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Arkansas
State Claime Commission
MAR 1 8 2022
RECEIVED

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

✓ Mr. ☐ Mrs. ☐ Ms. ☐ Miss	Spaces (Year)
□ Mrs. □ Ms. □ Miss Mr. Brandon James Claim No. □ Date Filed (Month) (Day)	
Miss Mr. Brandon James, Claimant Date Filed (Month) (Day)	(Vees)
Mr. Brandon James , Claimant (Month) (Day)	(Vass)
and the second s	(I cai)
vs. Amount of Claim \$	
Dand	
State of Arkansas, Respondent	
COMPLAINT	
COMIDATIVI	
Mr. Brandon James , the above named Claimant, of (Name)	City)
ARK 72168 County of JA 1980 represented by N/A	(//
(State) (Zip Code) (Daytime Phone No.) (Legal Counsel, if any, for Cl	aim)
of N/A (Street and No.) (City) (State) (Zip Code) (Phone No.) (Fig. 1)	ax No.)
(1) FRONTHOU	worner, Fire Hu
Month, day, year and place of incident or services July 28th, 2021 AT THE	
Explanation: ADC) ARKANSAS DEPARTMENT OF CORRECTIONS. C	APPEATICA
SARGEANT D. BREWER AND CPL. J. JACKS VIOLATED ADC POLICY AGAINST	
By Failing To ADHERS To Administrative Regulationer AR. 225 Employee Co	
NOARD, AR 403 USE of RESTRAINTS AR 404 TRANSPORTING/ESCORTING OFF	ENDERS,
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Note) my Injuries linger for Months 12 Due To ABOVE Statt Actions medical Treation I	HURISS WAR
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 deposition of the complaint, the claim been presented to any state deposition of the complaint, the claim been presented to any state deposition of the complaint, the claim been presented to any state deposition of the complaint, the claim been presented to any state deposition of the complaint, the claim been presented to any state deposition of the complaint, the claim been presented to any state deposition of the complaint, the claim been presented to any state deposition of the complaint	artment or officer there
(Yes or No) (Month) (Day) (Year) (Department)	
and that the following action was taken thereon:	
and that \$ NA was paid thereon: (2) Has any third person or corporation an interest in this claim? NA ; if so,	state name and address
NA	(Zip Code)
(Name) (Street or R.F.D. & No.) (City) (State)	(Zīp Code)
: and was acquired on N/A	, in the following man
M/A	
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	e or sne verny bene
BRANDON JAMES:	
(Print Claimant/Representative Name) (Signature of Claimant/Representative Name)	ative)
SWORN TO and subscribed before me at \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	JAR
KARIM BROADWAY (City)	(State)
CANSAS No. 12715336 on this day of day of	, 22
Commission Expires 7-01-2031 (Date) (Month)	(Year)
haven Broady	
(Notary Public)	
SF1- R7/99 My Commission Expires: D-01-7-03	
(Month) (Day)	(Ye

(Yea

IGTT405 3GT

Attachment V

ACKNOWLEDGEMENT OF GRIEVANCE APPEAL or REJECTION OF APPEAL

TO: Inmate James, Brandon J.

ADC #:

FROM: Straughn, William F

TITLE: Assistant Director (ADC)

RE: Receipt of Grievance MX-21-01185 DATE: 08/31/2021

Please be advised, the appeal of your grievance dated

07/28/2021

was received in my office on this date 08/31/2021

The Chief Deputy/Deputy/Assistant Director will answer this appeal by 10/13/2021 OR,

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
Г	The	matter is non-grievable and does not involve retaliation:
	Г	(a) Parole and/or Release matter
	Г	(b) Transfer
		(c) Job Assignment unrelated to medical restriction
		(d) Disciplinary matter
	Γ	(e) Matter beyond the Department's control and/or matter of State/Federal law
		(f) Involves an anticipated event
Γ	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)
	Γ	(c) Did not give reason for disagreement in space provided for appeal
	Г	(d) Did not complete Attachment III or IV with your name, ADC#, and/or date
	Г	(e) Unsanitary form(s) or documents received
	F	(f) This Appeal was REJECTED because it was a duplicate of , or was frivolous or vexatious

IGTT430 3GD

Attachment VI

INMATE NAME: James, Brandon J.

ADC #

GRIEVANCE#:MX-21-01185

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

On July 28, 2021, you stated the following complaint: "On 7-28-2021 at approx. the first 30 minutes of the evening 6 O'clock hour Sgt. Brewer and Cpl. J. Jacks violated (AR 225 employee conduct standards), (AR 403 Use of restraints), (AR 404 Transporting/escorting offenders), (AR 013 Staff training), in ways as follows: "I'm grieving the fact that while I was being escorted from my assigned cell of east-25 in only handcuffs and not with the full restraint leg irons on, Sqt. Brewer became extremely angry, violent, and frustrated due to me telling him that I was going to write Warden Shipman a affidavit about me being escorted in only handcuffs and not with full restraint leg irons on requesting Mr. Shipman to review the camera along with giving me a polygraph test to prove my innocence, that's when Sgt. Brewer stated and committed the following facts: "I just mased Inmate Barnes earlier for telling on me, you gone get the same treatment. That's when Sgt. Brewer started using an extreme excessive force and muscle techniques forcing me from the hallway on camera, back into my cell off camera," which give me reasonable grounds to fear for my safety. This incident was not reported, nor was pictures taken of my injuries."

The Warden responded to your grievance on August 18, 2021, by stating the following: "Corrective action has been taken in this matter. Therefore, I find your grievance with merit and resolved."

Your appeal was received on August 31, 2021. After review of your appeal and supporting documentation, I must concur with the Warden's decision. This issue was addressed and corrected at the unit level. Your appeal is without merit.

Appeal denied.

WING TOWARD JUILAR	rden Shipman x
UNIT LEVEL GRIEVANCE FORM (Attach	RECEIVED FOR OFFICE USE ONLY
Unit/Center	GRV # 1 1 1 A - 01 - 1 1 1 0 0 1
Name DRANCH JAMES	AUG 3 1 2021 Date Received: 8-6-21
ADC: Brks #CAST 25 Jo	b Assignment WACES SUPERVISOFERV. Code #: 800
7-38-3 (Date) STEP ONE: Informal Resolut	
	ance (All complaints/concerns should first be handled informally.)
If the issue was not resolved d	during Step One, state why: Subsect C of Section 7 of
HKMUM.7-225 KSTAL	lation to ctiling lakigy anges at Att HIKEAGU
(Date) EMERGENCY GRIEVANCE	(An emergency situation is one in which you may be subject to grievances are not for ordinary problems that are not of serious
nature) If you marked yes, give this completed	form to the designated problem-solving staff, who will sign the
attached emergency receipt. In an Emergency s	tate why. Attempted To lover This MATTER UP. I'M
Keyuesting InMATE/STATT Seper	Ation Until Internal Attairs Five stigation I's concluded I Health Services? If yes, circle one: medical or mental
	d be specific as to the complaint, date , place, name of personnel
involved and how you were affected. (Please Pr	rint): IN 7/28/2021 AT (APPROX.) THE FIRST
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IGTT410 3GS

INMATE NAME: James, Brandon J.

ADC #:

GRIEVANCE #: MX-21-01185

WARDEN/CENTER SUPERVISOR'S DECISION

I have reviewed your complaint. You state the following: "On 7-28-2021 at approx. the first 30 minutes of the evening 6 O'clock hour Sqt. Brewer and Cpl. J. Jacks violated (AR 225 employee conduct standards), (AR 403 Use of restraints), (AR 404 Transporting/escorting offenders), (AR 013 Staff training), in ways as follows: "I'm grieving the fact that while I was being escorted from my assigned cell of east-25 in only handcuffs and not with the full restraint leg irons on. Sqt. Brewer became extremely angry, violent, and frustrated due to me telling him that I was going to write Warden Shipman a affidavit about me being escorted in only handcuffs and not with full restraint leg irons on requesting Mr. Shipman to review the camera along with giving me a polygraph test to prove my innocence, that's when Sgt. Brewer stated and committed the following facts: "I just mased Inmate Barnes earlier for telling on me, you gone get the same treatment. That's when Sqt. Brewer started using an extreme excessive force and muscle techniques forcing me from the hallway on camera, back into my cell off camera," which give me reasonable grounds to fear for my safety. This incident was not reported, nor was pictures taken of my injuries. On 7-28-2021 at approx, the first 30 minutes of the evening 6 O'clock hour Sqt. Brewer and Cpl. J. Jacks violated (AR 225 employee conduct standards), (AR 403 Use of restraints), (AR 404 Transporting/escorting offenders), (AR 013 Staff training), in ways as follows: "I'm grieving the fact that while I was being escorted from my assigned cell of east-25 in only handcuffs and not with the full restraint leg irons on, Sgt. Brewer became extremely angry, violent, and frustrated due to me telling him that I was going to write Warden Shipman a affidavit about me being escorted in only handcuffs and not with full restraint leg irons on requesting Mr. Shipman to review the camera along with giving me a polygraph test to prove my innocence, that's when Sqt. Brewer stated and committed the following facts: "I just mased Inmate Barnes earlier for telling on me, you gone get the same treatment. That's when Sgt. Brewer started using an extreme excessive force and muscle techniques forcing me from the hallway on camera, back into my cell off camera," which give me reasonable grounds to fear for my safety. This incident was not reported, nor was pictures taken of my injuries."

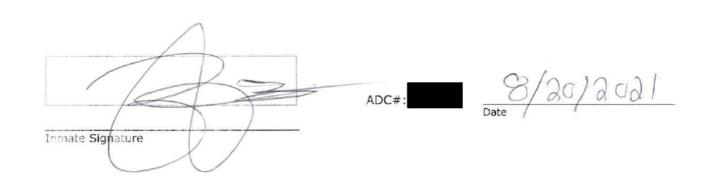
Corrective action has been taken in this matter. Therefore, I find your grievance with merit and resolved.

10	RECEIVED	
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Signature of Warden/Supervisor or Designee	- COLEVANCES SUPERVISOR	Date
AD	MINISTRATION BUILDING	W. M.

INMATE'S APPEAL

If you are not satisfied with this response, 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 along with the Unit Level Grievance Form. Keep in mind that you are appealing the decision to the original grievance. Do not list additional issues, which are not 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.

WHY DO YOU DISAGREE WITH THE ABOVE RESPONSE? NO ACTION HAS BEEN TAKEN FOR THIS STATIONATED MUITIPLE A.R.S. ON CAMERA AND WASN'T FIRED FOR EXCESSIVED USE OF FORCE AGAINST MILLIES STORMARD THIS MATTER TO INTERNAL REFERENCE WILLIAM APPEARMENT OF THE MATTER AND APPEARMENT OF THE PROPERTY OF THE MATTER TO THE PROPERTY OF
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ICTT410 AR 400 Violetton of Moletton of Page 1 of 2 ADC#



RECEIVED

AUG 3 1 2021

INMATE GRIEVANCES SUPERVISOR
ADMINISTRATION BUILDING

From: ASCC New Claims

To: Thomas Burns (DOC); Roni Gean (DOC)

Cc: Kathryn Irby

Subject:CLAIM: Brandon James v. ADC, Claim No. 221447Date:Wednesday, August 17, 2022 2:00:00 PM

Attachments: Brandon James ADC agency ltr.pdf
Brandon James Claim form and supporting docs.pdf

Please see attached. Contact Kathryn Irby with any questions.

Thank you, Caitlin

Caitlin McDaniel

Administrative Specialist II

Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-1619

ARKANSAS STATE CLAIMS COMMISSION

(501)682-1619 FAX (501)682-2823



KATHRYN IRBY DIRECTOR

101 EAST CAPITOL AVENUE SUITE 410 LITTLE ROCK, AR 72201-3823

August 17, 2022

Mr. Thomas Burns Arkansas Division of Correction 6814 Princeton Pike Pine Bluff, Arkansas 71602 (via email)

RE: Brandon James v. Arkansas Division of Correction

Claim No. 221447

Dear Mr. Burns,

Enclosed please find a copy of the above-styled claim filed against the Arkansas Division of Correction. Pursuant to the Arkansas Rules of Civil Procedure, as well as Claims Commission Rule 2.2, you have **thirty days from the date of service** in which to file a responsive pleading.

Your responsive pleading should include your agency number, fund code, appropriation code, and activity/section/unit/element that this claim should be charged against, if liability is admitted, or if the Claims Commission approves this claim for payment. This information is necessary even if your agency denies liability.

Sincerely,

Kathryn Irby

ES: cmcdaniel

cc: Brandon James, Claimant (w/ encl.)

<u>Note to Claimant or Claimant's counsel</u>: The Claims Commission copied you on this correspondence to provide you with confirmation that your claim has been processed and served upon the respondent agency.

Please print in ink or type

Arkansas
State Claime Commission
MAR 1 8 2022

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

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ø Mr.					Do Not Write in	These Spaces
□ Mrs.				Claim N		
□ Ms. □ Miss	Mr. Prenden James			Date Fil		
-	Mr. Brandon James		, Claimar	it Date Fil		Day) (Year)
	vs.			Amount	of Claim \$	
State of A	Arkansas, Respondent			Fund_		
State of A	Arkansas, Respondent		*			
		(COMPLA	INT		
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ARK	72168	County of	efferson	represented by		
(:	State) (Zip Code) (Daytime Phone No.)			(Legal Counsel, if any	, for Claim)
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	N/A :and	d that the following action	on was taken thereon:	19/11		~~~
N	N/A was paid there	eon: (2) Has any third p	erson or comporation	on interest in this claim	N/A	; if so, state name and addr
and that \$	was paid there	on. (2) Has any unit p	cason of corporation a	an interest in this claim	13413	
	(Name)	(Street or R.F.	.D. & No.)	(City)	(State)	(Zip Code)
and that the	nature thereof is as follows:	andwasa	equired on N/A			, in the following man
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THE	UNDERSIGNED states on oath that he	e or she is familiar wi	th the matters and	hings set forth in the	above complaint, and	that he or she verily beli
that they a	ere true.			7	>	
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	(Print Claimant/Representative Na	inc)		(Signatu	re of Claimant/Kep	resentative)
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IGTT405 3GT

Attachment V

ACKNOWLEDGEMENT OF GRIEVANCE APPEAL or REJECTION OF APPEAL

ADC #: TO: Inmate <u>James</u>, Brandon J.

