



STATE OF ARKANSAS
BUREAU OF
LEGISLATIVE RESEARCH

Marty Garrity, Director
Kevin Anderson, Assistant Director
for Fiscal Services
Matthew Miller, Assistant Director
for Legal Services
Jessica Whittaker, Assistant Director
for Research Services
Eric Sanders, Assistant Director
for Information Technology Services

***Claims Review/Litigation Reports Oversight Subcommittee
of the Arkansas Legislative Council
Claims Subcommittee of the Joint Budget Committee
Statement of Redaction of Confidential Information***

Style of Case: Michael Todd v. Arkansas Division of Correction

Docket Number: Claim No. 221393

Type of Matter (please circle one):

Claims Review

Litigation Reports Oversight

As indicated by my signature below:

- I acknowledge that documents submitted to the Subcommittee may be published or disseminated by the Subcommittee for purposes of its consideration and those documents that are published or disseminated by the Subcommittee will be considered subject to disclosure under the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.
- I further acknowledge that it is my responsibility to review each document submitted to the Subcommittee and make any necessary redactions.
- I certify that I have reviewed each document submitted herein and have redacted all confidential information excluded from public access by Arkansas Supreme Court Administrative Order No. 19, § VII, and the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq., including without limitation an individual's home address, personal email address, personal phone number, date of birth, social security number, information identifying a minor child, medical records, and financial account numbers.
- If a redacted document has been submitted, I have also included a non-redacted copy of the same document that may be considered exempt from disclosure under Arkansas Code § 25-19-105.


Signature

Mika Tucker

Name

Arkansas State Claims Commission, Attorney Specialist

Title and Agency

February 29, 2024

Date

MAY 20 2022

Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

RECEIVED

- ☒ Mr.
- ☐ Mrs.
- ☐ Ms.
- ☐ Miss

Michael Todd (ADC [REDACTED]), Claimant

vs.

State of Arkansas, Respondent

Do Not Write in These Spaces

Claim No. _____

Date Filed _____
(Month) (Day) (Year)

Amount of Claim \$ _____

Fund _____

COMPLAINT

Michael Todd (ADC [REDACTED]), the above named Claimant, of [REDACTED]
[REDACTED] (Street or R.F.D. & No.) [REDACTED] (City)
[REDACTED] (State) [REDACTED] (Zip Code) [REDACTED] (Daytime Phone No.) County of Lee represented by _____
(Legal Counsel, if any, for Claim)

of _____ (Street and No.) _____ (City) _____ (State) _____ (Zip Code) _____ (Phone No.) _____ (Fax No.) says:

State agency involved: Arkansas Department of Correction Amount sought: 50,000.00

Month, day, year and place of incident or service: 3-2-22 9BKS EAST HALL

Explanation: I was AWAYED BY THE ARKANSAS DEPARTMENT OF CORRECTION
[REDACTED]

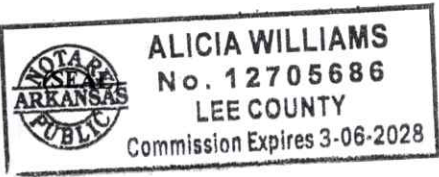
and that the following action was taken thereon: _____
and that \$ _____ was paid thereon: (2) Has any third person or corporation an interest in this claim? _____; if so, state name and address
(Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)
and that the nature thereof is as follows: _____
and was acquired on _____, in the following manner: _____

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verily believes that they are true.

Michael Todd [REDACTED] Michael Todd [REDACTED]
(Print Claimant/Representative Name) (Signature of Claimant/Representative)

SWORN TO and subscribed before me at Birney AR
(City) (State)

on this 1st day of May, 2022
(Date) (Month) (Year)



SF1-R7/99

My Commission Expires: 3 06 2028
(Month) (Day) (Year)

MS, Duvall - ?

Antea LPN

5/10/22

#3 Admin Review

Name:

Michael Todd

Inmate Request Form

ADC#:

Date:

MAY 8, 2022

Housing Assignment:

MAX 1-31

Job Assignment:

I have a request in the following area (Circle One):

Classification

Parole

Visitation

Medical

Property

Mail

Law Library

General Library

Commissary

Job Assignment

Staff

Mental Health

Hygiene

Other:

MS Duvall

Staff directed to:

MS DUVALL

Office:

Infirmery

Detailed description of request:

I WAS SENT TO FOREST CITY HOSPITAL 3-2-22
I'm in need of a copy of that report from
that DR please... that was the incident
where I was stabbed while in bed.

Thank you

Have you spoken with anyone about your request and if so, whom? YES or NO

Staff Contacted: NURSES

Date: 5-8-22

Michael Todd

Inmate Signature

MAY 8 2022

Date

Responding Staff:

Date:

I have reviewed your request and here is my finding:

Inmates can not have copies of their medical records while
incarcerated. However you may review your medical records.
If you wish to review these medical records please submit
a request & we will place you on the list. -calatruetheta
stop

I am referring this to:

I consider this issue:

Resolved

IGTT430
3GD

Attachment VI

INMATE NAME: Todd, Michael

ADC # [REDACTED]

GRIEVANCE#: EAM22-00494

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

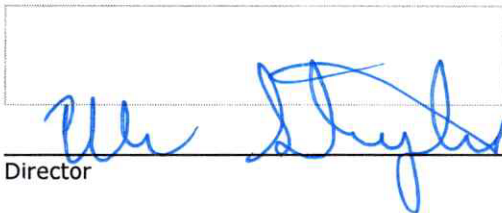
On March 2, 2022, you stated the following complaint: "On or about 3-2-22 at or around 10:50pm I

[REDACTED]

The Warden responded to your grievance on April 1, 2022, by stating the following: "According to Captain Harris staff is assigned according to staffing level present. An investigation was completed at the unit level, disciplinary action was taken for those involved in the incident. This should address your concerns."

Your appeal was received on April 5, 2022. After review of your appeal and supporting documentation, I must concur with the Warden's decision. An Internal Affairs investigation was completed and the investigation has been turned over to the State Police. You will be notified once their investigation is completed. Your appeal is without merit.

Appeal denied.


Director

Date

5-3-22

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.

**ACKNOWLEDGEMENT OF GRIEVANCE APPEAL
or REJECTION OF APPEAL**

TO: Inmate Todd, Michael ADC #:
FROM: Straughn, William F TITLE: Deputy Director
RE: Receipt of Grievance 22-00494 DATE: 04/05/2022

Please be advised, the appeal of your grievance dated
03/02/2022
was received in my office on this date 04/05/2022

The Chief Deputy/Deputy/Assistant Director will answer this appeal by 05/17/2022

OR,

Your grievance appeal is being returned pursuant to the Administrative Directive on Inmate Grievances due to one of the following:

- ☐ The time allowed for appeal has expired
- ☐ The matter is non-grievable and does not involve retaliation:
 - ☐ (a) Parole and/or Release matter
 - ☐ (b) Transfer
 - ☐ (c) Job Assignment (Unrelated to Medical Restriction)
 - ☐ (d) Disciplinary matter
 - ☐ (e) Matter beyond the Division's control and/or matter of State/Federal law
 - ☐ (f) Involves an anticipated event
 - ☐ (g) Publication
- ☐ You did not send all the proper Attachments:
 - ☐ (a) Unit Level Grievance Form (Attachment 1)
 - ☐ (b) Warden's/Center Supervisor's Decision (Attachment III); or Health Services Response (Attachment IV for Health Issues Only)
 - ☐ (c) Acknowledgement and/or Rejection form (Attachment II)
 - ☐ (d) Step Two was appropriately rejected
 - ☐ (e) Did not give reason for disagreement in space provided for appeal
 - ☐ (f) Did not complete Attachment III or IV by signing your name, ADC#, and/or the date
 - ☐ (g) Unsanitary form(s) or documents received
- ☐ This Appeal was REJECTED because it was a duplicate of , or was frivolous or vexatious

INMATE NAME: Todd, Michael

ADC #: [REDACTED]

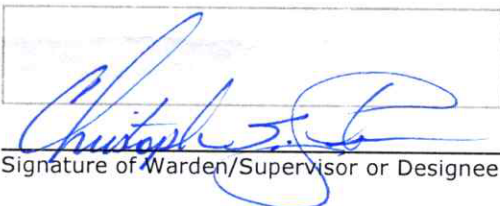
GRIEVANCE #: [REDACTED] 22-00494

WARDEN/CENTER SUPERVISOR'S DECISION

Inmate Todd, you stated in your grievance that, "On or about 3-2-22 at or around 10:50pm I was attacked

[REDACTED]

According to Captain Harris staff is assigned according to staffing level present. An investigation was completed at the unit level, disciplinary action was taken for those involved in the incident. This should address your concerns.


Signature of Warden/Supervisor or Designee

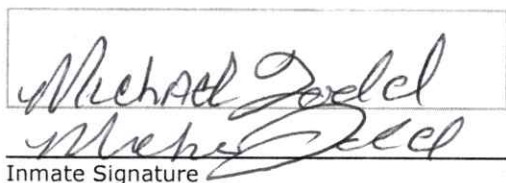

Title

4/1/2022
Date

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.

[REDACTED]


Inmate Signature

INMATE GRIEVANCES SUPERVISOR

ADMINISTRATION BUILDING

ADC#:

[REDACTED]

April 1 - 2022
Date

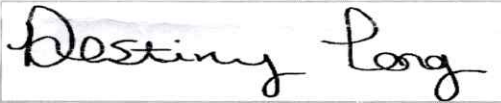
If appealing, please submit both the Unit Level Grievance Form (Attachment I) and the Warden's Decision (Attachment III)

ACKNOWLEDGMENT OR REJECTION OF UNIT LEVEL GRIEVANCE

TO: Inmate Todd, Michael
FROM: Long, Destiny A
DATE: 03/11/2022

ADC #: [REDACTED]
TITLE: Administrative Specialist II
GRIEVANCE #: [REDACTED] 2-00494

Please be advised, I have received your Grievance dated 03/02/2022 on 03/11/2022.
You should receive communication regarding the Grievance by 04/08/2022



Signature of Administrative Specialist II

CHECK ONE OF THE FOLLOWING

- ☒ This Grievance will be addressed by the Warden/Center Supervisor or designee.
- ☐ This Grievance is of a medical nature and has been forwarded to the Health Services Administrator who will respond.
- ☐ This Grievance involves a mental health issue and has been forwarded to the Mental Health Supervisor who will respond.
- ☐ This Grievance has been determined to be an emergency situation, as you so indicated.
- ☐ This Grievance has been determined to not be an emergency situation because you would not be subject to a substantial risk of personal injury or other serious irreparable harm. Your Grievance will be processed as a Non-Emergency.
- ☐ This Grievance was REJECTED because it was either non-grievable (), untimely, was a duplicate of , or was frivolous or vexatious.

INMATE'S APPEAL

If you disagree with a rejection, 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. If you do not receive communication regarding your grievance by the date listed above, you may move to the next level of the process. To do so, indicate in the Inmate's Appeal Section below that you did not receive a response and mail it to the appropriate Chief Deputy/Deputy/Assistant Director within five working days. Keep in mind that you are appealing the decision to reject the original complaint. Address only the rejection; do not list additional issues, which were not a 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.

