Oct 11, 2021

Steven Pinder

Arkansas State Claims Commission

OCT 1 4 2021

RECEIVED

Arkaneas State Claims Commission 101 E. Capital Ave., STE 410 Little Rock, AR 72201-3823

RE Steven Pinder V Arkansas Department of Corrections (no case or docket number has yet to be assigned; new complaint)

Sir or Madam!

Please find enclosed loriginal complaint with exibits along with 4 copies seperated by the yellow paper strips. I would like a marked copy seturned to me, with the file markings of the Commission.

Thank you in advance for your time and assistance.

Respect fully Steven Did

cc: file

OCT 1 4 2021

Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION

Of the State of Arkansas

RECEIVED

□ Mr. □ Mrs.			_	Do Not Write in	n These Spaces
\square Ms.	_		Cla	aim No.	
□ Miss	Steven Pinder				
V		, Cla	aimant	(Month)	(Day) (Year)
	vs.		Am	ount of Claim \$	
State of A	rkansas, Respondent			*	
orate or A	rkansas, Respondent		Fun	1d	
			L		
		COMPI	LAINT		
S	steven Pinder	11 528 KU			
	(Name)	, the above named Claimant, or			
	N/	A	**	et or R.F.D. & No.)	(City)
	(Daytime Pho	one No.)	represented by	Legal Counsel, if an	v for Claim)
of	NA	*		(organization, if all	y, for Claim)
(Street and No.)	(City) (State)	(Zip Code)	(Phone No.)	(Fax No.)
State agency	involved: Arkansas D.	epartment of Correction	on S Amount son	10ht \$ 9 60	
Month, day,	year and place of incident or sers	vice: April 5, 2021 through	Δ	2021	
Explanatio	n: The Arkansas D	spartment of Correction	Dulato Is	D	
		made up of Deputy	L'ada Orl	Review Com	uttee of the
IT IEN	rainam anda hte	made up of Deputy i	lated AM's F	ason, regionis	Randall, MR.
mechne	(AD) 20-04 dat	red 4/10/20. The comm	niller Files	ublication fol	icy Administrative
rjured	complainment in H	~ amount of 91 9,600 00	On March	10.2021 7 b	to AD 20-04
eceived	by the unit mai	il room supervisor Sout	hem. Souther	n confiscated	the 7 books
	two (2) books	vistated Ancis Publicat	Non Policy, 7	The Books o	level to be in
iolation	of the Publication	Policy were turnedover	to the Pub	lianton Review	V Committee on
tern 5	2021 For review.	In accordance with A	toc's publicat	tron policy A	D 20-04 the
cuiew c	committee held 30	days to either accept	tor allow th	a books or re	ject the books.
AD 20-1	04 Sectron IV, (15)	(E) The Publication Re	view Commit	tee held the	books some
31 da	ys. Both the Mail	soon and the Review (committee hel	d the books	over 156 days
The fair	Ture to achiere	to ADC'S Publication P	olicy in fai	lure to make	the decision is
the m		Prevented complaint	tent from	returning +	he books for
a sete		The purchase of '8000	The failu	re to adhere	to Apc's
Publica	tron Policy by t	the very Committee a	ssigned to	Adhere to sa	id policy violate
compr	antants liberty	in terest rights and	precluding	complantan	t of receiving
a fu		nis Money.	-		
		statements, and answers the following questions			
Yes or No		2 ; to whom? /+r K	anics Departi		ectrons grievame
ettre	(: and that the following action was taken there	con: Complair	itant exhau	isted the
greva	ince - the ADC or	Hicials failed to add	wess the m	erits of his	grievance
nd that \$	was paid	thereon: (2) Has any third person or corporate	ion an interest in this clai	m? No	; if so, state name and address
	Q1	(0 P.F.D. (N.)	(0)	(0)	
nd that the nat	(Name) ure thereof is as follows:	(Street or R.F.D. & No.)	(City)	(State)	(Zip Code)
		: and was acquired on			, in the following manner:
THE UN	DERSIGNED states on oath th	nat he or she is familiar with the matters a	nd things set forth in th	he above complaint, and	that he or she verily believes
hat they are t	true.	1	l-lane	6, 7	
	Steven L. P.	inder	Dur	() rol	_
(Pr	rint Claimant/Representative	Name)	(Signat	ure of Claimant/Rep	
	S	SWORN TO and subscribed before me	at	Bricken	AL
			,-	(City)	(State)
CE AT		on this	lay of	oct	3021
SEAL)	DETERMINENT PROPERTY AND ADDRESS OF THE PERSON OF THE PERS		ay of	1000 CO 1000 C	, 000
OTAA	MATTHEW LYLES	(Date)	11 .0	(Month)	garan c
RKANGAG	No. 12707918				(Year)
A. 1	14 4 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		Milett	ne hou	(Year)
URL	CRITTENDEN COUNTY		Milett	(Notary Pub	
SF1-R7/92		My Commission Expires:	Miket)	(Notary Pub	

UNIT LEVEL CRIENT (Attachment I) Unit/Center FOR USE ONLY 21-01731
Name Steven Pinder
20
ADC# Brks # 6.36 Job Assignm [Ode #: 200] [Ode #: 200] [Ode #: 200] [Ode #: 200]
(Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally)
(Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.) If the issue was not resolved during Step One, state why: No Response at Step I - Proceeding to Step II per All policy with yellow Copy (Date) EMERGENCY GRIEVANCE (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 form to the designated problem-solving staff, who will sign the attached emergency receipt. In an Emergency, state why:
Is this Grievance concerning Medical or Mental Health Services? 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): The Publication Review Committee
has violated my liberty interest rights and denied me my property
and Keeping them for order 5 months - Policy States the Committee,
betan (haplain, had (30) days to review and oppert or reject these
Jublications. The Committee held my books for over 5 months, some 150 days pluse. This was 120 days over the 30 days limit. I
me for the denial and delay in Plucessing this meter whereby violating
ADC policy and my liberty in terests. This grievance is about
rioleting ARC policy and payment to me of \$ 9,600,00 for violeting my
liberty Interest. The the effects backdated the partie Review Resetts
Swn In August 15, 2021
Inmate Signature Date
If you are harmed,threatened because of your use of the grievance process, report it immediately to the Warden or designee. THIS SECTION TO BE FILLED OUT BY STAFF ONLY
This form was received on (date), and determined to be Step One and/or an Emergency Grievance
(Yes or No). This form was forwarded to medical or mental health? (Yes or No). If yes, name
of the person in that department receiving this form: Date
PRINT STAFF NAME (PROBLEM SOLVER) ID Number RECESTATE Signature Date Received
Describe action taken to resolve complaint, including dates: SEP 23 2021
- Control of the cont
NO RESPONSE ADMINISTRATION BUILDING Floven Linder 8 20 2
Staff Signature & Date Returned Inmafe Signature & Date Received
This form was received on 122/22(date), pursuant to Step Two . Is it an Emergency? (Yes or No)!
Staff Who Received Step Two Grievance: Action Taken: 57677W0 (Forwarded to Grievance Officer/Warden/Other) Date: 3-2-2-1
If forwarded, provide name of person receiving this form of his fo
DISTRIBUTION: YELLOW & PINK - Inmate Receipts; BLUE - Grievance Officer; ORIGINAL - Given back to Inmate after Completion of Step One and Step Two.

IGTT410 3GS Max 6/CB36

INMATE NAME: Pinder, Steven L.

ADC #:

GRIEVANCE #:

21-01731

WARDEN/CENTER SUPERVISOR'S DECISION

Inmate Pinder, you stated in your grievance that, "The publication review committee has violated my liberty interest rights and denied me my property 7 books costing 80 by getting my books for review on 04-05-21 and keeping them for over 5 months policy states the committee, which consists of Deputy warden Richardson, Major Kenya Randle, Allen Parham chaplain had (30) days to review and accept or reject these publications- The committee held my books for over 5 months, some 150 days plus. This was 120 days over the 30 day to compensate me for the deniad and delay in processing this matter where by violeting ADC policy and my liberty in terests. This grievance is about violating ADC Policy and payment to me of \$9,600 for violating me liberty interest."

Documentation reflects that your items were sent to Publication Review on 5/5/21 and were denied due to being oversized and containing nudity. Per policy AD 20-04, material that depicts nudity; however, material that includes the depiction of nudity as illustrative of and as part of broader medical, educational, anthropological, or artistic content will not be rejected solely on the basis that the material includes nudity will be rejected. Ms. Southern, Mailroom Supervisor, advised that you were sent a mail return notice about your publication containing nudity and violating the publication policy. This should address your concern.

RECEIVED

SEP 2 3 2021

Signature of Warden/Supervisor or Designee

Title

9-20-4

INMATE GRIEVANCES SUPERVISOR

ADMINISTRATION BUILDING

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? This does not address My concerns, The Publication Review committee held my books for some 150 plus days in violation of ADE's Publication policy. The warden has failed to address the merits of my grievance. Policy is clear, the publication Review committee has 30 days to either allow or reject any publication and they undiated has 30 days to either allow or reject any publication and they undiated ADE's publication policy by keeping my books over 150 plus days. I am expecting payment of \$9,60000 be paid to me for violating my liberty in terest as is provided by AD 20004.

Stevn Pr

ABO#:

9/20/21

OCT 1 4 2021

IGTT430 3GD

Attachment VI

INMATE NAME: Pinder, Steven L.

ECEIVED ADC #: GRIEVANCE#: 21-01731

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

On 8/15/2021, you stated the following complaint: The publication review committee has violated my liberty intevest rights and denied me my property 7 books costing 80 by getting my books for review on 04-05-21 and keeping them for over 5 months policy states the committee, which consists of Deputy warden Richardson, Major Kenya Randle, Allen Parham chaplain had (30) days to review and accept or reject these publications- The committee held my books for over 5 months, some 150 days plus. This was 120 days over the 30 day to compensate me for the deniad and delay in processing this matter where by violeting ADC policy and my liberty in terests. This grievance is about violating ADC Policy and payment to me of \$9,600 for violating me liberty interest.

The Warden responded to your grievance on 9/20/2021, by stating the following: Documentation reflects that your items were sent to Publication Review on 5/5/21 and were denied due to being oversized and containing nudity. Per policy AD 20-04, material that depicts nudity; however, material that includes the depiction of nudity as illustrative of and as part of broader medical, educational, anthropological, or artistic content will not be rejected solely on the basis that the material includes nudity will be rejected. Ms. Southern, Mailroom Supervisor, advised that you were sent a mail return notice about your publication containing nudity and violating the publication policy. This should address your concern."

Your appeal was received on 9/23/2021. After review of your appeal and supporting documentation, I concur with the Warden's response.

Appeal denied

Director

Please be advised that if you appeal this decision to the U.S. District Court, a copy of this Chief Deputy/Deputy/Assistant Director's Decision must be attached to any petition or complaint or the Court may dismiss your case without notice. You may also be subject to paying filing fees pursuant to the Prison Litigation Act of 1995.

ASCC New Claims From: To: Thomas Burns; Roni Gean

Cc: Kathryn Irby

Subject: CLAIM: Steven Pinder v. ADC, Claim No. 220456 Date: Monday, November 15, 2021 12:25:00 PM

Steven Pinder ADC agency ltr.pdf Steven Pinder claim.pdf Attachments:

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, 72201 (501) 682-1619

Caitlin.McDaniel@arkansas.gov

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

November 15, 2021

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

RE: Steven Pinder v. Arkansas Division of Correction

Claim No. 220456

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: Steven Pinder (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.

Mika Tucker

From: Roni Gean

Sent: Monday, November 15, 2021 1:34 PM

To: ASCC Pleadings
Cc: Thomas Burns

Subject: Steven Pinder claim 220456 - Answer 11-15-21.pdf **Attachments:** Steven Pinder claim 220456 - Answer 11-15-21.pdf

Good afternoon,

Please see attached our Answer in the above matter. Thank you.

Roní Gean

Administrative Specialist III DOC Division of Correction Internal Affairs Division (870) 267-6218 Legal Division (870) 267-6844 6814 Princeton Pike, Pine Bluff, AR 71602 roni.gean@arkansas.gov

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BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER (ADC#

CLAIMANT

V.

NO. 220456

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, Arkansas Department of Corrections Office of Chief Counsel

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 15th day of November 2021 on the Claimant by placing a copy of the same in the U. S. Mail, regular postage, to:

Steven Pinder (ADC#

Thomas Burns General Counsel

Mika Tucker

From: Thomas Burns

Sent: Wednesday, November 24, 2021 9:37 AM

To: ASCC Pleadings **Cc:** Roni Gean

Subject: Steven Pinder v ADC 220456

Attachments: 3902_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

thomas.burns@arkansas.gov

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BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER (ADC

CLAIMANT

 \mathbf{v}

NO. 220456

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 \$9600.00 for alleged Injunctive Relief,
 Constitutional Violation, and Policy Violation. Although inmate seeks an award of damages
 (\$9600.00), 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 ADC. He is serving a life sentence on a conviction of Rape.
- 13. The inmate claims that the ADC violated his liberty interests (a Constitutional violation) in refusing his book. *See attached Ex A*.
- 14. The inmate states in his complaint that the ADC has wrongly refused 5 books, violated policy and wants the Commission to order his books back.
- 15. The Inmate claims the ADC held his book(s) for over 130 days. The only person with a 30 day deadline is the Warden, bot the Publications Committee. *See attached Ex. B*
 - 16. The ADC has followed AD 2020-04 IV(B)(10) as required. Id.
- 17. The Inmate states he spent \$80.00 on 7 books that were received on March 10, 2021, Ex A. Since November 19, 2020 the Inmate has never had an \$80.00 withdraw from his Inmate account. See attached Ex C.
- 18. Since the alleged book(s) were ordered by the Inmates family or a friend then he is not a real party in interest as required by Rule 17 of the Ark. R. Civ. Pro. See attached Ex D.

- 19. Since January 2021 the Inmate has had only one book reviewed by the publications committee. That was the August 2021 meeting. *See attached Ex E.*
- 20. That book "The Fantasy Art of Calandra" See attached Ex. F was denied for nudity as required by AD 2020-04.
- 21. The Commission does not have jurisdiction to grant injunctive relief or rule that a law is Unconstitutional.
- 22. The Inmate filed a grievance in this matter which was denied after two levels of review. See attached Ex G. He further makes Constitutional claims in the grievance.
- 23. 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.
- 24. This same claim, if presented to a court of general jurisdiction would, as a matter of law, be dismissed.
- 25. "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 23rd day of November 2021, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Steven Pinder

Thomas Burns

OCT 1 4 2021

Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

RECEIVED

□ Mr.			-	Do Not Write in Th	iese Spaces
□ Mrs. □ Ms.			Claim	No	
□ Miss	Steven Pinder:		Date F	-	-
2		Claima	nt	(Month) (Day	y) (Year)
	vs.		Amou	nt of Claim S	
			1		
State of A	rkansas, Respondent		Fund		
		COMPLA	INT		
c	Steven Pinder				
	(Name)	, the above named Claimant, of	/Press	DED AND	(0)
	11/A			R.F.D. & No.)	(City)
/ (S	tate) (Zip Code) (Duytime Phone	No.)	represented by	(Legal Counsel, if any, fo	e Claim)
nf	NVA	2.2%			5.0000000
((Street and No.)	(City) (State) (Zi	Code) (Pl	tone No.)	(Fax No.)
State agency	y Involved: Arkansas Der	act ment of Corrections	Amount sough	\$ 9.600	, OC
		A			
	on The Arkansas Dr		rugust 13, 21		
EXDISTRACTO	IN THE TO PROPERTY		20 105	son Majorica R	V 1701 TUBE 1400
	LL (1 4200 0	LISTO POLIS	A 1 /
Don - Pu	c (AD) 20-04 detec	wite-drammal name) violet		to achive	to AD 20-04
In			In March 1		ks were
received	by the unit mail	coun supervisor Southe			
allegin		islated Apris Publickon			ed to be m
rialata		Policy were turnedover to	101	to Man Review	Committee on
April 5	LUZI For review	to accordance with ADC		on politry AD	20-04 the
rulew i	committee had 30	days to either accept o	r allow the	becks of sele	et the locales.
A0 20-	ex Section IV, (15)(E). The Publication Review		e held the b	coks some
131 do	eys. Both the units	our and the Review Co.	nmiltee held	the books or	Kr 156 days.
The fai	ilure to adhere to	Apris Publication Pol	icy in faile	ive to make "	the decision in
the r	nandated 30 days	Prevented complementer	of trom	Etucning the	Decks dor
a ret	end of his ent	Control of the contro	The tarture		
Public	atron Policy by tu			d here to said	of receiving
comp	untaufe liberty i	a tesest rights and pr	ectuary c	onflantent	OF THEIR
_ a +	ull returne of hi	is money.	t at a a divito a data	. Lana armentalte any state	department or officer thereof?
As parts of th	the second of	ternents, and unswers the following questions, as	indicated: (1) makeum	ent of Consect	orms grievance
Yes or N	The second secon	(Year)		(Department),	1 6 1.
_ cthr	ciels	and that the following action was taken thereon:	Compiani	rits of his	gricuma
griev	CONTRACTOR OF THE PERSON NAMED IN COLUMN TWO IS NOT THE OWNER.	ficials failed to addre		1 10	I'so, state name and address
and that \$_	wns paid t	tercon: (2) Has any third person or corporation	un interest in this claim	,	1 so, state name and address
	(Name)	(Street or R.F.D. & No.)	(City)	(State)	(Zip Code)
and that the no	ature thereof is as follows:			11.4	1.0.00
		and was acquired on			, in the following menner:
THE U	NDERSIGNED states on oath the	t he or she is familiar with the matters and	hings set forth in the	above complaint, and the	it he or the verily believes
that they are	e true.	1 - 4	7000 l	rad	
	Steven L. P.	ncter ×	(Signate)	re of Claimant/Repres	sentative)
(1	Print Claimant/Representative	(vame)			AL
	S	WORN TO and subscribed before me at		Srickey	
				(City)	(State)
CEAT		on thisday	of	04	3021
(SEAL)		(Date)	(2) 67	(Month)	(Year)
OTAS	MATTHEW LYLES	(150.0)	MILITAR	new here	
ARKANSAS	No. 12707918		I LOSAV VI	(Notary Public)
CRUS	CRITTENDEN COUNTY		Ц	23	2029
SFI-R7/9	Commission Expires 4-23-2029	My Commission Expires:			(V)
ne at the same			(Month)	(Day)	(Year)



6814 Princeton Pike Pine Bluff, AR 71602 Phone: 870-267-6200 Fax: 870-267-6244

www.adc.arkansas.gov

ADMINISTRATIVE DIRECTIVE

SUBJECT: Publications

SUPERSEDES: 17-17 NUMBER: 20-04

APPLICABILITY: Division Staff and Inmates

PAGE: 1 of 5 **REFERENCE: AR-864-Publications**

AD-Inmate Correspondence AD-Inmate Property Control AD-Inmate Grievance Procedure

EFFECTIVE DATE: 4/10/2020 APPROVED: Original Signed by Dexter Payne

I. **POLICY**:

Inmates may receive publications only from recognized commercial, religious or charitable outlets. All publications are subject to inspection and may be rejected when the publication presents a danger to the security, discipline, or good order of the institution or is inconsistent with rehabilitative goals.