FROM: Straughn, William F TITLE: Assistant Director (ADC)

RE: Receipt of Grievance MX-21-01185 DATE: 08/31/2021

Please be advised, the appeal of your grievance dated

07/28/2021

was received in my office on this date 08/31/2021

The Chief Deputy/Deputy/Assistant Director will answer this appeal by 10/13/2021 OR,

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:
	Γ	(a) Parole and/or Release matter
	Г	(b) Transfer
	Г	(c) Job Assignment unrelated to medical restriction
	1	(d) Disciplinary matter
	Γ	(e) Matter beyond the Department's control and/or matter of State/Federal law
	Г	(f) Involves an anticipated event
Γ	You	did not send all the proper Attachments:
		(a) Unit Level Grievance Form (Attachment 1)
	Γ	(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
	Г	(d) Did not complete Attachment III or IV with your name, ADC#, and/or date
	Γ	(e) Unsanitary form(s) or documents received
	[89]	(f) This Appeal was REJECTED because it was a duplicate of , or was frivolous or vexatious

IGTT430 3GD

Attachment VI

INMATE NAME: James, Brandon J.

ADC #

GRIEVANCE#:MX-21-01185

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

On July 28, 2021, you stated the following complaint: "On 7-28-2021 at approx. the first 30 minutes of the evening 6 O'clock hour Sgt. Brewer and Cpl. J. Jacks violated (AR 225 employee conduct standards), (AR 403 Use of restraints), (AR 404 Transporting/escorting offenders), (AR 013 Staff training), in ways as follows: "I'm grieving the fact that while I was being escorted from my assigned cell of east-25 in only handcuffs and not with the full restraint leg irons on, Sqt. Brewer became extremely angry, violent, and frustrated due to me telling him that I was going to write Warden Shipman a affidavit about me being escorted in only handcuffs and not with full restraint leg irons on requesting Mr. Shipman to review the camera along with giving me a polygraph test to prove my innocence, that's when Sgt. Brewer stated and committed the following facts: "I just mased Inmate Barnes earlier for telling on me, you gone get the same treatment. That's when Sqt. Brewer started using an extreme excessive force and muscle techniques forcing me from the hallway on camera, back into my cell off camera," which give me reasonable grounds to fear for my safety. This incident was not reported, nor was pictures taken of my injuries."

The Warden responded to your grievance on August 18, 2021, by stating the following: "Corrective action has been taken in this matter. Therefore, I find your grievance with merit and resolved."

Your appeal was received on August 31, 2021. After review of your appeal and supporting documentation, I must concur with the Warden's decision. This issue was addressed and corrected at the unit level. Your appeal is without merit.

Appeal denied.

Please FOWARd 10 WARden St	TIPMARX
UNIT LEVEL GRIEVANCE FORM (Attachment I)	RECEIVED FOR OFFICE USE ONLY
IInit/Conton	GRV. # MX-21-0185
Name () () () () () () ()	JG 3 1 2021 Date Received: 8-6-21
ADC	THE SUPERVISOR OF CODE #: 800
7-28-3 (Date) STEP ONE: Informal Resolution ADMIN	ISTRATION BUILDING
O I Care STET ONE. Informat resolution	
(Date) STEP TWO: Formal Grievance (All comp	e, state why: Subsect Cot Section Tof
H.K.OCH.OO, 2-225 KETALIATION for t	Iling GRIEVANCES STATT HIKEAGY
a substantial risk of physical harm: emergency grievances are	y situation is one in which you may be subject to not for ordinary problems that are not of serious
nature) If you marked ves, give this completed form to the de	signated problem-solving staff, who will sign the
attached emergency receipt. In an Emergency state why	emptell To laver This MATTER UP. I'M
ReQuesting InMate/Statt Seperation Until Is this Grievance concerning Medical or Mental Health Service	1 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): IN 7/6	28/2021 AT (APPROX.) THE FIRST
30 Minutes AF THE EVENING 60'CLOCK HOUR!	SOLOBREWER AND CPIONOSIACKS VIOLAY
ing/Escorting Offenders), (AR-013 STAFF TRO	aining). In Ways as follows: "Im
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ALONG WIGH GIVING ME A POLYGRAPH TEST TO PROVI STATED AND COMMITTED THE FOLLOWING FACTS: I SE	e my innoncence, That's when 59t Brewe
In Me, you gone get the same treatment. The	M'S WHEN 59t BROWER STARGED USING
An Exfreme Excessive Force and Muscle Rech	niques Forcing me From The Hallway on
Camera, BACK into my Cell OFF CAMERA, WHICH G SAFETY. THIS incident was NOT REPORTED, NOR WAS	five me reasonable grounds to teak for Mi
10 will R	7/22/2-1
Cook	7/28/3031 7:43 pm
Inflate Signature If you are harmed,threatened because of your use of the grievance p	process, report it immediately to the Warden or designee.
THIS.SECTION TO BE FILLED	OUT BY STAFF ONLY
This form was received on 18042 (date), and determine (Yes or No). This form was forwarded to medical or received on 1804 (1905).	mental health? (Yes or No.) If yes name
of the person in that department receiving this form:	Date /
Sat Jenister-White	outile-while 0804 [3]
PRINT STAFF NAME (PROBLEM SOLVER) Describe action taken to resolve complaint, including dates:	
Thus in will be un very guy	by me and the Shop
Suparus	Proceeding Step Two
malentea 8.421	Aug. 4th, 2021
	signature & Date Received
	Two Is it an Emergency? (Yes of No), Date:
Staff Who Received Step Two Grievance: Action Taken: Forwarded to Grievan	ce Officer/Warden/Other) Date: 5/5/2/
If forwarded, provide name of person receiving this form:	Date:
DICTDIDITION. VELLOW & DINK Inmote December BI	JIE - Grievance Officer: ORIGINAL - Given back
DISTRIBUTION: YELLOW & PINK - Inmate Receipts; BL to Inmate after Completion of Step One and Step Two.	UE - Grievance Officer; ORIGINAL - Given back

ADCP16 www.acical

IGTT410 3GS Attachment III

INMATE NAME: James, Brandon J.

ADC #:

GRIEVANCE #: MX-21-01185

WARDEN/CENTER SUPERVISOR'S DECISION

I have reviewed your complaint. You state the following: "On 7-28-2021 at approx. the first 30 minutes of the evening 6 O'clock hour Sqt. Brewer and Cpl. J. Jacks violated (AR 225 employee conduct standards), (AR 403 Use of restraints), (AR 404 Transporting/escorting offenders), (AR 013 Staff training), in ways as follows: "I'm grieving the fact that while I was being escorted from my assigned cell of east-25 in only handcuffs and not with the full restraint leg irons on, Sqt. Brewer became extremely angry, violent, and frustrated due to me telling him that I was going to write Warden Shipman a affidavit about me being escorted in only handcuffs and not with full restraint leg irons on requesting Mr. Shipman to review the camera along with giving me a polygraph test to prove my innocence, that's when Sgt. Brewer stated and committed the following facts: "I just mased Inmate Barnes earlier for telling on me, you gone get the same treatment. That's when Sqt. Brewer started using an extreme excessive force and muscle techniques forcing me from the hallway on camera, back into my cell off camera," which give me reasonable grounds to fear for my safety. This incident was not reported, nor was pictures taken of my injuries. On 7-28-2021 at approx, the first 30 minutes of the evening 6 O'clock hour Sgt. Brewer and Cpl. J. Jacks violated (AR 225 employee conduct standards), (AR 403 Use of restraints), (AR 404 Transporting/escorting offenders), (AR 013 Staff training), in ways as follows: "I'm grieving the fact that while I was being escorted from my assigned cell of east-25 in only handcuffs and not with the full restraint leg irons on, Sqt. Brewer became extremely angry, violent, and frustrated due to me telling him that I was going to write Warden Shipman a affidavit about me being escorted in only handcuffs and not with full restraint leg irons on requesting Mr. Shipman to review the camera along with giving me a polygraph test to prove my innocence, that's when Sqt. Brewer stated and committed the following facts: "I just mased Inmate Barnes earlier for telling on me, you gone get the same treatment. That's when Sgt. Brewer started using an extreme excessive force and muscle techniques forcing me from the hallway on camera, back into my cell off camera," which give me reasonable grounds to fear for my safety. This incident was not reported, nor was pictures taken of my injuries."

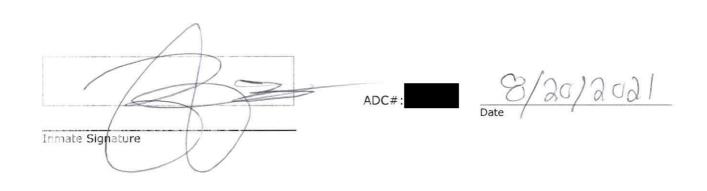
Corrective action has been taken in this matter. Therefore, I find your grievance with merit and resolved.

10	RECEIVED	
Lat	AUG 3 1 2021 Warden	8/18/21
Signature of Warden/Supervisor or Designee	- ODIEVANCES SUPERVISOR	Date
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INMATE'S APPEAL

If you are not satisfied with this response, 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 along with the Unit Level Grievance Form. Keep in mind that you are appealing the decision to the original grievance. Do not list additional issues, which are not 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.

	PONSE? NO Action Has Been taken for This State D. WASN'T FIRED for Excessive USE of Force Against Me Please Formard This Matter to Internal Affairs. Due Process Entitlement ARG Intact. For DI Am Appeals
WHY DO YOU DISAGREE WITH THE ABOVE RES	PONSE? IN A COLOR DISC OF FORCE ADDINST ME
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IGTT410_ AR 409 Violetine ROS	Page 1 of 2 ADC# DATE 8/20/19021



RECEIVED

AUG 3 1 2021

INMATE GRIEVANCES SUPERVISOR ADMINISTRATION BUILDING

 From:
 Leslie Browning (DOC)

 To:
 ASCC Pleadings

 Cc:
 Thomas Burns (DOC)

 Subject:
 Brandon James (171937) #221447

 Date:
 Wednesday, August 17, 2022 2:18:44 PM

Attachments: ADC Answer.pdf

Answer

Leslie Browning

Arkansas Division of Correction

Central Office/Legal Division 6814 Princeton Pike Pine Bluff, AR 71602 Legal Support Specialist Phone: 870-267-6844

Email: leslie.browning@arkansas.gov

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

BRANDON JAMES

v. CLAIM NO. 221447

ARKANSAS DEPARTMENT OF CORRECTIONS DIVISION OF CORRECTION

RESPONDENT

ANSWER TO COMPLAINT

COMES NOW the Respondent, Arkansas Department of Corrections, 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,

Thomas Burns (02006)

ADC Legal Division 6814 Princeton Pike

Pine Bluff, AR 71602-9411

(870) 267-6845 telephone

thomas.burns@arkansas.gov

CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been served this 17th day of August 2022 on the Claimant by placing a copy of the same in the U. S. Mail, regular postage, to:

Brandon James (
	H.S.
	Thomas Burns

Claim NO. 221447

Arkansas State Claims Commission

SEP 0 8 2022

	172 0
	KEQUEST FOR ENTRY OF DEFAULT JUDGEMENT RECEIVED
	Claimant Brandon James REQUESTS THAT YOU ENTER RECEIVED
	JUDGEMENT IN DEFAULT BASED UPON THE ATTACHED
	DECLARATION AGAINST RESPONDENT THOMAS BURNS IN THE
	ABOVE ENTITIED MATTER FOR \$ 4,500 \$, Plus Toler 17
	THE PATE OF Y AND ASSET
	
 	
	,
	

Claim NG 221447

	De CLARATION IN SUPPORT OF ENTRY OF DEFAULT
	CLAIMANT, BRANDON JAMES STATES:
	1. I AM THE PROSE CLAIMANT IN THE ABOVE
	ENTITIED MATTER
	2 The RESPUDENT Thomas BURNE WAS SERVED WITH
	A CORY of Claim No. 221447 AND HAD 30 DAYS TO FILE
	A RESPONSIVE PLEADING PURSUANT TO THE ARK RUKE OF
	Civil Procedure As Well as Claims Commission Rule 22
	AS APPEARS from The Droof of Service on file
	3. The RESPONDENT Thomas BURNS HAD NOT FILED
	OR SERVED AN ANSWER OR TAKEN CITIER ACTIONS AS
	MAY BE PREMITTED BY LAW Although MORE THAN
	151 DAYS HAD PASSED SINCE THE DATE OF SERVICE.
	PURSUANT TO 28USC. \$ 1746, I DECLARE UNDER
<u>.</u>	PENALTY OF PERSURY THAT THE FOREGOING IS TRUE AND
	CURRECT.
	SePtemBer 6th, 2022
	BRANDON JAMES

Claim NG 221447

NUTICE OF MOTION FOR DEFAULT JUDGEMENT
PLEASE TAKE NUTICE THAT ON THE ENCLOSED

DECLARATION OF THE CLAIMANT BRANDON JAMES, ATTACHED

EXHIBITS (AFFIDANTS) CLAIMANT WILL MOVE ASCC ON
SEPTEMBER 6th, 2022 AT THE ARK STATE CLAIMS COMMISSION

1018. CAPITOL AVE. SLITE 410 LITTLE ROCK, AR 72201-3823,

AT SUCH TIME AS ASCC MAY DIRECT, FOR AN ORDER
CHAMING CLAIMANT DEFAULT JUDGEMENT TN CLAIMAND

221447 AND TO ALL CLAIM NO PRETAINING TO THE
CLAIM FILED BY CLAIMANT ON MARCH 14th 2622 WILL

ASCC ON THE MATTER OF EXCESSIVE USE OF FORCE.