ADC#:

Date

Inmate Signature

If appealing a rejection, please include both the Unit Level Grievance Form (Attachment I) and the Rejection (Attachment II)

UNIT LEVEL GRIEVANCE FORM (Attachment I)

Unit/Center _____

Name Michael Todd

ADC# _____

Brks # M 4-31

Job Assignment Ø

FOR OFFICE USE ONLY

GRV. # _____

22-00494

Date Received: MAR 11 2022

GRV. Code #: 803

3-2-22 (Date) STEP ONE: Informal Resolution

3-9-22 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)

If the issue was not resolved during Step One, state why: Sgt King

3-2-22 (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 attachment. Never - refused to get it answered

Is this Grievance concerning Medical or Mental Health Services? _____ 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): on or about 3-2-22 at or around 10:30pm I was attacked

Michael Todd
Inmate Signature

3-4-22
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 3-7-22 (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 _____

Sgt B. King
PRINT STAFF NAME (PROBLEM SOLVER)

11111
ID Number

Sgt B. King
Staff Signature

3-7-22
Date Received

Describe action taken to resolve complaint, RECEIVED dates: _____

APR 05 2022

Staff Signature & Date Returned _____

Michael Todd
INMATE GRIEVANCES SUPERVISOR

3-10-22
Inmate Signature & Date Received

This form was received on 3-10-22 (date), pursuant to Step Two. Is it an Emergency? _____ (Yes or No).

Staff Who Received Step Two Grievance: Lt Wick Date: _____

Action Taken: _____ (Forwarded to Grievance Officer/Warden/Other) Date: 3-10-22

If forwarded, provide name of person receiving this form: _____ Date: _____

DISTRIBUTION: YELLOW & PINK - Inmate Receipts; **BLUE** - Grievance Officer; **ORIGINAL** - Given back to Inmate after Completion of Step One and Step Two.

UNIT LEVEL GRIEVANCE FORM (Attachment I)

Unit/Center

Name

Michael Todd

ADC#

Brks #

M-31

Job Assignment

FOR OFFICE USE ONLY

GRV. #

EAm22-00511

Date Received:

MAR 14 2022

GRV. Code #:

803

(Date) STEP ONE: Informal Resolution

(Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)

If the issue was not resolved during Step One, state why:

(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

Is this Grievance concerning Medical or Mental Health Services? 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):

On or about 3-2-22 After around 10:30pm I was Attacked

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 3-7-22 (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

Sgt. B. King ID Number Staff Signature Date Received 3-7-22

Describe action taken to resolve complaint, including dates: There is an investigation pending. EOS

MAR 15 2022

INMATE GRIEVANCES SUPERVISOR

Staff Signature & Date Received Sgt. B. King 3-11-22 Inmate Signature & Date Received 3-11-22

This form was received on 3-12-22 (date), pursuant to Step Two. Is it an Emergency? (Yes or No).

Staff Who Received Step Two Grievance: Sgt. B. King Date: 3-12-22

Action Taken: (Forwarded to Grievance Officer/Warden/Other) Date:

If forwarded, provide name of person receiving this form: Date:

DISTRIBUTION: YELLOW & PINK - Inmate Receipts; **BLUE** - Grievance Officer; **ORIGINAL** - Given back to Inmate after Completion of Step One and Step Two.

**ACKNOWLEDGEMENT OF GRIEVANCE APPEAL
or REJECTION OF APPEAL**

FAILURE TO FOLLOW
POLICY HAS RESULTED IN
A REJECTION FOR THIS
APPEAL AND MARKS THE END
OF THE APPEAL PROCESS

TO: Inmate Todd, Michael
FROM: Straughn, William F
RE: Receipt of Grievance 22-00511

ADC #:
TITLE: Assistant Director (ADC)
DATE: 03/15/2022

Please be advised, the appeal of your grievance dated
03/02/2022
was received in my office on this date 03/15/2022

Your grievance appeal is being returned pursuant to the Administrative Directive on Inmate Grievances due to one of the following:

- ☐ The time allowed for appeal has expired
- ☐ The matter is non-grievable and does not involve retaliation:
 - ☐ (a) Parole and/or Release matter
 - ☐ (b) Transfer
 - ☐ (c) Job Assignment (Unrelated to Medical Restriction)
 - ☐ (d) Disciplinary matter
 - ☐ (e) Matter beyond the Division's control and/or matter of State/Federal law
 - ☐ (f) Involves an anticipated event
 - ☐ (g) Publication
- ☐ You did not send all the proper Attachments:
 - ☐ (a) Unit Level Grievance Form (Attachment 1)
 - ☐ (b) Warden's/Center Supervisor's Decision (Attachment III); or Health Services Response (Attachment IV for Health Issues Only)
 - ☐ (c) Acknowledgement and/or Rejection form (Attachment II)
 - ☐ (d) Step Two was appropriately rejected
 - ☐ (e) Did not give reason for disagreement in space provided for appeal
 - ☐ (f) Did not complete Attachment III or IV by signing your name, ADC#, and/or the date
 - ☐ (g) Unsanitary form(s) or documents received
- ☒ This Appeal was REJECTED because it was a duplicate of 22-00494 , or was frivolous or vexatious

Appeal Asst Director XH31

IGTT400
3GR

Attachment II

ACKNOWLEDGMENT OR REJECTION OF UNIT LEVEL GRIEVANCE

TO: Inmate Todd, Michael
FROM: Long, Destiny A
DATE: 03/14/2022

ADC #: [REDACTED]
TITLE: Administrative Specialist II
GRIEVANCE #: 22-00511

Please be advised, I have received your Grievance dated 03/02/2022 on 03/14/2022.
Your grievance was rejected as either non-grievable, untimely, ~~RECEIVED~~, frivolous, or vexatious.

Destiny Long

MAR 15 2022

FAILURE TO FOLLOW
POLICY HAS RESULTED IN
A REJECTION FOR THIS
APPEAL AND MARKS THE END
OF THE APPEAL PROCESS

Signature of Administrative Specialist II

INMATE GRIEVANCES SUPERVISOR
ADMINISTRATION BUILDING

CHECK ONE OF THE FOLLOWING

- ☐ This Grievance will be addressed by the Warden/Center Supervisor or designee.
- ☐ This Grievance is of a medical nature and has been forwarded to the Health Services Administrator who will respond.
- ☐ This Grievance involves a mental health issue and has been forwarded to the Mental Health Supervisor who will respond.
- ☒ This Grievance has been determined to be an emergency situation, as you so indicated.

- ☐ This Grievance has been determined to not be an emergency situation because you would not be subject to a substantial risk of personal injury or other serious irreparable harm. Your Grievance will be processed as a Non-Emergency.
- ☒ This Grievance was REJECTED because it was either non-grievable (), untimely, was a duplicate of 22-00494, or was frivolous or vexatious.

INMATE'S APPEAL

If you disagree with a rejection, 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. If you do not receive communication regarding your grievance by the date listed above, you may move to the next level of the process. To do so, indicate in the Inmate's Appeal Section below that you did not receive a response and mail it to the appropriate Chief Deputy/Deputy/Assistant Director within five working days. Keep in mind that you are appealing the decision to reject the original complaint. Address only the rejection; do not list additional issues, which were not a 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.

This is the same Grievance. I turned in the pink copy b/c Sgt King had not brought the Back in a timely manner so when she did I sent it in the pink copy may not can be Read as good. Same Grievance

Michael Zele

Inmate Signature

ADC #: [REDACTED]

Date

3-15-22

If appealing a rejection, please include both the Unit Level Grievance Form (Attachment I) and the Rejection (Attachment II)

From: [ASCC New Claims](#)
To: [Thomas Burns \(DOC\)](#); [Roni Gean \(DOC\)](#)
Cc: [Kathryn Irby](#)
Subject: CLAIM: Michael Todd v. ADC, Claim No. 221393
Date: Thursday, May 26, 2022 12:47:00 PM
Attachments: [Michael Todd ADC agency ltr .pdf](#)
[Michael Todd Claim.pdf](#)

Please see attached. Contact Kathryn Irby with any questions.

Thank you,
Caitlin

Caitlin McDaniel

Administrative Specialist II

Arkansas State Claims Commission

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-1619

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

May 26, 2022

Mr. Thomas Burns
Arkansas Division of Correction
6814 Princeton Pike
Pine Bluff, Arkansas 71602

(via email)

RE: ***Michael Todd v. Arkansas Division of Correction***
Claim No. 221393

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: Michael Todd (ADC [REDACTED]), *Claimant* (w/ encl.)

<p>Note to Claimant or Claimant's counsel: 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.</p>
--

Mika Tucker

From: Roni Gean (DOC)
Sent: Tuesday, May 31, 2022 3:56 PM
To: ASCC Pleadings
Cc: Thomas Burns (DOC)
Subject: Michael Todd 093500 - Claim 221393 - Answer 05-31-22.pdf
Attachments: Michael Todd 093500 - Claim 221393 - Answer 05-31-22.pdf

Good afternoon,

Please see attached our Answer in this matter. Thank you.

Roni 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

MICHAEL TODD (ADC# [REDACTED])

CLAIMANT

v.

NO. 221393

**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 31st day of May 2022 on the Claimant by placing a copy of the same in the U. S. Mail, regular postage, to:

Michael Todd (ADC# [REDACTED])
[REDACTED]



Thomas Burns
General Counsel

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

MICHAEL TODD [REDACTED]

CLAIMANT

v.

NO: 221393

ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION

RESPONDENT
Arkansas
State Claims Commission

JUN 24 2022

OBJECTION/RESPONSE TO RESPONDENT'S
ANSWER TO COMPLAINT

RECEIVED

COMES NOW the CLAIMANT Michael Todd [REDACTED] and
FOR its OBJECTION/RESPONSE to Respondent's Answer to
Complaint. STATES AS FOLLOWS:

1. Respondent Ask that this matter be held in
"obeyance" until completion of the investigation of
by Internal Affairs

MR BURNS IS CLEARLY USING THIS AS A
TACTIC TO PROLONG, STALL/WAST TIME.

BECAUSE SEE: DIRECTOR DECISION 5-3-22
"INTERNAL AFFAIRS INVESTIGATION WAS
COMPLETED"... [ATTACHMENT VI]

WHEREFORE, For the ~~Following~~ Reason cited Above
CLAIMANT PRAY that His claim be Granted, without
Futher Delay And The Commission Approves
This Claim For PAYment.

"June 21, 2022"

Respectfully Submitted
Michael Todd [REDACTED]
Michael Todd [REDACTED]

Mika Tucker

From: Thomas Burns (DOC)
Sent: Monday, June 27, 2022 10:30 AM
To: ASCC Pleadings
Cc: Roni Gean (DOC); Leslie Browning (DOC)
Subject: Michael Todd v ADC 221393
Attachments: 2885_001.pdf

Motion to Dismiss

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

MICHAEL TODD (ADC [REDACTED])

CLAIMANT

v

NO. 221393

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 than "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 \$50000.00, for alleged inmate on inmate battery. Although inmate seeks an award of damages (\$50000.00), 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 pro se, 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.

