges against him on March 10, 2015, including creating unnecessary noise, provoking or agitating a fight, insolence to a staff member, using abusive language and failure to obey order of staff. He was found guilty of creating unnecessary noise and failure to obey order of staff on 3-16-15.
3. He did not appeal and therefore, did not exhaust his administrative remedies Under Administrative Directive 12-16 (N) "inmates are hereby advised that they must exhaust their administrative remedies as to all defendants at all levels of the grievance procedure before filing a Section 1983 lawsuit and *Claims Commission claim*. If this is not done, their lawsuit or claims may be dismissed immediately."
6. A motion to dismiss is proper when there are no facts upon which relief can be granted. ARCP 12(b)(6) and for failure to exhaust. 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 1 day of December, 2015, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

LAWRENCE EIRVIN (ADC #117323)
CUMMINS UNIT
P. O. Box 500
GRADY, AR 71644-0500

LISA MILLS WILKINS Ark. Bar #87190

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 10,000.00

Claim No. 15-0885-CC

Lawrence Firvin, #117323 Claimant
vs.
AR Dept. of Correction Respondent
State of Arkansas

Attorneys
Pro se Claimant
Lisa Wilkins, Attorney Respondent

Date Filed May 22, 2015 Type of Claim Failure to Follow Procedure

FINDING OF FACTS

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss," for Claimant's failure to respond to Respondent's "Motion to Dismiss." The Respondent states that they mailed the "Motion to Dismiss" to both the Claimant and the Claims Commission on December 1, 2015. The Claims Commission received and filed the "Motion to Dismiss" on December 3, 2015. The Claimant had ten (10) working days (plus three (3) additional days to account for delivery) from December 3, 2015, to submit a response to the "Motion to Dismiss." No response was ever received from Claimant. Therefore, this claim is hereby unanimously denied and dismissed.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss," solely for Claimant's failure to respond to Respondent's "Motion to Dismiss." Therefore, this claim is hereby unanimously denied and dismissed.

Date of Hearing January 14, 2016

Date of Disposition January 14, 2016

[Signature] Chairman
[Signature] Commissioner
[Signature] Commissioner

Ms. Wade,

1 of 4

I was sent a letter December 1st, 2015 but there was nothing on it that said that I had ~~been~~ (10) days, to respond to it.

Ms. Wade on that sheet which was the Respondent's Motion To Dismiss my claim. I do not understand why they say I did not exhaust all my remedies at Cummins unit, by not appealing after court when Judge Keith L. Waddle, with respect; gave me (20) days restriction. I plead guilty to the charges of 11-1 and either 12-1 or the 11-2. I plead guilty to ~~that~~ ^{those} charges myself. That was part of my defense for myself. I was not found guilty of those other charges because, clearly by the disciplinary I did not do what was written on that disciplinary accept, defend CO K. Jefferson's honor.

When I plead guilty to those charges, with respect to; CSO Staff; Sgt. Anthony L. Jackson - Female, SGT. over the disciplinary hearing for my hearing shook her head from side to side, letting me know that I had that disciplinary beat. That was the truth the 11-1, or 12-1 or the 11-2; Only two charges did I plead guilty too, I did that, please reread the disciplinary slowly, for understanding, I defended CO K. Jefferson's honor.

Please contact, with respect SGT. Jackson / CSO Staff officer and; with respect to his position, Hearing Judge; Keith L. Waddle, call those two please and please listen to the tape and film / video of my disciplinary

Kansas Claims Commission
JAN 25 2016
RECEIVED

hearing(s)); Monday March 16th, 2015, Time: 9:30:27, Incident report #: 2015-03-028. It will show and they will tell you, I plead guilty and was only found guilty of the 11-1, ~~11-2~~ + 11-2, but I know I plead guilty for the 11-1, I do not know or can remember if it were 12-1 or 11-2. No matter what the disciplinary court - Hearing results say I plead guilty, on tape + on video for (2), two; charges. Please check this out Ms. Wade because why would I go against what I plead guilty to. I would be going against myself. I plead guilty to both charges. I have not violated, ARCP Rule 12(b)(6) and for failure to exhaust.

Ms. Wade (1) I did not know I had ten days to reply, it was not written on the papers sent to me. (2) This is my first time filing a State Claims Commission Form. (3) I did not violate the ARCP Rule 12(b)(6), because I plead guilty to both charges. I would go against what I plead guilty to. I plead guilty to those charges. I have exhausted all of my ADC and State remedies. (4) According to Arkansas State Claims Commission, Guidelines For Filing Pleadings and other Procedural Information (Effective June 1st, 2015); All motions shall be filed within (30) days of the service of the Complaint unless the Commission directs or permits otherwise. Both Claimants and Respondents must obey this rule. Pleadings must be filed separately from your claim and within the thirty (30) day timeframe. I filed my claims months ago, so why did it take Mrs. Lisa Mills - Wilkins, well over 30 days to file her motion?

because unless I am reading wrong the "HELP";
form I received from you that went into CEFFECT
on June 1st, 2015), I win by default because, Mrs.
Lisa Mills Wilkins Ark. Bar # 87190, took too long to file
her motion, Dec. 1st, 2015.

3 of 4

(5) Lt. K. Cherry, formerly of Cummins Unit/ADC
(resigned), from Cummins Unit/ADC. Admission of
his guilt, Newly Discovered Evidence.

Ms. Wade this letter is a request that the proceeding
go on, either, with respect to you and your position, I win
and I'm right, because clearly I am not at fault. God said,
"Ignorance is bliss". Also or please write me back soon
and please let me know something, what I should do, and
also they took all that time to prepare their defense I only
had 10 days with a extra (3) three. Please help me. Allow
this to be my "Appeal". Mam, with all due respect I am
right. I have (30) thirty days or please explain better.

Lt. K. Cherry with the admittance of guilt resigned,
please call Cummins Unit, Ms. Wade. Lt. K. Cherry no longer
works for the ADC. Please respond back soon. I have
started on my APPEAL or reconsideration, please let me
know my best avenue. Please consider I am Pro-Se.

Respectfully Submitted

By, Lawrence D. Eirvin

Signature: Lawrence D. Eirvin

(ADC # 117323)

Bks. 19 / P.O. Box 500

Claim No. 15-0885-CC

Cummins Unit / Grady, AR. 71644-0500

11

I certify that this copy is to Appeal my standing in my claim this 20th day of January, 2016 on my behalf to you:

Ms. Wade, Brenda
Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, AR. 72201-3823

cc:

Please send copies to whom this may go to please, and also; Mrs. Lisa Mills Wilkins, Ark. Bar # 87190, Attorney Supervisor, P.O. Box 8707, Pine Bluff, AR. 71611

File

Respect Fully Submitted
by: Laurance D. Cirvin

State of Arkansas)
County of Lincoln

Subscribed, and sworn to before me,
a notary public on this 20th day of January
2016.

March 30, 2017

Agnes Thomas

My Commission Expires

Notary Public