TO: KATHRYN TRRY, DIRECTOR of ASCC ARK STATE CLAIMS Commission 1012 CAPITOL AVE., SUITE 410 LITTLE ROCK, AR. 72201-3823

SeptemBer 6th, 2022
Respectfully Submitted.
BRANDON JAMES

Claim NO. 221447

Į	
	MOTION FOR DEFAULT JUDGEMENT
	STATE CLAIMS COMMISSION OF ARKANSAS
	YOU WILL PLEASE ENTER THE DEFAULT OF RESPONDING
	Thomas BURNE FOR FAILURG TO PLEAD OR OTHERWISE DEFEND
	AS PROVIDED BY THE ARK Rules of Civil Procedure, As Well
	AS Claims Commission Rule 2.2, AS APPEARS from
	THE ATTACHED DECLARATION OF BRANDON JAMES.
	September 6th, 2000
	PRALIANN TAMES
_	
_	
,	
-	

STATE OF ARKANSAS **COUNTY OF JEFFERSON**

AFFIDAVIT

P
I, BENDON JAMES, after first being duly sworn, do hereby swear, depose and state that: Ix FILDA CLAIM FOR EXCESSIVE USE OF TORCE AGAINST
and state that: Ix Filed A Claim for Excessive use of toke Agrinol
Sot. D. Brewer AND OPI. J. JACKS WITH THE ARKANGAS STATE
Claims Commission On MARCH 14th 2022. This Claim WAS
POSSESSED AND ASSIGNED A CLAIMNUZZ1447 ON MARCH
POSSESSED AND ASSIGNED A CLAIMAN ZZ1447 ON MARCH 18th 2022 WITH THIRTY DAYS FROM DATE OF SERVICE IN Which To file A RESPONSIVE PLEADING PURSUANT TO
Which To file A RESPONSIVE PLEADING PURSUANT TO
ARK Rules of Civil Procedure, AS Well AS Claims Commission
Rule 2.2. STATE OF ARKANSAS, RESPONDENT FOR BOTT D. REFLIER
AND CPLJ. JACKS FAILED TO ADHERE TO PROCEDURE RULES OF THE
STATE CLAIMS COMMISSION AN FILE A RESPONSIVE PLEADING WITH-
IN THIRTY DAYS ENTITIONS CLAIMANT TO DEFAULT LIDGEMENT
IN HIS FAVOR FOR REQUESTED SUM IN CIAIM OF 4,500 DUE
TO RESPONDENT NXT RESPONDING LINTIL AUGUST 17th 2022 FOLIR
MOUTHS OUTBIDE OF A HUTTED DEADLINE, MOTION FOR DEFAULT
JUDGEMENT IS SUBMITTED WITH THIS AFFIDAVIT ALONG WITH
A Add ITICNAL AFFIDAUIT STATING THAT NEITHER D BREWER
NOR J. JACKS ARE IN MILITARY SERVICE. AS AN ATTEMPT TO
NOT AWARD CLAIM IN MY FAVOR EKRONEOUS FILING OF MULT-
1Ple Claim W. FOR THE ABOVE CLAIM IN QUESTION HAS BEEN
COMITTED I ASK THAT THIS ERROR Which IS TO NO FAULT
OF CLAIMANT NOT BE HELD AGAINST HIM. AND PREY THAT ASCC
AWARD THE REQUESTED SUM OF 4500 TO CLAIMANT

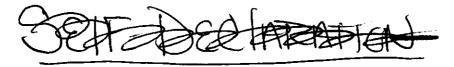
I further swear that the statements, matters and things contained herein are true and accurate to the best of my knowledge, information and belief.

DATE

DATE

Subscribed and sworn to before me on this

My Commission Expires 07-08-2031 Commission # 12716166



STATE OF ARKANSAS COUNTY OF JEFFERSON

AFFIDAVIT

I, BANNUTAMES, after first being duly sworn, do hereby swear, depose and state that: FORMER ADC EMPloyEE'S SYL D. BREWER AND CPI, JUACKER ARE NeitHER TO MILITARY SERVICES, AND SHOULDN'T ALL FURMS OF PAYMENT IN CLAIM BROUGHT FROM EMPLOYMENT WITH THE APPLY FOR TESTING 8 molaise THEREFORE LEAVING DE MEdical Kecold TO Show That INLURICS WAS SUSTAINED AS A RESULT OF RESPONDENT ACTICHS

I further swear that the statements, matters and things contained herein are true and accurate to the best of my knowledge, information and belief.

DATE

PART

TELEPRICAL TO A STANTAL TO

Subscribed and sworn to before me on this 5 day of

MY COMMISSION EXPIRES:

 From:
 Thomas Burns (DOC)

 To:
 ASCC Pleadings

 Cc:
 Leslie Browning (DOC)

 Subject:
 Brandon James v ADC 221447

Date: Friday, September 16, 2022 2:57:42 PM

Attachments: 4697 001.pdf

MTD

Thomas Burns
General Counsel
Arkansas Department of Corrections
Division of Correction
6814 Princeton Pike
Pine Bluff Arkansas 71602
Phone: (870) 267-6845

Fax: (870) 267-6373 Cell: (870) 515-0918

thomas.burns@arkansas.gov

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BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

BRANDON JAMES (ADC

CLAIMANT

v

NO. 221447

ARKANSAS DEPARTMENT OF CORRECTIONS DIVISION OF CORRECTION

RESPONDENT

RESPONDENT'S MOTION TO DISMISS

Comes Now the Respondent, Arkansas Department of Corrections (ADC), for its Motion to Dismiss, states:

- 1. The inmate's claim should be dismissed pursuant to the Arkansas Rules of Civil Procedure (ARCP) 12(b)(6) as it fails to state facts upon which relief can be granted.
- 2. On a motion to dismiss pursuant to Rule 12(b)(6) of the Arkansas Rules of Civil Procedure the courts treat the facts alleged in complaints as true and view them in the light most favorable to the plaintiff. *Dockery v Morgan, 2011 Ark. 94.* "However, [Arkansas's] rules require fact pleading, and a complaint must state facts, not mere conclusions, in order to entitle the pleader to relief." *Id.* The Court should "treat only the facts alleged in the complaint as true but not the plaintiff's theories, speculation, or statutory interpretation." *Id.*
- 3. An "important mechanism for weeding out meritless claims [is a] motion to dismiss for failure to state a claim." Fifth Third Bancorp v. Dudenhoeffer, 573 U.S. 409, 425 (2014). Legal conclusions, unsupported conclusions, and unwarranted inferences must be ignored and fail to withstand a Rule 12(b)(6) motion. See Farm Credit Svcs. v American State bank, 339 F.3d 764 (8th Cir. 2003). A pleading must contain a "short and plain statement of the claim showing that the pleader is entitled to relief. Ashcraft v Iqbal 556 U.S. 662 (2009). Although detailed factual allegations are not required, more that "unadorned, the-defendant-unlawfully-harmed-me-

accusations" are required. *Id.* To survive a motion to dismiss, a complaint must contain sufficient factual matter that, when accepted as true, state a claim to relief that is plausible on its face. *Id.* A claim is facially plausible "when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.*

- 4. When a trial court is presented with extraneous materials outside of the pleadings and does not exclude those materials, a motion to dismiss for failure to state facts upon which relief can be granted shall be treated as one for summary judgment. *Norris v Davis, 2014 Ark.*App. 632 (2014)
- 5. The inmate seeks the sum of \$4500.00, for alleged excessive force and section 1983 claim. Although inmate seeks an award of damages (\$4500.00), he fails to plead any basis for an award of damages, and he fails to give the Arkansas Claims Commission any rational basis beyond mere speculation of the damages. Damages are an essential element of a tort claim and there must an allegation of sufficient facts to satisfy the damages element or the case is subject to a motion to dismiss. *Wallis v. Ford Motor Company, 362 Ark. 317, 208 S.W. 3d 153* (2008). The inmate's claim, even if true, does not support a claim for monetary relief.
- 6. Even if the inmate were to plead with more specificity, he would still not be able to prevail. The party claiming damages has the burden of proving those damages beyond speculation. *Minerva Enterprises v. Howlett, 308 Ark. 291, 824 S.W. 2d 377 (1992).* Even taking the inmate's allegations true as pleading, and giving him the benefit of every possible inference, his mere inconvenience of alleged wrongdoing can never render a claim that is anything but speculation.
- 7. Pro Se parties are not given special treatment and are held to the same standard as a licensed attorney. Pressler v. Ark. Publ. Serv. Comm'n, 2011 Ark. App. 512, at 9, 385 S.W.3d 349, 355 (citing Elder v. Mark Ford & Assocs., 103 Ark. App. 302, 288 S.W.3d 702 (2008)). The

Claims Commission notes that under Arkansas law, a claimant choosing to represent himself is held to the same standard as an attorney. *Michael Pickens v ADC claim 190793 (ASCC 2019)*.

- 8. Whether a plaintiff is represented by counsel or is appearing <u>pro se</u>, his complaint must allege specific facts sufficient to state a claim. *See Martin v Sargent*, 780 F.2d 1334, 1337 (8th Cir. 1985).
- 9. A complaint must state facts, not mere conclusions, in order to satisfy the requirements of Rule 8 of the Arkansas Rules of Civil Procedure. *Doe v Weiss*, 2010 Ark. 150.
- In reviewing whether a complaint is subject to dismissal, the Court must accept as 10. true all factual allegations in the complaint, but is "not bound to accept as true a legal conclusion couched as a factual allegation." Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)). "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." Id. "Nor does a complaint suffice if it "tenders 'naked assertion[s]' devoid of 'further factual enhancement." Id. (quoting Twombly, 550 U.S. at 557). Rather, a complaint must plead "enough facts to state a claim to relief that is plausible on its face." Twombly, 550 U.S. at 570. "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Iqbal, 556 U.S. at 678. "The plausibility standard is not akin to a 'probability requirement,' but it asks for more than a sheer possibility that a defendant has acted unlawfully." Id. (quoting Twombly, 550 U.S. at 556). A well pleaded complaint may proceed even if it appears that actual proof of those facts is improbable and that recovery is very remote and unlikely. Twombly, 550 U.S. at 556. A complaint cannot, however, simply leave open the possibility that a plaintiff might later establish some set of undisclosed facts to support recovery. Id. at 561. Rather, the facts set forth in the complaint must be sufficient to nudge the claims across the line from conceivable to plausible.

Id. at 570. "[W]here the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged -but it has not 'show[n]' - 'that the pleader is entitled to relief." Iqbal, 556 U.S. at 679 (quoting Fed.R.Civ.P. 8(a)(2)).

- 11. The Plausibility standard is not akin to a "probability requirement" but it asks for more than a sheer possibility that a defendant has acted unlawfully. Where a complaint pleads facts that are "merely consistent with" a defendant's liability, it" stops short of the line between possibility a plausibility of entitlement to relief" *Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)*
- 12. The inmate is currently housed at the serving a 45-year sentence on a conviction of murder and other crimes.
 - 13. This inmate that excessive force was used against him for not reason.
- 14. The inmate claims that Sgt. Brewer became angry and used excessive force to move him.
- 15. The inmate was being moved to the shower when he became aggressive toward staff and revoiced a disciplinary. *See attached Ex A.*
- 16. The matter was referred to Internal Affairs (IA) when the inmate filed a grievance and was found with merit that force was used. See attached Ex B.
- 17. The results of the IA investigation were that the Officers were exonerated and the use of force was within ADC policy. *See attached Ex C.*
- 18. The inmate is making Constitutional and Section 1983 claims, therefore pursuant to the law the Commission is barred from hearing such claims. These claims may be made in a Court of general jurisdiction. See attached to inmate complaint
 - 19. The Claims Commission does not have the jurisdiction to hear this claim.

- 20. The inmate has filed a complaint that he knows is in bad faith and not supported by the facts. The Commission should award the ADC fees and costs for having to respond to this baseless complaint.
- 21. This same claim, if presented to a court of general jurisdiction would, as a matter of law, be dismissed.
- 22. "The commission shall make no award for any claim which, as a matter of law. should be dismissed from a court of law or equity for reasons other than sovereign immunity." Ark. Code Ann. § 19-10-204(3)(A) (West Supp. 2015). "Specifically, if the facts of a given claim would cause the claim to be dismissed as a matter of law from a court of general jurisdiction, then the commission shall make no award on the claim." Ark. Code Ann. § 19-10-204(3)(B) (West Supp. 2015). The claimant has not been damaged and only makes mere assertions that he has been damages. Without damages a Court would dismiss the claim in its entirety.

WHEREFORE, the Respondent prays that the motion be granted and the complaint dismissed; for their attorney's fees and costs; and all other just and proper relief to which they may be entitled.

Respectfully submitted,

Thomas Burns (02006)

Legal Department

Division of Correction

6814 Princeton Pike

Pine Bluff, AR 71602

(870) 267-6845 Office

(870) 267-6373 Facsimile thomas.burns@arkansas.gov

CERTIFICATE OF SERVICE

I certify that a copy of the above pleading has been served this 16th day of September 2022, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Brandon James (
	(P)
	the state of the s
	Thomas Burns

Arkansas Department of Correction

__ Unit

MAJOR DISCIPLINARY

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ORIGINAL - File Copy COPY - Inmate Color - Goldenrod



Arkansas Department of Correction

Lieutenant Karim Broadway

Phone: (501) 842-3800 Ext. 228 FAX: (501) 842-1977

TO: Major Jeffery Deen

From: Lieutenant Karim Broadway

Date: July 28, 2021

RE: Inmate James, Brandon ADC

On July 28, 2021 at approximately 6:45 PM, Sgt. Brewer along with Cpl. Jacks was conducting shower call in East Isolation. While escorting Inmate James, B. # to the shower, he stopped said he wasn't going to the shower without paperwork. Sgt. Brewer then gave Inmate James, B. # n verbal direct order to walk to shower and Inmate James, B. # refused. Sgt. Brewer then gave Inmate James, B. # an direct order to walk back to cell. I've taken his actions as an refusal. Inmate James became aggressive and making threats to spit on staff. Inmate James was then restrained against the corner of his cell and all available officers was called for assistance. Therefore, Sgt. Brewer charged Inmate James, B. # with rule violations 12-3 and 5-3. Inmate James was placed on behavior control and moved from 5 Barracks Cell #18 and reassigned to East Isolation Cell #25.

Lieutenant Karim Broadway, B-Shift Supervisor

Behavior Control Checklist 07/28/2021 Inmate Name James, Brandon DATE___ ADC# Indicate Yes or No Has inmate displayed assaultive, disruptive, or self-injurious behavior and/or acts of sexual Yes misconduct? Has other methods been used to correct the inmate's behavior such as staff counseling, Yes disciplinary process or other management techniques? Has the placement of behavior control been recommended by the shift supervisor to and Yes approved by the chief of security or above? Has all property been removed from the cell with the exception of a blanket, boxers, paper gc and a small quantity of toilet paper? (legal and/or privileged mail will be delivered while on Behavior Conti Yes Inmates on Behavior Control Status with upcoming court deadlines who need legal materials must make that requi to staff and provide proof to support their need)

to staff and provide proof to support their need)

Has property been searched, inventoried, secured and placed in the property room with a completed inventory form?

Yes Has status been changed in eOmis?