10. In reviewing whether a complaint is subject to dismissal, the Court must accept as 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 [REDACTED] of the ADC. He is serving a 153-year sentence on a conviction of Residential Burglary and other crimes.

13. This inmate states in his claim that another inmate stabbed him while asleep.

14. Law enforcement officials, including supervising probation officers and, consequently, state and local governments, generally may not be held liable for failure to protect individual citizens from harm caused by criminal conduct. *Bartunek v. State*, 266 Neb. 454, 666 N.W.2d 435 (2003). There are situations that provide exceptions to the no-duty rule: (1) where individuals who have aided law enforcement as informers or witnesses are to be protected or (2) where the police have expressly promised to protect specific individuals from precise harm. *Brandon v. County of Richardson*, 252 Neb. 839, 566 N.W.2d 776 (1997). There is no duty to control the conduct of a third person so as to prevent him from causing physical harm to another unless (1) a special relation exists between the actor and the third person which imposes a duty upon the actor to control the third person's conduct **625 or (2) a special relation exists between the actor and the other which gives to the other a right to protection. *Bartunek, supra*. One who takes charge of a third person whom he knows or should know to be likely to cause bodily harm

to others if not controlled is under a duty to *828 exercise reasonable care to control the third person to prevent him from doing such harm. *Id. Wilken v. City of Lexington* 16 Neb. App. 817, 754 N.W.2d 616 Neb. App., 2008.

15. The inmate did not have an enemy alert that would tell the ADC that the inmate needed protection for inmate Gould. An enemy alert was generated after the battery. *See attached Ex A.*

16. The inmate states that the ADC will not give him camera footage or pictures. its is not the function of the Claims Commission to issue injunctive relief.

17. The inmate grieved this matter and in his appeal states “I’m asking that full charges be filed on these inmates and a record of it”

18. The inmate actually does not know who assaulted him, in fact his statement begins with “for all I know” *See attached Ex B.*

19. Arkansas law defines battery as “a wrongful or offensive physical contact with another through the intentional conduct by the tortfeasor and without the consent of the victim.” *Costner v. Adams*, 121 S.W.3d 164, 170 (Ark.App.2003). Plaintiff does *not* allege that *any* of the Defendants wrongfully or offensively touched him during his March 3, 2022, alleged altercation with Gould. Instead, he contends that Defendants failed to prevent the attack, which is a claim he can properly pursue under § 1983.

20. The inmate has filed a complaint that he knows is in bad faith and not supported by the facts. The Commission should award the ADC fees and costs for having to respond to this baseless complaint.

21. This same claim, if presented to a court of general jurisdiction would, as a matter of law, be dismissed.

22. “The commission shall make no award for any claim which, as a matter of law, should be dismissed from a court of law or equity for reasons other than sovereign immunity.” Ark. Code Ann. § 19-10-204(3)(A) (West Supp. 2015). “Specifically, if the facts of a given claim would cause the claim to be dismissed as a matter of law from a court of general jurisdiction, then the commission shall make no award on the claim.” Ark. Code Ann. § 19-10-204(3)(B) (West Supp. 2015). The claimant has not been damaged and only makes mere assertions that he has been damages. Without damages a Court would dismiss the claim in its entirety.

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

Respectfully submitted,



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

CERTIFICATE OF SERVICE

I certify that a copy of the above pleading has been served this 27th day of June 2022, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Michael Todd (([REDACTED])
[REDACTED]



Thomas Burns

ADD TO

2022-03-008

Enemy Alert Notification

I am recommending that Inmate Todd, M, ADC# [REDACTED]
and the following inmate(s) be placed on each others enemy
alert (attach additional names if necessary):

Inmate Gould J, ADC# [REDACTED]

Inmate _____, ADC# _____

Inmate _____, ADC# _____

This action is a result of: Gould assaulted Todd

The above listed inmates should not be housed, attend
recreation functions, or work together without proper
supervision.

[Signature]
Employee's Signature

3-3-22
Date

Action Recommended: Approve ☒ Disapprove _____

Reasons: Battery on Inmate

[Signature]
Chief of Security's Signature

03/07/22
Date

Concur _____ Date _____

Return for further consideration _____ Date _____

Comments: _____

Warden/Center Supervisor Sign.

Date

cc: Chief of Security
Records Office

ACI - 0038

RECEIVED
RECORDS DEPARTMENT

26x.A

ARKANSAS DEPARTMENT OF CORRECTIONS
STATEMENT OF WITNESS

Name

Michael Delle

Rank/Status/Number



Unit

STATEMENT:

*For all I know
Retherford / Daniels DID not
Assault me it was Gould*

I make this statement freely, under no duress, and without undue coercion exerted against me by any correctional officer or Official of the Arkansas Department of Corrections.

Michael Delle

Signature

3-15-2022

Date

M. J. 2022

Witness/Statement Taken By

MICHAEL TODD [REDACTED]

Arkansas
State Claims Commission
CLAIMANT
JUL 12 2022

No. 221393

ARKANSAS DEPARTMENT OF
CORRECTIONS DIVISION OF
CORRECTIONRECEIVED
RespondentCLAIMANT'S OBJECTION TO RESPONDENT'S MOTION TO DISMISS

Comes now, Claimant MICHAEL [REDACTED] for its objection/
FACTS AS TO WHY RESPONDENT'S MOTION TO DISMISS should be
DISMISSED.....

1. RESPONDENT'S MOTION [#]12 SPEAKS ON CLAIMANT TIME/CONVICTION
HE LIES About That, Because Claimant is NOT in Prison For
Residential Burglary - CLAIMANT'S (Conviction) ^(Illegal) HAS NOTHING TO
DO WITH CLAIMANT BEING SENT TO PRISON FOR [REDACTED]

[REDACTED] OFFICERS NOT WITHHELD ROUNDS, IS MORE A CONCERN
OF THIS SITUATION THAN CLAIMANT'S ILLEGAL CONVICTION...
NOW THAT MR BURN WANT TO OPEN THE DOOR TO CLAIMANT'S (ILLEGAL
CONVICTION) SEE EXHIBIT (A) Letter From Hempstead CO Circuit
Court Clerk Verifying There Never Was A Arrest WARRANT ISSUED
FOR CLAIMANT'S ARREST. Information Filed, CLAIMANT CONVICTION/SENTENCED
TO 153 YEARS IN PRISON (SEE) sentencing ORDER... ILLEGALLY

2. Respondent see's/knows that claimant only way to Prove Damages
is His Medical Records / Inmate Request shows that Respondents
Deny Claimant Access to Those Records. Claimant Ask That
These Documents be Available - Can I Claimant (Summons)
FOR These Documents FORM 3-3-22 Incident?

3. NONE of the Points MR Burns use in His Motion is A
Good Defense FOR THE Breach of Security That Happened
ON 3-3-22 [REDACTED] WAS HURT / Sent to
[REDACTED] Due to LACK of Security.

TO THE ARK CLAIM Commission

No Im not A weense Attorney, I Dont Know All Those Fancy Legal Terms / Cases to cite, I Also Know its MR Burns Duty / Job to Defend the A.D.C... But what I do know is That All of A sudden For some Reason, Now I cant Get a Copy of something out my Medical Jacket... Im not Allowed to Have the Report From Forrest City DR 3-3-22 Camera Footage OR Witness Statements From the witness's I asked for on claim. Which would Prove Damages ..

HAINES VS. KERNER 404 U.S. 519, 92 Sct 594, 30 LEd2d 652
Pro se Litigants Pleadings Are to be Construed Liberally /
Held to A Less Stringent Standard than Pleadings
DRAFTED BY LAWYERS ..

Sealed Plaintiff vs. Sealed Defendants, 537 F.3d 185
Courts Should liberally Construe Prose Complaints offering
Wider latitude despite legal Deficiencies / errors in
FOR MATING?

#7 of MR BURN'S MOTION is MisConstrued

SPEAKING OF FILING MOTIONS "IN BAD FAITH" # (20) of Respondents
#22 Respondent's LIES MR BURN SAYS I WAS NOT Damaged
THERE IS NO WAY HE CAN PROVE I WASN'T Damaged.

THERE IS Documents / witness's → A.D.C. Witness's /
Picture's / Transfer Documentatials - Forrest City AR-HOSPITAL
Document's 3-3-22 That will Prove I was Damaged.
A Hearing will SHOW / PROVE That Respondent LIES.

Respects Michael Todd

WHEREFORE, the Claimant Prays That the Motion To Dismiss Filed by Respondent Be Dismissed And Claimant be Granted A Hearing, And All Other Just / Proper Relief to which He MAY be Entitled.

Respectfully Submitted: #
Michael Todd

CERTIFICATE OF SERVICE

I Certify that A COPY of the Above Pleading has been served this July 5, 2022 on the below Respondent by placing a copy of the same in the U.S. Mail Regular Postage to:

Thomas Burn (02006)
Legal Division Department
6814 Princeton Pike
Pine Bluff, AR
71602

EXHIBIT (A)



HEMPSTEAD COUNTY

Gail Wolfenbarger

CIRCUIT CLERK

P.O. BOX 1420

HOPE, AR 71802-1420

PHONE: 870-777-2384 • FAX: 870-777-7827

May 20, 2019

Michael Todd, [REDACTED]
[REDACTED]

FILED
2019 MAY 20 PM 2:34
GAIL WOLFENBARGER
CIRCUIT CLERK
HEMPSTEAD COUNTY, AR

RE: LETTER FILED MAY 20, 2019

Dear Mr. Michael Todd:

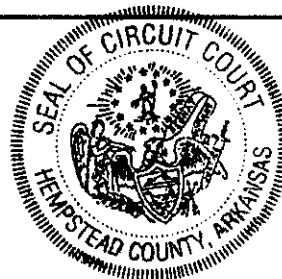
Anthony Biddle was the attorney assigned to represent you when you requested representation by the Public Defender's office in 2013. Since then, you have not hired a private attorney and there is not an order allowing Anthony Biddle to withdraw as your attorney. Therefore, Mr. Anthony Biddle is still the attorney of record for your case, 29CR-13-78-2. Our office is separate from the Public Defender's office and we are not able to discuss any concerns you have with another office.

→ Your request for a copy of an arrest warrant in case number 29CR-13-78-2 cannot be completed because there is no arrest warrant in this case. Please refer to the copies of the docket sheet that were provided to you when requesting documents from your case.

Sincerely,

Hannah Kincheloe, D.C.

Hannah Kincheloe, Deputy Circuit Clerk



JUL 12 2022

IN THE CIRCUIT COURT OF HEMPSTEAD COUNTY, ARKANSAS
8N DISTRICT

RECEIVED

STATE OF ARKANSAS

PLAINTIFF

V.