H. **PURPOSE**:

This Administrative Directive establishes the process by which the Division of Correction determines which publications may be received by the inmate population.

III. **DEFINITIONS**:

- A. Publication: A book, magazine, catalog, advertising brochure, religious tract, newspaper, periodical, newsletter, or any type of image or text. The term publication does not include a personal letter.
- B. Commercial Outlet: A publisher, bookstore, educational or vocational institute, or other entity whose primary business is the sale and distribution of printed materials.

- C. <u>Charitable Outlet</u>: A religious group or an incorporated non-profit organization established to promote literacy or to provide literature for inmates.
- D. Nudity: A depiction in which genitalia, buttock(s) or female breasts are fully exposed.
- E. <u>Sexually Explicit</u>: A depiction or description of actual or simulated sexual acts including sexual intercourse, anal or oral sex, masturbation, sadism, sadomasochism, bondage, bestiality, or excretory functions which the average adult, taking the material as a whole and applying statewide contemporary community standards, would find appeals to the prurient interest, and which material, taken as a whole, lacks serious literary, scientific, political, or artistic value.
- F. <u>Security Terrorist Threat Group (STTG)</u>: Any group of inmates that the Division of Correction reasonably believes poses a threat to the security of the institution or the physical safety of other inmates or staff by virtue of the group's nature, purpose or activities.

IV. <u>PROCEDURES</u>:

- A. The Warden/Center Supervisor shall designate staff to review incoming publications.
- B. A publication will be rejected if it contains contraband or if the material presents a danger to the security, discipline, or good order of the institution, or is inconsistent with rehabilitative goals. A publication containing pictorial or textual material meeting any one or more of the following categories may be rejected:
 - 1. Material that incites, advocates, aids or abets a riot, work stoppage, or any other behavior that may be detrimental to the safe, secure, and orderly operation of the institution;
 - 2. Material that advocates or assists criminal activity, which is an act or omission prohibited and punished by law to include but not limited to;
 - a. Material advocating, or describing, or assisting methods of escape or eluding capture or which contain blueprints, drawings, or depictions of Division facilities;
 - b. Maps or drawings depicting a geographical region that could reasonably be construed to assist methods of escape or eluding capture, or otherwise be a threat to security;
 - c. Material advocating or providing instructions on identity theft;
 - d. Material that incites, encourages, advocates, or promotes act of violence such as but not limited to sexual assaults and physical assaults;
 - 3. Depictions, descriptions, or instructions regarding the introduction, manufacture, concealment, or use of guns, knives or any other weaponry, including realistic

- pictures of such weapons suitable to aid in the manufacture of such weapons, or facsimiles of such weapons;
- 4. Depictions, descriptions, or instructions regarding the operation of security devices such as locks, cameras, or alarms;
- 5. STTG materials including, but not limited to, codes, signs, symbols, photographs, drawings, training materials, and catalogs;
- 6. Depictions, descriptions, or instructions on the use of hands, feet, or the head as weapons or of other fighting techniques;
- 7. Depictions, descriptions, or instructions on the manufacture, cultivation, or introduction of drugs, alcohol, tobacco, or poisons;
- 8. Instructions or patterns for tattoos, or other skin modification techniques or equipment;
- 9. Material that incites, encourages, advocates, or promotes racism or any other illegal act of discrimination, or that is likely to be disruptive, produce violence, or cause a threat to the offender population or staff;
- 10. Material that depicts nudity; however, material that includes the depiction of nudity as illustrative of and as part of broader medical, educational, anthropological, or artistic content will not be rejected solely on the basis that the material includes nudity;
- 11. Sexually explicit material, whether pictorial or textual, which could reasonably pose a threat to the safety, security, discipline, or good order of the institution, or is inconsistent with rehabilitative goals;
- 12. Posters measuring more than two hundred (200) square inches;
- 13. Publications containing a product insert which, by itself, would be deemed contraband; and
- 14. Publications which meet two (2) of the following conditions:
 - a. Books that measure more than 9" x 11".
 - b. Hardback books thicker than two (2) inches.
 - c. Softback books thicker than four (4) inches.
 - d. Any book heavier than three (3) pounds.

The Warden has the authority to waive these conditions on legal, educational and religious publications.

15. Photobooks are not considered an allowable publication and will not be permitted.

Note: Inmates are only allowed five (5) individual photos. This does not include digital photos (refer to Inmate Correspondence AD).

- C. Publications recommended for rejection will be referred to the Warden/Center Supervisor for final decision. With respect to any publication, the decisions must be made on the contents of an individual publication, not previous issues of the same publication.
 - D. Items within the package cannot be separated; therefore, the package is rejected in its entirety.

Note: For any publication rejected solely because it contains a product insert, if the product insert(s) can be removed, the publication is acceptable.

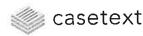
- E. The Warden must approve or reject the publication within thirty (30) days of receipt. If the publication is rejected, the inmate must be notified, in writing, of any decision to reject and the basis for rejection of the publication. The inmate is also notified of appeal procedures and options for disposing of the publication. The inmate must sign that the notice of rejection has been received. Should the inmate refuse to sign, an employee will attest to the fact that the inmate was duly notified.
- F. The decision to reject a publication may be appealed to the Central Office Publication Review Committee. The Committee members are to be assigned by the Director or his/her designee. The appeal must be initiated within ten (10) days of the receipt of written notification of the Warden/Center Supervisor's decision to reject the publication. Rejection of a Publication is not grievable.
- G. Any rejected publication will be held safe by the Warden/Center Supervisor or his/her designee until the appeal process has been completed, or until the ten (10) day period for filing an appeal has expired.
- H. Options for disposing of an unacceptable publication are:
 - 1. Destruction;
 - 2. Return of the publication to the sender at the expense of the inmate unless return postage is guaranteed;
 - 3. Mailing the publication to a third party at the expense of the inmate;

4. Giving to a third-party during visitation.

	,	UNIT	NAME	
То:	Use inmate name here			
From:	Use Deputy/Assistant	Warden/War	rden name here	
Publication	: Name of publication,	date or identi	fying information here	
Date:				
The Unit Pub	lication Review Committee l	nas denied your	publication for the reason(s) listed b	elow:
21-	[List a	applicable Polic	y Numbers]	
Other (exp	plain)			
Committee M	fember/Title	Date	Committee Member/Title	Date
Committee M	1ember/Title	Date	Committee Member/Title	Date
This decision appeal. Send y Committee.	is consistent with AR 864/Publi your appeal to the Unit Mailr	cations (AD). You	ou will have TEN (10) days upon receip ilroom will present it to the Central Off	t of this notification to ice Publication Review
If you choose before the pub	not to appeal the decision you lication will be destroyed.	will have FIFTE	EN (15) days to exercise options 2, 3, 4	, 5, or 6, (if applicable)
	Appeal Destruction Return the publication to sende Mail the publication to a third p Give to 3 rd party at Visitation Authorize removal of insert(s)	oarty at your own	expense Address:	
*Failure to	exercise an option will be co	onsidered auth	orization for destruction.	
Inmate Sign	ature Da	nte	☐ Refused to sign	
Witness	D	ate		
Publication Fi Inmate file Warden Inmate	le -			

Black Friday Deal: 30% off if you purchase by Tuesday 11/23.

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Ark. R. Civ. P. 17



As amended through April 2, 2020

Rule 17 - Parties Plaintiff and Defendant

(a) Real Party in Interest. Every action shall be prosecuted in the name of the real party in interest. An executor, administrator, guardian (conservator), bailee, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or the State or any officer thereof or any person authorized by statute to do so may sue in his own name without joining with him the party for whose benefit the action is being brought. No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.

(b) Infants or Incompetent Persons. Whenever an infant or incompetent person has a guardian, the guardian must sue or defend on behalf of the infant or incompetent person. If an infant or incompetent person does not have a duly appointed guardian, he may sue by his next friend or by a guardian ad litem. The court shall appoint a guardian ad litem for an infant or incompetent person not otherwise represented in an action or shall make such other order as

it deems proper for the protection of the infant or incompetent. No judgment shall be rendered against an infant or incompetent until after a defense by a guardian or guardian ad litem, who shall be appointed by the court upon application of any interested party and who shall promptly respond to the claim against the infant or incompetent as provided by these Rules.

Ark. R. Civ. P. 17

Amended January 22, 2004.

Reporter's Notes to Rule 17:

- 1. Rule 17 is a slightly modified version of FRCP 17. Basically this rule deletes various provisions of Sections (a) and (b) of FRCP 17 which have reference to actions brought by the United States or under a federal statute and to diversity of citizenship actions.
- 2. Section (a) is essentially the same as superseded Ark. Stat. Ann. §§ 27-801 and 27-804 (Repl. 1962). It has generally been held that the real party in interest is the person who can discharge the claim upon which the action is brought and not necessarily the person who is ultimately entitled to the benefit of recovery. House v. Long, 244 Ark. 718, 426 S.W.2d 814 (1968). The federal courts have generally held that the effect of such rule is to require the action to be brought by the person who is entitled to enforce the right or claim. Wright & Miller, Federal Practice and Procedure, § 1543. The list of persons in 17(a) is not meant to be conclusive and exhaustive and any person possessing the right to enforce a particular claim is deemed the real party in interest even though he is not specifically identified in the rule. Section (a) of this rule does not appreciably alter Arkansas law on real parties in interest.
- 3. While the Federal Rule is not clear on whether objection to a party as not being the real party in interest must be made by Rule 12(b) motion or by answer, Ohmer Corp. v. Duncan Meter Corp., 8 F.R.D. 582 (D.C. III., 1948) and Clark v. Chase National Bank, 45 F. Supp. 820 (D.C. NY, 1942), Rule 12(b) does permit such objection without any question, although the objection can be raised under Rule 8(c).
- 4. Section (b) of the Federal Rule is omitted in its entirety from Rule 17 as it is not applicable to actions in state court.
- 5. Section (b) of this rule is basically the same as FRCP 17(c). Omitted from the Federal Rule are all those persons designated as representatives of an infant or incompetent except a guardian. The parenthetical reference to a conservator is made necessary by Ark. Stat. Ann., Title 57, Ch. 7 (Supp. 1977). Rule 17 makes it mandatory that a guardian sue or defend as opposed to the permissive feature of FRCP 17.
- 6. Section (c) is not found in the Federal Rule. It is thought to be worthwhile as giving a measure of protection to prisoners who might not otherwise be protected. This section tracks superseded Ark. Stat. Ann.

§ 27-833 (Repl. 1962). See also Rule 7.

Addition to Reporter's Notes, 2004 Amendment: Subdivision (c), which has no counterpart in Fed. R. Civ. P. 17, has been deleted. Borrowed from a superseded statute that was part of the Civil Code of 1868, the subdivision stated that "[n]0 judgment shall be rendered against a prisoner in the penitentiary until after a defense made for him by his attorney, or, if there is none, by a person appointed by the court to defend for him." Because of the elimination of subdivision (c), prisoners no longer receive special treatment with respect to default judgments. See Zardin v. Terry, 275 Ark. 452, 631 S.W.2d 285 (1982). However, the safeguards in Rule 4(d)(4) and Rule 12(a)(1) afford incarcerated persons notice, the opportunity to be heard, and the opportunity to obtain counsel. Rule 12(a)(1), as amended in 2004, provides that incarcerated persons have 60 days after service of process in which to file an answer, compared to the 20-day period for residents of the state. This differential reflects the role of prison employees in delivering the summons and complaint, as well as the likelihood that an incarcerated person will need more time than other defendants to arrange for legal representation.

Previous Section
Rule 16 - Pretrial Procedure; Formulated
Issues

Next Section
Rule 18 - Joinder of Claims and Remedies

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IGTT430 3GD

Attachment VI

RECEIVED

INMATE NAME: Pinder, Steven L.

ADC # GRIEVANCE# 21-01731

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

On 8/15/2021, you stated the following complaint: The publication review committee has violated my liberty intevest rights and denied me my property 7 books costing 80 by getting my books for review on 04-05-21 and keeping them for over 5 months policy states the committee, which consists of Deputy warden Richardson, Major Kenya Randle, Allen Parham chaplain had (30) days to review and accept or reject these publications- The committee held my books for over 5 months, some 150 days plus. This was 120 days over the 30 day to compensate me for the deniad and delay in processing this matter where by violeting ADC policy and my liberty in terests. This grievance is about violating ADC Policy and payment to me of \$9,600 for violating me liberty interest.

The Warden responded to your grievance on 9/20/2021, by stating the following: Documentation reflects that your items were sent to Publication Review on 5/5/21 and were denied due to being oversized and containing nudity. Per policy AD 20-04, material that depicts nudity; however, material that includes the depiction of nudity as illustrative of and as part of broader medical, educational, anthropological, or artistic content will not be rejected solely on the basis that the material includes nudity will be rejected. Ms. Southern, Mailroom Supervisor, advised that you were sent a mail return notice about your publication containing nudity and violating the publication policy. This should address your concern."

Your appeal was received on 9/23/2021. After review of your appeal and supporting documentation, I concur with the Warden's response.

Appeal denied

Director V/III

Please be advised that if you appeal this decision to the U.S. District Court, a copy of this Chief Deputy/Assistant Director's Decision must be attached to any petition or complaint or the Court may dismiss your case without notice. You may also be subject to paying filing fees pursuant to the Prison Litigation Act of 1995.

6×6

	2021
·	BEFORE THE ARKANSAS STATE CLAIMS COMMISSION RECEIVED
	STEVEN PINDER (+
	VS No: 220456
	ARKANSAS DEPARTMENT OF CORRECTIONS RESPONDENT DIVISION OF CORRECTIONS
	CLAIMANTS RESPONSE TO RESPONDENTS
	MOTION TO DISMISS
	COMES Now, Steven Pinder ("the Claimant") here in after, pro-se, and for his response to respondents motion to dismiss, States as follows:
	1. On March 10, 2021 Ms L. Southern of the mail room, supervisor, sent to Claimant a Return Mail Notice notifying claimant that she had received books of claimant from Hamilton Book. Com that 1) was oversized 12×9 4 and weighted 3 LB 11.7 and was 1 4 thick; and, 2) Nudety. (see claimants exhibit "A" a Hacked hereto).
	2, On April 5, 2021 Ms L. Southern the

Mail room Supervisor, notified claimant that on April 5, 2021 the Book titled "Treasures of the Louwre and the Book "The Fantasy Art Calandra" has been forwarded to the Unit Publication Review Committee. (see claimants Exhibit "B" and "C" attached here to).

3. The notice of April 5, 2021 stated that the "Unit Publication Review Committee has (10) days from the receipt of this notice to make a determination regarding this publication and forward its decision to the Warden. (see Claimants Exhibit "B" and "C" altached here to).

4. The notice further stated that "The Warden has thirty (30) days to make his decision. (see Claimants Exhibit "B" and "C").

Si The Publication Review Committee was made up of Deputy Warden Richardson, Chaplain Arlen Parham, Lt. (unidentifiable by signature), Major Kenya Randall. (see Claimants Exhibit "D" and "E" attached hereto).

6. On August 13, 2021 claimant received a Publication Review Results From Deputy/Assistant warden dated May 5, 2021 that the publication "The Fantasy Art Calandra" was denied because the book contained "nudity" and it was "too large exceeds standards for AD 20-04." (see Claimants Exhibit" D"attached hereto)

7. The Publicatives Review Results are dated May 5, 2021 but the Members, i.e. Deputy Warden Richardson did not sign the review until 6130121; the unidentified Lt. signed 6.29-21; Arlen Parham Chaplian signed 8113121; and Major Randall signed 8-13-21. (see Exhibit D' attached here to).

8. On August 13, 2021 Claimant received a Publication Review Results From Deputy/Assistant Warden dated May 5, 2021 that the Publication "Treasures of Louvre" was denied because the book contained "Nudity" and was "over size book and nudity AD 20-04."