Yes

Yes

Yes

Has behavior control noticed been placed outside of the inmate's door?

Has all shifts been notified of the placement date and scheduled removal date?

When Completed This Form Needs to Go With the Form 005 Packet, Scanned into eOMIS and a copy turned into the Chief of Security's Office.

Behavior Control Checklist

Shift Supervisor Printed Name	1 tellement	Premi Duralis	1
Shift Supervisor Signature	- alonal	Luxon Bunk	./ <u> </u>

When Completed This Form Needs to Go With the Form 005 Packet, Scanned into eOMIS and a copy turned into the Chief of Security's Office.

Arkansas Department of Correction

		Unit:				
		USE OF 1	BEHAVI	OR CONTRO	L	
A.	Înmate's Name:	James, Brandon			ADC	C#
B.	Date & Time of Pla	acement:				
C.	Reason(s) for Plac	cement:	Inmate r	efused to go bac	k to his	cell in East Isolation
		Inmate is a threat to:	X X X	Himself Others Security		
D,	Behavior Necessit	and designed for the		(Briefly deso	cribe):	Inmate James refused to go back to his cell in East Isolation after he was given an direct order.
E.	-	ry report written?	X	Yes, Charges No, Explain:	12-3 a	nd 5-3
F.	Conditions or rest	rictions:		Strip Cell No Clothes Items Allowed (List):	-	Boxers and Shower Shoes
				Other, Explain:		
G.	Supervision:	8		30 Minutes Other, Explain:	***	
Refe	errals:	Medical:		Person:		
	-	Mental Health:		Time: Person: Date:		
Auth	norizing Official:	Karim Broadway	me	Time:	Licute	nant Title / Rank
		Karim Broadway Signa	iture	-	07/28	7/2021 @ 6:45m Dale & Time
	Name of next offici (At the end of 72 h Prior To:	al to review status: ours or sooner if change Da		ior)		Time

Official Authorizing Deactivation:		Date:
	(Name and Title)	Time:

Name: James, Brandon J.

ADC #:

PID #

IRTS020C

Incident Report Summary

Friday September 16, 2022 11:35:08 AM

Report Number: 2021-07-104

Unit: | 01]
Facility: | 01]

Zone: Zone 4

Location of Incident: East Isolation

Incident Date: 07/28/2021

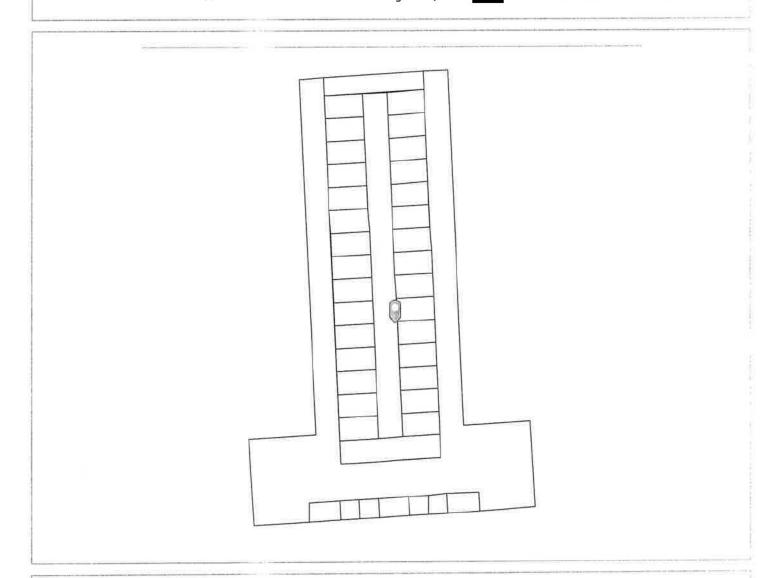
Begin Time: 06:56:57 PM

Summary Prepared by Staff: Brewer, Devanta D

Shift: Shift B

Housing Area/Bed: EAST ISOLATION

0025



Incident Category: Investigation (CSO)

Incident Type: Disobey Direct Order

Force Used: Yes

Send DOC Incident Notification: No

Suspected Felony Committed: No

Drug Related: Unknown

Gang Related: Unknown

Unit Report Number:

Injuries: None

IAD #:

Suspected PREA Incident: No

Status: Closed

As of Date: 09/30/2021

43 G+ A3

(March 177					ויגנו
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On July 28, 2021 at approximately 6:45 PM, I Sgt. Brewer along with Cpl. Jacks was conducting shower call in East Isolation. While escorting Inmate James, B. East Isolation. While escorting Inmate James, B. East Isolation.	
shower without paperwork. I Sgt. Brewer then gave Inmate James, B. and an verbal direct order to walk to the shower and Inmate James, B. and the shower and Inmate James, B. and an direct order to walk to the shower and Inmate James, B.	
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making threats to spit on staff. Inmate James was then restrained against the corner of his cell and all	
available officers was called. Inmate James, was then placed on behavior control and my supervisor was	IS
notified. End of Statement.	

Evidence Retained

Incident Package Checklist Original 005(s) Major Disciplinary Cover Letter Behavior Control Checklist Use Of Behavior Control Behavior Control Log

Employee(s) Involved (1 - 1 of 1)

Involvement	Staff Name	Work Assignment	Shift	Charging Staff
Responder	Brewer, Devanta D	Correctional Sergeant	В	Yes

Offender(s) Involved (1 - 1 of 1)

Involvement	Offender Name	ADC #	Offender Id	Race	Sex	DOB	Disciplinary Date	Date Appealed
Suspect	James, Brandon J.			Black	Male			

	VIDEOUS CONTROL	FF 25021 101	100400101010	DECHEROLISM TO
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DH T.A. I.F.A. T. HILL	HE - 1 15 - 7 - 7 W	3 C # #C	3,43,6.4.	المحاسبات ال

Involvement	Name	Address	Phone
	No Rows Found		

Scanned Documents Attached (1 - 1 of 1)

Document Type	Title	Page #	Page	Prepared by Staff
Form 005 (Incident)	Complete Packet	001	985KB 08/06/2021	Broadway, Karim A

Actions Taken (1 - 11 of 11)

Date	Time	Action Type	Staff Name	Comments	
09/21/2021	09:48:24 AM	Closed	Naylor, Raymond C	exoneraterd	
08/11/2021	08:50:28 AM	Assigned to IA Investigator	Naylor, Raymond C	assigned to Gaines 21-1042R	

Date	Time	Action Type	Staff Name	Comments
08/10/2021	01:13:16 PM	Referred to Internal Affairs	Shipman, James T Jr	Date: 08/10/21 Time: 01:13:34 PM User: J Shipman (SHIJA01)
08/09/2021	05:34:58 PM	Referred to Warden	Harris, Claudia M	***This report was just forwarded past the 5 day time frame, CA is being taken by CSO Johnson**** Date: 08/9/21 Time: 05:35:52 PM User: C. Harris (HC27)
08/09/2021	05:34:00 PM	Referred to CSO	Harris, Claudia M	***Video is mandated with all UOF, please get video downlaoed*** Date: 08/9/21 Time: 05:34:44 PM User: C. Harris (HC27)
08/09/2021	04:45:49 PM	Referred to Deputy/Assistant Warden	Johnson, Antonio D Jr	Appropriate action taken. Ready for your review. Corrective action will be initiated.
08/06/2021	10:07:50 PM	Referred to CSO	Broadway, Karim A	Date: 08/6/21 Time: 10:08:07 PM User: K. Broadway (BROKA08)
08/02/2021	03:44:04 PM	Referred to Lieutenant	Deen, Jeffery T	Lt. Broadway take care of this
08/02/2021	03:40:48 PM	Referred to CSO	Shipman, James T Jr	10-4
08/02/2021	03:38:45 PM	Referred to Warden	Deen, Jeffery T	First time I seen it I will get with It. Broadway.
08/02/2021	03:34:54 PM	Referred to CSO	Shipman, James T Jr	major what is this. the incident is poorly written as has no paper work
			21	

Prepare to Update Pr

Prior Page

Show Last Updated Information

SEP 26 2022

DEAR STATE CLAIMS COMMISSION. 3/30/309 THE CLAIMANT BRANCON JAMES IN CASE NO. 221447 AGNINST THE ADC. IS RESpectfully ASKING FOR A UPDATE IN THAT CASE AND IF THE CLAIMANT NEEDS TO FILE ANY HURTHER PAPER WORK IN REGURES TO THE ()16E THE CLAIMANT-RESpectfully Askes THE ASCS TO BE minded THAT THE RESPONDENT FAILED TO MAKE A PLEADING IN THIS CASE NO. 221447 WITHOUTHE Allotted 30 Day Filing PERICO Which entitles me to Automatic AWARDANCE of REQUESTED Sum IN CASE NO 221447. THE RESPONDENT WILL LATER ATTEMPT TO USE THE SAME ARKANSAS RULES OF CIVIL PROCEdure. THAT THOU FAILED TO ADHERE TO AS GROUNDS TO DISMISS CLAIM. IF What THE SIGH RESPONDENT SIGH Altages SHALL BE CONSIDERED EVEN IN THE lEAST. THEN THE CLAIMANT MOTION FOR DEFAULT JUNGEMENT FOR THE SUM OF 4,500 SHALL BE GRANTED TO CLAIMANT FOR RESPONDENT FAILED TO ADHERE ARE RCP AT THE BEGINING STAGES of Main No 221447 Sinceedy, BEANDON TAMES

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Mika Tucker

From: Mika Tucker

Sent: Tuesday, October 11, 2022 9:51 AM

To: Thomas Burns (DOC)
Cc: Leslie Browning (DOC)

Subject: LETTER ORDER: James v. ADC, Claim Nos. 221447 and 230215

Attachments: James v. ADC -- 221447 230215 -- letter order consolidating claims.pdf

Hi, Thomas.

Please see the attached letter order. Thank you.

-Mika

Mika Tucker

Arkansas State Claims Commission

101 East Capitol Avenue, Suite 410 Little Rock, Arkansas 72201 (501) 682-2818

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619 FAX (501) 682-2823



KATHRYN IRBY DIRECTOR

101 EAST CAPITOL AVENUE SUITE 410 LITTLE ROCK, ARKANSAS 72201-3823

October 11, 2022

Mr. Brandon James (ADC

Mr. Thomas Burns Arkansas Division of Correction 6814 Princeton Pike Pine Bluff, Arkansas 71602 (via email)

RE: Brandon James v. Arkansas Division of Correction

Claim Nos. 221447 and 230215

Dear Mr. James and Mr. Burns,

The Claims Commission has reviewed Mr. James' correspondence filed on September 26, 2022, in Claim No. 221447, in which he asks for an update and if he needs to file further paperwork. The Claims Commission has also reviewed Mr. James' correspondence filed on September 28, 2022, in Claim No. 230215, in which he points out that his claim has been given multiple claim numbers.

The Claims Commission has authorized me to transmit this letter order to the parties noting that, on March 18, 2022, Mr. James filed a claim, alleging, *inter alia*, that the ADC's employees violated policy related to use of restraints, transporting offenders, and use of force on July 28, 2021. This claim was assigned two separate claim numbers: Claim No. 221447 and Claim No. 230215. The Claims Commission finds that these claims should be consolidated as Claim No. 221447 and that, henceforth, the parties should use Claim No. 221447 to identify correspondence and pleadings related to this claim.

The Claims Commission will consider the parties' pending motions after Mr. James' time to respond to the motion to dismiss filed in Claim No. 230215 has run pursuant to the Arkansas Rules of Civil Procedure. When the Claims Commission enters an order on the motions, the parties will receive a copy. Furthermore, to the extent that Mr. James is seeking additional information, the Claims Commission cannot provide legal advice.

Sincerely,

Mika Tucker

ES: mtucker

Mika Tucker

From: Thomas Burns (DOC)

Sent: Tuesday, October 11, 2022 10:39 AM

To: ASCC Pleadings

Cc: Leslie Browning (DOC)

Subject: Brandon James v ADC 221447

Attachments: 0290_001.pdf

Motion for Sanctions

Thomas Burns
General Counsel
Arkansas Department of Corrections
Division of Correction
6814 Princeton Pike
Pine Bluff Arkansas 71602

Phone: (870) 267-6845 Fax: (870) 267-6373 Cell: (870) 515-0918

thomas.burns@arkansas.gov

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BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

BRANDON JAMES (ADC#

CLAIMANT

v.

NO. 211447

ARKANSAS DEPARTMENT OF CORRECTIONS DIVISION OF CORRECTION

RESPONDENT

MOTION FOR SANCTIONS

Comes now the Respondent, Division of Correction (ADC), by and through their attorney, Thomas Burns, and for their Motion, states:

- 1. On or about October 11, 2022 the Commission sent a letter to the Inmate and copied to the ADC. See attached Ex A.
- 2. In the letter it references that the inmate sent a letter to the Commission on September 26, 2022 AND September 28, 2022 requesting updates. *Id.*
- 3. This is the first time the ADC has been made aware that the inmate contacted the Commission on September 26, 2022 or September 28, 2022.
- 4. The inmate is unduly prejudicing the ADC by engaging in ex parte communications.
- 5. Due to the failure of the Inmate to follow the proper rules of civil procedure (ARCP) the ADC is being prejudiced by not being allowed to respond and refute the Inmates averments and documents.
- 6. The ADC would request that the Commission strike the Inmates claim and dismiss the matter for failure to follow the ARCP. The Inmate is deliberately misleading the Commission and made it so the ADC could not respond to get his desired result.
- 7. Rule 11 provides that the Court can impose sanctions if the pleading, motion, or other paper is not interposed for any improper purpose, such as to harass,

cause unnecessary delay, or needlessly increase the cost of litigation; which we clearly have here.

WHEREFORE, the ADC prays for sanctions against Carl Jackson; for his complaint to be dismissed; for attorney's fees and costs; and for all other just and proper relief to which he may be entitled.