NO. CR 2013-78-2

MICHAEL TODD

DEFENDANT

Code #	Offense	ACC/S	F/M	Class
5-39-202	BREAKING OR ENTERING		F	D
5-37-201	FORGERY - 2 nd Degree		F	C
5-36-103(b)(4)(A)	THEFT OF PROPERTY <= \$1,000		M	A

DOB [REDACTED]
RACE B
SEX Male

FILED
2013 NOV 18 PM
GAIL WOLFENBARGER
CIRCUIT CLERK
HEMPSTEAD COUNTY

AMENDED INFORMATION

Comes the Prosecuting Attorney, Christi McQueen, for the 8N District of HEMPSTEAD County, Arkansas, and in the name and by the authority of the State of Arkansas, charges Michael Todd with the crime(s) of **BREAKING OR ENTERING, FORGERY - 2nd Degree and THEFT OF PROPERTY <= \$1,000** as follows:

COUNT 1: BREAKING OR ENTERING ARK. CODE ANN. § 5-39-202. The said defendant in the 8N District of HEMPSTEAD COUNTY, did on or about February 19, 2013, unlawfully, feloniously and for the purpose of committing a theft or felony, enter or break into a vehicle belonging to Fallon Langston, in violation of A.C.A. §5-39-202 against the peace and dignity of the State of Arkansas.

PENALTY -CLASS D FELONY (LARGE HABITUAL): Imprisonment in the Arkansas Department of Correction for a term not more than 15 years or a fine not exceeding \$10,000.00 or both such fine and imprisonment.

NOTE: The State contends that this Defendant should receive an extended term of imprisonment under the terms and provisions of A.C.A. §5-4-501 as he has four (4) or more felony convictions.

COUNT 2: FORGERY -2nd Degree ARK. CODE ANN. § 5-37-201. The said defendant in the 8N District of HEMPSTEAD COUNTY, did on or about February 19, 2013, unlawfully and feloniously with the purpose to defraud, make, complete, possess, alter or utter a written instrument, namely a check, or other written instrument, that purported to be or was calculated to become or represent if completed, the act of a person, Feroyri Sampson, who did not authorize that act in violation of A.C.A. §5-37-201 against the peace and dignity of the State of Arkansas.

PENALTY - CLASS C FELONY (LARGE HABITUAL): Imprisonment in the Arkansas Department of Correction for a term not less than three (3) years nor more than thirty (30) years or a fine not exceeding \$10,000.00 or both such fine and imprisonment.

NOTE: The State contends that this Defendant should receive an extended term of imprisonment under the terms and provisions of A.C.A. §5-4-501 as he has four (4) or more felony convictions.

COUNT 3: THEFT OF PROPERTY <= \$1,000 ARK. CODE ANN. § 5-36-103(b)(4)(A). The said defendant in the 8N District of HEMPSTEAD COUNTY, did on or about February 19, 2013, unlawfully, and knowingly take or exercise unauthorized control over, or make an unauthorized transfer of an interest in, the property of another person, Feroyri Sampson, with the purpose of depriving the owner thereof, said property is valued at less than \$1,000.00 in violation of A.C.A. §5-36-103(b)(4)(A) against the peace and dignity of the State of Arkansas.

PENALTY -- CLASS A MISDEMEANOR: Imprisonment in the County Jail for a term not to exceed one (1) year or a fine not exceeding \$2,500.00 or both such fine and imprisonment.



Deputy Prosecuting Attorney

EXHIBIT 2

Book-Page: CR2014-00554

SENTENCING ORDER - AMENDED

IN THE CIRCUIT COURT OF HEMPSTEAD COUNTY, ARKANSAS, 8N JUDICIAL DISTRICT 2nd DIVISION
 On 2/26/2014 the Defendant appeared before the Court, was advised of the nature of the charge(s), of
 Constitutional and legal rights, of the effect of a guilty plea upon those rights, and of the right to make a statement before sentencing.

Court Info	Judge Duncan Culpepper	2014 FEB 26 AM 8 57 FILE STAMP SAIL WOLFENBARGER CIRCUIT CLERK HEMPSTEAD COUNTY, AR
	Prosecuting Attorney/Deputy Christi McQueen, Prosecuting Attorney	
	Defendant's Attorney Anthony Biddle <input type="checkbox"/> Private <input checked="" type="checkbox"/> Public Defender <input type="checkbox"/> Appointed <input type="checkbox"/> Pro Se	
	Change of Venue <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, from:	

Legal Statements	<input type="checkbox"/> Pursuant to A.C.A. §§16-93-301 et seq., §§5-64-413 et seq., or this Court, without making a finding of guilt or entering a judgment of guilt and with the consent of the Defendant defers further proceedings and places the Defendant on probation.
	There being no legal cause shown by the Defendant, as requested, why judgment should not be pronounced, a judgment is hereby entered against the Defendant on each charge enumerated, fines levied, and court costs assessed. Defendant was advised of the conditions of the sentence and/or placement on probation and understands the consequences of violating those conditions. The Court retains jurisdiction during the period of probation/suspension and may change or set aside the conditions of probation/suspension for violations or failure to satisfy Department of Community Correction (D.C.C.) rules and regulations.
	<input checked="" type="checkbox"/> of conviction is hereby entered against the Defendant on each charge enumerated, fines levied, and court costs assessed. The Defendant is sentenced to the Arkansas Department of Correction (A.D.C.) for the term specified on each offense shown below.
	Defendant made a voluntary, knowing, and intelligent waiver of the right to counsel. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Defendant	[Last, First, MI] Todd, Michael	DOB [REDACTED]	Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Total Number of Counts 4
	SSN 5 8 9 3 3 0	Race & Ethnicity <input type="checkbox"/> White <input checked="" type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander		
	#	<input type="checkbox"/> Unknown <input type="checkbox"/> Other <input type="checkbox"/> Hispanic		
	Supervision Status at Time of Offense probation/parole			

A.C.A. # of Offense/ Name of Offense 5-39-201 / Burglary - Commercial		Case # CR-2013-78	
A.C.A. # of Original Charged Offense 5-39-201	ATN H E M 0 0 5 8 1 0 7 4 3	Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted	
Offense Date 2/19/2013	Appeal from District Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Probation/SIS Revocation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Criminal History Score 11	Seriousness Level 5	Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd.	Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U
Presumptive Sentence <input checked="" type="checkbox"/> Prison Sentence of 180 months	<input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction		
Number of Counts 1	Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense		
Defendant Sentence* (See page 2) Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail 360 months	If probation accompanied by period of confinement, state time: _____ days or _____ months		
Probation _____ months	Sentence was enhanced _____ months, pursuant to A.C.A. § _____		
SIS _____ months	Enhancement is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.		
Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death	Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)		
Victim Info# (See page 2) <input type="checkbox"/> N/A	Age _____	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., <input type="checkbox"/> §§5-64-413 et seq., or <input type="checkbox"/> other _____ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input checked="" type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.	
Sentence will run <input checked="" type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # _____ or Case # see add'l information			

T.113 Add-26

SOG 1

A.C.A. # of Offense / Name of Offense 5-37-201 / Forgery - 2nd Degree		Case # CR-2013-78	
A.C.A. # of Original Charged Offense 5-37-201	ATN H E M O O S 8 1 0 7 4 3	Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted	
Offense Date 2/19/2013	Appeal from District Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Probation/SIS Revocation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Criminal History Score 11	Seriousness Level 3	Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd.	Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U

Presumptive Sentence ☒ Prison Sentence of 60 months ☒ Community Corrections Center ☒ Alternative Sanction

Number of Counts 1 Defendant ☐ Attempted ☐ Solicited ☐ Conspired to commit the offense

Defendant Sentence* (See page 2) Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail 360 months Probation _____ months SIS _____ months Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death	If probation accompanied by period of confinement, state time: _____ days or _____ months. Sentence was enhanced _____ months, pursuant to A.C.A. § _____ Enhancement is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive. Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)
--	--

Victim Info# (See page 2) ☐ N/A ☒ [Multiple Victims ☐ Yes ☒ No] Age _____ Sex ☒ Male ☐ Female Race & Ethnicity ☐ White ☒ Black ☐ Asian ☐ Native American ☐ Pacific Islander ☐ Other ☐ Unknown ☐ Hispanic

Defendant voluntarily, intelligently, and knowingly entered a ☐ negotiated plea of ☐ guilty or ☐ nolo contendere. ☐ plea directly to the court of ☐ guilty or ☐ nolo contendere.

Defendant: ☐ was sentenced pursuant to ☐ §§16-93-301 et seq., ☐ §§5-64-413 et seq., or ☐ other _____
☐ entered a plea and was sentenced by a jury.
☐ was found guilty by the court & sentenced by ☐ court ☐ jury.
☒ was found guilty at a jury trial & sentenced by ☐ court ☒ jury.
☐ was found guilty of lesser included offense by ☐ court ☐ jury.

Sentence is a Departure ☐ Yes ☒ No Sentence Departure is ☐ Durational or ☐ Dispositional. If durational, state how many months above/below the presumptive sentence: _____

Departure Reason (See page 2 for a list of reasons) Aggravating # _____ or Mitigating # _____. For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: jury trial

Sentence will run: ☒ Consecutive ☐ Concurrent to Offense # _____ or Case # See add'l information

A.C.A. # of Offense / Name of Offense 5-39-202 / Breaking or entering		Case # CR-2013-78	
A.C.A. # of Original Charged Offense 5-39-202	ATN H E M O 5 8 1 0 7 4 3	Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted	
Offense Date 2/19/2013	Appeal from District Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Probation/SIS Revocation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Criminal History Score 11	Seriousness Level 3	Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd.	Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input checked="" type="checkbox"/> D <input type="checkbox"/> U

Presumptive Sentence ☒ Prison Sentence of 60 months ☒ Community Corrections Center ☒ Alternative Sanction

Number of Counts 1 Defendant ☐ Attempted ☐ Solicited ☐ Conspired to commit the offense

Defendant Sentence* (See page 2) Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail 180 months Probation _____ months SIS _____ months Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death	If probation accompanied by period of confinement, state time: _____ days or _____ months. Sentence was enhanced _____ months, pursuant to A.C.A. § _____ Enhancement is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive. Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)
--	--

Victim Info# (See page 2) ☐ N/A ☒ [Multiple Victims ☐ Yes ☒ No] Age _____ Sex ☒ Male ☐ Female Race & Ethnicity ☐ White ☒ Black ☐ Asian ☐ Native American ☐ Pacific Islander ☐ Other ☐ Unknown ☐ Hispanic

Defendant voluntarily, intelligently, and knowingly entered a ☐ negotiated plea of ☐ guilty or ☐ nolo contendere. ☐ plea directly to the court of ☐ guilty or ☐ nolo contendere.

Defendant: ☐ was sentenced pursuant to ☐ §§16-93-301 et seq., ☐ §§5-64-413 et seq., or ☐ other _____
☐ entered a plea and was sentenced by a jury.
☐ was found guilty by the court & sentenced by ☐ court ☐ jury.
☒ was found guilty at a jury trial & sentenced by ☐ court ☒ jury.
☐ was found guilty of lesser included offense by ☐ court ☐ jury.