9. The Publication Review Results was dated May 5, 2021 but the memberies, i.e. Deputy Warden Richardson did not sign the review until 6/30/21; the unidentifical Lt. Signed 6-29-21; Arlen Parham, Chaptian signed 8/13/21; and Major Randell signed 8-13-21 (see

Claimants exhibit E'attached here to).	
10. It is clear from the signatures of the Publication Review Committee Members of the Publication Review Committee, the Publication's "Treasures of the Louvre" and "The Fantasy Art Calandra" were given to the Publication Review Committee on April 5, 2021 and a decision to reject these publications was not made until August 13, 2021, approximately 128 days after receipt.	
11. The order received on March 10, 2021 from Hamilton Book, com contained the following books! 1. 3737710 "Where theres fire theres Smoke" 5.95 2. 3799832 "Bloody trail of the Mountain Man" 5.95 3. 3735672 "Too Soon To Die" 5.95 4. 6628524 "The Jensen Brand" 5.95 5. 458158x "The Book of Enoch" 6.95 6. 6841244 "The Fantasy Art of Calandra" 11.95 7. 3798917 "Treasures of the Louvre" 12.95	
and clamant paid \$44.00 for shipping and \$1 5.66 taxes, for a total Cost of \$65.31. All books had been confiscated by Ms. L. Southern of the mail room in accordance with Administrative Directive (AD)-20-04.	
	10. It is clear from the signatures of the Publication Review Committee Members of the Publication Review Committee, the Riblication's "Treasures of the Louvre" and "The Fantasy Art Calandra" were given to the Publication Review Committee on April 5, 2021 and a decision to reject these publications was not made until August 13, 2021, approximately 128 days after receipt. 11. The order received on March 10, 2021 from Hamilton Book come contained the following books: 1. 3737710 "Where there's fire theres Smoke" 5.95 2. 3798832 "Bloody trail of the Mountain Man" 5.95 3. 3735672 "Too Soon To Die" 5.95 4. 4628524 "The Jensen Brand" 5.95 5. 458158x "The Book of Enoch" 6.95 6. 6841244 "The Fantasy Art of Calandra" 11.95 7. 3798917 "Treasures of the Louvre" 12.95 and claimant paid \$44.00 for shipping and \$15.66 taxes, for a total Cost of \$65.31. All books bad been confiscated by Ms. L. Southern of the

(see Clarmants Exhibit "F" attached hereto).

12. It is clear from the facts contamed here in that
the books of claimant arrived at the Mail room
on March 10, 2021. All books were confiscated by
the EARU Mail room Supervisor Ms. L. Southern on
March 10, 2021 and having found (2) of the
publications were in violation of AD 20-04, these
2 books were sent to the Publication Review Committee
of the

13. Pursuant to ADC's policy the Publication Review Committee has ten (10) days to make a determination regarding the publications (Exhibit "A").

(30) days to brake his decision. (see Exhibit "A", "B", and Exhibit "F" at (IV) (E)).

15. The publication Review Committee's decision did not come for some one hundred and twenty-eight days after receipt of the books. (see Exhibit "D" and "E").

16. The total amount of days the ADC held claimants books was March 10, 2021 through August 13, 2021

Some one hundred and fifty-seven (157) days,
17. The Idamitton Book, com Company has a sixty (60) day, no questions asked return book policy.
18. The violation of ADC's Publication policy by the Rublication Review Committee precluded Claimant from being able to return these books for a return.
19. Clarmant did have a liberty interest right to have the books reviewed by the Publication Review Committee and the ten (10) days set forth by policy and the thirty (30) days set out by the warden or his designees per ADC policy.
20. It is apparent that respondent failed to achieve to its very own policies as the facts contamed herein Clearly set out.
21. The respondent seeks nothing more than delay in requestion, this matter be held in a beyance for an investigation, the facts are clear.
WHEREFORE, Steven Rinder prays this Arkanses

	Stele Claims Commissi	on deny Responde	nts Motron
		eny respondents Mot	
	this mother in aber	paner, and any oth	ur relief
	Clamant is entitle	d and has failed s	to request
		deems appropriet	
		Respectfully submi	Hed
	EXECUTED THIS	Respectfully submi	<u> </u>
	ZND day of	STEVEN PINDER,	
<u></u>	December 2021.		
		<u>.</u>	
	STATE OF APVANSA	\mathcal{H}	
	COUNTY OF LEE	ADC officials	Refused me notary
	Coulsey		o Stop these filings
	SUBSCRIP	BED to AND SWORN T	•
	a Notary Public th		
	My Commission Expires	No TARY	
		CERTIFICATE OF SU	=7WICE
77874 C C			2ND
	I, Steven Pinder de	o hereby certify the	t on this 30th
		(7)	- `

	day of Hovember 2021 I have served on Respondent through their a Horney Thomas Burns
	Respondent through their a Horney Thomas Burns at 6814 Princeton Pike, Pine Bluff, Ar 71602-9411
	a true copy of my response to respondents motron to dismiss by placing same in the USMail with sufficient Postage affixed to ensure delivery.
	Steven Pide
	STEVEN Pinder
and all and an and an	

(8)

,	BEFORE THE ARKANSAS STATE CLAIMS COMMISSION
	STEVEN PINDER CLAIMANT
	VS No! 220 451.
	ARKANSAS DEPARTMENT OF CORRECTIONS RESPONDENT PIVISION OF CORRECTIONS
	EL'AIMANTS LISTED EXHIBITS
	EXHIBIT "A" Return Mail Notice dated March 10, 2021 EXHIBIT "B" Publication Review Notice dated April 5, 2021 EXHIBIT "C" Publication Review Notice dated April 5, 2021 EXHIBIT "D" Publication Review Notice EXHIBIT "E" Publication Review Notice EXHIBIT "F" Administrative Directore (AD) 20-04 Publication dated 4/10/2020, pages 1-5.
	Respectfully submitted Steven Pin
	STEVEN PINDER, CLAIMANT

ARKANSAS DEPARTMENT OF CORRECTION RETURN MAIL NOTICE

Barracks No. X 6 36		Date: 3-16-2/
Inmate's Name Sylenger from Harris	- H. Donal Com	Fall Village CT 060
The above item has to be returned to send		J. T. T. T. J.
No ADC Number On Letter	Incorrect ADC Number On Money Order	Postage Stamps
Stamped Envelope	Unauthorized Photos	Reading Material (Must come from publisher or Bookstore)
Unauthorized Money Order	Money Order did not include (All money orders must inc	your ADC number lude inmate name and ADC Number)
Cash Enclosed(Amount \$)	Unauthorized Material Enclo	sed
Will 37 11.7	Unauthorized Correspondence Unauthorized Cor	~e 12×91/4
Letter too large to fit in regular-si	ze envelope. Send a signed Inmate (Check for the amount of \$ 6.25.
Please send a signed Inmate Che	eck for \$ and a sta	amped envelope.
	postage has to be paid on letters that ar	ender to have the number put on it. And in e returned to the sender. Therefore, you need
Advise your correspondent that ALL of the shall be required is:		ded in your address. The information which
Please check one of the boxes below and	return this notice to the Mailroom.	
I Wish To: Donate above items Return to sender Destroy above items	5	Mail Room Supervisor
Inmate's Signature	Г	Pate

ADCF-5

CLAMANIS EXHIBIT "A"

DC/dh 491

X6-36

...Arkansas Department of Correction

Publications Review

To: Inmate Steven Pinder

From: Ms. L Southern

RE: Notification of Publication Review

Date 04/05/2021

Publication Title: The Fantasy Art Calandra

Volume: (publications)

Issue/Year This is to notify you that the above publication addressed to you meets the criteria for review. Your publication with a copy of this notification has been forwarded to the Unit Publication Review Committee.

The Unit Publication Review Committee has (10) days from the receipt of this notice to make a determination regarding this publication and forward its decision to the Warden.

The Warden has thirty (30) days to make his decision.

Your publication will be secured until either the process is complete or the (10) day period for filing an appeal has expired.

Cc: Unit Publication Review Committee

Mailroom

(98)

X6-36

...Arkansas Department of Correction

Publications Review

To: Inmate Steven Pinder 🗲

From: Ms. L Southern

RE: Notification of Publication Review

Date 04/05/2021

Publication Title: Treasures Of The Louvre

Volume: (publications)

Issue/Year This is to notify you that the above publication addressed to you meets the criteria for review. Your publication with a copy of this notification has been forwarded to the Unit Publication Review Committee.

The Unit Publication Review Committee has (10) days from the receipt of this notice to make a determination regarding this publication and forward its decision to the Warden.

The Warden has thirty (30) days to make his decision.

Your publication will be secured until either the process is complete or the (10) day period for filing an appeal has expired.

Cc: Unit Publication Review Committee

Mailroom

 NPC	16	.5.0	
Attac	chir	ent	C

X6-36

ARKANSAS DEPARTMENT OF CORRECTION

PUBLICATION REVIEW RESULTS

TO:	Inmate: Steven	Pador		ADC #
FROM:	Deputy/Assistant Ward	· ·		ADC #
DATE:			ou me on 8	3/13/21/20
RE:	Notification of Publicat	ion Review Results	-The Fox	3/13/21/BD Lasy art Calando
The Unit	Publication Review Committ			
Homo	osexuality Discriminat	ion/Inflammatory Atti	tude / Mudit	reason(s) listed below:
Encou	uraging and/or Instructing Cr	iminal Activity	rude Tudin	y Gailg Signs
	(explain) Too / Ang		5 Londonde	Por AD 20-6
Pages:	, 			
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4636

ARKANSAS DEPARTMENT OF CORRECTION

PUBLICATION REVIEW RESULTS

TO:	Inmate: Steven	Proder		ADC#
FROM:	Deputy/Assistant Wa			ADC#
DATE:	5-05 2021		by me on	8/13/21
RE:		eation Review Results		
The Unit Publ Homosex Encourag Other (ex) Pages: Committee This decision is contification to app	lication Review Communality Discriming und/or Instructing (plain) Dver \lambda \rac{2}{2} \\ \text{Member/Title} \\ Onsistent with AR 864 and peal. You may appeal this not to appeal the decision of the decision of the property of the decision of the dec	ittee has denied your pration/Inflammatory Attended to the Unit Mailron within TEN (10) day	Committee Me Committee Me Will have up to The country with the publication of the country with	e reason(s) listed below: lity Gang Signs OC/ ember/Title Date Entry encylant 3 -13 2 ember/Title Date EN (10) days upon receipt of this appeal" in the option blank.
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Witness		Date		Refused to sign
cc: Unit Pub Institutio Warden File	olication Review Comm onal File	nittee Chair		



6814 Princeton Pike Pine Bluff, AR 71602 Phone: 870-267-6200 870-267-6244 www.adc.arkansas.gov

ADMINISTRATIVE DIRECTIVE

SUBJECT: **Publications**

NUMBER: 20-04

SUPERSEDES: 17-17

APPLICABILITY: Division Staff and Inmates

REFERENCE: AR-864-Publications

PAGE: 1 of 5

AD-Inmate Correspondence AD-Inmate Property Control **AD-Inmate Grievance Procedure**

APPROVED: Original Signed by Dexter Payne

EFFECTIVE DATE: 4/10/2020

I. POLICY:

Inmates may receive publications only from recognized commercial, religious or charitable outlets. All publications are subject to inspection and may be rejected when the publication presents a danger to the security, discipline, or good order of the institution or is inconsistent with rehabilitative goals.

II. PURPOSE:

This Administrative Directive establishes the process by which the Division of Correction determines which publications may be received by the inmate population.

III. **DEFINITIONS:**

- A. Publication: A book, magazine, catalog, advertising brochure, religious tract, newspaper, periodical, newsletter, or any type of image or text. The term publication
- B. Commercial Outlet: A publisher, bookstore, educational or vocational institute, or other entity whose primary business is the sale and distribution of printed materials.

- C. Charitable Outlet: A religious group or an incorporated non-profit organization established to promote literacy or to provide literature for inmates.
- D. <u>Nudity</u>: A depiction in which genitalia, buttock(s) or female breasts are fully exposed.
- E. Sexually Explicit: A depiction or description of actual or simulated sexual acts including sexual intercourse, anal or oral sex, masturbation, sadism, sadomasochism, bondage, bestiality, or excretory functions which the average adult, taking the material as a whole and applying statewide contemporary community standards, would find appeals to the prurient interest, and which material, taken as a whole, lacks serious literary, scientific, political, or artistic value.
- F. Security Terrorist Threat Group (STTG): Any group of inmates that the Division of Correction reasonably believes poses a threat to the security of the institution or the physical safety of other inmates or staff by virtue of the group's nature, purpose or

IV. PROCEDURES:

- A. The Warden/Center Supervisor shall designate staff to review incoming publications.
- B. A publication will be rejected if it contains contraband or if the material presents a danger to the security, discipline, or good order of the institution, or is inconsistent with rehabilitative goals. A publication containing pictorial or textual material meeting any one or more of the following categories may be rejected:
 - 1. Material that incites, advocates, aids or abets a riot, work stoppage, or any other behavior that may be detrimental to the safe, secure, and orderly operation of the
 - 2. Material that advocates or assists criminal activity, which is an act or omission prohibited and punished by law to include but not limited to;
 - a. Material advocating, or describing, or assisting methods of escape or eluding capture or which contain blueprints, drawings, or depictions of Division
 - b. Maps or drawings depicting a geographical region that could reasonably be construed to assist methods of escape or eluding capture, or otherwise be a
 - c. Material advocating or providing instructions on identity theft;
 - d. Material that incites, encourages, advocates, or promotes act of violence such as but not limited to sexual assaults and physical assaults;
- 3. Depictions, descriptions, or instructions regarding the introduction, manufacture, concealment, or use of guns, knives or any other weaponry, including realistic

pictures of such weapons suitable to aid in the manufacture of such weapons, or facsimiles of such weapons;

- Depictions, descriptions, or instructions regarding the operation of security devices such as locks, cameras, or alarms;
- STTG materials including, but not limited to, codes, signs, symbols, photographs, drawings, training materials, and catalogs;
- 6. Depictions, descriptions, or instructions on the use of hands, feet, or the head as weapons or of other fighting techniques;
- 7. Depictions, descriptions, or instructions on the manufacture, cultivation, or introduction of drugs, alcohol, tobacco, or poisons;
- 8. Instructions or patterns for tattoos, or other skin modification techniques or equipment;
- Material that incites, encourages, advocates, or promotes racism or any other illegal act of discrimination, or that is likely to be disruptive, produce violence, or cause a threat to the offender population or staff;
- 10. Material that depicts nudity; however, material that includes the depiction of nudity as illustrative of and as part of broader medical, educational, anthropological, or artistic content will not be rejected solely on the basis that the
- 11. Sexually explicit material, whether pictorial or textual, which could reasonably pose a threat to the safety, security, discipline, or good order of the institution, or is inconsistent with rehabilitative goals;
- 12. Posters measuring more than two hundred (200) square inches;
- 13. Publications containing a product insert which, by itself, would be deemed contraband; and
- 14. Publications which meet two (2) of the following conditions:
 - a. Books that measure more than 9" x 11".
 - b. Hardback books thicker than two (2) inches.
 - c. Softback books thicker than four (4) inches.
 - d. Any book heavier than three (3) pounds.

The Warden has the authority to waive these conditions on legal, educational and religious publications.

15. Photobooks are not considered an allowable publication and will not be

Note: Inmates are only allowed five (5) individual photos. This does not include digital photos (refer to Inmate Correspondence AD).

- C. Publications recommended for rejection will be referred to the Warden/Center Supervisor for final decision. With respect to any publication, the decisions must be made on the contents of an individual publication, not previous issues of the same publication.
 - D. Items within the package cannot be separated; therefore, the package is rejected

Note: For any publication rejected solely because it contains a product insert, if the product insert(s) can be removed, the publication is acceptable.

- E. The Warden must approve or reject the publication within thirty (30) days of receipt. If the publication is rejected, the inmate must be notified, in writing, of any decision to reject and the basis for rejection of the publication. The inmate is also notified of appeal procedures and options for disposing of the publication. The inmate must sign that the notice of rejection has been received. Should the inmate refuse to sign, an employee will attest to the fact that the inmate was duly notified.
- F. The decision to reject a publication may be appealed to the Central Office Publication Review Committee. The Committee members are to be assigned by the Director or his/her designee. The appeal must be initiated within ten (10) days of the receipt of written notification of the Warden/Center Supervisor's decision to reject the publication. Rejection of a Publication is not grievable.
- G. Any rejected publication will be held safe by the Warden/Center Supervisor or his/her designee until the appeal process has been completed, or until the ten (10) day period for filing an appeal has expired.
- H. Options for disposing of an unacceptable publication are:
 - 1. Destruction;
 - 2. Return of the publication to the sender at the expense of the inmate unless return
 - 3. Mailing the publication to a third party at the expense of the inmate;

	4. Giving to a third-party during visitation.
To:	UNIT NAME Use inmate name here
From: Publicati Date:	Use Deputy/Assistant Warden/Warden name here on: Name of publication, date or identifying information here
The Unit Pu	blication Review Committee has denied your publication for the reason(s) listed below: [List applicable Policy Numbers]
Committee Me Committee Me This decision is appeal. Send you Committee. If you choose not before the publica	Date Committee Member (Civil
3. Retu 4. Mail 5. Give 6. Auth	peal truction in the publication to sender at your own expense the publication to a third party at your own expense Address: orize removal of insert(s) and release any and all claims see an option will be considered authorization for destruction.
	Date
Witness	Date Refused to sign

Publication File Inmate file Warden Inmate

Mika Tucker

From: Thomas Burns (DOC)

Sent: Wednesday, June 1, 2022 10:52 AM

To: ASCC Pleadings

Cc: Roni Gean (DOC); Mika Tucker

Subject: Steven Pinder v ADC claims 220691 and 220456

Attachments: 2169_001.pdf

Motion protective order

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

STEVEN PINDER (ADC

CLAIMANT

 \mathbf{v}

NO. 220691 220456

ARKANSAS DEPARTMENT OF CORRECTIONS DIVISION OF CORRECTION

RESPONDENT

MOTION FOR PROTECTIVE ORDER

Comes Now the Respondent, Arkansas Department of Corrections (ADC), by Thomas Burns, and for his Motion for Protective Order pursuant to Rule 26 (c) of the Arkansas Rules of Civil Procedure, states:

- 1. In the course of Discovery the ADC found documents are the germane to the case.
- 2. In filing their motion to dismiss they attached exhibit A as an in-camera document.
- 3. The document contains items, names, and other matters that if released to the Inmate would pose a danger.
- 3. The document needs to be protected due to the safety and security of Inmates, staff, and units.
- 4. as to any confidential materials that if provided to inmate, would pose a risk to the safety of employees, inmates, and the public. Conflict and violence in the prison system often arises when one inmate learns of alleged behavior, statements, or certain documents by another inmate. Such materials may contain confidential statements by inmates or correctional staff regarding an inmate's statements or actions or private health or other records that may be

used to intimidate or blackmail inmates. Releasing such statements to an inmate could pose a significant safety and security risk to those inmates, staff, or Claimant. Such materials need to remain in-camera to protect the claimant and others from harm.