Respectfully submitted,

Thomas Burns (02006)
ADC Legal Division
6814 Princeton Pike
Pine Bluff, AR 71602-9411
(870) 267-6845 Office
(870) 267-6373 Facsimile
thomas.burns@arkansas.gov

CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been served this 11th day of October 2022 on the Claimant by placing a copy of the same in the U. S. Mail, regular postage, to:

Brandon James (ADC#

homas Burns

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619 FAX (501) 682-2823



KATHRYN IRBY DIRECTOR

101 EAST CAPITOL AVENUE SUITE 410 LITTLE ROCK, ARKANSAS 72201-3823

October 11, 2022

Mr. Brandon James (ADC

Mr. Thomas Burns Arkansas Division of Correction 6814 Princeton Pike Pine Bluff, Arkansas 71602 (via email)

RE:

Brandon James v. Arkansas Division of Correction

Claim Nos. 221447 and 230215

Dear Mr. James and Mr. Burns,

The Claims Commission has reviewed Mr. James' correspondence filed on September 26, 2022, in Claim No. 221447, in which he asks for an update and if he needs to file further paperwork. The Claims Commission has also reviewed Mr. James' correspondence filed on September 28, 2022, in Claim No. 230215, in which he points out that his claim has been given multiple claim numbers.

The Claims Commission has authorized me to transmit this letter order to the parties noting that, on March 18, 2022, Mr. James filed a claim, alleging, inter alia, that the ADC's employees violated policy related to use of restraints, transporting offenders, and use of force on July 28, 2021. This claim was assigned two separate claim numbers: Claim No. 221447 and Claim No. 230215. The Claims Commission finds that these claims should be consolidated as Claim No. 221447 and that, henceforth, the parties should use Claim No. 221447 to identify correspondence and pleadings related to this claim.

The Claims Commission will consider the parties' pending motions after Mr. James' time to respond to the motion to dismiss filed in Claim No. 230215 has run pursuant to the Arkansas Rules of Civil Procedure. When the Claims Commission enters an order on the motions, the parties will receive a copy. Furthermore, to the extent that Mr. James is seeking additional information, the Claims Commission cannot provide legal advice.

Sincerely,

Mika Tucker

ES: mtucker

59-XA

Mika Tucker

From: Misty Scott on behalf of ASCC Pleadings **Sent:** Wednesday, December 21, 2022 2:33 PM

To: Thomas Burns (DOC)

Cc: Leslie Browning (DOC); ASCC Pleadings; Mika Tucker

Subject: ORDER: Brandon James v. ADC, Claim Nos. 221092 and 221447

Attachments: Brandon James v. ADC2.pdf; Brandon James-order4.pdf

Thomas:

Please see attached. Contact Mika Tucker with any questions.

Thank you,

Misty

Misty Scott

Arkansas State Claims Commission

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619 FAX (501) 682-2823



KATHRYN IRBY DIRECTOR

101 EAST CAPITOL AVENUE SUITE 410 LITTLE ROCK, ARKANSAS 72201-3823

December 21, 2022

Mr. Brandon James (ADC

Mr. Thomas Burns Arkansas Division of Correction 6814 Princeton Pike Pine Bluff, Arkansas 71602-9411 (via email)

Re: Brandon James v. Arkansas Division of Correction

Claim Nos. 221092 and 221447

Dear Mr. James and Mr. Burns:

Enclosed please find an Order entered on December 15, 2022, by the Arkansas State Claims Commission. If you have any questions, please do not hesitate to contact my office.

Sincerely,

Mika Tucker

ES: msscott

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

BRANDON JAMES (ADC

CLAIMANT

V.

CLAIM NO. 221092 CLAIM NO. 221447

ARKANSAS DIVISION OF CORRECTION

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the "Claims Commission") are motions filed by the Arkansas Division of Correction (the "Respondent") to dismiss Claim Nos. 221092 and 221447 of Brandon James (the "Claimant"). Also pending is Claimant's motion for award in Claim No. 221092, as well as Claimant's motions for default judgment and Respondent's motion for sanctions in Claim No. 221447. Based upon a review of the motions, the arguments made therein, and the law of Arkansas, the Claims Commission hereby finds as follows:

Claim No. 221092

- 1. Claimant filed Claim No. 221092 on March 18, 2022, seeking \$4,500.00 in damages related Respondent's employee allegedly breaching policy by feeding Claimant breakfast in an area that housed both COVID positive and COVID negative inmates. Claimant alleges that he still suffers breathing and throat issues related to the employee's actions.
 - 2. Claimant's claim was transmitted to Respondent on April 14, 2022.
 - 3. On April 15, 2022, Respondent filed an answer denying liability.
- 4. Claimant then filed a motion on June 11, 2022, arguing that Respondent failed to comply with the Arkansas Rules of Civil Procedure because Respondent had not filed a denial of liability. Claimant requested an award in his favor.
 - 5. Respondent did not respond to Claimant's motion.

- 6. Respondent then filed a motion to dismiss pursuant to Ark. R. Civ. Proc. 12(b)(6), arguing, *inter alia*, that Claimant has not been damaged.
 - 7. Claimant did not respond to the motion to dismiss.
- 8. With respect to Claimant motion for award, the Claims Commission finds that Respondent filed a timely answer to Claimant's claim. As such, Claimant's motion for an award is DENIED.
- 9. In reviewing Respondent's motion to dismiss, the Claims Commission must treat the facts alleged in the complaint as true and view them in a light most favorable to the Claimant. *See Hodges v. Lamora*, 337 Ark. 470, 989 S.W.2d 530 (1999). All reasonable inferences must be resolved in favor of the Claimant, and the complaint must be liberally construed. *See id.* However, the Claimant must allege facts, not mere conclusions. *Dockery v. Morgan*, 2011 Ark. 94 at *6, 380 S.W.3d 377, 382 (2011). The facts alleged in the complaint will be treated as true, but not "a plaintiff's theories, speculation, or statutory interpretation." *See id.* (citing *Hodges*, 337 Ark. 470, 989 S.W.2d 530 (1999)).
- 10. The Claims Commission elects to exclude the evidence attached to Respondent's motion for purposes of considering this motion to dismiss. *See* Ark. R. Civ. P. 12(b). This exclusion relates only to this motion to dismiss. Respondent is free to use these documents as permitted by all applicable rules of practice and procedure and to file a motion for summary judgment once discovery is completed.
 - 11. The Claims Commission finds that dismissal of Claim No. 221092 is premature.
 - 12. Respondent's motion to dismiss Claim No. 221092 is DENIED.
 - 13. The parties are instructed to conduct discovery.

Claim No. 221447

- 14. Claimant filed Claim No. 221447 on March 18, 2022, seeking \$4,500.00 in damages related to injuries he received on July 28, 2021, from Respondent's employee's alleged excessive force and misuse of restraints.
- 15. Claim No. 221447 was previously assigned two separate claim numbers: Claim No. 221447 and Claim No. 230215.
- 16. Claim No. 221447 was transmitted to Respondent on August 17, 2022. Respondent filed an answer denying liability on August 17, 2022.
- 17. Claim No. 230215 was transmitted to Respondent on August 30, 2022. Respondent filed an answer denying liability on August 30, 2022.
- 18. Claimant then filed a request for entry of default judgment against Respondent, arguing that Respondent did not comply with the Arkansas Rules of Civil Procedure or Claims Commission rules because it failed to plead or otherwise defend Claim No. 221447.
- 19. Respondent filed a motion to dismiss Claim No. 221447 pursuant to Ark. R. Civ. Proc. 12(b)(6), arguing, *inter alia*, that Claimant is making constitutional and Section 1983 claims and that the Claims Commission does not have jurisdiction over these claims.
- 20. Respondent filed a motion to dismiss Claim No. 230215 pursuant to Ark. R. Civ. Proc. 12(b)(6), arguing, *inter alia*, that Claim No. 221447 and Claim No. 230215 are identical and that Claim No. 230215 should be dismissed or merged with Claim No. 221447.
- 21. Claimant subsequently filed correspondence to the Claims Commission in Claim No. 221447, stating, *inter alia*, that Respondent failed to make a pleading within the 30-day filing period, which entitled him to an "automatic awardance[sic] of requested sum... and default judgment[.]"

- 22. Claimant then filed a request for hearing and motion for default judgment in Claim No. 230215, arguing that Respondent failed to adhere to the Claims Commission rules or the Arkansas Rules of Civil Procedure by filing an untimely answer.
- 23. The Claims Commission consolidated Claim No. 221447 and Claim No. 230215 as Claim No. 221447 in a letter order dated October 11, 2022.
- 24. Respondent then filed a motion for sanctions, arguing that Claimant sent letters to the Claims Commission that were *ex parte* communications.
 - 25. Claimant did not respond to the motion for sanctions.
- 26. With respect to Claimant motions for default judgment, the Claims Commission finds that Respondent filed a timely answer to Claim No. 221447 and Claim No. 230215. As such, Claimant's motions for default judgment are DENIED.
- 27. With respect to Respondent's motion to dismiss, the Claims Commission finds that the crux of Claimant's claim is the alleged constitutional and federal law violations. Because such claims can be brought a court of general jurisdiction, the Claims Commission does not have jurisdiction to hear them. *See* Ark. Code Ann. § 19-10-204.
- 28. Respondent's motion is granted pursuant to Ark. R. Civ. Proc. 12(b), and Claimant's Claim No. 221447 is DISMISSED.
- 29. Respondent's motion for sanctions is DENIED. However, the Claims Commission cautions Claimant that any subsequent pleading must contain a certificate of service and must be served as set forth in that certificate. Failure to comply with this requirement may result in the Claims Commission striking the pleading.
 - 30. Any other pending motions are denied as moot.

IT IS SO ORDERED.

The state of the s

ARKANSAS STATE CLAIMS COMMISSION Dexter Booth

ARKANSAS STATE CLAIMS COMMISSION Henry Kinslow, Chair

Lewy C. Kinslow

ARKANSAS STATE CLAIMS COMMISSION Sylvester Smith

DATE: December 15, 2022

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Notice(s) which may apply to your claim

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). <u>Note</u>: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

BRANDON JAMES (ADC#

Claimant Claim No. 221447

Arkansas State Claims Commission

ARKANSAS DIVISION OF CORRECTION

RESPONDENT JAN 1 9 2023

MOTION FOR RECONSIDERATION.

RECEIVED

NOW Comes The Claimant, BRANDON JAMES ADCH MUTICULFER RECONSIDERATION. IN CLAIM NO221447 FOR THE AMOUNT OF 4,500.00.

REASONS: FOR RECONSIDERATION ARE SIMPLE I FILED CLAIM NO.221447

JU MARCH 18, 2022. I RECEIVED NOTIFICATIONS FROM THE ARK STATE CLAIMS

LUMMISSION THAT MY CLAIM HAD BEEN PROCESSED ON APRIL 14, 2022,

THUS MEANING THAT THE RESPONDENT IN THE CLAIM WAS ALSO

JUTIFIED THAT A CLAIM HAD BEEN FILED, AND THAT THEY HAD BODAYS

TO FILE A RESPONSIVE PRADING DENYING LIABILITY WHICH THEY FAILED

TO DO, HENCE THE JUNE 11, 2022 MOTION BY ME THE CLAIMANT. WHICH

THE RESPONDENT STILL FAILED TO RESPOND TO.

Please NOTE.... THE ADC IS REFUSING TO SEND ANY MATERIA! REQUESTED FROM THE LAW LIBRARY TO ENABLE ME TO PROPERLY RESPOND TO THOMAS BURNS.
THEY EITHER SIMPLY WANT SEND THE REQUESTED MATERIALS OR STATE THAT
It'S NOT CITED.

IN Closing On This Reconsideration. I Ask The Claims Lummission To Take Into Serious Consideration. That Thomas Burns failed to trespond to transmitted filing By the Claims Lummission In April 2022 until August 2022 which Is Consistant With My Continuous filing In These Matters. I Still Have Copies of Original Transmitted filing to Me AND THE RESPONDENT BACK IN April of 2022 But yet according to the Claims Commission THE RESPONDENT SIGNIFERS THE RESPONDENT SIGNIFERS MY CLAIMS COMMISSION THE RESPONDENT SIGNIFERS MY CLAIM UNTIL August 17th, 2022 Which Is Outside of The Boday Period Which Alidates My Claim That Respondent Didn't file In a Timely Manner

SINCERELY, BRANDON JAMES



NOW ON This 12th Day Of JANUARY OF The 23rd YEAR.
THE CHAIMANT BRANDON DAMAN JAMES, Places This
WEITTEN Certification Of Service. To The RESPONDANT IN REQUERTS TO MOTION FOR RECONSIDERATION, IN CLAIM NO.
A COPY OF This CORRESPONDANCE HAS HOS BEEN FORWARDED TO
THE RESPONDANT THOMAS BURNS OF THE AD & LEGAL DIV. Consider This Notice of THE Chimant Mution. Notification SERVED ... Kespietfully Submitted BRANKON JAMAA JAMES# RANDON JAMES

Mika Tucker

From: Misty Scott on behalf of ASCC Pleadings

Sent: Thursday, May 18, 2023 3:41 PM

To: Thomas Burns (DOC)

Cc: Leslie Browning (DOC); ASCC Pleadings; Mika Tucker

Subject: CORR: Brandon James v. ADC, Claim Nos. 221092 and 221447

Attachments: Brandon James v. ADC2 .pdf; Brandon James-order5.pdf

Thomas:

Please see attached. Contact Mika Tucker with any questions.

Thank you,

Misty

Misty Scott

Arkansas State Claims Commission

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619 FAX (501) 682-2823



KATHRYN IRBY DIRECTOR

101 EAST CAPITOL AVENUE SUITE 410 LITTLE ROCK, ARKANSAS 72201-3823

May 18, 2023

Mr. Brandon James (ADC

Mr. Thomas Burns Arkansas Division of Correction 6814 Princeton Pike Pine Bluff, Arkansas 71602-9411 (via email)

Re: Brandon James v. Arkansas Division of Correction

Claim Nos. 221092 and 221447

Dear Mr. James and Mr. Burns:

Enclosed please find an Order entered today by the Arkansas State Claims Commission. If you have any questions, please do not hesitate to contact my office.

Sincerely,

Mika Tucker

ES: msscott

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

BRANDON JAMES (ADC

CLAIMANT

V.

CLAIM NO. 221092 CLAIM NO. 221447

ARKANSAS DIVISION OF CORRECTION

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the "Claims Commission") is a motion filed by the Arkansas Division of Correction (the "Respondent") seeking to deem admitted its requests for admission propounded to Brandon James (the "Claimant") in Claim No. 221092. Also pending are Claimant's motions for reconsideration of the Claims Commission's December 15, 2022, order in Claim Nos. 221092 and 221447. Based upon a review of the motion, the arguments made therein, and the law of Arkansas, the Claims Commission hereby finds as follows:

Claim No. 221092

- 1. Claimant filed Claim No. 221092 on March 18, 2022, seeking \$4,500.00 in damages related Respondent's employee allegedly breaching policy by feeding Claimant breakfast in an area that housed both COVID positive and COVID negative inmates. Claimant alleges that he still suffers breathing and throat issues related to the employee's actions.
 - 2. Claimant's claim was transmitted to Respondent on April 14, 2022.
 - 3. On April 15, 2022, Respondent filed an answer denying liability.
- 4. Claimant then filed a "motion for award" arguing that Respondent failed to comply with the Arkansas Rules of Civil Procedure because Respondent had not filed a denial of liability. Claimant requested an award in his favor.
 - 5. Respondent filed a motion to dismiss.