Sentence is a Departure ☐ Yes ☒ No Sentence Departure is ☐ Durational or ☐ Dispositional. If durational, state how many months above/below the presumptive sentence: _____

Departure Reason (See page 2 for a list of reasons) Aggravating # _____ or Mitigating # _____. For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: jury trial

Sentence will run: ☒ Consecutive ☐ Concurrent to Offense # _____ or Case # See add'l information

Additional Offense #

Additional Offense #

Sex Offenses

Defendant has been adjudicated guilty of an offense requiring sex offender registration and must complete the Sex Offender Registration Form.

☐ Yes ☒ No

Defendant has committed an aggravated sex offense as defined in A.C.A. §12-12-903.

☐ Yes ☒ No

Defendant is alleged to be a sexually violent predator and is ordered to undergo an evaluation at a facility designated by A.D.C. pursuant to A.C.A. §12-12-918.

☐ Yes ☒ No

Defendant, who has been adjudicated guilty of an offense requiring registration, has been adjudicated guilty of a prior sex offense under a separate case number. ☐ Yes ☒ No
If yes, list prior case numbers:

DNA Sample/Qualifying Offense

Defendant has been adjudicated guilty of a qualifying offense or repeat offense (as defined in A.C.A. §12-12-1103). ☒ Yes ☐ No

Defendant is ordered to have a DNA sample drawn at ☐ a D.C.C. facility ☐ the A.D.C. or ☒ other already on file

Domestic Violence Offenses

Defendant has been adjudicated guilty of a domestic-violence related offense.

☐ Yes ☒ No

If no, was defendant originally charged with a domestic-violence related offense? ☐ Yes ☒ No
If yes, state the name of the offense:

If yes to either question, identify the relationship of the victim to the defendant.

Drug Crime

Defendant has been convicted of a drug crime, as defined in §12-17-101.

☐ Yes ☒ No

Court Costs

\$

Fines

\$32,500.00**

Booking/Admin Fees (\$20)

\$

Drug Crime Assessment Fee (\$125)

\$

DNA Sample Fee (\$250)

\$

Mandatory Sex Offender Fee (\$250)

\$

Public Defender User Fee

\$

Public Defender Attorney Fee

\$

Other

(explain)

\$

Restitution \$

Payable to (If multiple beneficiaries, give names and payment priority)

Terms ☐ Due Immediately

☐ Installments of:

☒ Payments must be made within TBD days of release from A.D.C.

☐ Upon release from confinement, Defendant must return to court to establish payment of restitution

☐ Restitution is joint and several with co-defendant(s) who was found guilty - List name(s) and case number(s)

Act 531, §§16-93-1201 et seq.: Defendant was convicted of a target offense(s) and is sentenced pursuant to provisions of the Community Punishment Act. ☐ Yes ☒ No

The Court hereby orders a judicial transfer to the Department of Community Correction. ☐ Yes ☒ No

Pursuant to the Community Punishment Act, the Defendant shall be eligible to have his/her records sealed. ☐ Yes ☒ No

Extended Juvenile Jurisdiction Applied

☐ Yes ☒ No

JAIL TIME CREDIT

In days: 88

TOTAL TIME TO BE SERVED FOR ALL OFFENSES

In months: 900

☐ Life

☐ LWOP

Death Penalty

☐ Yes ☒ No

If Yes, State Execution Date:

DEFENDANT IS ASSIGNED TO:

☒ ADC

☐ CCC

☐ COUNTY JAIL

☐ PROBATION

☐ SIS

☐ SPECIAL CONDITIONS

Conditions of disposition or probation are attached. ☐ Yes ☒ No

A copy of the pre-sentence investigation or sentencing information is attached ☐ Yes ☒ No

A copy of the Prosecutor's Short Report is attached ☒ Yes ☐ No

☐ Defendant has previously failed a drug court program.

DEFENDANT WAS INFORMED OF APPELLATE RIGHTS ☒ Yes ☐ No

Appeal Bond \$

The County Sheriff is hereby ordered to: ☐ transport the defendant to county jail ☐ take custody for referral to CCC ☒ transport to ADC

Defendant shall report to DCC probation officer for report date to CCC ☐ Yes ☒ No

Prosecuting Attorney/Deputy

Signature:

Date:

Print Name: Phillip Harris

Circuit Judge

Signature:

Date:

Print Name: Duncan Culpepper

Additional Info:

Offense # 1, 2 & 3 are consecutive to each other & this case is consecutive to case nos. CR-09-33, CR-09-34, CR-09-35, CR-09-36, CR-09-37 & CR-09-38.

Offense #4 is concurrent with Offense # 1, 2 & 3. **Offense #1 ordered \$10,000 fine; Offense #2 ordered \$10,000 fine; Offense #3 ordered \$10,000 fine

Offense #4 ordered \$2,500 fine making the total fine in this case to be \$32,500. The jury determined the time & fine and the judge ordered time to be

consecutive. See the additional information page attached hereto, incorporated herein and made a part hereof. AMENDED to Correct

to add the additional information page attached hereto, incorporated herein and made a part hereof.

Mika Tucker

From: Misty Scott on behalf of ASCC Pleadings
Sent: Monday, August 29, 2022 3:14 PM
To: Thomas Burns (DOC)
Cc: Leslie Browning (DOC); ASCC Pleadings; Mika Tucker
Subject: ORDER: Michael Todd v. ADC, Claim No. 221393
Attachments: Michael Todd v. ADC-MT.pdf; Michael Todd-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

August 29, 2022

Mr. Michael Todd (ADC [REDACTED])
[REDACTED]
[REDACTED]

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

(via email)

Re: ***Michael Todd v. Arkansas Division of Correction***
Claim Nos. 221393

Dear Mr. Todd and Mr. Burns:

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

Sincerely,

Mika Tucker

ES: msscott

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

MICHAEL TODD (ADC [REDACTED])

CLAIMANT

V.

CLAIM NO. 221393

**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 Michael Todd (the “Claimant”). Based upon a review of the motion, the arguments made therein, and the law of Arkansas, the Claims Commission hereby finds as follows:

1. Claimant filed his claim on May 20, 2022, seeking \$50,000.00 in damages. Claimant alleges he was stabbed in his face, arms, stomach and head when Respondent breached security.

2. Respondent filed a motion to dismiss pursuant to Ark. R. Civ. Proc. 12(b)(6), arguing, *inter alia*, that Claimant has not been damaged.

3. Claimant did not respond to the motion to dismiss.

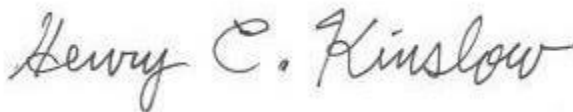
4. In reviewing Respondent’s motion to dismiss, the Claims Commission must treat the facts alleged in the complaint as true and view them in a light most favorable to the Claimant. *See Hodges v. Lamora*, 337 Ark. 470, 989 S.W.2d 530 (1999). All reasonable inferences must be resolved in favor of the Claimant, and the complaint must be liberally construed. *See id.* However, the Claimant must allege facts, not mere conclusions. *Dockery v. Morgan*, 2011 Ark. 94 at *6, 380 S.W.3d 377, 382 (2011). The facts alleged in the complaint will be treated as true, but not “a plaintiff’s theories, speculation, or statutory interpretation.” *See id.* (citing *Hodges*, 337 Ark. 470, 989 S.W.2d 530 (1999)).

5. The Claims Commission elects to exclude the evidence attached to Respondent's motion for purposes of considering this motion to dismiss. *See* Ark. R. Civ. P. 12(b). This exclusion relates only to this motion to dismiss. Respondent is free to use these documents as permitted by all applicable rules of practice and procedure and to file a motion for summary judgment once discovery is completed.

6. The Claims Commission finds that dismissal of Claimant's claim is premature.

7. Respondent's motion to dismiss is DENIED, and the parties are instructed to conduct discovery.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION

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

DATE: August 29, 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).

Mika Tucker

From: Leslie Browning (DOC)
Sent: Wednesday, September 21, 2022 1:33 PM
To: ASCC Pleadings
Cc: Thomas Burns (DOC)
Subject: Michael Todd 221393
Attachments: Interr & RFPD to Inmate.pdf; RFA to Inmate.pdf

RFA and Interr to Claimant

Leslie Browning

Arkansas Division of Correction
Central Office/Legal Division
6814 Princeton Pike
Pine Bluff, AR 71602
Legal Support Specialist
Phone: 870-267-6844
Email: leslie.browning@arkansas.gov

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

MICHAEL TODD [REDACTED]

CLAIMANT

v

CLAIM NO. 221393

**ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION**

RESPONDENT

**FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION PROPOUNDED TO CLAIMANT**

In accordance with Rules 33 and 34 of the Arkansas Rules of Civil Procedure, Defendant hereby requests the answers and responses to the following Interrogatories and Requests for Production. You are required to serve your answers and responses at the expiration of thirty (30) days from the date upon which you receive a copy of these Interrogatories and Requests for Production.

INTERROGATORY NO. 1: Please list all witness you may call in relation to this matter and a synopsis of their expected testimony.

INTERROGATORY NO. 2: Please state why monies you paid out of pocket for medical treatment.

INTERROGATORY NO. 3: Please state who you told that you needed an enemy alert for Inmate Aaron Rutherford ([REDACTED]), James Gould ([REDACTED]) and Eddie Daniels ([REDACTED]).

INTERROGATORY NO. 4: Please state who "Allowed" the Inmate(s) to have a "shank"

INTERROGATORY NO. 5: Please state how officers failed to protect you.

INTERROGATORY NO. 6: Please state how ADC is liable for the acts of third parties.

INTERROGATORY NO. 7: Is this claim against the Officers individually.

INTERROGATORY NO. 8: Please state why you should receive money.

INTERROGATORY NO. 9: Please state what “beef” you had with Inmates Rutherford, Gould, and Daniels.

INTERROGATORY NO. 10: What Doctors have you seen and what were their diagnosis.

INTERROGATORY NO. 11: Please state how you came up with \$50,000.00 in damages

INTERROGATORY NO. 12: Please state what your measure of damages is.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Please attach a copy of any documents you plan to introduce in any hearing of this matter

Respectfully submitted,



Thomas Burns (02006)
Division of Correction
Legal Department
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 this pleading has been served this 21st day of September 2022, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Michael Todd [REDACTED]

[REDACTED]



Thomas Burns

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

MICHAEL TODD (REDACTED)

CLAIMANT

v

CLAIM NO. 221393

**ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION**

RESPONDENT

**FIRST SET OF REQUESTS FOR ADMISSIONS
TO CLAIMANT**

Comes now, the Plaintiff, Arkansas Department of Corrections, (ADC), by and through their attorney, Thomas Burns, and for their First Set of Requests for Admissions to Michael Todd, to be answered in accordance with the Arkansas Rule of Civil Procedure, states:

REQUEST FOR ADMISSION NO. 1: Admit that you do not have any damages related to this matter Claim 221393.

REQUEST FOR ADMISSION NO. 2: Admit that you did not pay for medical care for the incident complained of in 221393.

REQUEST FOR ADMISSION NO. 4: Admit that you are making a section 1983 claim in claim 210581.

REQUEST FOR ADMISSION NO. 5: Admit that you had provoked Inmate Gould, Rutherford, and Daniels.