5. Respondent relies on Ark. R. Civ. P. 26(c)(4) and requests the Commission to limit the matters and scope of discovery requested by the inmate. Rule 26 provides as follows:

Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following....(2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place.

- 6. The Court in which the action is pending may make any order which justice requires to protect a party so that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters.
- 7. While there are no Arkansas cases on point, Rule 26(c) is the same as its Federal counterpart. The discovery rules were intended to allow the parties greater opportunity to gather information as to pertinent facts and documents within the knowledge and possession of the other party, in order to ensure a more adjudication on the merits. 27 C.J.S. Discovery § 1 (1959). They also were intended to guarantee accountability and to reduce surprise at trial. See J. Whigmore, Whigmore on evidence § 1845, at 487 (1976). The courts, however, are given broad authority to intervene to protect against abuses. See 27 C.J.S. Discovery § 2 (1959). The answer to discovery abuses is to employ reasonable measures to protect against unduly burdensome and

unduly intrusive discovery inquiries. See 8 C. Wright & A. Miller, Federal Practice and Procedure § 2008, at 45 (1970). Therefore, the courts will protect against discovery efforts that are unreasonable and abusive. See 27 C.J.S. Discovery § 2 (1959)

8. The ADC asks this Commission, based on safety and security, to allow the in-camera inspection and not release to the inmate.

WHEREFORE, the Respondent prays that the Commission enter a Protective Order on behalf of the Respondent; that this Commission limit the scope and extent of inmate's discovery; for his attorney fees and costs; and for all other just and proper relief to which he 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 1st day of June 2022, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Steven Pinder (

Thomas Burns

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER (ADC #

CLAIMANT

V

No: 220456

ARKANSOS DEPARTMENT OF CORRECTIONS, RESPONDENT DIVISION OF CORRECTIONS

CLAIMANTS MOTION FOR SUMMARY JUDGMENT

Comes Now, Steven Pinder (the "Claimant") pro-se, and through this his Mothen for Summary Judgment, pursuant to Federal Rules of Civil Procedure (Fed. R. Civ. P.") Rule 56, request the Arlansas State Claims Commission (the "Commission") grant claimant Summary Judgment as to the liability of Respondent Arkansas Department of Corrections ("ADC") (the "Respondent") for damages for Violating the protected liberty interest of claimant set out by Administrative Directive (AD) 20-04 entitled "Publications" Mandates and Statutes. The reasons are therefore set forth in claimants declaration and Brief in Support of this Motion.

EXECUTED THIS 21st day of July 2022 Respectfully submitted, Steven Pinder STEVEN PINDER, Chamant BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

(Anc # PINDER

CLAIMANT

No: 220456

V

ARKANISAS DEPARTMENT OF CORRECTIONS, RESPONDENT DIVISION OF CORRECTIONS

CLAIMANTS BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

Comes Now, Steven Pinder (the "Claiment"), pro-se, and for this his Brief in Support of Motion for Summary Judgment, States as follows:

INTRODUCTION

This is a pro-se in mate claim alleging a violation of Arkensas Department of Corrections, Division of Corrections ("ADC") rules, regulations and policies in which "ADC" employees Deputy warden Richardson, a Lt., Major K. Randall, and Chaplain Arlene Parham failed to adhere to and Carry out the mandates of ADC's ADMINISTRATIVE DIRECTIVE ("AD") 20-04 Publication Policy in that Respondents (ADC) failed to allow or reject two (2) publications of claimants within the ten (10) days Mandated by Policy Precluding Claimant from being able to return the books

for a full retund thus Violating the liberty interests protected by the ADC's Publication Policy for over one hundred and fifty (150) days.

Claimant asserts for the reasons contained here in this Arkansas Stete Claims Commission (the "Commission") should enter an order granting Claimant's Motion for Summary Judgment against Respondent. For the reasons set out herein this Commission Should grant claimant the damages he seeks in the amount of \$ 9,600.00 (nine thousand and six-hundred dollars) and any other relief this Commission deems appropriate.

SUMMARY JUDGMENT STANDARD

Summery judgment is appropriate where the evidence, viewed in the light most favorable to the nonmovant, shows that no genuine issue of material fact exists, such that the movent is entitled to judgment as a matter of law. See Federal Rules of Civil Procedure ("Fed. R. Civ. P.") Rule 56(c). The initial burden is on the moving party to demanstrate the absence of agenuine issue of material fact requiring the trier of fact to resolve the dispute in favor of one party or the other. Celotex Corp V Catrett, 477 US 317, 323, 106 S.Ct. 2548, 91 L.Ed. 2d 265 (1986).

Anderson V Li berty Lobby, Inc. 477 US 242,

250, 106 S.Ct. 2505, 2511, 91 L.Ed. 22 202 (1984).

To defeat a properly supported summary Judgment Motion, the nonmoving party must establish that there is a genume 1584e of material fact. Celotof, 477 US at 322, 106 S.Ct. at 2552°, Matsushita Fiec. Indus. Co., LTD., V Zenith Radro Corp, 475 US 574, 585-86, 106 S.Ct. 1348, 1355, 89 L.Ed. 20 538 (1986). To establish a genuine issue exists, the nonmoving party Must produce specific facts showing that there is a genuine issue for trial. Fed. R. Civ. P. Rule 56 (e); MAtsushita, 475 US at 587, 106 S.Ct. at 1356.

Accordingly, a non-moving party cannot rest on mere allegations or dentals in order to get to a jury without any "Significant probative evidence tending to support the Complaint." Anderson, 477 US at 249, 106 S.Ct at 2510; Fed. R. Civ. P. Rule 56 (c). That is, the non moving party must present sufficient probative evidence that would permit a fact finder to rule in his favor based upon more than "mere speculation, Consecture, or fantasy." Kneibert v Thompson Newspapers, 129 F.3d 444, 455 (8th Civ. 1997). If the non moving party's evidence is merely colorable or is not probative, then summary judgment is appropriate. Anderson, 477 US at 249-50. In Short, the non moving party Must meet "proof with proof." Fed. R. Civ. f. Rule 54 (e).

Broad and conclusionary statements unsupported by facts are insufficient to support a claim. ELLINGBURG VKing, 490 F. 22 1270, 1271 (8th Cr 1974).

TI

EXHAUSTION OF ADMINISTRATIVE REMEDIES

The Prison Litigation Reform Act ("PLRA") requires claimant to exhaust all administrative remedies as to each Claim against a defendant or respondent before he brings any type of cruil action. The PLRA provides that no actron shall be brought by a prisoner confined in any jail, prison or other correctional facility "until such administrative remedies as are available are exhausted." 42 U.S. C. Section 1997 (e) (a). This exhaustron requirement applies to "all inmete suits about prison life, whether they involve general circumstances or particular episodes." Johnson v Jones 340 F.3d 624, 627 (8th Cir 2003),

Ethaustron is mandated by Congress which eliminates a Court's discretion to excuse exhaustron. Booth v Churner, 532 US 731, 739, 741 (2001); See also Porter v Nussle, 534 US 516, 525-26, 122 S.Ct. 983, 988-89, 152 L. Ed. 2d (2002) (prisoners who claim denial of their federal

Fights while in concereted must meet 1997 (a)'s exhaustron requirements before commencing a civil rights actron). The United States Court of Appeals for the Eighth Creuit, discussing Booth, has also held that administrature remedies should be exhausted before an inmate files an actron. Jones UNorris, 310 F.38 610, 612 (8th Cr 2002). The Court in Jones explained that the aumendments of the PLRA "mandate exhaustron of available administrature remedres before an inmate files suit" and that a Plandiff is required to file "a properly filed grevance against all defendants."

Jones, supran; see also Woodford v Ngo, 548 US81, 93, 126 Sich. 2378, 165 LED. 20 368 (2006).

It is important to note that the U.S. Supreme Court has Stated that "it is the prison's requirements, and not the PLRA, that define the boundaries of proper exhaustion." Jones v Bock, 549 US 199, 218, 1275.Ct. 910, 923, 166 L.Ed. 2d 798 (2007). Administrative exhaustion means "using all steps that the agency holds out, and doing so properly (so that the agency addresses the Tssue on the merits") Hammett v Cofield, 681 P.3d 945, 947 (8th Chr 2012) (quoting Wood ford, 548 US at 90, 126 S.Ct at 2385). Properly using the agency's exhaustion requirements allowe the agency to ackiness complaints about its programs before being subjected to Suit. Hammett, 681 P.31 at 947 (quoting Jones 549 US at 219, 127 S.Ct. at 923); see also Woodford,

548 US at 88-91. This reduces litigation to the extent complaints are satisfactorially resolved by the ADE or agency and improves litigation that does occur by generating a useful administrative record. Hammett, 681 F.3d at 947. Thus, too satisfy the PLRA a prisoner must comply with the extremstron requirements of the incurrenating facility before he can bring or properly the an action.

B. AGENCY'S GRIEVANCE POLICY and Procedures

At the time of the incidents alleged by claimant, the agency's had in place Administrative Directive 19-34 (AD-19-34) entitled "Inmate Grievance Policy. This policy and procedure was issued by Director of ADC Deptor Payme and its effective date was December 12, 2019. (Exhibit A Attached here to). The policy instructs an inmate to file a grievance if he or she believes he or she has been wronged. As its name suggests, AD 19-34 is the "administrative mechanism for the resolution of complaints and identification of problem areas widhin the ADC. (Exhibit "A" at II, a Hached hereto).

The grievance procedures at the ADC involves multiple Steps. Step one of the policy instructs an inmate to file an Informal Resolution with a unit problem solver, a sergeant, within fifteen days of an alleged

incident. (Exhibit 'A', at (IV) (E) (1)). The problem Solver will cheet with the inmote Within three (3) working days in an attempt to resolve the issue, (Exhibit "A", at (IV) (E) (4)). The problem solver will sign and date the Informal Resolution noting whether the issue is resolved or not. (Exhibit "A" at (iv) (E) (9-10). If the in mode and the problem solver cannot resolve the complaint, the inmote is instructed to proceed to Step Two of the process within three (3) working days of meeting with the problem solver. (Exhibit "A" at (IV)(E) (10)), It the inmete does not receive a response from the problem solver within three (3) working days, they have an additional three (3) days to initiate Step Two. (Exhibit "A" (IV)(E) (11)). The inmete will utilize the yellow or pink copy of the original grevance form used at the Informal Step to proceed to Step Two. (Exhibit "A" (IV)(F). The immate must complete his partion of Step Two and have a sergeount or above sign the bottom Step Two section. This yellow or pink copy will be forwarded to the Unit Level Grievance office. (Exhibit "A" (IV)(F)). The unit level Grievance office will provide the inmate an Acknowledgment or Rejection of the Grievance Within Five (5) working days. (Exhibit "A" (IV) (F) (4)). This acknowledgment is called an Attach ment I and must accompany the grievance when proceeding to STEP III appeal if necessary. (Exhibit "A" (IV) (G) (1).

Within thirty (30) working days after receipt at the unit level grievance office, the inmate will receive a

written response from the Warden or Health Service Administrator (medical grievances) recapping the grevances a Statement whether the grievance has merit or not, and whether the issue in the grievance has been resolved. (Exhibit "A" (IV)(F)(4); (7)). Finally, if the immete disagrees with or feels the Warden or Health Service administrator's response does not fully or properly address theorgrevance, they are instructed to appeal to the Deputy Director of the prison or Health Services, respectively; Within five (5) working days of receiving the Wardon or Health Service Administrator's response (Exhibit "A" (IV) (G). The appeal must include the original unit level grewance form, and either a copy of the Warden or Health Services Administrators rejectron or decision, whichever is applicable. (Exhibit A (IV)(G)(2). In the event the inmate did not receive a timely response from the Wounder or Health Services Administrator, the inmate may proceed to the final Step, Step III appeal, by submitting the Acknowledgment or Rejection Form (Attachment II) of the unit level grevance office the yellow or pink copy of the original growance with the reason for the appeal spelled out on the Attachment II form directly to the Deputy Director. (Exhibit "A" (iv) (G)(1)- A written response on the merits from the Deputy Director is the end of the agency's grevance process. (Exhibit "A" (IV) (GX6)). Only those grievances which identify the personnel involved, have meet the clearly

Stated deadlines, includes all proper documentation, and are properly appealed to the Deputy Director or STEP III appeal level are considered properly exhausted for litigation purposes. (Exhibit "A" (1V)(6)

C. CLAIMANTS PROPERLY EXHAUSTED GRIEVANCE

Claimant commenced his grievance against the unit publication Review Committee on August 16, 2021 alleging the Unit Publication Review Committee "violated my liberty in terest rights and denied me my property, 7 books costmy 8000 by getting my books for review on 04-05-21 and Keeping them for over 5 months" in violation of ADC's Publication Policy AD-20-04.

Claimant did not receive a response at the informal step and he timely proceeded to Step II tipe formal grievance on August 20,2021 (Exhibit "G"at). The unit level grievance office acknowledge the Step II grievance and assigned the number EAM 21-01731 to Claimants grievance. (Exhibit "G" at 1).

The Worden G. Lay responded on September 20, 2021 but failed to address the merits of claimant's grievance.

Claimant appealed to the Deputy Director on September 20, 2021 alleging the Warden's response "does not address they concerns. The Publication Review Committee held my books for some 150 days plus in Violation of

Asis publication policy. The worden has failed to address the merits of my grevance. ... "(Exhibit "G" at 2).

Claimant timely appealed to Deputy Directore William Straughn Step III. On September 28, 2021 Deputy Director Straughn responded that he concurred with the Wardens response. Appeal denied "whereby failing to address the merits of claimants grevance. (Exhibit 16-3). This is normal of Anis officials not to address merits. Claimant properly exhausted the agency's grievance pracess on September 28, 2021.

LIBERTY INTEREST

Claimant has alleged that ADC's Publication Review Committee did violate claimants protected liberty interest in the review of publications process Mandated by ("AD) ADC's Publication policy Administrative Directore ("AD) 20.04. At the times of the incidents alleged by claimant, the Stoke of Arikansas' prison agency had in Place AD-20.04 "Publications" signed by Dexter Payne, Director of the Arkansas Department of Corrections, Dirision of Corrections on 4/10/20. (Exhibit "F" attached hereto). The statute created by the State, its mandates created a protected liberty interest for claimant.

Claimant is entitled to expect the ADC to follow its own policies and procedures, Anderson v Smith, 697 F.2d 239, 240 (8th Cir 1983). A State created liberty interest

Occurs when stok rules and ar regulations contain mandatory language and substantive predicates. Hewith v Itelms, 459 US 460, 466 67, 103 S.Ct. 864, 74. L.Ed. 2d 675 (1983). Specifically, a state creates a liberty interest by both 1) establishing "substantive predicates" to govern affectal decisions making, and 2) using "explicity mandatory language", i.e. specific directors to the decision maker that if the regulation's substantive predicates are present, a particular outcome must follow. Kentucky Dept. of Corrections V Thompson, 490 US 454, 462-63, 109 S.Ct. 1904, 104 L.Ed. 2d 506 (1989).

Claimant had a protected liberty interest in the unit Publication Review Committee to conduct its review in the ten (10) days mandated by state regulations. That protected liberty interest was violated by the unit Publication Review Committee's receiving of the two (2) books of claimants on April 5, 2021 and holding these two (2) books until August 13, 2021 some 150 days plus. Furthermore, the unit warden didnot make a decision to allow the books and overturn the Unit Publication Review Committee's decision or to support the Unit Publication Review Committee's decision to deny the two (2) publications of claimant. This prevented claimant from utilizing the book provider's sixty (60) day no questions ask book return policy. Claimant also asserts as a Disabled Person because of visual impartment, the large Print books denied by these limit Publication Review

Committees decision to deny these two (2) large print books for claimant.

This denial of process for claiment caused by the Unit Publication Review Committee's certainly has created an atypical significant hardship on claiment in relation to the ordinary incidents of prison life. Perry i State, 2020 Ark 32 (Ark. 2020).

Claimant cannot read regular print books and he is in need of large print books to enjoy reading. The ADC Will NOT (Emphasis added throughout) make any exceptron to its Publication policy to accomodate to persons with handicups especially visual impairment. Claimant intended to seek injunctive relief to order ADC to conform to the Mandetes of the American with Disabilities Act whereby making accomodations for visually impaired inmetes, but, that was impeded by ADC. (See Pinder & Arkaniai Department of Corrections, Arkanias State Claims Commission No: 220691). Claimant sought the reduction of Future erroneous deprivations under the current ADC policy and procedures.

V FACTS

Claimant adopts by reference pursuant to Fed. R. Civ. P. Rule 10(b), Claimants Statement of undisputed facts ("SOP") and all exhibits a Hacked thereto.

On March 10, 2021 an order of Seven (7) books arrived at the from Educard R. Hamilton Booksellers, Bargin Books. Com. (50F 46).

Claimant had placed said order with Borrym Books for delivery of:

1. Where There's Fire there's Smoke 2. Bloody Trail of the Mountain Man	\$ 5.95 \$ 5.95
3. Too Soion to Die	\$ 5.45
4. The Jensen Brand	\$ 5.95
5. The Book of Enoch	± 6.95° ± (1.95°
6. The Fantasy Art of Calandra 7. Treasure of the Louvre	A 12,95

The cost of purchase, tax, Shipping of said book to Claimant was \$ 65.31, (sof 6-7),

Upon arrival to the Mail room Supervisor L. Southern did, on March 10, 2021 confiscate all seven books. (50 F 8). L. Southern alleged book 1. The Fantesy Art of Calandra contained nudity and book 2. Treasures of the Louvre was oversized. (50 F 9, Exhibit "A").

L. Southern held claimants books from March 10, 2021 until April 5, 2021 at which time she turned over the publications Book 1- The Fantasy Art of Calandra and Book 2- Treasures of the Louvre to the Unit Publication Review Committee for Review (SOF 10; Exhibit "B" and "c").

The unit Publication Review Committee was made up of four (4) ADC officials: Deputy Warden Richardson; some Lt. (cannot discern his name); Arlene Parham Chaption; and Bldg Major K. Randall. (SUF 11, Exhibit "D" and "E"). Upon receipt of the two (2) publications for review, the unit Publication Committee, per ADC policy, had ten (10) days to make a determination to allow these Zwo (2) publications or to reject these two (2) publications. (SOF 12, Exhibit "B" and "c").