- 6. Claimant's motion for award and Respondent's motion to dismiss were denied by the Claims Commission on December 15, 2022. As part of that order denying the motion to dismiss, the parties were instructed to begin discovery.
- 7. Claimant then filed a motion for reconsideration of the December 15, 2022, order, arguing, *inter alia*, that "Claimant obtaining new information in discovery [was] impossible."
 - 8. Respondent did not file a response to the motion for reconsideration.
 - 9. Respondent sent requests for admission to Claimant on February 7, 2023.
 - 10. Claimant filed responses to the requests for admission on March 1, 2023.
- 11. Respondent sent a letter on March 7, 2023, requesting corrections to Claimant's discovery responses to requests for admission, interrogatories and requests for production.
 - 12. Claimant filed amended responses to requests for admission.
- 13. Respondent filed a motion to deem admitted, arguing that Claimant's amended responses to request Nos. 1, 2, 6, 7, 8 and 9 do not comport with Arkansas Rule of Civil Procedure 36(a).
 - 14. Claimant did not respond to Respondent's motion to deem admitted.
- 15. With respect to Claimant's motion for reconsideration, the Claims Commission cannot ascertain the relief sought in the motion or the basis for the relief. As such, the Claims Commission DENIES Claimant's motion for reconsideration of its December 15, 2022, order.
- 16. With respect to Respondent's motion to deem admitted, Ark. R. Civ. Proc. 36(a) provides, in pertinent part, that:
 - . . . Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within 30 days after service of the request, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney. . . . If objection is made, the reasons therefore shall be stated. The party answering requests for admissions shall repeat

each request immediately before the answer or objection. The answer shall specifically admit or deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; he may, subject to the provisions of Rule 37(c), deny the matter or set forth reasons why he cannot admit or deny it.

The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the court determines that an objection is justified, it shall order that an answer be served. If the court determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be served.

(emphasis added).

- 17. The Claims Commission notes that Claimant's responses to request Nos. 1, 6, 7, 8 and 9 are objections and that Ark. R. Civ. Proc. 36(a) allows objections as responses to requests for admission. The Claims Commission finds that Respondent's motion to deem admitted lacks specificity as to how the objections to request Nos. 1, 6, 7, 8 and 9 do not comply with Ark. R. Civ. Proc. 36(a), and the Claims Commission will not infer Respondent's arguments. As such, Respondent's motion to deem admitted is DENIED with respect Claimant's responses to request Nos. 1, 6, 7, 8 and 9.
- 18. The Claims Commission finds that by not admitting, denying, or objecting to request No. 2, Claimant did not adhere to the requirements set forth in Ark. R. Civ. Proc. 36(a). The Claims Commission will give Claimant twenty (20) days from the date this Order to file an amended response to request No. 2 pursuant to Ark. R. Civ. Proc. 36(a). Failure to submit a

properly amended response within twenty (20) days will result in the granting of Respondent's motion with respect to request No. 2.

Claim No. 221447

- 19. Claimant filed Claim No. 221447 on March 18, 2022, seeking \$4,500.00 in damages related to injuries he received on July 28, 2021, from Respondent's employee's alleged excessive force and misuse of restraints.
- 20. Claim No. 221447 was previously assigned two separate claim numbers: Claim No. 221447 and Claim No. 230215.
- 21. Claim No. 221447 was transmitted to Respondent on August 17, 2022. Respondent filed an answer denying liability on August 17, 2022.
- 22. Claim No. 230215 was transmitted to Respondent on August 30, 2022. Respondent filed an answer denying liability on August 30, 2022.
- 23. Claimant then filed a request for entry of default judgment against Respondent, arguing that Respondent did not comply with the Arkansas Rules of Civil Procedure or Claims Commission rules because it failed to plead or otherwise defend Claim No. 221447.
- 24. Respondent filed a motion to dismiss Claim No. 221447 pursuant to Ark. R. Civ. Proc. 12(b)(6), arguing, *inter alia*, that Claimant is making constitutional and Section 1983 claims and that the Claims Commission does not have jurisdiction over these claims.
- 25. Respondent filed a motion to dismiss Claim No. 230215 pursuant to Ark. R. Civ. Proc. 12(b)(6), arguing, *inter alia*, that Claim No. 221447 and Claim No. 230215 are identical and that Claim No. 230215 should be dismissed or merged with Claim No. 221447.
- 26. Claimant subsequently filed correspondence to the Claims Commission in Claim No. 221447, stating, *inter alia*, that Respondent failed to make a pleading within the 30-day filing

period, which entitled him to an "automatic awardance[sic] of requested sum... and default judgment[.]"

- 27. Claimant then filed a motion for default judgment in Claim No. 230215, arguing that Respondent failed to adhere to the Claims Commission rules or the Arkansas Rules of Civil Procedure by filing an untimely answer.
- 28. The Claims Commission consolidated Claim No. 221447 and Claim No. 230215 as Claim No. 221447 in a letter order dated October 11, 2022.
- 29. The Claims Commission denied Claimant's motions for default judgment on December 15, 2022, finding that Respondent filed timely answers to Claim No. 221447 and Claim No. 230215.
- 30. In its December 15, 2022, order, the Claims Commission also granted Respondent's motion to dismiss, finding that the crux of Claimant's claim is the alleged constitutional and federal law violations.
- 31. Claimant then filed the instant motion for reconsideration, arguing, *inter alia*, that Respondent did not file a timely answer to his claims.
- 32. In analyzing a motion for reconsideration, Rule 7.1 of the Claims Commission Rules and Regulations states that motions for reconsideration "will only be entertained if they set forth new or additional evidence which was not [previously] available"
- 33. The Claims Commission finds that the motion does not set forth new or additional evidence not previously available. As such, Claimant's motion for reconsideration is DENIED, and the December 15, 2022, Claims Commission order remains in effect.

IT IS SO ORDERED.

Lewy C. Kinslow

ARKANSAS STATE CLAIMS COMMISSION Henry Kinslow

Faul Morrin

ARKANSAS STATE CLAIMS COMMISSION Paul Morris, Chair

ARKANSAS STATE CLAIMS COMMISSION Sylvester Smith

DATE: May 18, 2023

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Notice(s) which may apply to your claim

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

JUN 06 2023

FRKANSAS DEPT OF CORRECTION

RESPONDENTRECEIVED

APPEAL TO GRENERAL ASSEMBLY IN CLAIM NO. 221947 IN REGUARD TO ARK. Code Ann. S 19-10-211(ax3) / NOTICE OF APPEA Claim NO 221447 1. Claimant files Claim NO. 221447 on MARCH 18, 2022 SEEKING \$ 4,500.00 IN DAMAGES RELATED TO INJURIES HE RECEIVED ON July 28, 2021 from RESPONDENT'S & FORMER EMPLOYEE'S allegeD EXCESSIVE FORCE AND MISUSE OF RESTRAINTS (AR) 409, (AR) 403 Policy VIOLATIONS. 2. Claimant Notified (AS.C.C) OF Claim Being ASSIGNED Multiple Claim NUMBERS AND CONFUSING/PLACING OTHER DOCUMENTARY EUIDENCE FOR A DIFFERENT CLAIM WITH SAID CLAIM OF MULTIPLE NUMBERS. THIS WRITTEN CORRESPONDENCE TO MIASCO Also ASKED FOR A CURRECTION TO THIS AND POINTED OUT THAT THE RESPONDENT HAD FAILED TO SUBMIT A RESPONSIVE PLEADING. 3. (ASCC) ONLY ATTEMPTS TO ACKNOWLEDGE WHEN THE WAS GIVEN JUST ONE CLAIM NO. BUT FINE(S) MONTHS PRIOR TO THE MONTH OF AUGUST THE CLAIM WAS TRANSMITTED TO RESPONDENT. 4(ASCC) made multiple ERRORS Filing multiple Claim NO. Placing Evidence from ONE Claim with ANOther Claim, Failing TO Rule Against RESPONDENT ONCE THEY FAIL TO RESPOND All of This Is DocumentED TO(AS.CC) / TRANSMITTED THRU CORRESPONDENCE. 5. Claims Commission GRANTED RESPONDENT A MOTION TO DISMISS FINDING THAT THE CRUX of CLAIMANTS CLAIM Alleged CONSTITUTIONAL AND FRDERAL LAW VIOLATIONS BUT THE CLAIMANT CLAIM ONLY ASERTED ARKANSAS STATE AND PRISON POLICY VICLATIC IN REGULARDS TO ARKANSAS Administrative Regulation AND Rules which THE Claimant Is Both Politically AND technology Correct In Doing So. THE Claims Commission ERRORSO IN Ruling IN The RESPONDENT FAVOR IN THIS REGULARD 6. THE CLAIMANT ASK THAT THE GENERAL ASSEMBLY OVERTU (ASCC) DISMISSAL of Claim NO. 221447 AND ORDER THE INITIAL RESPONDEN Which THE ADC IS NO LONGER Obligated TO REP DOR TO THEM THE LONSED Rainy complained By The ADC TO PAY THE 4,500 TO THE CLAIMANT IN CLAIM

CHO D NG 221447 AND DECKED COSTO 7. THE (ASCC) HAS ShowN a Continuous AND untailing Committement TO THE ADO IN ENSUING THE THAT CLAIMS BROUGHT BY PRISONER ARE DISMISSED TO ME 1 LOOK NO FURTHER THAN THIS CLAIM AS PROOF THAT THE (ASCC) HAS lost It'S WAY AND CAN NOT REISONABLY BE UNBIAS IN CARRYING OUT THE TYPICAL JOE FUNCTIONS REQUIRED FOR THEM TO FURTHER DEAL WITH THIS CLAIM 8. IN Closing It'S THE CLAIMANT HOPES AND PRAYERS THAT THE GENERAL ASSEMBLY/BUREAU OF LEGISLATIVE RESEACH FINDS THIS APPEAL OF CLAIM NO. 221447 IN light MOST FAVORABLE TO THE CLAIMANT BRANDON JAMES.

78

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	CERTIFICATE OF SERVICE
	I CREATIFY THAT A COPY OF This Pleading has BEEN SERVED THIS day of Dune 2023 ON THE ASSEMBLY
	By Placing A Copy of THE SAME IN THE US. MAIL REGULAR
-	Postage to:
	KALLEYO JERGY DIRECTOR
	HULEAST CAPITOD AVENUS SONE 416
	LARGER ADKANSAS TO DOS 3803
	GENERAL ASSEMBLY
	STATE CAPITOL SUO WOODLANE SUITE 250
	LITTLE ROCK, ARKANSUS. 72201
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Mika Tucker

From: ASCC New Claims

Sent: Tuesday, August 30, 2022 8:30 AM

To: Thomas Burns (DOC); Leslie Browning (DOC)

Cc: Kathryn Irby

Subject: CLAIM: Brandon James v. ADC, Claim No. 230215

Attachments: Brandon James ADC agency ltr 8-30.pdf; Brandon James_Claim form and supporting docs.pdf

Please see attached. Contact Kathryn Irby with any questions.

Thank you, Caitlin

Caitlin McDaniel

Administrative Specialist II
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-1619

ARKANSAS STATE CLAIMS COMMISSION

(501)682-1619 FAX (501)682-2823



KATHRYN IRBY DIRECTOR

101 EAST CAPITOL AVENUE SUITE 410 LITTLE ROCK, AR 72201-3823

August 30, 2022

Mr. Thomas Burns Arkansas Division of Correction 6814 Princeton Pike Pine Bluff, Arkansas 71602 (via email)

RE: Brandon James v. Arkansas Division of Correction

Claim No. 230215

Dear Mr. Burns,

Enclosed please find a copy of the above-styled claim filed against the Arkansas Division of Correction. Pursuant to the Arkansas Rules of Civil Procedure, as well as Claims Commission Rule 2.2, you have **thirty days from the date of service** in which to file a responsive pleading.

Your responsive pleading should include your agency number, fund code, appropriation code, and activity/section/unit/element that this claim should be charged against, if liability is admitted, or if the Claims Commission approves this claim for payment. This information is necessary even if your agency denies liability.

Sincerely,

Kathryn Irby

ES: cmcdaniel

cc: Brandon James (ADC), Claimant (w/ encl.)

<u>Note to Claimant or Claimant's counsel</u>: The Claims Commission copied you on this correspondence to provide you with confirmation that your claim has been processed and served upon the respondent agency.

