



STATE OF ARKANSAS BUREAU OF LEGISLATIVE RESEARCH

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TO: CLAIMS REVIEW SUBCOMMITTEE

FROM: Legal Division Staff

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

Date of Occurrence: November 26, 2016, through January 1, 2017

Date of Claim Filed: March 20, 2017

Amount Claimed: \$7,400.00

Amount Awarded: N/A

Claimant's Representative: N/A

Respondent's Representative: Thomas Burns

Allegations of Claimant: The inmate argues that he was improperly held in a punitive isolation cell when he was not subject to punitive isolation and that the ADC failed to follow proper procedure. During this time, he alleges he was wrongfully restricted from his privileges and he now seeks damages for emotional distress.

Agency Response: The agency moved to dismiss arguing a number of grounds. First, the agency argues the inmate has failed to state facts upon which relief may be granted. Second, that the inmate is making claims which the commission does not have jurisdiction to hear. And third, that the inmate has failed to plead any basis for an award of damages beyond mere speculation. Specifically, the agency states that the inmate was put in administrative segregation because he struck an ADC employee and that when the classification committee met to determine whether he should remain there, the inmate refused to attend the hearing. Further, the agency states that the inmate makes an Eighth Amendment claim, which may not be heard by the commission and seeks restitution against two other persons over which the commission has no jurisdiction. The agency also asserts that the inmate has also not plead specific facts, only conclusions, and has filed his claims with unclean hands. Because of these arguments, the agency requested that the case be dismissed.

Opinion of the Claims Commission: The Commission granted the agency's motion to dismiss. Specifically, that the commission does not have jurisdiction to hear claimed violations of the United States Constitution. A motion for reconsideration was also subsequently denied.