



STATE OF ARKANSAS BUREAU OF LEGISLATIVE RESEARCH

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TO: CLAIMS REVIEW SUBCOMMITTEE

FROM: Legal Division Staff

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

Date of Occurrence: January 25, 2015; May 26, 2015; and June 22, 2015

Date of Claim Filed: February 21, 2017

Amount Claimed: \$5,000.00

Amount Awarded: N/A

Claimant's Representative: N/A

Respondent's Representative: Thomas Burns

Allegations of Claimant: The inmate argues that his personal property was on three separate occasions either improperly confiscated or left unsecured (and subsequently taken by other inmates) by ADC personnel in retaliation for his filing of a grievance. This property included a radio, hygiene products, clothing, writing implements, reading material, photographs, documents/papers, a ruler, a watch, and headphones. The inmate filed grievances related to the loss of his property and also alleged improper disposal of those grievances. The inmate alleges that he is being conspired against by the ADC and now seeks damages for the loss of property.

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 constitutional claims which the commission cannot hear. Third, that the inmate has failed to properly exhaust the grievance procedure, a required condition precedent. And fourth, that the inmate has failed to plead any basis for an award of damages beyond mere speculation. Because of these arguments, the agency requests that the case be dismissed.

Opinion of the Claims Commission: The Commission granted the agency's motion to dismiss because the radio confiscated on January 25, 2015, was contraband and was properly confiscated, and the inmate failed to exhaust his administrative remedies in respect to the property that the inmate alleges was taken on May 26, 2015, and June 22, 2015.