REQUEST FOR ADMISSION NO. 6: Admit that ADC acted pursuant to policy.

REQUEST FOR ADMISSION NO. 7: Admit that you do not have any monetary loss.

REQUEST FOR ADMISSION NO. 8: Admit that there is not a deduction for your medical care

Filed 21 September 2022.

Respectfully submitted,



Thomas Burns (02006)
Department 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 this pleading has been served this 21st day of September 2022, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Michael Todd ([REDACTED])
[REDACTED]



Thomas Burns

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

MICHAEL TODD (REDACTED)

Arkansas
State Claims Commission CLAIMANT

v.

221393

OCT 05 2022

ARKANSAS DEPARTMENT OF CORRECTION
DIVISION OF CORRECTIONS

Respondent

RECEIVED

Response TO FIRST SET OF REQUESTS FOR ADMISSIONS TO CLAIMANT

Comes Now The Claimant Michael Todd pro se with his
Response TO FIRST SET OF Request FOR Admissions STATES:

1. ^(A) YES "I HAVE DAMAGES Related to This matter at 221393:
(REDACTED)

2. EVERY ONE PAYS Medical CO PAY, I WAS or had to be
TRANSFERRED TO Forrest CITY HOSPITAL, SO SOMEONE HAD TO
PAY FOR THIS TRIP TO THE HOSPITAL...

4. AS FOR THIS "#4 Question" I KNOW NOTHING about
Claim # 210581

5. I DIDNT Provoke Gould Rutherford OR DANIELS.

6. A.D.C VIOLATED Policy. BREACH OF SECURITY

7. MONETARY LOSS → ? → EVERYTHING

8. There is ALWAYS A Deduction For ANY/ALL Medical
CARE Appointments..

Filed 27 Sept 2022

Michael Todd # (REDACTED)
Michael Todd (REDACTED)

CERTIFICATE of Service

I Certify that A copy of This pleading
has been served 28th day of Sept
on the Respondent by placing a copy
of the same in the U.S. Mail. Reg.
POSTAGE TO: Thomas Burns (20006)
6814 Princeton Pk
Pine Bluff AR 71602

BEFORE THE ARKANSAS STATE CLAIMS Commission
Michael Todd # [REDACTED] # 221393 Claimant

ARKANSAS Department of Corrections
DIVISION OF Correction Respondent

FIRST SET OF INTERROGATORIES / Request For Production
PRO Pounded TO Claimant

In Accordance with Rules 33/34 of the Arkansas Rules of Civil ~~Procedure~~ Procedure, Claimant hereby Answers / Responds to the Following Interrogatories And Request For Production.

#1 "Lt" SGT Smith - SGT Grainville - Col DALE, Sgt Wilson - Nurse

[REDACTED]

#2 When was the [REDACTED] lost was for the [REDACTED]

#3 No one told me I needed A enemy Alert For Any of These People

#4 SECURITY HAD to "Allow" Them to HAVE A "SHANK"

#5 BREACH OF SECURITY - Security LIGHT WAS Covered UP! Security Made No Rounds, Only one Female officer WAS ON Post over 240 Inmates, SHORTAGE OF STAFF IS A FAILURE TO PROTECT...

#6 ADC is liable because Shortage of STAFF. Had officers made Rounds Security Lights would have been Uncovered. IF Security HAD Done Proper Shake Down / Pat Searches They would have Discovered The Shank I was Stabbed with.

- * 7. This claim is Against A.D.C.?
- * 8. Because I should be compensated For the PAIN / Suffering I went / going Thru - For ADC BREACH of SECURITY
- * 9. I HAD NO BEEF with inmate Gould, Daniels, Rutherford
- * 10. [REDACTED]

Certificate of Service

I certify that a copy of this Pleading has been Served this 28th day of Sept 2022 on the Respondent ADC by placing a copy of the same in the US MAIL Regular Postage to:

Thomas Burns (02006)
Division of Corrections
6814 Princeton Pike
Pine Bluff AR

71602

Michael [REDACTED]

[Request From Infirmmary
DIRECTOR / ADC Warden Design -> Hearing

Mika Tucker

From: Thomas Burns (DOC)
Sent: Monday, October 10, 2022 11:16 AM
To: ASCC Pleadings
Cc: Leslie Browning (DOC)
Subject: Michael Todd v ADC 221393
Attachments: 0256_001.pdf

Safe Harbor Letter

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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LEGAL DIVISION

6814 Princeton Pike
Pine Bluff, Arkansas 71602

Phone: (870) 267-6844 | Fax: (870) 267-6373

DOC.ARKANSAS.GOV

October 10, 2022

Michael Todd [REDACTED]
[REDACTED]


Re: Michael Todd v ADC
Claim Number 221393

Dear Mr. Todd:

I am in receipt of your discovery responses to Request for Admissions, Interrogatories and Production of Documents. These are not correctly formatted, nor correctly stated, in accordance with Rules 26, 33, 36, and 37 of the Arkansas Rules of Civil Procedure. Arkansas law makes it clear that Pro Se parties are held to the same standards as attorney and are presumed to know the law. I am pointing you to the correct rules so that you may correct deficiencies and be in compliance with the rules of Civil Procedure.

Currently, we are seeking these corrections without the intervention of the Claims Commission. We will hold off for twenty-one (21) days to allow for you to have time to correct these deficiencies. Should you fail to correct the responses we will be forced to file a motion to compel, or sanctions as allowed by the Rules.

Very truly yours,


Thomas Burns
Legal Department
Arkansas Division of Correction

TB/

cc: File
ASCC

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION
Michael Todd # [REDACTED] Arkansas Claimant

22139 State Claims Commission

ARKANSAS Department of Corrections
DIVISION OF CORRECTION

OCT 22 2022

RECEIVED Respondent

MOTION FOR EXTENSION OF TIME

Comes now Claimant Michael Todd # [REDACTED] PRO'Se
Filing His Motion For Extension of Time For The
Following Reason's:

Claimant Request Extension of Time Because Due
To Being Housed in The [REDACTED] Unit "I do not
HAVE ACCESS TO THE LAWYERS I HAVE TO WAIT ON
THEM WHICH WE ONLY SEE THEM ONCE A WEEK IF THEN.

I've File To the Best of my Knowledge / Answered
The discovery Response's to Request For Admissions,
Interrogatories / Productions of Documents - BUT
MR BURNS Seem TO Keep Assuming that "ARKANSAS
LAW MAKES it clear that Prose Parties are held to the same
standards as REAL (Attorney-LAWYERS) and ARE Presumed
to know the LAW. see Notice from Legal Division 10-10-22

I've Objected to MR BURNS Motion to Dismiss / Showed A
9th Circuit Case where Prose Parties "ARE NOT" to be
Held to the same Standard as A Attorney...

Wherefore Claimant Prays the Claims Commission will
Grant His Motion And Allow Him Time to TRY
TO Answer The Requested Response's Accordingly.

Oct 19-2022

Michael Todd # [REDACTED]

Respondent 52

TO THE ARKANSAS CLAIMS COMMISSION

221393

SEE ↓

FIRST SET OF REQUESTS FOR ADMISSIONS
TO CLAIMANT

FOR MR BURNS TO STRESS "PROSE PARTIES" SHOULD BE
HELD TO THE SAME STANDARD AS A ATTORNEY'S - ATTORNEY'S
ARE NOT PERFECT / MAKES MISTAKES ALSO SEE # 4
ON FIRST SET OF REQUEST FOR ADMISSION. NOW THIS
GO TO SHOW ATTORNEYS ARE NOT PERFECT, MR BURNS
IS EITHER LYING OR USING THIS AS A FORM OF
TRICKERY BECAUSE THERE IS NO 1983 CLAIM FILE IN
THIS CASE # 221393 SO WHY WOULD HE SPEAK ON
A CASE # 210581 THAT I HAVE NO KNOWLEDGE OF.

DO THE CLAIMS COMMISSION REQUIRE THAT
I REFILE THE RESPONSES ?? IN A CERTAIN
TYPE OF WAY?

1. FOR RULE 26 - CAN I REQUEST THE CAMERA FOOTAGE
FOR THE NIGHT OF THIS INCIDENT ?? 3-2-22 AT
OR AROUND 10:30 PM → SHOWING SECURITY LIGHTS COVERED UP.
2. I REQUEST THE SECURITY LOG AS CAPT HARRIS ADMITS
SHORTAGE OF SLEEP

COI DATA - Col Wilson - Request Her Phone #. Sgt Granville / Sgt Smith
was on Duty the night of / Report Logged in. Nurse That



LEGAL DIVISION

6814 Princeton Pike

Pine Bluff, Arkansas 71602

Phone: (870) 267-6844 | Fax: (870) 267-6373

DOC.ARKANSAS.GOV

October 10, 2022

Michael Todd [REDACTED]
[REDACTED]
[REDACTED]

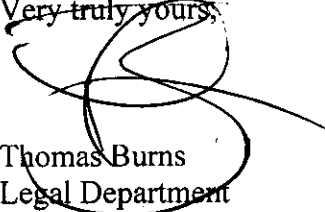
Re: Michael Todd v ADC
Claim Number 221393

Dear Mr. Todd:

I am in receipt of your discovery responses to Request for Admissions, Interrogatories and Production of Documents. These are not correctly formatted, nor correctly stated, in accordance with Rules 26, 33, 36, and 37 of the Arkansas Rules of Civil Procedure. Arkansas law makes it clear that Pro Se parties are held to the same standards as attorney and are presumed to know the law. I am pointing you to the correct rules so that you may correct deficiencies and be in compliance with the rules of Civil Procedure.

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Very truly yours,


Thomas Burns
Legal Department
Arkansas Division of Correction

TB/

cc: File
ASCC

Mika Tucker

From: Thomas Burns (DOC)
Sent: Thursday, October 27, 2022 1:46 PM
To: ASCC Pleadings
Cc: Leslie Browning (DOC)
Subject: Michael Todd v ADC 221393
Attachments: 0625_001.pdf

Motion Deem Admitted

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

MICHAEL TODD [REDACTED]

CLAIMANT

v.

NO. 221393

ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION

RESPONDENT

MOTION TO DEEM REQUESTS FOR ADMISSIONS ADMITTED

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

1. On September 21, 2022, Respondent caused to be served via US Mail on Claimant a set of Requests for Admissions. *See attached Ex. A*

2. As such the Claimant responses to the Requests became due on Oct 21, 2022. The inmate responded on September 27, 2022. *See attached Ex B.*

3. The inmates responses did not comport to the Rules of Civil Procedure and the inmate was sent a safe harbor letter seeking the information without the Commission as stated by the rules. *See attached Ex C.*

4. The Claimant answers to not comport to the responses as prescribed by Rule 36(a) despite giving the inmate an additional 21 days. The inmate has failed and refused to respond.