The Unit Publication Review did not make its decision to allow or reject claimants two (2) publications within the ten (10) days mandated by ADC policy. Deputy Warden Richardson made his decision regarding the publication The Fantasy Art of Calandra until June 30, 2021, some eighty-seven days after receipt. This is so indicated by his signature and deate on the Publication Review Results form. (SOF 15; Exhibit "D") The Deputy Warden Richardson rendered his decision with regard to the publication Treasures of the Louvre until June 28, 2021 as is indicated by his Signature and doct on the Publication Review Results form for Treasures of the Louvre. (SOF 15; Exhibit "E"). This rejection come some eighty-five days after receipt of the publication for review.

The Lt. (unknown Last name) did on June 29, 2021 Sign the Publication Review Results Form rejecting both Book 1 The Fantasy Art of Calandra and The

Treasures of the Louvie (SOF 15; Exhib, + "D" and "E"). This was some eighty-six days after receipt for review, well past the ten (10) days allotted.

Committee Member Major K Randall did seject the publication The Fantasy Art of Calandra on August 13, 2021 (SOF15, Exhibit 'D'') Some one hundred and thirty-one days after receipt for review.

Major Randall did reject the publication The Treasures of the Louvre on July 1, 2021 (SOF15, Exhibit 'E') some eighty-eight (88) days after receipt for review. Major Randall's clecision came well after the ten (10) days alloted or mandated by ARC policy.

Committee member Arlene Parham did reject both publications of Claimant on August 13, 2021 (SOF 15; Exhibit "D" and "E") Some one hundred and thirty-one (13)) days after receipt for review.

The Publication Review Committee Results were surrendered to claimant on August 13, 2021 (SOF 16; Exhibit "D" and "E"). Claimant wants this Commission to note that ADC officials did attempt to cover up their wrong doing by back dating the Publication Review Results. (SOF 28; Exhibit "D" and "E").

The unit warden Lay never reviewd the Publication Review Committee's decision to reject clamants

two (2) publications as mandated by policy (SOF17; Exhibit "F" at (IV)(E) which states.

"The warden must approve or reject the publication within thirty (30) days of receipt ..."

This Warden's review did not occur as mandated by policy. Claiment was again denied another due process step in the process outlined and mandated by ADE's publiculson Policy.

Clamant lodged an informal resolution on August 16 2021 alleging the Publication seview Committee "denied me my property for over 5 months" (SOF 33; Exhibit

Ofter no response at step I, claimant proceeded to Step II, formal grievance, within the time alloted and mandated by ADC's grievance policy. (SOF 34; Exhibit "G"). The grievance office assigned number EAM 21-01731 to claimants grievance. (SOF 35; Exhibit "G").

On September 20, 2021 Warden Lay responded to claimant's grevance with a response that failed to address the merits of claimanti asserted claim. SOF 36; Exhibit "G-2"). Warden Lay even tried to cover up the facts that the grevance was regarding the prolonged time the publication review committed has claimants Z books.

Claimant appealed to Deputy Director William

Stronghn. Claimant made clear that the unit warden had not properly addressed claimaints meritorious greener, and claimant seassested his claim. (SOF 37; Exhibit "G-2").

On September 28, 2021 Deputy Director W. Stronglin failed to address the merits of claimants grevenues and denred chairments appeal. (SUF 38; Exhibit 1'6-3"). Claimant Exhausted his administrative remedies at this time but he was not satisfied with the ADC's response to his greved issues.

Claimant has demonstrated the protected liberty interest to have his publications screwed by the publication screwed by the publication screw Committee in ten (10) days as mandated by ADC rules and regulations. This substantive due process triggered by AD 20.04 and the Warden's Review of this resection mandated by policy were denied to claimant. ADC must obey its own policies and procedures. Claimant has been denied the substantive due process mandated by AD 20.04. Claimant was derived the ten (10) day review, the warden's review and the ability to return the books for a full returnd. Claimant maintains the books were large print and pictorial basies to accompanies disability of visual impairment.

ADC's policy AD-20-04 denys visually impaired persons backs which are oversized are larger

and contain large print for visually impaired persons. Clamant is unable to read normal print books and must have large print books to be able to read. ADC'S street Publication Policy creates a significant atypical hardship on Clamat by taking his reading privileges.

Claiment asserts there are NO genuine issues of matterial fact to be tried.

WHERE Port, Steven Rinder respect fielly requests this Arkansas State Claims Commission grant his Motron for Summary Judgment and award claimant the \$19,600. (niñe - thousand dellars) in damages Sought and any other relief this Commission deems appropriate and just.

CARCUTED THIS 21st day of June 2022

Respect fully submitted Steven Dinh STEVEN PINDER, Claymon T

STATE OF ARKANSAS) COUNTY OF LEE) ADC Refused Notary

Public on this ____ day of ____ 2022.

my Commission Expires: Notary
(18)

CERTIFICATE OF SERVICE

I, Steven Pinder do hereby certify that on this 22MD day of June 2022, I have served on respondent through their attorney Thomas Burns, at 6814 Princeton Pilus, Pine Bluff, 7160:2 a true copy of my Motron for Summary Judgment, Breef in Support of Motron for Summary Judgment and Stetement of Undisputed Facts by placing some in the US Mail with sufficient postage affixed to ensure delivery.

Steven PINDER

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER

CLAINANT

٧

No: 220 456

ARKANSAS DEPARTMENT OF CORRECTIONS RESPONDENT DIVISIONS OF CORRECTIONS

CLAIMANTS STATEMENT OF UNDISPUTED FACTS

COMES NOW, Steven Pinder (the" Clasimant") here in after, pro-se, and through this his Stetement of undisputed facts, pursuant to Federal Rules of Crvil Procedure Rule 56, Stokes as follows:

1. Steven Pinder ("Claimant") is an inmate in curcereted in the custody of the Arkansas Department of (Division of Corrections ("ADC") ("Respondent") at

d. That Claimant filed his complaint against Respondent on October 14, 2021 alleging the respondent had violate claimants protected liberty in terest in having the Unit Publication Review committee review two (2) books in the ten (10) days authorized by Administrative Directive 20-04 "Publications and the warden to review these Publications in the thirty days mandated by policy

- 3. Claimant alleged the respondent held the books in question for some 156 days whereby preventing Claimant from being able to return the books for a full refund.
- 4. Claimant also alleged the two @ books deried by the Publication Review Committee were longe print books designed to meet Clamant's needs due to his visual impairment.
- 5. On March 10, 2021 Claimant received an order of books from Edward R. Hamilton Booksellers, Bargin Books. com. This order of Claimant contained seven books.
- 6. The seven books that arrived on March 10, 2021 for Clarmant were:

1, 373 7710	Where Theres Fire There's Smoke	\$ 5,95
2.3799 832	Bloody Trail of the Mountain Man	5,95
3.3735 672	Too Soon To Dic	5.95
4.6628524 5.458158x	The Jensen Brand	5.95
6.6841244	The Book of Enoch	6.95
7.379 8917	The Fantasy Art of Calandra Treasures of the Louvre	11.95
• •	readiles of the Louvice	12.95

- 7. Claimant Paid a total of # 55.65 for the books, a \$ 4.00 shipping fee, a tax of 9.5% or \$ 5.66, for a total cost paid by claimant of \$ 65.31.
- 8. On March 10, 2021, upon arrival of the ordered

at the Mailroom of the the Mailroom Supervisor L. Southern confiscated all seven books.

9. On March 10, 2021 the mail room supervisor L. Southern made a determination that book 1- The Fantasy Art of Calandra and book 2- Treasures of the Leuvre violated ADC's publication Policy ADMinistrative Directive ("AD") 20-04. (See Exhibit "A" attached here to).

10. All seven books confricated by L. Southern were held Mail room for some reason for 26 days but an April 5, 2021 the Book 1 - The Fantasy Art of Calandra and, Book 2 - Treasures of the Louvre were sent to the Unit Publication Review Committee for raview. (see Exhibit "B" and "C" attached hereto).

11. The United Publication Review Committee, was made up of Four ADC officials, 1. Deputy warden M. Richardson; some Lt. (cannot make out his name); Arlene Parham Chaptian; and Mayor Kendal Randall. (see Exhibit "D" and "E" attached here to).

12. The Unit Publication review Committee had ten (0) days to review the two (2) publications book 1. The Fantasy Art of Calandra and book 2 Treasures of the Louvre and either allow or reject the publications. (see Exhibit "B" and "C" attached here to).

13. Once the unit Publication made a decision to either allow or reject the publications, this decision would be forwarded to the unit worden to either accept the decision and disallow the books or reject the decision and allow the publications. (see Exhibit "B," and "C" a Hadred here to).

14. The Unit worden had thirty (30) days his decision to accept or reject the Unit Publication Review Committee's decision (see Exhibit "B" and "C") (see also AD-20-04, IV (E); Exhibit "F" attached hereto).

15. The Unit Publication Review Committee did not make its decision to reject these two (2) publications until August 13, 2027, some one hundred and thirty-one days after receipt of these two publications. (see Exhibit "D" and "E" attached here to.).

16. Claimant received notification on August 13, 2021 that the Publication Review Committee at the unit level had rejected the two (2) books. (see Exhibit "D" and "E" attached here to.

17. The Warden did not review the decision of the unit Publication Review Committee Members.

18. Claimant was denied all rights to Appeal the decision rejecting his 2 large Print publications to the Central office Rublication Review Committee.

(See Claim No 220691, filed November 18, 2021, Arkansas State Claims Commission).

19. The Linit Publication Review Committee Member Deputy Warden Richardson signed the Publication Review Results on June 30, 2021, some eighty-seven (87) days after the book The Fairtusy Art of Calandra was submitted for review. (See Exhibits "B" and "D" attached hereto).

20. The lent Publication Review Committee Member 14." " (unknown) signed the Publication Review results on June 29, 2021, some eighty-six (86) days after the book The Fantay Art of Calandra was submitted for review. (see Exhibits "B" and "D" attached hereto.

21. The Unit Publication Review Committee Member Arlen Paiham, Chaplain signed the Publication Review Results form on August 13,2021 some one hundred and thirty—form on August 13,2021 some One hundred and thirty—one (131) days after the book The Fantasy Art of Calandra was submitted for Review. (see Exhibits "B" and "D" attached here to).

22. The Unit Publication Review Committee Member Major Kendal Randal Signed the Publication Review Results form on August 13, 2021, some one hundred and thirty-one (131) days after the book The Fantasy Art of Calandra was submitted for

reviow. (see Exhibits "B" and "D" attached hereto).

23. The Publication Review Results Form, not signed by the Publication Review Committee Members until August 13, 2021 was backdated to reflect a date of May 5, 2021 for reasons unknown. (see Exhibits "D" and "E" attached here to).

24. The Unit Publication Review Committee member Deputy worden Richardson Signed the Publication Review Results form on June 28, 2021, Some eighty-five (85) days after the book Treasures of the Louvre was submitted for review. (See Exhibits "C" and "E" attached hereto).

25, The Unit Publication Review Committee Member Lt." "(unknown) signed the Publication Review Results form on June 29, 2021, some eighty-six (86) days after the book Treasures of the Louvre was submitted for review. (see Exhibits "C" and "E" attached hereto.)

Also The Unit Publication Review Committee member Major K. Randall signed the Publication Review. Results form on July 1, 2021, some eighty-eight (88) days after the book Treasures of the Louvre was submitted for review. (see Exhibits "C" and "E" attached hereto).

(6)

27. The Unit Publication Review Committee member Arien Parhem, Chaplam Signed the Publication Review Results form on August 13, 2021 some one hundred and thirty-one (131) days after the book Treasures of the Louvre was submitted for review. (see Exhibits "C" and "E" attached hereto).

28. The Publication Review Results Form was back dated to May 05, 2021 but was not signed by any member until well after the back date. (see Exhibits "D" and "E" attached here to).

29. The Publication Review Results were returned to claimant on August 13,2021, (see Exhibits "D" and "E" attached here to).

30. The Administrative Directive Entitled "Publications" ("AD-20-04") signed by Director of ADC Depter Payne on April 10, 2020 was the Policy of the ADC in place at the time of the alleged incidents which governed the actions of ADC officials regarding in mates receiving publications. This Policy "establishes the process by which the Division of Corrections determines which publications May be received by the immate population." (see Edi. bit "I a Hacked here to, at II).

31. The Unit Publication Review Committee has ten (0) days from the receipt of the notice of Publication

Review to make a determination regarding this publication and forward its decision to the Warden. (see Exhibits "B" and "C" attached hereto).

- 32. The unit Publication Review Committee did not make its decision regarding the publications of claimant until some one hundred and thirty-one (131) days after the submission was made to the review committee.
- 33. On August 16, 2021 claimant lodged an informal resolution thaining the unit Publication review Committee denied me my property ter over 5 months! (see Exhibit "G" pages 1-3).
- 34. After no response by Staff at the Step I informal process, Claimant proceeded timely to the Step II formal grievence process on August 20, 2021. (See Exhibit "G" attached hereto.
- 35. The grievance office gave claimants grievance Number on August 23,2021. (see FAMILIT'S" attached hereto).
- 38. On September 20, 2021 Warden Lay of the unit concected a response to claimants grievance which totally ignored the merits of claimants grievance. (See Exhibit "G-2" attached here to).
- 37. Claimant appealled to the Deputy Director stating "This does not address my concerns. ... The Publication Review Committee had my books for some 150 days in violation of ADC's Publication Policy... "Gee

Claimants Exhibit "G=2" attached hereto).

38, on September 28, 2021 Deputy Director William Straughn failed to address the merits of claimants grevance that the Publications review committee held my books for over 150 deep before making a decision in violation of ADC's Publication Policy. (see Exhibit "G-3" attached hereto).

39. The ments of clamantigrevance was not met nor The damages paid.

40. Claiment did on September 28, 2021 extraust all administrative Remedies available to him.

4. Clamant did on October 14, 2021 lodge this instant complaint with this Commission seeking damages against the respondent in the amount of \$ 9,6000

I, Steven Pinder, pursuant to 28 U.S.C. & 1746, declare under penalty of perjury that the foregoing is true and correct.

EXECUTED THIS 21st day of June 2022, STEVEN PINDER

STATE OF AFRANSIS
COUNTY OF LEE) ADC Refused Motary
Subscript Day
County of LEE) ADC Refused Motary
Public this ______ day of ______ 2022.

My Commission Expires;
Notary

CERTIFICATE OF SERVICE

Copy of June 2022 I have served a true Copy of my Motron for Summary Judgment, Brefin Support of Motron for Summary Judgment, Brefin Claimonts undisputed Facts on Respondent via Princeton Pice, Pine Bluff, AR 71602 by Placing affined to ensure delivery.

CLAIMANTS LIST OF EXHIBITS

EXHIBIT "A" RETURN Mail Notice

EXHIBIT "B" Publication Review Notification (Book 1) 4/5/21

EXHIBIT "B" Publication Review Notification (Book 2) 4/5/21

EXHIBIT "C" Publication Review Results (Book 1) 8/13/21

EXHIBIT "C" Publication Review Results (Book 1) 8/13/21

EXHIBIT "E" Publication Review Results (Book 2) 8/13/21

EXHIBIT "E" Publication Review Results (Book 2) 8/13/21

EXHIBIT "G" Administrative Directive 20-04 Publication (4/10)

EXHIBIT "G" Claimant's Exhausted Greenmen EAM 21-01731

V trachment V

1GTT405

ACKNOWLEDGEMENT OF GRIEVANCE APPEAL OF GRIEVANCE APPEAL

: Receift of Grievanc	RE: I
OM: GHITIN, ROLY L	
: Inmate Pinder, Steven L.	:OT

Please be advised, the appeal of your grievance dated $\frac{11/20/2017}{12/22/2017}$ was received in my office on this date $\frac{12/22/2017}{12/22/2017}$

This Appeal was REJECTED because it was a duplicate of , or was frivolous or vexatious
(e) Jusanitary form(s) or documents received
(
(d) Did not complete Attachment III or IV with your name, ADC#, and/or date
(c) Did not give reason for disagreement in space provided for appeal
* Attached (Attachment IV for Health Issues Only)
(b) Warden's/Center Supervisor's Decision (Attachment III); or Health Services Response
📘 🕻a) Unit Level Grievance Form (Attachment 1)
You of not send all the proper Attachments:
📘 (f) Involves an anticipated event
(e) Matter beyond the Department's control and/or matter of State/Federal law
(d) Disciplinary matter
🔽 (c) Job Assignment unrelated to medical restriction
TeñznerT (d) 📆
📜 (a) Parole and/or Release matter
The matter is non-grievable and does not involve retaliation:
The time allowed for appeal has expired
You will neceive communication from this office regarding this Grievance by $\frac{02/08/2018}{}$

ARKANSAS DEPARTMENT OF CORRECTION RETURN MAIL NOTICE

Barracks No. X 6 36		Date: 3-10-2
Inmate's Name Sychology	Pudo- amilton Book, Com	ADC :
The above item has to be returned to	THITTE BOOK, COM	trill village, (T)
	sender for the following reason(s):	
No ADC Number On Letter	Incorrect ADC Number On Money Order	Postage Stamps
Stamped Envelope	Unauthorized Photos	Reading Material (Must come from publisher or Bookstore)
Unauthorized Money Order	Money Order did not include y (All money orders must inclu	•
Cash Enclosed (Amount \$)	Unauthorized Material Enclosed	
Pornographic Material Other TREASURE	Unauthorized Correspondence	= 12,4914
You need to send a stamped e	nvelope to return this item to the above p	erson.
Please send a simulation of	size envelope. Send a signed Inmate Che	ck for the amount of \$_6.45
- I lease send a signed inmate C	heck for \$ and a stamp	ped envelope.
to send me a stamped envelope addresse		turned to the sender. Therefore, you need
Advise your correspondent that ALL of the shall be required is:	required information MUST be included	in your address. The information which
Please check one of the boxes below and	return this notice to the Mailroom.	
I Wish To:		
Donate above items Return to sender Destroy above items	Mail I	Room Supervisor
Inmate's Signature		

(Amadic Filling " 4"

DC/dh 491

X6-36

...Arkansas Department of Correction

Publications Review

To: Inmate Steven Pinder From: Ms. L Southern

RE: Notification of Publication Review

Date 04/05/2021

Publication Title: The Fantasy Art Calandra

Volume: (publications)

Issue/Year This is to notify you that the above publication addressed to you meets the criteria for review. Your publication with a copy of this notification has been forwarded to the Unit Publication Review Committee.

