



STATE OF ARKANSAS BUREAU OF LEGISLATIVE RESEARCH

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TO: CLAIMS REVIEW SUBCOMMITTEE

FROM: Legal Division Staff

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

Date of Occurrence: August 12, 2016
Date of Claim Filed: February 24, 2017
Amount Claimed: \$15,000.00
Amount Awarded: N/A
Claimant's Representative: N/A
Respondent's Representative: Thomas Burns

Allegations of Claimant: The inmate argues that he has significant health issues, including coronary heart disease, high blood pressure, hypertension, stomach fatigue, back and foot inflammatory arthritis, and has had them for some time. However, the inmate contends that he was placed in an isolation cell pending a disciplinary review for over a month, during which time the temperature reached 120 degrees with very little ventilation. The inmate states that he suffered a stroke, heart failure, and left shoulder paralysis during this time due to the existence of his health conditions and the conditions of the isolation cell, and he asserts that the agency knew of his health conditions when ADC personnel put him in the isolation cell under these conditions. The inmate asserts that the actions of the agency constituted deliberate indifference and now the inmate seeks damages for personal injury.

Agency Response: The agency moved to dismiss arguing the inmate has failed to state facts upon which relief may be granted and has failed to plead any basis for an award of damages beyond mere speculation of damages. The agency also stated that the inmate has failed to attach any proof of an alleged "stroke" and has only three health restrictions – a special diet, a prohibition against work when the temperature is over 95 degrees, and a restriction from strenuous activity in excess of seven hours. The agency contends that the inmate is in good physical condition. Further, the agency noted that the inmate is alleging violations of the Eighth Amendment, which are outside of the jurisdiction of the Commission.

Opinion of the Claims Commission: The Commission granted the agency's motion to dismiss due to the failure of the inmate to respond to the motion to dismiss and for failure to state a claim upon which relief may be granted.