5. The permissible responses, according to **RULE 36(a)**, are, (1) **admit**; (2) **deny**; (3) object, stating the reasons for the objection; (4) state the reasons why the responding party can neither **admit** or **deny**; (5) **admit** or **deny** to the remainder; or (6) **admit** or **deny** in whole or in part with qualification. In one of the few cases construing the **rule**, for example, the Court of Appeals held that “**denied**” was an adequate response. Even if a party has no personal knowledge, he or she must answer a request for admission

if the information can be obtained through reasonable inquiry. *Chiodini v Lock*; 2010 Ark App 340.

6. *Chiodini* is very clear that the inmates response do not comport to the rule.

The Supreme Court has said in that ruling, only the six responses above are permissible.

7. ARCP Rule 36(a) states in part:

Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within 30 days after service of the request, the party to whom the request is directed served upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney...If objection is made, the reasons therefore shall be stated. **The party answering requests for admissions shall repeat each request immediately before the answer or objection.** The answer shall specifically admit or deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; he may, subject to the provisions of Rule 37(c), deny the matter or set forth reasons why he cannot admit or deny it...[emphasis added].

The Rule says the responses **SHALL** repeat each request. The true meaning of **SHALL** is that it must happen. Since that has not happened and the Rule and the ruling in *Chodini* was not followed the matter is deemed admitted.

8. Responses to requests for admissions: the inmate states yes or makes no response at all, these are improper. They do not constitute a denial, and in fact amounted to admissions of the truth of the statements contained in the requests. *Young v Dodson* 239 Ark 143 (1965).

9. Requests for Admissions have their own procedures and requirements, which results in automatic consequences for failure to respond that are similar to though more stringent than failing to respond to pleadings, and much more stringent than those for failing to respond to written discovery such as Interrogatories and Requests for Production. No mention of any specific Requests for Admissions is made anywhere, and no specific issue is taken, even by the respondent's own pleading, with any of the substance of the Requests for Admissions; to the extent any of the requests propounded are considered improper by the respondent, they were not independently objected to with grounds laid out in good faith as mandated by the above-quoted Rule. In any case, by the plain language of Rule 36, as quoted in paragraph 6 hereof, the matters on which admission was sought are deemed admitted. *Compare with Widmer v. Wood, 243 Ark. 547, 420 S.W.2d 828 (1967).*

10. Rule 36(a) further states that "The provisions of Rule 37(a)(4) apply to the award of expenses incurred in relation to the motion." Here, the Imamate has wholly failed to admit, deny, or properly object to any of the propounded requests. Respondent should be granted a reasonable fee for this motion.

11. The Claimant has not followed the Rules or Supreme Court ruling as set out for Responses to Requests for Admissions, as such the Requests **SHALL** be deemed admitted.

WHEREFORE, the Respondent prays that the Requests for Admission be Deemed Admitted; for attorney's fees and costs; and for all other just and proper relief to which he may be entitled.

Respectfully submitted,



Thomas Burns (02006)
Legal Department
6814 Princeton Pike
Pine Bluff Arkansas 71602
Telephone (870) 267-6845
Fax (870) 267-6373
thomas.burns@arkansas.gov

CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been served this 27th day of October 2022, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Michael Todd [REDACTED]
[REDACTED]



Thomas Burns

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

MICHAEL TODD ([REDACTED])

CLAIMANT

v

CLAIM NO. 221393

**ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION**

RESPONDENT

**FIRST SET OF REQUESTS FOR ADMISSIONS
TO CLAIMANT**

Comes now, the Plaintiff, Arkansas Department of Corrections, (ADC), by and through their attorney, Thomas Burns, and for their First Set of Requests for Admissions to Michael Todd, to be answered in accordance with the Arkansas Rule of Civil Procedure, states:

REQUEST FOR ADMISSION NO. 1: Admit that you do not have any damages related to this matter Claim 221393.

REQUEST FOR ADMISSION NO. 2: Admit that you did not pay for medical care for the incident complained of in 221393.

REQUEST FOR ADMISSION NO. 4: Admit that you are making a section 1983 claim in claim 210581.

REQUEST FOR ADMISSION NO. 5: Admit that you had provoked Inmate Gould, Rutherford, and Daniels.

REQUEST FOR ADMISSION NO. 6: Admit that ADC acted pursuant to policy.

REQUEST FOR ADMISSION NO. 7: Admit that you do not have any monetary loss.

REQUEST FOR ADMISSION NO. 8: Admit that there is not a deduction for your medical care

Filed 21 September 2022.

Respectfully submitted,



Thomas Burns (02006)
Department 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 this pleading has been served this 21st day of September 2022, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Michael Todd (

[REDACTED]



Thomas Burns

BEFORE THE ARKANSAS STATE CLAIMS Commission
MICHAEL TODD # [REDACTED] # 221393 Claimant
ARKANSAS Department of Corrections
DIVISION OF CORRECTION Respondent

Respondent to first set of Request for Admission to Claimant

Comes about the Claimant Michael Todd Prose with his
RESPONSE TO FIRST SET OF REQUEST FOR ADMISSION TO CLAIMANT
states:

(1) 1. "Yes" I HAVE DAMAGES Related to this Matter Claim # 221393

(2) [REDACTED]
2. [REDACTED] I WAS OR HAD TO BE
TRANSFERRED TO THE FOREST CITY HOSPITAL. SO SOMEONE
HAD TO PAY FOR THIS TRIP TO THE HOSPITAL...

4. AS FOR THIS #4 QUESTION "I KNOW NOTHING ABOUT THIS
CLAIM # 210581"

5. I DIDN'T PROVOKE GOULD, RUTHANFORD OR DANIELS.

6. ADC DID VIOLATE POLICY - BREACH OF SECURITY.

7. MONETARY LOSS → ? → EVERYTHING

8. THERE IS ALWAYS A DEDUCTION FOR ANY/ALL MEDICAL
CARE APPOINTMENTS.

FILED 27 SEPT 2022

Certificate of Service

I CERTIFY THAT A COPY OF THIS PLEADING HAS BEEN SERVED THIS
28th DAY OF SEPT 2022 ON THE RESPONDENT BY PLACING A COPY OF THE
SAME IN THE U.S. MAIL REGULAR POSTAGE TO: Thomas Burns (02006)

6814 Princeton Pike
Dine Bluff AR
71602

Michael Todd [REDACTED]
[REDACTED]

INfirmery Request
Director/ADC warden Division
For Hearing



LEGAL DIVISION

6814 Princeton Pike
Pine Bluff, Arkansas 71602

Phone: (870) 267-6844 | Fax: (870) 267-6373

DOC.ARKANSAS.GOV

October 10, 2022

Michael Todd [REDACTED]
[REDACTED]

Re: Michael Todd v ADC
Claim Number 221393

Dear Mr. Todd:

I am in receipt of your discovery responses to Request for Admissions, Interrogatories and Production of Documents. These are not correctly formatted, nor correctly stated, in accordance with Rules 26, 33, 36, and 37 of the Arkansas Rules of Civil Procedure. Arkansas law makes it clear that Pro Se parties are held to the same standards as attorney and are presumed to know the law. I am pointing you to the correct rules so that you may correct deficiencies and be in compliance with the rules of Civil Procedure.

Currently, we are seeking these corrections without the intervention of the Claims Commission. We will hold off for twenty-one (21) days to allow for you to have time to correct these deficiencies. Should you fail to correct the responses we will be forced to file a motion to compel, or sanctions as allowed by the Rules.

Very truly yours,



Thomas Burns
Legal Department
Arkansas Division of Correction

TB/

cc: File
ASCC

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

Michael Todd # [REDACTED]

Claimant

claim no. 221393

ARKANSAS Department of Correction
Division of Correction

Respondent

Response to First Set of Interrogatories / Request
FOR PRODUCTION PROPOUNDED TO CLAIMANT

Arkansas
State Claims Commission

NOV 04 2022

RECEIVED

Comes now Claimant Michael Todd # 93600 Answering
Interrogatories to the Best of his knowledge:

INTERROGATORY NO. 1: Please List all witness you may call
in Relation to this matter / a synopsis of their expected Testimony.

1. Lt Smith = Inmate Todd Came Down the Hallway to the main Hall

2

3. [REDACTED] = will say the same.

4. The Nurse That was on duty That Night.

INTERROGATORY NO. 2: Please state WHY Monies you Paid
out of Pocket For Medical Treatment. Dont Understand
Question...

INTERROGATORY NO. 3: Please STATE who ~~told~~ you told
you needed a [REDACTED] alert for [REDACTED] Aaron Rotherford # 164392
James Gould [REDACTED] / Eddie Daniels [REDACTED] = NO ONE. Because
I Never Had too.

INTERROGATORY NO. 4: Please state who "Allowed" the inmates
to have A Shank = Security?

INTERROGATORY No. 5: Please state how officers failed to PROTECT YOU. → OFFICERS fail to protect me because no officers made a security round - no officer uncovered the security light. Only a young female was on the door for security because of shortage of staff, officers fail to search inmates for shanks. Officers didn't see all the commotion going on when I was being stabbed.

INTERROGATORY No. 6: Please state how ADC is liable for acts of third parties → Because inmates with shanks in BKS 2. Shortage of staff 3. Security lights being covered up staff make round they would see the lights covered up. 4. If not for shortage of staff they someone could have gotten in the BKS in time to stop the stabbing.

INTERROGATORY No. 7: Is this claim against the officers involved? This claim is against the A.D.C. = ARK Department of Correction

INTERROGATORY No. 8: Please state why you should receive money. I should be compensated because ADC breach of security could have ~~cost~~ cost me my life...

INTERROGATORY No. 9: Please state what "Boef" you had with inmates Rotherford, Gould, / Daniels → **NONE**

INTERROGATORY No. 10: What Drs have you seen / what were their diagnoses → whatever Dr in Forrest City that documented the night of the incident / He said I had a fractured nose fractured or head trauma, STICHES 12 IN LEFT EYE, 19 stab's ect

INTERROGATORY No. 11: Please state how you came up with \$50000.00 in damages → That amount is just to keep from going thru 1983 civil suite...

INTERROGATORY No. 12: Please state what your measure of damages is. →

Respectfully Submitted
Michael Teel

Certificate of Service

I certify that a copy of this pleading has been served
this 22nd day of Oct 2022 on the ~~Respondent~~ ^{Respondent} by placing a copy
of the same in the US Mail regular postage to:

Thomas Burn (02006)
Division of Correctional
6814 Princeton Pike
Pine Bluff AR
71602

Michael Teel

BEFORE THE ARKANSAS STATE CLAIMS Commission

Michael TODD [REDACTED]

CLAIM NO 221393

Claimant

ARKANSAS DEPARTMENT OF Corrections
DIVISION OF CORRECTION

Respondent

RESPONSE TO FIRST SET OF REQUESTS FOR ADMISSIONS TO CLAIMANT

Comes Now The Claimant Michael Todd [REDACTED] with his Response To Respondent's First set of Requests For Admissions.

Request For Admission No. 1 = Admit that you do ~~not~~ have any Damages related to This Claim 221393, **YES I ADMITT**
I DO HAVE DAMAGES TO MY LEFT EYE. WHERE 12 STICHES WERE, TO HOLD MY EYELID TOGETHER.