The Unit Publication Review Committee has (10) days from the receipt of this notice to make a determination regarding this publication and forward its decision to the Warden.

The Warden has thirty (30) days to make his decision.

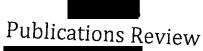
Your publication will be secured until either the process is complete or the (10) day period for filing an appeal has expired.

Unit Publication Review Committee Cc:

Mailroom

X6-36

...Arkansas Department of Correction



Inmate Steven Pinder

From: Ms. L Southern

RE: Notification of Publication Review

Date 04/05/2021

Publication Title: Treasures Of The Louvre

Volume: (publications)

Issue/Year This is to notify you that the above publication addressed to you meets the criteria for review. Your publication with a copy of this notification has been forwarded to

The Unit Publication Review Committee has (10) days from the receipt of this notice to make a determination regarding this publication and forward its decision to the Warden.

The Warden has thirty (30) days to make his decision.

Your publication will be secured until either the process is complete or the (10) day period for filing an appeal has expired.

Unit Publication Review Committee Cc: Mailroom

			NPC 16.5.0
			Attachment C
i	1	-2	,

ARKANSAS DEPARTMENT OF CORRECTION

PUBLICATION REVIEW RESULTS

		TYON KEVIE	W RESULTS	
TO:	Inmate: Steven	Pinder	۸۳	OC#
FROM:	Deputy/Assistant Warder	1	AL	#
DATE:	05/05/2021	Received b		3/21/20
RE:	Notification of Publication	n Review Results -	The End	
The Unit Pu	blication Review Committee	has denied and	The MATAS	y art calandra
Homose	blication Review Committee	That defined your publications	ication for the reason	on(s) listed below:
Encoura	exuality Discrimination ging and/or Instructing Crim	ingl Activity	ide <u>X</u> Nudity	Gang Signs
Other (e	xplain) Too An o	mai Activity	1)
Pages:	xplain) Too / Auge	scered 5	Andende J	or AD 20-04
r ages.				
DOM	Melsonolin	0/80/21	aldoh	Arlen Peuhan
Commit	cc Mcmbef/Title De		Committee Member A	Chaptain 8-13-21
Commit	ee Member/Title Da	100	Saj Kery Jar	R 4-13-21
This decision is	consistent with AR 864 and the AD peal. You may appeal this decision	on Publications Voy wi	Committee Member/Titl	Daic
Jour off002C	UULEO Anneal the decision with	de terror y as as a		
	•	ise option 1, 2, 3, or 4	before the publicat	tion is destroyed.
1. Desir nellol	publication to sender at your		•	·
(crrrrcgg TGEF	III DOSIBOE is ougranteed)			
J. Wall the pu	blication to a third name of the	our own expense	Address:	•
0210107	Daity at Visitation			
OPTION:		ne 8113121 4pp	ea 4-121	
*** Failure to exer	cise an option will be considered	authorization for destru	vetion	
_ zilliti	· Vin	8/13/21	ction.	
Inmate Signatur	9	Date		
TY 7				
Witness	_	Date	LJ Kefused	i to sign
c: Unit Pub	ication Review Committee C	hair		
initititie	nal File	nan		د ها
Warden File			a . 140	nants Exhibit "P"
2 120			CLAIN	Sand a Brillian

4636

ARKANSAS DEPARTMENT OF CO RECTION

PUBLICATION REVIEW RESULTS

	* OBBICATION REVIEW RESULTS
TO:	Inmate: Steven Pinder
FROM:	Deputy/Assistant Warden
DATE:	5-05-2021 Received by me on 8/13/21 (B)
RE:	Notification of Publication Review Results - Trans
The Unit Pu Homose Encoura Other (expanses: Committee This decision is contification to approximate the continuous con	Notification of Publication Review Results — Ti-easures of Levre blication Review Committee has denied your publication for the reason(s) listed below: exuality Discrimination/Inflammatory Attitude Nudity Gang Signs ging and/or Instructing Criminal Activity explain) Over size Back and Andity AD 20
	and to appeal the decision within TEN (10) days, the publication will be disposed of. You tra (15) fifteen days to exercise option 1, 2, 3, or 4 before the publication is destroyed.
2. Return the pulless return 3. Mail the pulless	oublication to sender at your own expense rn postage is guaranteed). blication to a third party at your own expense Address:
∑ Aran ad	cise an option will be considered authorization for destruction.
Witness	Date Refused to sign
cc: Unit Publ Institution Warden	ication Review Committee Chair al File

File

CLAIMANNS EXH. bit "E"



6814 Princeton Pike Pine Bluff, AR 71602 Phone: 870-267-6200 Fax: 870-267-6244

www.adc.arkansas.gov

ADMINISTRATIVE DIRECTIVE

SUBJECT: Publications

NUMBER: 20-04

SUPERSEDES: 17-17

APPLICABILITY: Division Staff and Inmates

REFERENCE: AR-864-Publications

PAGE: 1 of 5

AD-Inmate Correspondence AD-Inmate Property Control AD-Inmate Grievance Procedure

APPROVED: Original Signed by Dexter Payne

EFFECTIVE DATE: 4/10/2020

I. POLICY:

Inmates may receive publications only from recognized commercial, religious or charitable outlets. All publications are subject to inspection and may be rejected when the publication presents a danger to the security, discipline, or good order of the institution or is inconsistent with rehabilitative goals.

II. PURPOSE:

This Administrative Directive establishes the process by which the Division of Correction determines which publications may be received by the inmate population.

M. **DEFINITIONS:**

- A. Publication: A book, magazine, catalog, advertising brochure, religious tract, newspaper, periodical, newsletter, or any type of image or text. The term publication
- B. Commercial Outlet: A publisher, bookstore, educational or vocational institute, or other entity whose primary business is the sale and distribution of printed materials.

- C. Charitable Outlet: A religious group or an incorporated non-profit organizal established to promote literacy or to provide literature for inmates.
- D. Nudity: A depiction in which genitalia, buttock(s) or female breasts are fully expose
- E. Sexually Explicit: A depiction or description of actual or simulated sexual act including sexual intercourse, anal or oral sex, masturbation, sadism, sado masochism, bondage, bestiality, or excretory functions which the average adult, taking the material as a whole and applying statewide contemporary community standards, would find appeals to the prurient interest, and which material, taken as a whole, lacks serious literary, scientific, political, or artistic value.
- F. Security Terrorist Threat Group (STTG): Any group of inmates that the Division of Correction reasonably believes poses a threat to the security of the institution or the physical safety of other inmates or staff by virtue of the group's nature, purpose or PROCEDURES:

IV.

- A. The Warden/Center Supervisor shall designate staff to review incoming publications.
- B. A publication will be rejected if it contains contraband or if the material presents a danger to the security, discipline, or good order of the institution, or is inconsistent with rehabilitative goals. A publication containing pictorial or textual material meeting any one or more of the following categories may be rejected:
 - 1. Material that incites, advocates, aids or abets a riot, work stoppage, or any other behavior that may be detrimental to the safe, secure, and orderly operation of the
- 2. Material that advocates or assists criminal activity, which is an act or omission prohibited and punished by law to include but not limited to;
 - a. Material advocating, or describing, or assisting methods of escape or eluding capture or which contain blueprints, drawings, or depictions of Division
- b. Maps or drawings depicting a geographical region that could reasonably be construed to assist methods of escape or eluding capture, or otherwise be a c. Material advocating or providing instructions on identity theft;
- d. Material that incites, encourages, advocates, or promotes act of violence such
- 3. Depictions, descriptions, or instructions regarding the introduction, manufacture, concealment, or use of guns, knives or any other weaponry, including realistic

pictures of such weapons suitable to aid in the manufacture of such weapons

- 4. Depictions, descriptions, or instructions regarding the operation of securi
- 5. STTG materials including, but not limited to, codes, signs, symbols, photographs
- 6. Depictions, descriptions, or instructions on the use of hands, feet, or the head as
- 7. Depictions, descriptions, or instructions on the manufacture, cultivation, or
- 8. Instructions or patterns for tattoos, or other skin modification techniques or
- 9. Material that incites, encourages, advocates, or promotes racism or any other illegal act of discrimination, or that is likely to be disruptive, produce violence, or cause a threat to the offender population or staff;
- 10. Material that depicts nudity; however, material that includes the depiction of nudity as illustrative of and as part of broader medical, educational, anthropological, or artistic content will not be rejected solely on the basis that the material includes nudity;
- 11. Sexually explicit material, whether pictorial or textual, which could reasonably pose a threat to the safety, security, discipline, or good order of the institution, or is inconsistent with rehabilitative goals;
- 12. Posters measuring more than two hundred (200) square inches;
- 13. Publications containing a product insert which, by itself, would be deemed
- 14. Publications which meet two (2) of the following conditions:
 - a. Books that measure more than 9" x 11".
 - b. Hardback books thicker than two (2) inches.
 - c. Softback books thicker than four (4) inches.
 - d. Any book heavier than three (3) pounds.

The Warden has the authority to waive these conditions on legal, education religious publications.

15. Photobooks are not considered an allowable publication and will no

Note: Inmates are only allowed five (5) individual photos. This does include digital photos (refer to Inmate Correspondence AD).

- C. Publications recommended for rejection will be referred to the Warden/Cen Supervisor for final decision. With respect to any publication, the decisions must made on the contents of an individual publication, not previous issues of the san
 - D. Items within the package cannot be separated; therefore, the package is rejected

Note: For any publication rejected solely because it contains a product insert, if the product insert(s) can be removed, the publication is acceptable.

- E. The Warden must approve or reject the publication within thirty (30) days of receipt. If the publication is rejected, the inmate must be notified, in writing, of any decision to reject and the basis for rejection of the publication. The inmate is also notified of appeal procedures and options for disposing of the publication. The inmate must sign that the notice of rejection has been received. Should the inmate refuse to sign, an employee will attest to the fact that the inmate was duly notified.
- F. The decision to reject a publication may be appealed to the Central Office Publication Review Committee. The Committee members are to be assigned by the Director or his/her designee. The appeal must be initiated within ten (10) days of the receipt of written notification of the Warden/Center Supervisor's decision to reject the publication. Rejection of a Publication is not grievable.
- G. Any rejected publication will be held safe by the Warden/Center Supervisor or his/her designee until the appeal process has been completed, or until the ten (10) day period
- H. Options for disposing of an unacceptable publication are:

 - 2. Return of the publication to the sender at the expense of the inmate unless return
- 3. Mailing the publication to a third party at the expense of the inmate;

4. Giving to a third-party during visitation.

	·		
To:	* *	UNIT NAME	
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NCE FORM(Attachment I)	FOR OFFICE USE ONLY
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	de#: 300
Brks # / O Jo Job Assignm	
(Date) STEP ONE: Informal Resolution	
(Date) STEP TWO: Formal Grievance (All configurations) If the issue was not resolved during Step One, sta	
proceeding to Strott per Anc police, (Date) EMERGENCY GRIEVANCE (An emergency situ	cy with Yellow Copy
, (Date) EMERGENCY GRIEVANCE (An emergency situal substantial risk of physical harm: emergency grievances are not f	nation is one in which you may be subject to
nature). If you marked yes, give this completed form to the designation	tted problem-solving staff, who will sign the
attached emergency receipt. In an Emergency, state why:	
Is this Grievance concerning Medical or Mental Health Services?	NU If yes, circle one: medical or mental
BRIEFLY state your one complaint/concern and be specific as to the	e complaint, date, place, name of personnel
involved and how you were affected. (Please Print): The Pedalis	
Thooks costone xood by melting my books	for leview on 04-08-21
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1 Marie 1 1	Tarrell 16, 2021
Inmate Signature Description If you are harmed, threatened because of your use of the grievance process,	ate
THIS SECTION TO BE FILLED OUT	BY STAFF ONLY
This form was received on (date), and determined to b	
(Yes or No). This form was forwarded to medical or mental of the person in that department receiving this form:	
2.	Date
PRINT STAFF NAME (PROBLEM SOLVER) ID Number RECESSAT Signature Describe action taken to resolve complete including detection	Date Received
Describe action taken to resolve complaint, including dates:	
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Staff Signature & Date Returned ADMINISTRATION BUILDING ADMINISTRATION BUILDING ADMINISTRATION BUILDING	gnature & Date Received
This form was received on \$\frac{122}{22}\date}, pursuant to Step Two . I	s it an Emergency? (Yes or(No))
Staff Who Received Step Two Grievance:	Date:
	cer/Warden/Other) Date: 8-2-2-1
If forwarded, provide name of person receiving this form sylvariation	
DISTRIBUTION: YELLOW & PINK - Inmate Receipts; BLUE - G to Inmate after Completion of Step One and Step Two.	rievance Officer; ORIGINAL - Given back
to Inmate after Completion of Step One and Step Two.	Claimants Echille HE

IGTT410 3GS

Attachment III

INMATE NAME: Pinder, Steven L.

ADC #:

GRIEVANCE #: 121-01731

WARDEN/CENTER SUPERVISOR'S DECISION

Inmate Pinder, you stated in your grievance that, "The publication review committee has violated my liberty interest rights and denied me my property 7 books costing 80 by getting my books for review on 04-05-21 and keeping them for over 5 months policy states the committee, which consists of Deputy warden Richardson, Major Kenya Randle, Allen Parham chaplain had (30) days to review and accept or reject these publications- The committee held my books for over 5 months, some 150 days plus. This was 120 days over the 30 day to compensate me for the deniad and delay in processing this matter where by violeting ADC policy and my liberty in terests. This grievance is about violating ADC Policy and payment to me of \$9,600 for violating me liberty interest."

Documentation reflects that your items were sent to Publication Review on 5/5/21 and were denied due to being oversized and containing nudity. Per policy AD 20-04, material that depicts nudity; however, material that includes the depiction of nudity as illustrative of and as part of broader medical, educational, anthropological, or artistic content will not be rejected solely on the basis that the material includes nudity will be rejected. Ms. Southern, Mailroom Supervisor, advised that you were sent a mail return notice about your publication containing nudity and violating the publication policy. This should address your concern.

RECEIVED

SEP 2 3 2021

INMATE GRIEVANCES SUPERVISOR

ADMINISTRATION BUILDING

INMATE'S APPEAL

Signature of Warden/Supervisor or Designee

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? This does not address My concerns. The Publication Review committee held my books for some 150 plus days in violetron of ADC's Publication policy. The worden has failed to address the ments of my governoe. Policy is clear, The publication Review committee has 30 days to either allow or reject any publication and they worldted Anc's publication policy by keeping my books over 150 plus days. I am expecting preprient of 49,60000 be paid to me for violating my liberty interest as is provided by AD 20-04.

Page 1 of 2

3 i Kansas

State Claims Commission

OCT 1 4 2021

IGTT430 3GD

Attachment VI

INMATE NAME: Pinder, Steven L.

ADC #: GRIEVANCE#: 21-01731

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

On 8/15/2021, you stated the following complaint: The publication review committee has violated my liberty interest rights and denied me my property 7 books costing 80 by getting my books for review on 04-05-21 and keeping them for over 5 months policy states the committee, which consists of Deputy warden Richardson, Major Kenya Randle, Allen Parham chaplain had (30) days to review and accept or reject these publications- The committee held my books for over 5 months, some 150 days plus. This was 120 days over the 30 day to compensate me for the deniad and delay in processing this matter where by violeting ADC policy and my liberty in terests. This grievance is about violating ADC Policy and payment to me of \$9,600 for violating me liberty interest.

The Warden responded to your grievance on 9/20/2021, by stating the following: Documentation reflects that your items were sent to Publication Review on 5/5/21 and were denied due to being oversized and containing nudity. Per policy AD 20-04, material that depicts nudity; however, material that includes the depiction of nudity as illustrative of and as part of broader medical, educational, anthropological, or artistic content will not be rejected solely on the basis that the material includes nudity will be rejected. Ms. Southern, Mailroom Supervisor, advised that you were sent a mail return notice about your publication containing nudity and violating the publication policy. This should address your concern."

Your appeal was received on 9/23/2021. After review of your appeal and supporting documentation, I concur with the Warden's response.

Appeal denied

Director V/W

Please be advised that if you appeal this decision to the U.S. District Court, a copy of this Chief Deputy/Deputy/Assistant Director's Decision must be attached to any petition or complaint or the Court may dismiss your case without notice. You may also be subject to paying filing fees pursuant to the Prison Litigation Act of 1995.

Claimant's Exhibit "6-3"

Mika Tucker

From: Misty Scott on behalf of ASCC Pleadings
Sent: Wednesday, July 20, 2022 2:54 PM

To: Thomas Burns (DOC)

Cc:Leslie Browning (DOC); ASCC Pleadings; Mika TuckerSubject:ORDER: Steven Pinder v. ADC, Claim No. 220456Attachments:Steven Pinder v. ADC .pdf; Steven Pinder-order.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

July 20, 2022

Mr. Steven Pinder (ADC

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

Re: Steven Pinder v. Arkansas Division of Correction

Claim No. 220456

Dear Mr. Pinder and Mr. Burns:

Enclosed please find an Order entered on July 19, 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

STEVEN PINDER (ADC

(C)

CLAIMANT

V.