Please print in ink or type

State Claime Commission MAR 1 8 2022

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

RECEIVED

	Of the State of	TH Kansas		LED
⊗ Mr.			Do Not Write in Th	ese Spaces
□ Mrs.		-	laim No.	
□ Ms. □ Miss No. December 1				
Mr. Brandon James		Claimant	Oate Filed (Month) (Day	(Year)
***			amount of Claim \$	
vs.				
State of Arkansas, Respondent	¥.	· F	und	
	СОМ	PLAINT		
Mr. Brandon James (Name)	, the above named Claimar	it, of		(City)
^	Thelpso	Cal	ALLA	(eny)
(State) (Zip Code) (Daytime Phone No	County of VII (R)	SON represented	(Legal Counsel, if any, for	or Claim)
of N/A (Street and No.)	(City) (State	e) (Zip Code)	(Phone No.)	(Fav No.)
(0-1			(11 - HOURT	(Fax No.) Housemo, Fire H
State agency involved: (HDC) D. BREWER,	J.JACKS	Amount	sought: [71,000]	
Month, day, year and place of incident or services		THE		
Explanation (ADC) HRKANSAS DEP	T 100	FICH - DIVIZION	>	
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	Months (2) Due to A	Bour Staff Actio	NS MEdical Treater	LIJAZIES WE
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N/A; when? N/A	; to whom?	U/A		
(Yes or No) (Month) (Day)	(Year) nd that the following action was take	en thereon: N/A	(Department)	
NI/N	id did die following dector was and			
nd that \$ N/A was paid ther	reon: (2) Has any third person or co	orporation an interest in this	claim? N/A	if so, state name and ad
NIA	14084			
(Name) nd that the nature thereof is as follows:	(Street or R.F.D. & No.)	(City)	(State)	(Zip Code)
nd that the nature the eof is as follows.	: and was acquired on	N/A		, in the following m
MIA		3		
THE UNDERSIGNED states on oath that I	he or she is familiar with the ma	tters and things set forth	in the above complaint, and th	at he or she verily be
hat they are true.		7 D		
BRANDON JAMES		AC	3	
(Print Claimant/Representative iv.	ame)	(Sig	gnature of Claimant/Repre	sentative)
SWe	ORN TO and subscribed befo	re me at \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	un Duadwood i	URJAK
KARIM BROADWAY	920		(City)	(State
NSAS No. 12715336	on this 14th	day of Ma	rch	. 22
PULASKI COUNTY				
Commission Expires 7-01-2031	(Date	12 - 0	(Month)	(Year
		Marin Buc	adus	
CEL DE OO			(Notary Public	:)
SF1- R7/99	My Commission Expires:	07-01-2631	(Notary Public	;)
Sr1- R7/99	My Commission Expires:	07-01-2031 (Month)		(

IGTT405 3GT

Attachment V

ACKNOWLEDGEMENT OF GRIEVANCE APPEAL or REJECTION OF APPEAL

ADC #: TO: Inmate <u>James, Brandon J.</u>

FROM: Straughn, William F TITLE: Assistant Director (ADC)

RE: Receipt of Grievance MX-21-01185 DATE: 08/31/2021

Please be advised, the appeal of your grievance dated

07/28/2021

was received in my office on this date 08/31/2021

The Chief Deputy/Deputy/Assistant Director will answer this appeal by 10/13/2021 OR,

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

IGTT430 3GD

Attachment VI

INMATE NAME: James, Brandon J.

ADC #

GRIEVANCE#:MX-21-01185

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

On July 28, 2021, you stated the following complaint: "On 7-28-2021 at approx. the first 30 minutes of the evening 6 O'clock hour Sgt. Brewer and Cpl. J. Jacks violated (AR 225 employee conduct standards), (AR 403 Use of restraints), (AR 404 Transporting/escorting offenders), (AR 013 Staff training), in ways as follows: "I'm grieving the fact that while I was being escorted from my assigned cell of east-25 in only handcuffs and not with the full restraint leg irons on, Sqt. Brewer became extremely angry, violent, and frustrated due to me telling him that I was going to write Warden Shipman a affidavit about me being escorted in only handcuffs and not with full restraint lea irons on requesting Mr. Shipman to review the camera along with giving me a polygraph test to prove my innocence, that's when Sgt. Brewer stated and committed the following facts: "I just mased Inmate Barnes earlier for telling on me, you gone get the same treatment. That's when Sqt. Brewer started using an extreme excessive force and muscle techniques forcing me from the hallway on camera, back into my cell off camera," which give me reasonable grounds to fear for my safety. This incident was not reported, nor was pictures taken of my injuries."

The Warden responded to your grievance on August 18, 2021, by stating the following: "Corrective action has been taken in this matter. Therefore, I find your grievance with merit and resolved."

Your appeal was received on August 31, 2021. After review of your appeal and supporting documentation, I must concur with the Warden's decision. This issue was addressed and corrected at the unit level. Your appeal is without merit.

Appeal denied.

PLEASE FOWARD 10 WAY	KACK DAILY AUGA
UNIT LEVEL GRIEVANCE FORM (Attack	RECEIVED FOR OFFICE USE ONLY
Unit/Center	GRV. # [/ 1 / 3 7 1 1 1 1 1 1 1 1 1
Name RANCH JAMES	Date Received.
ADC	ob Assignment CES SUPERVISOFERV. Code #: 800
7-28-3 (Date) STEP ONE: Informal Resolu	
8-4-3031 (Date) STEP TWO: Formal Grievi	vance (All complaints/concerns should first be handled informally.)
If the issue was not resolved	during Step One, state why: Sibsect (C) at Section 7 of
H.K.OCH,OO, Z-225 Ketal	(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 serious
nature) If you marked yes, give this completed	d form to the designated problem-solving staff, who will sign the
attached emergency receipt. In an Emergency,	state why: Attempted To Cover This MATTER UP. I'M RATION UNTIL INTERNAL ATTAINS BUETO EXCESSIVE USE OF FOICE
Is this Grievance concerning Medical or Menta	al Health Services? If yes, circle one: medical or mental
BRIEFLY state your one complaint/concern ar	nd be specific as to the complaint, <u>date</u> , place, name of personnel
	Print): IN 7/28/2021 AT (APPROX.) THE FIRST LOCK HOUR SOLD BREWER And CPI. J. JACKS VIOLAY
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IGTT410 3GS Attachment III

INMATE NAME: James, Brandon J.

ADC #:

GRIEVANCE #: MX-21-01185

WARDEN/CENTER SUPERVISOR'S DECISION

I have reviewed your complaint. You state the following: "On 7-28-2021 at approx. the first 30 minutes of the evening 6 O'clock hour Sqt. Brewer and Cpl. J. Jacks violated (AR 225 employee conduct standards), (AR 403 Use of restraints), (AR 404 Transporting/escorting offenders), (AR 013 Staff training), in ways as follows: "I'm grieving the fact that while I was being escorted from my assigned cell of east-25 in only handcuffs and not with the full restraint leg irons on, Sqt. Brewer became extremely angry, violent, and frustrated due to me telling him that I was going to write Warden Shipman a affidavit about me being escorted in only handcuffs and not with full restraint leg irons on requesting Mr. Shipman to review the camera along with giving me a polygraph test to prove my innocence, that's when Sqt. Brewer stated and committed the following facts: "I just mased Inmate Barnes earlier for telling on me, you gone get the same treatment. That's when Sqt. Brewer started using an extreme excessive force and muscle techniques forcing me from the hallway on camera, back into my cell off camera," which give me reasonable grounds to fear for my safety. This incident was not reported, nor was pictures taken of my injuries. On 7-28-2021 at approx, the first 30 minutes of the evening 6 O'clock hour Sgt. Brewer and Cpl. J. Jacks violated (AR 225 employee conduct standards), (AR 403 Use of restraints), (AR 404 Transporting/escorting offenders), (AR 013 Staff training), in ways as follows: "I'm grieving the fact that while I was being escorted from my assigned cell of east-25 in only handcuffs and not with the full restraint leg irons on, Sqt. Brewer became extremely angry, violent, and frustrated due to me telling him that I was going to write Warden Shipman a affidavit about me being escorted in only handcuffs and not with full restraint leg irons on requesting Mr. Shipman to review the camera along with giving me a polygraph test to prove my innocence, that's when Sqt. Brewer stated and committed the following facts: "I just mased Inmate Barnes earlier for telling on me, you gone get the same treatment. That's when Sqt. Brewer started using an extreme excessive force and muscle techniques forcing me from the hallway on camera, back into my cell off camera," which give me reasonable grounds to fear for my safety. This incident was not reported, nor was pictures taken of my injuries."

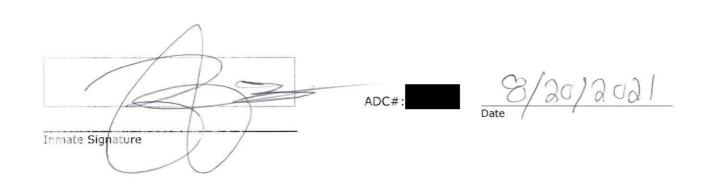
Corrective action has been taken in this matter. Therefore, I find your grievance with merit and resolved.

10	RECEIVED	
Lat	AUG 3 1 2021 Warden	8/18/21
Signature of Warden/Supervisor or Designee	- ODIEVANCES SUPERVISOR	Date
INMAT	DMINISTRATION BUILDING	Abdes Annie Trouge Cares de Transaction (1988) de l'action de Care de Horis (1988) de l'action de Care de Horis (1988) de la companie de Care

INMATE'S APPEAL

If you are not satisfied with this response, 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 along with the Unit Level Grievance Form. Keep in mind that you are appealing the decision to the original grievance. Do not list additional issues, which are not 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.

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Page 1 of 2	The Con-	Direction	
	dies for law Suits Browse USED EXTE GR ISN'T RESOLVED FROM PAPERWORK HI which IS AHARLER	dies for law Suits AND State Claim Browsk USED Extreme excessive force ar Isn't Resolved for I Still Have Re From PAPERWORK HAS BEEN DONE TASI R	OVE RESPONSE? NO Action Has Been taken for RA AND WASN'T FURED for Excessive Use of Force PHAIRS PLEASE FORWARD THIS MATTER TO INTERNAL Edural Due Process Entitlement ARE Intact. FOR BI I dies for law Suits AND STATE Claim Purfoses, My G. Brewer Used Extreme excessive force. This Is Per facil are Isn't Resolved for I still Have Readoma Ble Ground are Isn't Resolved for I still Have Readoma Ble Ground which Is Attached Please View AND Assist Mc THANK which Is Attached Please View AND Assist Mc THANK Dage 1 of 2 ADOMS



RECEIVED

AUG 3 1 2021

INMATE GRIEVANCES SUPERVISOR ADMINISTRATION BUILDING

Mika Tucker

From: Leslie Browning (DOC)

Sent: Tuesday, August 30, 2022 9:02 AM

To:ASCC PleadingsCc:Thomas Burns (DOC)Subject:Brandon James 230215

Attachments: ADC Answer.pdf

Answer

Leslie Browning

Arkansas Division of Correction

Central Office/Legal Division 6814 Princeton Pike Pine Bluff, AR 71602 Legal Support Specialist Phone: 870-267-6844

Email: leslie.browning@arkansas.gov

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

BRANDON JAMES

CLAIMANT

v.

CLAIM NO. 230215

ARKANSAS DEPARTMENT OF CORRECTIONS DIVISION OF CORRECTION

RESPONDENT

ANSWER TO COMPLAINT

COMES NOW the Respondent, Arkansas Department of Corrections, and for its Answer, states and alleges as follows:

- Respondent denies liability in this claim and asserts it will hold the Claimant to 1. 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,

Thomas Burns (02006)

ADC Legal Division 6814 Princeton Pike

Pine Bluff, AR 71602-9411

(870) 267-6845 telephone

thomas.burns@arkansas.gov

CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been served this 30th day of August 2022 on the Claimant by placing a copy of the same in the U. S. Mail, regular postage, to:

Brandon James	-
	A.
	Thomas Burns

Mika Tucker

From: Misty Scott on behalf of ASCC Pleadings
Sent: Wednesday, September 21, 2022 3:23 PM

To: Thomas Burns (DOC)

Cc: Leslie Browning (DOC); ASCC Pleadings; Kathryn Irby **Subject:** CORR: Brandon James v. ADC, Claim No. 230215

Attachments: Brandon James v. ADC .pdf

Thomas:

Please see attached. Contact Kathryn Irby with any questions.

Thank you,

Misty

Misty Scott

Arkansas State Claims Commission

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619 FAX (501) 682-2823



KATHRYN IRBY DIRECTOR

101 EAST CAPITOL AVENUE SUITE 410 LITTLE ROCK, ARKANSAS 72201-3823

September 21, 2022

Mr. Brandon James (ADC

RE: Brandon James v. Arkansas Department of Correction

Claim No. 230215

Dear Mr. James,

Please be advised that the Arkansas Department of Correction (the "Respondent") in the abovestyled claim filed an Answer denying liability. When liability is contested by the Respondent, you have two options:

- 1) You may request a hearing before the Claims Commission in writing within fifteen (15) calendar days from the date of this correspondence.
- You may do nothing. If this office does not receive any communication from you within fifteen (15) calendar days from the date of this correspondence, your claim will be dismissed by the Claims Commission for failure to respond.

Please note that even if you request a hearing on your claim, the filing of a dispositive motion (such as a Motion to Dismiss or a Motion for Summary Judgment) by the Respondent could result in dismissal of your claim before hearing. The failure of a party to file a <u>timely</u> response is sufficient basis for the granting of a motion by the Claims Commission.

It is your responsibility to know when responses are due to any motions or other pleadings filed in your claim. It is also your responsibility to notify both the Claims Commission and the Respondent if you have a change in mailing address.

