



STATE OF ARKANSAS BUREAU OF LEGISLATIVE RESEARCH

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TO: CLAIMS REVIEW SUBCOMMITTEE

FROM: Legal Division Staff

SUBJECT: Summary of *Dexter Harmon v. Arkansas Department of Correction*,
Claim No. 180925 – Denied and dismissed claim/Appealed by Claimant

Date of Occurrence: August 28, 2015

Date of Claim Filed: May 7, 2018

Amount Claimed: \$14,500.00

Amount Awarded: N/A

Claimant's Representative: N/A

Respondent's Representative: Thomas Burns, General Counsel, ADC

Allegations of Claimant: The inmate claimed that, on the afternoon of August 28, 2015, when he was housed in the East Arkansas Regional Unit, he suffered a slip and fall after he finished his shower and was being escorted back to his cell. Specifically, he alleged that he slipped on a "size AAA or AA battery and some water that was on the floor and fell to the ground injuring his right knee and ankle[.]" He claimed that there was visible water and trash on the floor and walkway around the shower area and that the ADC employees who escorted him to and from the shower were aware of those "unsafe conditions." He further claimed that the ADC employees failed to maintain physical control of him by holding his arms or in any other manner in violation of ADC policy requiring that they do so. As a result of the fall, the inmate claimed that he injured his right knee and ankle, was taken to the infirmary and treated for those injuries, and continues to receive medical treatment as a result of those injuries. The inmate subsequently made a claim of negligence and sought \$14,500.00 in damages.

Agency Response: The agency moved to dismiss based on its assertion that the inmate failed to state facts upon which relief may be granted. It argued that, although the inmate filed a grievance, which was found after two levels of review to be without merit, he grieved only the procedure followed by the ADC officers. He did not grieve any other matters, including the claim of negligence that is the subject of his Claims Commission complaint. Because the inmate failed to exhaust his administrative remedies, the agency argued that the Commission must dismiss the claim. The agency also claimed that the inmate failed to sufficiently plead the necessary element of damages because he failed to plead any rational basis for the award of damages beyond mere speculation. Finally, the agency argued that this claim would be dismissed in a court of law and, therefore, the Commission should make the same decision.

Opinion of the Claims Commission: The Commission granted the agency's motion to dismiss for the reasons contained in the motion.