CLAIM NO. 220456

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") to dismiss the claim of Steven Pinder (the "Claimant"). Also pending is a motion for protective order filed by Respondent and a motion for summary judgment filed by Claimant. Based upon a review of the pleadings, the arguments made therein, and the law of Arkansas, the Claims Commission hereby finds as follows:

- 1. Claimant filed his claim on October 14, 2021, seeking \$9,600.00 in damages related to an alleged policy violation by Respondent. Claimant asserts that Respondent's Publication Review Committee held his books for 156 days before accepting or rejecting them when policy required the committee to make a decision in 30 days. Claimant alleges that the violation prevented him from returning the books and receiving a refund.
- 2. Respondent filed a motion to dismiss pursuant to Ark. R. Civ. Proc. 12(b)(6), arguing, *inter alia*, that Respondent did not violate policy.
 - 3. Claimant responded to the motion to dismiss, arguing that dismissal was not proper.
- 4. Respondent has also filed a motion for protective order requesting that the Claims Commission designate Exhibit A to Respondent's motion to dismiss as an in-camera document available for the Claims Commission's inspection only. Respondent requests that this document not be released to Claimant.

- 5. Claimant did not respond to the motion for protective order.
- 6. Claimant has filed a motion for summary judgment, arguing, *inter alia*, that he was "denied due process" mandated by Respondent's policy when he was "denied the ten (10) day review, the warden's review and the ability to return the books for a full refund."
 - 7. Respondent did not respond to the motion for summary judgment.
- 8. Having reviewed the pleadings in this matter, the Claims Commission finds that Claimant may be asserting a due process violation, which can be brought in a court of general jurisdiction. If the claim is a due process claim, the Claims Commission lacks jurisdiction over this claim. *See* Ark. Code Ann. § 19-10-204.
- 9. Subject matter jurisdiction is an issue that may be raised by the Claims Commission *sua sponte* at any time. *See* Ark. R. Civ. Pro. 12(h)(3); *see also Barclay v. Farm Servs.*, 340 Ark. 65, 68, 8 S.W.3d 517, 518 (2000); *see also Young v. Smith*, 331 Ark. 525, 529, 964 S.W.2d 784, 785 (1998).
- 10. The Claims Commission finds it to be prudent and efficient to address any jurisdictional concerns now to avoid any surprises after the parties and the Claims Commission expend more time and resources. Therefore, the Claims Commission directs the parties to file briefs addressing whether the Claims Commission has jurisdiction over this claim in light of the fact it appears to involve a due process issue. This claim will be placed in abeyance for a period of 30 days to permit the parties to submit their briefs on this jurisdictional issue.
- 11. The Claims Commission finds that Respondent's motion for protective order does not include a statement that it has in good faith conferred or attempted to confer with Claimant in an effort to resolve the issue without action from the Claims Commission. The Claims Commission

finds that such a statement is a requirement under Ark. R. Civ. Proc. 26(c). As such, the Claims Commission DENIES Respondent's motion for protective order.

IT IS SO ORDERED.

ARKANSAS STATE CLAIMS COMMISSION

Lewy C. Kinslow

Courtney Baird Dexter Booth Henry Kinslow, Co-Chair Paul Morris, Co-Chair Sylvester Smith

DATE: July 19, 2022

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).

From: <u>Mika Tucker</u>

To: Thomas Burns (DOC); ASCC Pleadings

Cc: Leslie Browning (DOC)

Subject: RE: ORDER: Steven Pinder v. ADC, Claim No. 220456

Date: Friday, July 22, 2022 9:26:00 AM

Attachments: Pinder 220456 CL MSJ, BIS of MSJ, and Statement of Undisputed Facts.pdf

Pinder 220456 CL Response to MTD.pdf

Hi, Thomas. Please find the two pleadings you requested in Claim No. 220456 attached. As the order indicates, the Commission denied the motion for protective order on procedural grounds.

Thank you.

Mika Tucker Arkansas State Claims Commission 101 East Capitol Avenue, Suite 410 Little Rock, Arkansas 72201 (501) 682-2818

From: Thomas Burns (DOC) <Thomas.Burns@arkansas.gov>

Sent: Wednesday, July 20, 2022 3:05 PM

To: ASCC Pleadings < ASCCPleadings@arkansas.gov>

Cc: Leslie Browning (DOC) <Leslie.Browning@arkansas.gov>; Mika Tucker

<Mika.Tucker@arkansas.gov>

Subject: RE: ORDER: Steven Pinder v. ADC, Claim No. 220456

Ok two thing on this one.

First: We did not receive copies of wither the response to the motion to dismiss nor the motion for summary judgment. Could we please get copies?

Second: I do not understand the denial of the PO? That document places may people in danger and it is vital to the safety and security of the ADC to keep in out of the claimants hands. The Commission giving this to an inmate could cause someone to be extorted or subject to extreme bodily injury. This matter and future matters of security of the Division of Correction employees and inmates needs to be address before something happens to someone.

-TB

Legal Division Arkansas Department of Corrections Division of Correction

From: Misty Scott < <u>Misty.Scott@arkansas.gov</u>> **On Behalf Of** ASCC Pleadings

Sent: Wednesday, July 20, 2022 2:54 PM

To: Thomas Burns (DOC) < <u>Thomas.Burns@arkansas.gov</u>>

Cc: Leslie Browning (DOC) < <u>Leslie.Browning@arkansas.gov</u>>; ASCC Pleadings < <u>ASCCPleadings@arkansas.gov</u>>; Mika Tucker < <u>Mika.Tucker@arkansas.gov</u>>

Subject: ORDER: Steven Pinder v. ADC, Claim No. 220456

Thomas:

Please see attached. Contact Mika Tucker with any questions.

Thank you,

Misty

Misty Scott Arkansas State Claims Commission

August 2, 2022

Steven Pinder

Arkansas

State Claims Commission

AUG 5 2022

RECEIVED

Clerk Arkansas State Clarms Commersion 101 E. Capital Ave., Suite 410 Little Rock, Az 72201-2823

BE: Pinder v Department of Corrections
claim NO 270 456
claim NO 220691

Cherk.

Please find enclosed my response to the order of the Commission of July 19,2027. Be appriased that I did not receive this order until August 2,2022 at 0710 km. It appears that the better was mailed from Little Rock on 7/20/22 and received at this unit on August 1,2022. In all probability the Mailroom Supervisor Southern has held this mail in the unit mail room for numerous days before delivering it to me: as she often does. Remember the D a key part of both of those small claims complaints.

I have enclosed the original envelope to demonstrate the slow and intentronal delay in delivering this order to me.

Also, we are not being provided legal copies by ARC. They are refusing to make begal copies of ANY kind. I have hand written a copy for respondent but could in no way copy this pleading to more times.

PLEASE I beg, you to make the necessary copies for the commission and my self this time since time to of the essence for filing this. I Am BEGGING. This mess here is out of hand. It has to stop and will only stop when wrong is exposed. ATC is WRUNG doing wrong and will continue.

Thate you, Please returns copy of my pleastry and envelope.

Steven Prin cc:fr

Enclosure (2)

ARKANSAS STATE CLAIMS COMMISSION 101 E. CAPITOLAVE., SUITE 410 LITTLE ROCK, ARKANSAS 72201-3823



Mr. Steven Pinder (ADC RECEIVED MAIL ROOM



STEVEN PINDER	CLAIMANT
(405	· · · · · · · · · · · · · · · ·
VS No:	220 454
	220691
ARKANSAS DIVISION OF	RESPONDENT
CORRECTIONS	
CLAIMANTS	RESPONCE TO
THE JULY	
	DEU
	
COMES NOW, Steven P	inder, "Claiment" here
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this committee on has he	• • • • • • • • • • • • • • • • • • • •
words Constitutional und	letron or "due process
This clams Commission	rue Junisdachon over

the Arkaneas Department of Corrections and its staff are adhereing to the Stotes directors, policies, procedures and mandaks for operations of the prison.

If agency staff are not in compliance with or intentronally disregarding state directores, policies, procedures and mandates or failing to comply with such directives, policies, procedures and mandates then this State Claims Commission, after it being brought to its attention has a duty and responsibility to hold the agency accountable.

Clamant has clearly presented sufficient endence to demonstrate that the Agency is NOT.

Complying with the States directores, policies, procedures and mandata. Clamant has been injured in both cases and suffered damages. The Askansas Division of Corrections and its Stoff are in violation of State Policy, directore, "Publications" AD 20-04 as has clearly been demonstrated by Clamant in his pleadings in both of his filings.

This Arkansas Stote Claims Commission does

have subject netter jurisdiction over claments complaint.

The Respondent, Ackansas Division of Correction is clearly trabbe for violating. State directives, politicis, procedures and mandates for operation of the state prison as has been set out by Clarment.

As a prisoner, in corcerated in the Arkanses
Department of Correction, Dirition of correction,
clasmont has an interest in the provisions of
stoke directives, polices procedures and mandates.
Perry u State, 2020 ARX 32 (Ark. 2020).

Clarmant asserts in both pending Clarms before this commission, 1) the Publication Review Committee hadten (10) days to either accept or reject the two (2) questoorete publications presented to them by the Mailream supervisor, That decirron did not come for some one-hundred and fifty-sox (156) days, Clearly 120 violation of State directives (claim No: 220456). Then the Warden had thirty (30) days to either accept or cleary the Publication

Review Committee's Decision, this Warden's decision NEVER came. And claimant had a right to appeal the rejection of the two (2) publications to the Central Office Publication Review Committee. The Appeal could not happen because A) no wording rejection or acceptance and B) Southern of the Green Mail power refused to forward my appeal to the Central Office Publication Review Committee. (claim No 220691).

My Two (2) publications, books, along with the other 5 were dented to me because ADC and its staff refused to adhere to Stake directore AD 20-04.

The Respondent has forced plaimant to send the seven (1) books received on March 10, 2021 home without the books all (1) or the two (2) questionable being fully reviewed by and in accordance with ADC's clearly established policy procedures and mandater.

This Arkansae State Clams Commission, by law, has subject matter surridiction to determine whether the State's Arkansas Division of

Corrections adhere to, comply with and follow the explicity mondatory language of State directore, policy, procedure and mandates of AD 20-04 "Publications!

This State Claras Commissions must reject the words of the respondent that claiment makes a "constitutional due process clam" and see the intact to steer the commission in the wrong direction. This dam is whether the State agency adhered to state directore, policy procedure and mandates and dament's substantial Submission of evidence demonstrates that the ADC has NOT

WHEREFORE, Steven Pinder request this Alkansas Stok Clams Commission to exercise its subject matter jurisdiction over clamants complaints No: 220 456 and No 220 691, and grant clamant Summary Judgment and any other retref this Commission deems appropriate and just.

EXECUTED THIS 2 ND day of August 2022

Respect fully submitted STEVEN Primers,

CERTIFICATE OF SERVICE

I, Steven Pinder do hereby centify that on this 200 day of August 2022 I have served on the Cherk of this Court and the below listed a copy of my response to the Commission's July 19, 2022 order by Placing same in the US Mail with sufficient postage affixed to ensure delivery.

STEVEN PINDER

 From:
 Thomas Burns (DOC)

 To:
 ASCC Pleadings

 Cc:
 Leslie Browning (DOC)

Subject: Steven Pinder v ADC 220456 and 220691

Date: Tuesday, August 23, 2022 8:59:24 AM

Attachments: 4220 001.pdf

Jurisdiction Brief

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

STEVEN PINDER (

CLAIMANT

V

NO. 220456 220691

ARKANSAS DEPARTMENT OF CORRECTIONS DIVISION OF CORRECTION

RESPONDENT

JURISDICTIONAL BRIEF

Come now the respondent, Arkansas Department of Correction (ADC), by and through their attorney, Thomas Burns, and for their Brief, states:

- 1. Both of these matters concern books of the Inmates.
- 2. The Inmate admits that his claim is a Due Process (4th Amendment) claim in that he alleges that the ADC violated his due process property rights.
- 3. In claim 220691 the inmate states in his grievance that he was denied his appeal process (due process).
- 4. The inmates filed a motion for summary judgment in claim 220691 stating that the ADC denied him "due process" (4th Amendment claim).
- 5. The Inmate filed a motion to dismiss in claim 220456 in which he stated he was denied "due process".
- 6. The Inmate in the body of his complaint in claim 220456 states that policy violates complainants' liberty interest rights. (Constitutional claims), he further reiterates this in the grievance attached.

- 7. It is true that under the Federal constitution, appellate review is a privilege; however, the tenth amendment of the constitution of this state guarantees a 'right to [sic] appeal in all cases¹
- 8. The 14th Amendment to the Constitution states in part the State shall not enforce any law which will deprive any person of life, liberty, or property, without due process of law.
- 9. This is exactly what the Inmate is complaining of. In fact, he says it in his pleadings and grievances.
- 10. The Arkansas State Claims Commission does not have jurisdiction over Constitutional matters. Arkansas Code Annotated 19-10-204.
- 11. Publications are the sole purview of the ADC and what is allowed in or rejected based on safety and security of the institution.
- 12. The Claims Commission would not have jurisdiction to tell the ADC what publications should or should not be allowed into the institutions.
- 13. This is clearly a matter that is only for a Court of competent jurisdiction to hear as it involves Constitutional matters and injunctive matters.

WHEREFORE, The ADC, prays that the matter be dismissed; for their attorney's fees and costs; and for all other just and proper relief to which they may be entitled.

¹ State v Schoel 341 P.2d 481 (Supreme Court of Washington 1959)

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 23rd day of August 2020, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Steven Pinder

Thomas Burns

STEVEN PINDER	CLAIMANT
(AOC #	
۸_	o: 220 45%
	220 691
trkansas Department of	COLLECTIONS
DIVISION OF COMPETION	s RESPONDENT
CLAIMAN	s Response
TO RESPONDI	ENTS JURISDICTIONAL
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denying clarmant b	ooks by disregarding policy.

Constitutional due process claims, but d'astote
the respondents denred claimant several
books without adhereing to sits Publication
Policy, AD 20-04 before doing so.

3. In claim # 220691 the Respondent, purpoliny, intentionally denied claimant the books and did so without allowing claimant the access the appeal. Policy clearly states claimant had the right to appeal the denial of the Books to the Central office Publication Review Committee before the books could be refused (AD 20-04). This appeal was taken away by ADC. ADC failed to adhere to state rules and regulations before denying claimant the Books in question.

4. Claiment make perfectly clear to this Commission the Arkansas Department of Corrections and its Staff Knowingly and intentionally refused to adhere to the State rules, regulatrons and mandates of AD 20-04 before denying Claiment the books.

	5. Claimant did not file any motion to
	dismiss claim # 220456.
	le. Clarmant made clear he had a protected
	Tiberty interest in ADC and hereing
	to the state rules, regulations
	and mandates of AD 20-04.
	7. The State Bespondent failed to
	timely Respond to clamants Summary
	Judgment Motrons in claim # 220691
	and claim # 220456 and by law
	this Commission must grant clament
	Summary judgment. (Fed. Rules of CIVI) Procedure Rule 56).
	Procedure Rule 56).
	8. The Respondent is trying desperately
	8. The Respondent is trying desperately to avoid liability for its failures to
	adhere to state rules, regulations
	and mandates.
	9. These claims are NOT claims on
-	what books should or should not
	be allowed into ADC.
	(3)
	7

10. These clame are about ADC refusing
 to adhere to State Rules, regulations
and mandates before taking the books
 from claimant.
 WHEREFORE, Steven Pinder prays this
Commission ignore and disregard this
fourth Motron to dismiss filed by
 Bespondent and adhere to the mandates
of Summary Judgment and grant doment
 the relief he seeks in both claim # 220691
 and claim # 220456.
 EXECUTED THIS 28th Respectfully Submitted
 day of August 2022. Steven Pin
 STEVEN PINDER, Clarment
 CERTIFICATE OF SERVICE
 I, Steven Pinder do hereby certify that on this 28th day of August 2022, I have served on
 2022, I have served on
 -1
 (4)

	the below listed a true copy of my Response
	to the Regiondents Jurisdictional Brief and Motion
	to dismise by placing same in the Le.S. Mail with
	Sufficient postage affixed to ensure delivery.
	Steven Pin
	Mr. Thomas Burns, Allorry STEVEN PINDER
· · · · · · · · · · · · · · · · · · ·	Legal Department ADC
	6814 Pronceton Pile
	Pine Bluff, AR 7160Z
	Clerk
	AnLansas State Clams Commission
	101 E. Capital Ave., STE 410
	Little Rock, AR 72201-3823
	STATE OF BRYAMSAS)
	County OF LEE) No Notary Available
	SUBSCRIBED AND SWORN TO BEFORE ME
	a Notary Public this day of
	2022
	My Commission Expires, Notary
	(5)

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

January 10, 2023

Mr. Steven Pinder (ADC)

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

RE: Steven Pinder v. Arkansas Division of Correction

Claim No. 220456 Claim No. 220691

Dear Mr. Pinder and Mr. Burns,

The Claims Commission has scheduled a hearing on the parties' pending motions for **Friday, March 10, 2023**, beginning at 9:00 a.m. All parties will attend via Zoom. The Zoom invitation is enclosed. The Claims Commission requests that Mr. Burns transmit the Zoom invitation and hearing details to Mr. Pinder's unit.

As this is a motions hearing, no prehearing materials are requested.

Sincerely,

Kathryn Irby

ES: kmirby

The Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings

Time: Mar 10, 2023 09:00 AM Central Time (US and Canada)

Join Zoom Meeting

https://us06web.zoom.us/j/84070339416?pwd=MTJ3Q1ZuYkg4WURWdFA0VDdRZUhIUT09

Meeting ID: 840 7033 9416

Passcode: 9A1twG One tap mobile

- +13017158592,,84070339416#,,,,*492071# US (Washington DC)
- +13052241968,,84070339416#,,,,*492071# US

Dial by your location

- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US
- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
- +1 646 931 3860 US
- +1 929 436 2866 US (New York)
- +1 360 209 5623 US
- +1 386 347 5053 US
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 669 444 9171 US
- +1 669 900 6833 US (San Jose)
- +1 689 278 1000 US
- +1 719 359 4580 US
- +1 253 205 0468 US
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)

Meeting ID: 840 7033 9416

Passcode: 492071

Find your local number: https://us06web.zoom.us/u/kpygt83Im

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

February 27, 2023

Mr. Steven Pinder (ADC _____)

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

RE: Steven Pinder v. Arkansas Division of Correction

Claim No. 220456 Claim No. 220691

Dear Mr. Pinder and Mr. Burns,

The Claims Commission has rescheduled the hearing on the parties' pending motions for **Thursday, May 18, 2023**, beginning at 9:00 a.m. All parties will attend via Zoom. The new Zoom invitation is enclosed. The Claims Commission requests that Mr. Burns transmit the new Zoom invitation and hearing details to Mr. Pinder's unit.