Sincerely,

Kathryn Irby

ES: msscott

cc: Thomas Burns, counsel for Respondent (via email)

Mika Tucker

From: Thomas Burns (DOC)

Sent: Monday, September 26, 2022 12:03 PM

To: ASCC Pleadings

Cc: Leslie Browning (DOC)

Subject: Brandon James v ADC 230215

Attachments: 4944_001.pdf

MTD

Thomas Burns General Counsel Arkansas Department of Corrections Division of Correction 6814 Princeton Pike Pine Bluff Arkansas 71602

Phone: (870) 267-6845 Fax: (870) 267-6373 Cell: (870) 515-0918

thomas.burns@arkansas.gov

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BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

BRANDON JAMES (ADC

CLAIMANT

V

NO. 230215

ARKANSAS DEPARTMENT OF CORRECTIONS DIVISION OF CORRECTION

RESPONDENT

RESPONDENT'S MOTION TO DISMISS

Comes Now the Respondent, Arkansas Department of Corrections (ADC), for its Motion to Dismiss, states:

- 1. The inmate's claim should be dismissed pursuant to the Arkansas Rules of Civil Procedure (ARCP) 12(b)(6) as it fails to state facts upon which relief can be granted.
- 2. On a motion to dismiss pursuant to Rule 12(b)(6) of the Arkansas Rules of Civil Procedure the courts treat the facts alleged in complaints as true and view them in the light most favorable to the plaintiff. *Dockery v Morgan, 2011 Ark. 94.* "However, [Arkansas's] rules require fact pleading, and a complaint must state facts, not mere conclusions, in order to entitle the pleader to relief." *Id.* The Court should "treat only the facts alleged in the complaint as true but not the plaintiff's theories, speculation, or statutory interpretation." *Id.*
- 3. An "important mechanism for weeding out meritless claims [is a] motion to dismiss for failure to state a claim." Fifth Third Bancorp v. Dudenhoeffer, 573 U.S. 409, 425 (2014). Legal conclusions, unsupported conclusions, and unwarranted inferences must be ignored and fail to withstand a Rule 12(b)(6) motion. See Farm Credit Svcs. v American State bank, 339 F.3d 764 (8th Cir. 2003). A pleading must contain a "short and plain statement of the claim showing that the pleader is entitled to relief. Ashcraft v Iqbal 556 U.S. 662 (2009). Although detailed factual allegations are not required, more that "unadorned, the-defendant-unlawfully-harmed-me-

accusations" are required. *Id.* To survive a motion to dismiss, a complaint must contain sufficient factual matter that, when accepted as true, state a claim to relief that is plausible on its face. *Id.* A claim is facially plausible "when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.*

- 4. When a trial court is presented with extraneous materials outside of the pleadings and does not exclude those materials, a motion to dismiss for failure to state facts upon which relief can be granted shall be treated as one for summary judgment. *Norris v Davis*, 2014 Ark. App. 632 (2014)
- 5. The inmate seeks the sum of \$4500.00, for alleged excessive force and Section 1983 claims (THIS IS THE EXACT SAME CLAIM AND DOCUMENTS AS CLAIM 221777). Although inmate seeks an award of damages (\$45000.00), he fails to plead any basis for an award of damages, and he fails to give the Arkansas Claims Commission any rational basis beyond mere speculation of the damages. Damages are an essential element of a tort claim and there must an allegation of sufficient facts to satisfy the damages element or the case is subject to a motion to dismiss. Wallis v. Ford Motor Company, 362 Ark. 317, 208 S.W. 3d 153 (2008). The inmate's claim, even if true, does not support a claim for monetary relief.
- 6. Even if the inmate were to plead with more specificity, he would still not be able to prevail. The party claiming damages has the burden of proving those damages beyond speculation. *Minerva Enterprises v. Howlett, 308 Ark. 291, 824 S.W. 2d 377 (1992).* Even taking the inmate's allegations true as pleading, and giving him the benefit of every possible inference, his mere inconvenience of alleged wrongdoing can never render a claim that is anything but speculation.
- 7. Pro Se parties are not given special treatment and are held to the same standard as a licensed attorney. Pressler v. Ark. Publ. Serv. Comm'n, 2011 Ark. App. 512, at 9, 385 S.W.3d

349, 355 (citing Elder v. Mark Ford & Assocs., 103 Ark. App. 302, 288 S.W.3d 702 (2008)). The Claims Commission notes that under Arkansas law, a claimant choosing to represent himself is held to the same standard as an attorney. Michael Pickens v ADC claim 190793 (ASCC 2019).

- 8. Whether a plaintiff is represented by counsel or is appearing <u>pro se</u>, his complaint must allege specific facts sufficient to state a claim. *See Martin v Sargent*, 780 F.2d 1334, 1337 (8th Cir. 1985).
- 9. A complaint must state facts, not mere conclusions, in order to satisfy the requirements of Rule 8 of the Arkansas Rules of Civil Procedure. *Doe v Weiss*, 2010 Ark. 150.
- In reviewing whether a complaint is subject to dismissal, the Court must accept as 10. true all factual allegations in the complaint, but is "not bound to accept as true a legal conclusion couched as a factual allegation." Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)). "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." Id. "Nor does a complaint suffice if it "tenders 'naked assertion[s]' devoid of 'further factual enhancement." Id. (quoting Twombly, 550 U.S. at 557). Rather, a complaint must plead "enough facts to state a claim to relief that is plausible on its face." Twombly, 550 U.S. at 570. "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Iqbal, 556 U.S. at 678. "The plausibility standard is not akin to a 'probability requirement,' but it asks for more than a sheer possibility that a defendant has acted unlawfully." Id. (quoting Twombly, 550 U.S. at 556). A well pleaded complaint may proceed even if it appears that actual proof of those facts is improbable and that recovery is very remote and unlikely. Twombly, 550 U.S. at 556. A complaint cannot, however, simply leave open the possibility that a plaintiff might later establish some set of undisclosed facts to support recovery. Id. at 561. Rather, the facts set forth in the

complaint must be sufficient to nudge the claims across the line from conceivable to plausible. *Id. at 570*. "[W]here the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged –but it has not 'show[n]' – 'that the pleader is entitled to relief." *Iqbal*, 556 U.S. at 679 (quoting Fed.R.Civ.P. 8(a)(2)).

- 11. The Plausibility standard is not akin to a "probability requirement" but it asks for more than a sheer possibility that a defendant has acted unlawfully. Where a complaint pleads facts that are "merely consistent with" a defendant's liability, it" stops short of the line between possibility a plausibility of entitlement to relief" *Bell Atlantic Corp. v. Twombly, 550 U.S. 544*, 555 (2007)
- 12. The inmate is currently housed at the New Serving a 45-year sentence on a conviction of murder and other crimes.
- 13. This inmate has already filed this claim in matter 221447, in fact the inmate has filed numerous claims all stemming from one incident.
 - 14. This matter should be summarily dismissed or merged into that case.
- 15. The inmate has filed a complaint that he knows is in bad faith and not supported by the facts. The Commission should award the ADC fees and costs for having to respond to this baseless complaint.
- 16. This same claim, if presented to a court of general jurisdiction would, as a matter of law, be dismissed.
- 17. "The commission shall make no award for any claim which, as a matter of law, should be dismissed from a court of law or equity for reasons other than sovereign immunity." Ark. Code Ann. § 19-10-204(3)(A) (West Supp. 2015). "Specifically, if the facts of a given claim would cause the claim to be dismissed as a matter of law from a court of general jurisdiction, then the commission shall make no award on the claim." Ark. Code Ann. § 19-10-

204(3)(B) (West Supp. 2015). The claimant has not been damaged and only makes mere assertions that he has been damages. Without damages a Court would dismiss the claim in its entirety.

WHEREFORE, the Respondent prays that the motion be granted and the complaint dismissed; for their attorney's fees and costs; and all other just and proper relief to which they may be entitled.

Respectfully submitted,

Thomas Burns (02006)
Legal Department
Division of Correction
6814 Princeton Pike
Pine Bluff, AR 71602
(870) 267-6845 Office
(870) 267-6373 Facsimile
thomas.burns@arkansas.gov

CERTIFICATE OF SERVICE

I certify that a copy of the above pleading has been served this 26th day of September 2022, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Brandon James

Thomas Burns

bet 294,2002 DEAR ASCC,

RECEIVED

BRANDOU JAMES

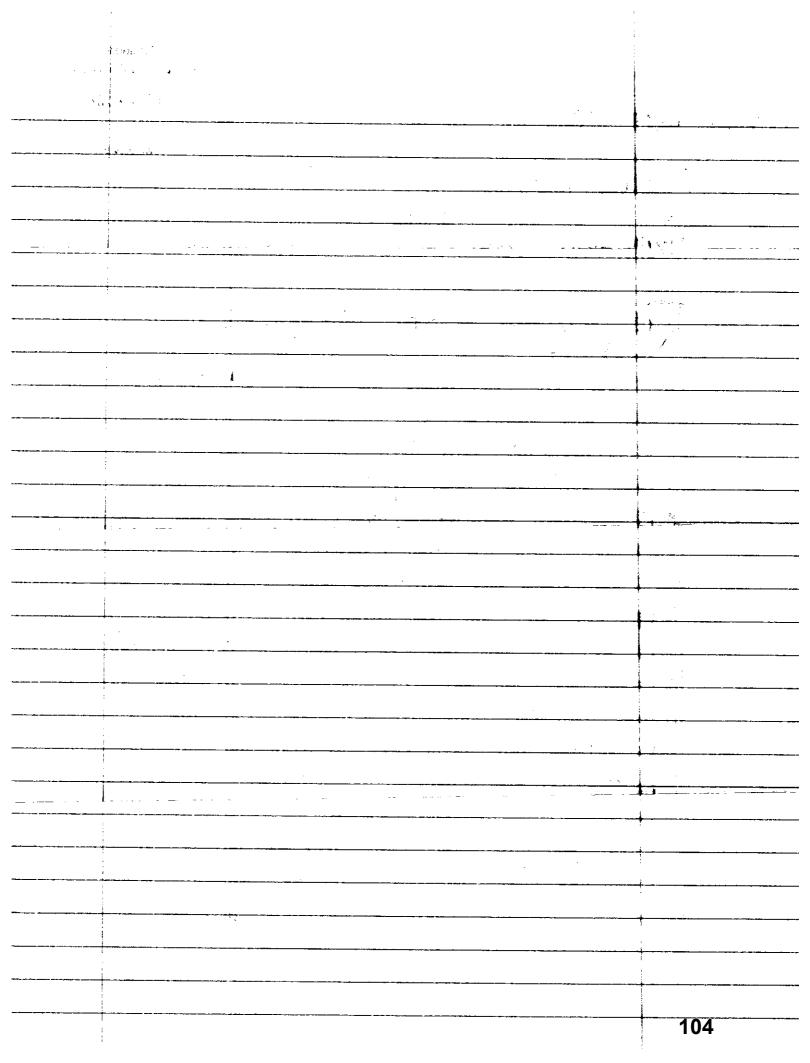
Claiment

DUEST FOR HEARING

Unin NO 230215

DIRSUAUT TO RESPUDENT DENJING LIABITITY IN A Claim That HAS BEEN ASSESSED/GIVEN Multiple Claim NO Such AS 211092 AND 221447 WERE THE Respondent failed Grossly To Adhere To ASCC Rules OR THE Rules of ARK Federal Civil Procedure ReGUARDING RESPONSIVE PLEADING / Filing AN ANSWER DENJING LINBILLY By The ASCC AND ARK enril A Bules of Civil Accordine The Respondent that 30 days to Do 80 But failed to Complie To Which I Continuously mass made THE ASCC ALD All PARTIES AWARE OF Which I DO: HAVE COPIES OF CURRESPONDANCE from THE ASCC ACKNOWLEDGEING MY WRITTEN Efforts Also of Note I file A MOTION FOR DEFAULT Judgement REGUREOUS THE ABOVE FOR RESPONDENT RESPONDED Some 15/ DAG later. Sincerely

BELLICU JAMES



1/24/2022 DEAR AS.C.C. RECEIVED I'm IN Reception of Cuppespandance from HOUR Office Duted September 21st 2022 REGULARDING A CLAIM NO 230215 Which I Believe Is The Second Claim W. Assessed ReQuarding THIS & Claim where The Kespundent Failed to file A timely Responsive Plending. The Respondent HAD BODAY BY ARK LAW/ Federal Rules of Civil Procedure But Missen This Demoline By 100 Plus Days. MY QUESTION IS This AND I REAlly DO NEED HELP UNDERSTANDING. HUW IS IT THAT IF I THE CLAIMANT MISS A DEPOLINE THENMY CLAIM IS SUBJECT TO DISMISSAL, FOR Failure AdHERE TO THE RULES AND PROCEDURES OF THE ASCC AND ARK, FOR Rule of Civil Procedure, But yet THE RESPONDENT FOR THE ADC AREN'T SUBJECT TO THE SAME DASPECTANCE OF ADHERANCE OF THE Rules AS THE CLAIMANT. IS This A Built IN BIAS AND DISCRIMINATION ON BEHALF OF THE ASCC OR DO U'AII ACTUALLY HAVE RULES THAT PROTECT the ADC TO THE POINT WERE They DON'T HAVE TO NOHERE TO THE RUES AND PROCEdures of The AS.CC AND ARK, FEB Rules of Cival Prodeduces. It NUT THEN I'm AFRAID THAT SOURS EVERY CLAIM I'VE YEAR AGAINST THE ADE SHOULD BE AWARDED IN MY FAVOR. ARE YOU REAlly Overboking THE FACT THAT THOMAS BURNS FAILED TO MAKE A RESPONSIVE PLEADING FOR 100 Plus Sincerely, The Chaimautan

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619 FAX (501) 682-2823



KATHRYN IRBY DIRECTOR

101 EAST CAPITOL AVENUE SUITE 410 LITTLE ROCK, ARKANSAS 72201-3823

October 11, 2022

Mr. Brandon James (ADC

Mr. Thomas Burns Arkansas Division of Correction 6814 Princeton Pike Pine Bluff, Arkansas 71602 (via email)

RE: Brandon James v. Arkansas Division of Correction

Claim Nos. 221447 and 230215

Dear Mr. James and Mr. Burns,

The Claims Commission has reviewed Mr. James' correspondence filed on September 26, 2022, in Claim No. 221447, in which he asks for an update and if he needs to file further paperwork. The Claims Commission has also reviewed Mr. James' correspondence filed on September 28, 2022, in Claim No. 230215, in which he points out that his claim has been given multiple claim numbers.

The Claims Commission has authorized me to transmit this letter order to the parties noting that, on March 18, 2022, Mr. James filed a claim, alleging, *inter alia*, that the ADC's employees violated policy related to use of restraints, transporting offenders, and use of force on July 28, 2021. This claim was assigned two separate claim numbers: Claim No. 221447 and Claim No. 230215. The Claims Commission finds that these claims should be consolidated as Claim No. 221447 and that, henceforth, the parties should use Claim No. 221447 to identify correspondence and pleadings related to this claim.

The Claims Commission will consider the parties' pending motions after Mr. James' time to respond to the motion to dismiss filed in Claim No. 230215 has run pursuant to the Arkansas Rules of Civil Procedure. When the Claims Commission enters an order on the motions, the parties will receive a copy. Furthermore, to the extent that Mr. James is seeking additional information, the Claims Commission cannot provide legal advice.

Sincerely,

Mika Tucker

ES: mtucker

Mika Tucker

From: Mika Tucker

Sent: Tuesday, October 11, 2022 9:51 AM

To: Thomas Burns (DOC)
Cc: Leslie Browning (DOC)

Subject: LETTER ORDER: James v. ADC, Claim Nos. 221447 and 230215

Attachments: James v. ADC -- 221447 230215 -- letter order consolidating claims.pdf

Hi, Thomas.

Please see the attached letter order. Thank you.

-Mika

Mika Tucker

Arkansas State Claims Commission

101 East Capitol Avenue, Suite 410 Little Rock, Arkansas 72201 (501) 682-2818

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619 FAX (501) 682-2823



KATHRYN IRBY DIRECTOR

101 EAST CAPITOL AVENUE SUITE 410 LITTLE ROCK, ARKANSAS 72201-3823

October 11, 2022

Mr. Brandon James (ADC

Mr. Thomas Burns Arkansas Division of Correction 6814 Princeton Pike Pine Bluff, Arkansas 71602 (via email)

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Sincerely,

Mika Tucker

ES: mtucker