As this is a motions hearing, no prehearing materials are requested.

Sincerely,

Kathryn Irby

ES: kmirby

The Claims Commission invites you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings

Time: May 18, 2023 09:00 AM Central Time (US and Canada)

Join Zoom Meeting

https://us06web.zoom.us/j/85883857910?pwd=M2R4YnRMN2xoMFc3NG5LK0VEV3djQT09

Meeting ID: 858 8385 7910

Passcode: LBAQM3 One tap mobile

- +16469313860,,85883857910#,,,,*454554# US
- +19294362866,,85883857910#,,,,*454554# US (New York)

Dial by your location

- +1 646 931 3860 US
- +1 929 436 2866 US (New York)
- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US
- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
- +1 669 444 9171 US
- +1 669 900 6833 US (San Jose)
- +1 689 278 1000 US
- +1 719 359 4580 US
- +1 253 205 0468 US
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 360 209 5623 US
- +1 386 347 5053 US
- +1 507 473 4847 US
- +1 564 217 2000 US

Meeting ID: 858 8385 7910

Passcode: 454554

Find your local number: https://us06web.zoom.us/u/kbTD1BKjMM

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

June 19, 2023

Mr. Steven Pinder (ADC

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

Re: Steven Pinder v. Arkansas Division of Correction

Claim Nos. 220456 and 220691

Dear Mr. Pinder and Mr. Burns:

Enclosed please find the Orders entered on June 16, 2023, 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

STEVEN PINDER (ADC

CLAIMANT

V. CLAIM NO. 220456

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") to dismiss the claim of Steven Pinder (the "Claimant"). At the motion hearing on May 18, 2023, Claimant proceeded *pro se*, and Thomas Burns appeared on behalf of Respondent. Based upon a review of the pleadings, as well as the argument of the parties and the law of the State of Arkansas, the Claims Commission hereby finds as follows:

- 1. Claimant filed his claim on October 14, 2021, seeking \$9,600.00 in damages related to an alleged policy violation by Respondent. Claimant asserts that Respondent's publication review committee held his books for 156 days before accepting or rejecting them when policy required the committee to make a decision in 30 days. Claimant alleges that this prevented him from returning the books and receiving a refund.
- 2. Respondent filed a motion to dismiss pursuant to Ark. R. Civ. Proc. 12(b)(6), arguing, *inter alia*, that Claimant has failed to state facts upon which relief can be granted and that Claimant has not been damaged.
 - 3. Claimant responded to the motion to dismiss, arguing that dismissal was not proper.
- 4. The Claims Commission entered an order on July 19, 2022, directing the parties to file briefs addressing whether the Claims Commission has jurisdiction over this claim.
 - 5. The parties filed briefs in response to the July 19, 2022, order.

- 6. At the hearing¹, Respondent argued that books received in a group violate the policy on publications. Respondent argued that only the warden is bound by the 30-day period to submit decisions to the publications committee. Respondent argued that these books were properly rejected. Respondent argued that Claimant says his liberty rights were violated and, for that reason alone, his claim should be dismissed because this is a constitutional claim. Respondent also argued that Claimant was not the real party in interest and that he did not buy the books. Respondent argued that once a book violates policy, it is either to be sent back, sent home or sent with one of an inmate's visitors.
- 7. Claimant argued that Respondent's policy created a liberty interest and Respondent failed to follow the policy when it kept his books for 156 days when the publications committee has 10 days to accept or reject. Claimant argued the warden has 30 days to respond and that Respondent violated policy before it rejected his book. Claimant argued that this was not a constitutional claim. Upon a question for a commissioner, Claimant stated that his sister, who is his fiduciary, purchased the books with his stimulus check money. Claimant stated that he paid for the books. Upon a question from a commissioner, Claimant stated that the books cost about \$65.00. Claimant stated that he came up with his damages based on the number of days his books were kept. Claimant stated that the books were large because they were large-print books for the visually impaired. He stated that these large print books always exceed the requirements of the policy,

¹ The Claims Commission also had a motion hearing on Claimant's related claim, Claim No. 220691, on May 18, 2023. Claim No. 220691 related to a Respondent's mailroom supervisor knowingly and intentionally refusing to forward Claimant's appeal of the publication review committee's denial of two books. During the hearing, Claimant confirmed that Claim Nos. 220456 and 220691 relate to the same set of books, and Respondent expressly stated during the hearing that its arguments in support of its motions to dismiss in Claim Nos. 220456 and 220691 were the same. The Claims Commission notes that, due to the shared facts of the two claims, some of the arguments made by the parties during the motion hearings of Claim Nos. 220456 and 220691 could be construed to be relevant to both claims. Therefore, the Claims Commission considered the arguments made by both parties during the motion hearings for Claim Nos. 220456 and 220691 when analyzing the motion to dismiss for Claim No. 220456.

which means there is a policy issue. He argued that he was not allowed to appeal this on the grounds that it is a book for the visually impaired. Claimant argued that once the books are denied, he had a right to appeal to the central publication review committee. Claimant argued that Respondent did not respond until "August 13th" with the rejection, which was 156 days later. Claimant stated that the very next day, he responded with his appeal and sent it to the mailroom. Claimant stated that Respondent immediately sent him a form to send the books home and that he paid the money and sent the books home. Claimant stated that there were two books at issue. Claimant also argued that his claim was not a constitutional claim.

- 8. Respondent argued that the books were denied for two reasons: because they were oversized and included nudity. Respondent argued that the books were held so long because they were supposed to get sent home, but Claimant dragged his feet.
- 9. The Claims Commission is not persuaded by the arguments set forth in the parties' briefs filed in response to the July 19, 2022, order.
- 10. 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. 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)).
- 11. The Claims Commission agrees with Respondent that dismissal is proper under *Hodges*. Even liberally construing the complaint, Claimant has not stated facts to support a

negligence claim. *See Chambers v. Stern*, 347 Ark. 395, 406, 64 S.W.3d 737, 744 (2002) (The elements of a negligence claim are duty, breach of duty, and damages proximately caused by the breach). The Claims Commission finds that Claimant's claim states no facts regarding how the alleged actions of Respondent breached a duty owed to Claimant.

- 12. Respondent's motion to dismiss is GRANTED pursuant to Ark. R. Civ. Proc. 12(b)(6), and Claimant's claim is DISMISSED without prejudice.
 - 13. Any other pending motions are denied as moot.

IT IS SO ORDERED.

Lewy C. Kinslow

ARKANSAS STATE CLAIMS COMMISSION Henry Kinslow

Paul Morris

ARKANSAS STATE CLAIMS COMMISSION Paul Morris, Chair

ARKANSAS STATE CLAIMS COMMISSION Sylvester Smith

DATE: June 16, 2023

fle ! but

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 23, 2023 Steven Kinder State Claims Commission JUN 28 2023 RECEIVED APLL. State Claims Commission Little Rock, Ap 72201-3823 RE: Case No 220456 Case No 220691 PINDER V ARL. Dept. of Corrections 1. Petition for Reconsideration 220 456 2. Petitron for Reconsideration 220691 ms. Irby Please find enclosed for filing my fetition for Reconsiderative of the incredolorus ruling of this commission. after filing the Petitionis (I for claim 270456) and (I for 220691) Please return to me file marked Copies.

Encloseures (2)

IN THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER

CLAIMANT

V

NO: 220456

ARKANSAS DEPAREMENT OF COMPETITIONS, RESPONDENT DIVISION of Corrections

CLAIMANTS MOTTON FOR BECONSIDERATION

Comes Now, Steven Pinder (the "Claimant") pro-se and through this his Motron for reconsideration, states as follows!

1. The Arkansas State Claims Commission (the "Commission")

did hold a treasing on May 18, 2023 to determine

the Mother for Summary Judgment, Brief in Support of

Mother for Summary Judgment and Undisputed Facts filed

by claimant in this claims action on June 11, 2022.

2. Along with claimonts Motion for Summary Judgment, Brief in Support and lindisputed Facts, the Commission was to hear the Motion to Disnies of Respondent

(1)

- 3. Claimants Motron For Summary Judgment, Brief in Support of Summary Judgment and Undisputed facts went unanswered by Respondent throughout the proceedings before the claims Commission.
- 4. Pursuant to Arkansas Rules of Cru. 1 Procedure (A.R.Civ.P.) Rule 56, if a party moves for Summary judgment and submits undisputed facts pursuant to local Rule 56.1 and the non-moving party fails to dispute each of the moving parties undisputed facts, then the non-moving party is considered as to admitting the undisputed facts. There are no disputed facts and the moving party is entitled to judgment, ARK. R. Civ. P. Rule 56, (2023).
- F. This Commission made up of Commissioners Kinslow, Smith and Morris refused to grant claimant's notion for Summary Judgment, whereby derying claimant due process of law.
- 6. The commission's decision to deny claimants summary Judgment notion was errant and contrary to Arkansas Laws, treatres and

7. Furthermore, the facts of this claim are clear, the limit Publication Review Committee hedd claimants books for one hundred and fifty six (156) days, when in fact policy allows for only ten (10) days,

8. The Respondent violated ADC's Publication policy by holding claimant's books in excess of the ten (10) days allowed.

9. The Respondent violated April Publication Policy by back dating the unit Publication Review Committee Results to cover up the holding of claimants books in excess of the ten (10) days allowed.

10. The Respondent denned claimant the Warden's Review mandated by Anc's Publication Policy of the Unit Publication Review Results.

11. The Respondent clearly violated ADCS Rublication Policy prior to ordering claiment to send his books (property) home or denying claiment admission of his books mandates.

WHEREFORE, Steven Pinder requests this Commission to reconsider its decision to deny claimant summary Judgment, reverse its errant decision, grant claimants Motion for summary judgment and the \$ 9600.00 (nine thousand six hundred dollars) seeks in damages, which is just and proper.

EXECUTED THIS 23RD day of June 2023.

Respectfully submitted

CERTIFICATE OF SERVICE

I, Steven Pinder do hereby swear that on this 23th day of June 2023 I have served a true copy of my Motron for Reconsideration on Respondent through counsel Thomas Burns, Attorney at 6814 Princeton Pike, Pine Bluff, Are 71602 by placing same in the U.S. Mail with

	Sufficient portage affixed to ensure delivery.
4	Steven Pin
	STEVEN PINDER
	(5)

Jun 23, 2023 Steven Kinder State Claims Commission JUN 28 2023 RECEIVED APLL. State Claims Commission Little Rock, Ap 72201-3823 RE: Case No 220456 Case No 220691 PINDER V ARL. Dept. of Corrections 1. Petition for Reconsideration 220 456 2. Petitron for Reconsideration 220691 ms. Irby Please find enclosed for filing my fetition for Reconsiderative of the incredolorus ruling of this commission. after filing the Petitionis (I for claim 270456) and (I for 220691) Please return to me file marked Copies.

Encloseures (2)

IN THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER

CLAIMANT

V

NO: 220456

ARKANSAS DEPAREMENT OF COMPETTIONS, RESPONDENT DIVISION of Corrections

CLAIMANTS MOTTON FOR BECONSIDERATION

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the Mother for Summary Judgment, Brief in Support of

Mother for Summary Judgment and Undisputed Facts filed

by claimant in this claims action on June 11, 2022.

2. Along with claimonts Motion for Summary Judgment, Brief in Support and Undisputed Facts, the Commission was to hear the Motion to Dispuiss of Respondent.

(1)

- 3. Claimants Motron For Summary Judgment, Brief in Support of Summary Judgment and Undisputed facts went unanswered by Respondent throughout the proceedings before the claims Commission.
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Wherefore, Steven Pinder requests this Commission to reconsider its decision to deny claimant summary Judgment, reverse its errant decision, grant claimants Motion for summary judgment and the \$ 9600.00 (nine thousand six hundred dollars) seeks in damages, which is just and proper.

EXECUTED THIS 23RD day of June 2023.

STEVEN PUNDER CLEROW

CERTIFICATE OF SERVICE

I, Steven Pinder do hereby swear that on this 23ep day of June 2023 I have served a true copy of my Motion for Reconsideration on Respondent through counsed Thomas Burns, Attorney at 6814 Princeton Pile, Pine Bluff, Are 71602 by placing same in the U.S. Mail with

	Sufficient portage affixed to ensure delivery.
4	Steven Pin
	STEVEN PINDER
	(5)

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

November 8, 2023

Mr. Steven Pinder (ADC

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

Re: Steven Pinder v. Arkansas Division of Correction

Claim Nos. 220456 and 220691

Dear Mr. Pinder and Mr. Burns:

Enclosed please find the Orders 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

STEVEN PINDER (ADC

CLAIMANT

V. CLAIM NO. 220456

ARKANSAS DIVISION OF CORRECTION

RESPONDENT

ORDER ON CLAIMANT'S MOTION FOR RECONSIDERATION

Now before the Arkansas State Claims Commission (the "Commission") is a motion filed by Steven Pinder (the "Claimant") for reconsideration of the Commission's June 16, 2023, order dismissing Claimant's claim against the Arkansas Division of Correction (the "Respondent"). Based upon a review of the motion, the arguments made therein, and the law of Arkansas, the Commission hereby finds as follows:

- 1. Claimant filed his claim on October 14, 2021, seeking \$9,600.00 in damages related to an alleged policy violation by Respondent's publication review committee.
- 2. Respondent filed a motion to dismiss pursuant to Ark. R. Civ. P. 12(b)(6), arguing, *inter alia*, that Claimant has failed to state facts upon which relief can be granted and that Claimant has not been damaged.
 - 3. Claimant responded to the motion to dismiss, arguing that dismissal was not proper.
- 4. Respondent filed a motion for protective order, and Claimant filed a motion for summary judgment.
- 5. The Commission entered an order on July 19, 2022, directing the parties to file briefs addressing whether the Commission has jurisdiction over this claim. The parties filed briefs in response to the July 19, 2022, order.

- 6. The Commission held a motion hearing on May 18, 2023. The Commission granted Respondent's motion to dismiss and dismissed Claimant's claim in its order dated June 16, 2023. The Commission's June 16, 2023, order denied any other pending motions.
- 7. Claimant then filed the instant motion for reconsideration, arguing, *inter alia*, that the Commission's decision to deny Claimant's motion for summary judgment was errant.
 - 8. Respondent did not respond to the motion for reconsideration.
- 9. In analyzing a motion for reconsideration, Rule 7.1 of the 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"
- 10. The Commission finds that the motion does not set forth new or additional evidence not previously available.
- 11. As such, Claimant's motion for reconsideration is DENIED, and the June 16, 2023, Commission order remains in effect.

IT IS SO ORDERED.

Coro Band

ARKANSAS STATE CLAIMS COMMISSION Courtney Baird

ARKANSAS STATE CLAIMS COMMISSION Henry Kinslow

Lewy C. Kinslow

ARKANSAS STATE CLAIMS COMMISSION Paul Morris, Chair

DATE: November 8, 2023

Paul Morris

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).

From: <u>Mika Tucker</u>

To: Thomas Burns (DOC); ASCC Pleadings

Subject: RE: ORDER: Steven Pinder v. ADC, Claim Nos. 220456 and 220691

Date: Thursday, November 9, 2023 9:11:00 AM
Attachments: 220691 CL Motion for Reconsideration.pdf
220456 CL Motion for Reconsideration.pdf

Please see attached.

Thanks, Mika

Mika Tucker Arkansas State Claims Commission 101 East Capitol Avenue, Suite 410 Little Rock, Arkansas 72201 (501) 682-2818

From: Thomas Burns (DOC) < Thomas. Burns@arkansas.gov>

Sent: Wednesday, November 8, 2023 12:54 PM **To:** ASCC Pleadings ASCCPleadings@arkansas.gov **Cc:** Mika Tucker Mika.Tucker@arkansas.gov

Subject: RE: ORDER: Steven Pinder v. ADC, Claim Nos. 220456 and 220691

We do not have copies of either motions for reconsideration in these claims. May we have copies please?

-TB

Legal Services Unit Arkansas Department of Corrections Division of Correction 870 267-6845-telephone

From: Misty Scott < Misty.Scott@arkansas.gov > On Behalf Of ASCC Pleadings

Sent: Wednesday, November 8, 2023 12:45 PM

To: Thomas Burns (DOC) < Thomas.Burns@arkansas.gov>

Cc: Mika Tucker < Mika. Tucker@arkansas.gov >; ASCC Pleadings < ASCCPleadings@arkansas.gov >

Subject: ORDER: Steven Pinder v. ADC, Claim Nos. 220456 and 220691

Thomas:

Please see attached. Contact Mika Tucker with any questions.

Thank you,

Misty

Misty Scott Arkansas State Claims Commission STEVEN PINDER

Arkansas State Claims Commission

NOV 1 7 2023

RECEIVED

ARL State Claims Commission 101 E. Capital Ave., suite 410 Little Rocky Apr 72201-3823

RE: Notice of Appeal
PINDER v Arkonsas Dept. of Corrections,
Claim No 220456

Clerk: Please find encloped a copy of my notice of appeal in the aboved referenced clam. Alease return a the

marked copy to me.

Ston Di

Enclosure

BEFORE THE ARKANSAS STATE CLAIMS COMMISSIUM RECEIVED

STEVEN PINDER CLAIMANT APPELLANT

V No: 220456

ARKanias Department of Corrections Respondent Appeller

NOTICE OF APPEAL

NOTICE is hereby given that on this 13th day of November 2023, Steven Pinder appeals to the Arkansas General Assembly this claims Commissions denied of my Motion for Reconsideration Issued November 8, 2023 and ORDER to dismiss this claim detect June 16, 2023. Steven Pinder Appeals purruant to A.C.A. § 19-10-211 (a)(1)(B)(ii).

EXECUTED THIS 13th Day of November 2023.

Respectfully submitted;

STEVEN PINDER, Clamont/Appellant