Request For Admission No. 2 = Admit That you did NOT PAY For medical CARE For The incident complained of in 221393, **I ADMITT**
I DID NOT PAY BECAUSE THE ADC WAS AT FAULT BREACH OF SECURITY

~~Request For Admission No. 3 = SKIP~~ → No # 3

Request For Admission No. 4 Admit that you ARE making a Section 1983 Claim in Claim 210581, **DENY?** I know nothing About This Case # ↑

Request For Admission No. 5 = Admit that you had Provoked Inmate Gould, **DENY?** I WAS IN MY RACK ASLEEP - That's not Provoking?

Request For Admission No. 6 = Admit That ADC ACTED Pursuant TO Policy. **DENY?** policy is to ~~secure~~ secure the safety of inmates? security light covered up is not policy

Request For Admission No. 7 = Admit That you do not have any Monetary loss. **I Deny** Because I Do NOT know How TO Answer This Question.

Request For Admission No. 8 = Admit that there is a Deduction For YOUR medical CARE - **I Admitt** There is A ~~Cost~~ Fee For Any Medical Care Needed

Filed 22 OCT 2022

Respectfully Submitted
Michael Todd
Michael Todd

Certificate of Service

I certify that A copy of this pleading has been served
this 22nd day of Oct 2022, on The Respondent by placing
A copy of the same in the U.S. Mail regular Postage to:

Thomas Burns (02006)
Department of Corrections
6814 Princeton Pike
Pine Bluff, AR 71602

Michael Todd

Before THE ARKANSAS STATE CLAIMS Commission

Michael Todd # [REDACTED]

Claimant

vs.

Claim No: 221393

ARKANSAS Department of Corrections
Division of Correction

Respondent

First ^{2nd} SET OF INTERROGATORIES / REQUEST FOR PRODUCTION
PROPOUNDED TO Respondent

Comes now claimant Michael Todd [REDACTED] with his First ^{2nd} set
of Interrogatories / Request for Production Propounded to
Respondent as follows:

INTERROGATORY NO. 1: Please Produce OR HAVE the Camera
FOOTAGE OF The Incident The Night OF 3-2-22, 10:50 PM
At ANY Hearing Relating to THIS MATTER / A SYNOPSIS OF WHAT YOU
HAVE REVIEWED...

INTERROGATORY NO. 2: Please state The Reason For security
LIGHTS.

INTERROGATORY NO. 3: Please state "Is being stabbed IN
The EYE / [REDACTED] TO HOLD IT TOGETHER" Define
DAMAGES?

INTERROGATORY NO. 4: Please STATE What Is Compensation?

INTERROGATORY NO. 5: Please STATE why The WARDEN / DIRECTOR
FOUND MY GRIEVANCE TO have merit.

INTERROGATORY NO. 6: Please State How INMATES Got
"SHANKS" Past SECURITY. INSIDE The BARRACKS.

INTERROGATORY NO. 7: Please State How / why The ADC
House Non-Violent offenders with Violant offenders.

INTERROGATORY NO. 8: Please state How A whole Conviction
CAN be Legal → 153 years Non Violant And No ARREST ever
Issued?

INTERROGATORY No. 9: Please Have Incident Report
FROM HOSPITAL / INFIRMARY Since Claimant Cannot
Have Access TO IT.

Respectfully Submitted:
Michael Todd #93882
Michael Todd [REDACTED]
P.O. Box 920
MARIANNA, AR
72360

Certificate of Service

I Certify that a copy of this Pleading has been served
this 22nd day of Oct 2012 on the Respondent by placing a
copy of the same in the US Mail Regular Postage TO:

Thomas Buel (02006)
Division of Correction
6814 Princeton Pike
Pine Bluff AR
71602

Michael Todd [REDACTED]

BEFORE THE ARKANSAS STATE Claims Commission
MICHAEL TODD # [REDACTED] Claimant

ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION

CLAIM NO: 221393

Respondent

FIRST ^{EXIST} SET OF REQUEST FOR ADMISSIONS
TO Respondent

Come's Now the Claimant Michael Todd # [REDACTED] For His
First Set of Request For Admissions TO Respondents
To be Answered in Accordance with the ARK Rule of Civil
Procedure, States:

Request For Admission No. 1: Admit That Camera
Footage Could Not See Inside the Barrack the
Night of This Incident.

Request For Admission No. 2: Admit That [REDACTED] had to
be transferred to [REDACTED]

Request For Admission No. 3: Admit That I had
to Have [REDACTED]

Request For Admission No. 4: Admit That I Could
Have Lost my life Due to This Breach of Security

Request For Admission No. 5: Admit That The
Warden / DIRECTOR Already Admitted Fault - on
Grievance Response.

Request For Admission No. 6: Admit That you had some
thing to do with me being held in seg MAX in this cell
so I cant be in population where I can Get Help
with this Claim...

Request For Admission No. 7: Admit That I was in my
rack Asleep when I was brutally Attacked

Respectfully submitted
Michael Todd
Michael Todd

Certificate of Service

I certify that a copy of this Pleading has been served
This 22nd day of Oct 2022 on the Respondent by placing a copy
of the same in the U.S. Mail Regular Postage to:

THOMAS BLAIR (02006)
DIVISION OF CORRECTIONS
6814 Princeton Pike
Dixie Bluff, AR
71602

[REDACTED]
Michael Todd
u

Mika Tucker

From: Leslie Browning (DOC)
Sent: Friday, November 18, 2022 1:57 PM
To: ASCC Pleadings
Cc: Thomas Burns (DOC)
Subject: Michael Todd 221393
Attachments: ADC Resp Interr.pdf; ADC Resp RFA.pdf

ADC Response to RFA and Interrogatories

Leslie Browning

Arkansas Division of Correction
Central Office/Legal Division
6814 Princeton Pike
Pine Bluff, AR 71602
Legal Support Specialist
Phone: 870-267-6844
Email: leslie.browning@arkansas.gov

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

MICHAEL TODD (ADC [REDACTED])

CLAIMANT

V.

NO. 221393

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

**ADC RESPONSES TO FIRST SET OF INTERROGATORIES/REQUEST FOR
PRODUCTION PROPOUNDED TO RESPONDENT**

COMES NOW, The Arkansas Department of Correction (ADC), by and through their attorney, Thomas Burns, and for their responses, state:

INTERROGATORY NO. 1: Please produce or have the camera footage of the incident the night of 3-2-22, 10:50 pm at any hearing relating to this matter/a synopsis of what you have reviewed...

RESPONSE: Objection, this is not a proper interrogatory, is beyond the scope of discovery and violates ADC policy about information given to inmates based upon the safety and security of the facility, staff, and inmates. The ADC will comply with the order of the Commission regarding materials to be presented at the final hearing of this matter.

INTERROGATORY NO. 2: Please state the reason for security lights.

RESPONSE: ADC objects to this interrogatory as any inmate having this information violates ADC policy about information being given to inmates based upon the safety and security of the facility, staff, and inmates.

INTERROGATORY NO. 3: Please state "is being stabbed in the eye/having to [REDACTED] [REDACTED] define damages?"

RESPONSE: ADC objects as it call for a legal conclusion.

INTERROGATORY NO. 4: Please state what is compensation.

RESPONSE: Pursuant to Merriam-Webster online dictionary, 1. (a) the act of compensating: the state of being compensated; (b) correction of an organic defect or loss by hypertrophy or by increased function of another organ or unimpaired parts of the same organ; (c) a psychological mechanism by which feelings of inferiority, frustration, or failure in one field are counterbalanced by achievement in another; 2. (a)(1) something that constitutes an equivalent or recompense; (a)(2) payment to unemployed or injured workers of their dependents; (b) payment, remuneration.

INTERROGATORY NO. 5: Please state why the Warden/Director found my grievance to have merit.

RESPONSE: Objection, this is vague, beyond the scope of discovery, and violates ADC policy about information to be given to inmates based upon the safety and security of the facility, staff, and inmates

INTERROGATORY NO. 6: Please state how inmates got “shanks” past security. Inside the barracks.

RESPONSE: Objection, this is vague, unduly burdensome, and beyond the scope of discovery and violates ADC policy about information given to inmates based upon the safety and security of the facility, staff, and inmates. The ADC will comply with the order of the Commission regarding materials to be presented at the final hearing of this matter.

INTERROGATORY NO. 7: Please state how/why the ADC house non-violent offenders with violent offenders.

RESPONSE: Objection, this is vague, unduly burdensome, and beyond the scope of discovery and violates ADC policy about information given to inmates based upon the safety and

security of the facility, staff, and inmates. The ADC will comply with the order of the Commission regarding materials to be presented at the final hearing of this matter.

INTERROGATORY NO. 8: Please state how a whole conviction can be legal-153 years non-violent and no arrest ever issued.

RESPONSE: This is not a proper interrogatory as it call for a legal conclusion.

INTERROGATORY NO. 9: Please have incident report from hospital/infirmarary since Claimant cannot have access to it.

RESPONSE: Objection, this is not a proper interrogatory, this is formed as a request for production which pursuant to the Rules of Civil Procedure is incorrectly formed. In addition, ADC objects to this interrogatory as any inmate having this information violates ADC policy about information being given to inmates based upon the safety and security of the facility, staff, and inmates.

DATED: November 18, 2022

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 this pleading has been served this 18th day of November 2022, on the Claimant via email, to:

Michael Todd [REDACTED]
[REDACTED]



Thomas Burns

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

MICHAEL TODD (ADC [REDACTED])

CLAIMANT

v

NO. 221393

**ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION**

RESPONDENT

ADC RESPONSE TO 2ND SET OF REQUESTS FOR ADMISSIONS TO RESPONDENT

Comes now, the Plaintiff, Arkansas Department of Correction, (ADC), by and through their attorney, Thomas Burns, and for their Response to 2nd Set of Requests for Admissions, in accordance with the Arkansas Rule of Civil Procedure, states:

REQUEST FOR ADMISSION NO. 1: Admit that camera footage could not see inside the barrack the night of this incident.

RESPONSE: ADC objects to this request as any inmate having this information violates ADC policy about information being given to inmates based upon the safety and security of the facility, staff, and inmates.

REQUEST FOR ADMISSION NO. 2: Admit that I had to be transferred to [REDACTED]

RESPONSE: ADC has insufficient information to admit or deny this request. However, for purposes of this pleading, deny same

REQUEST FOR ADMISSION NO. 3: Admit that I had to have 12 stitches in my left eye.

RESPONSE: ADC has insufficient information to admit or deny this request. However, for purposes of this pleading, deny same

REQUEST FOR ADMISSION NO. 4: Admit that I could have lost my life due to this Breach of Security.

RESPONSE: ADC has insufficient information to admit or deny this request. However, for purposes of this pleading, deny same

REQUEST FOR ADMISSION NO. 5: Admit that the Warden/Director already admitted fault on grievance response.

RESPONSE:

REQUEST FOR ADMISSION NO. 6: Admit that you had something to do with me being held in seg max in this cell so I can't be in population where I can get help with this claim.

RESPONSE: ADC has insufficient information to admit or deny this request. However, for purposes of this pleading, deny same.

REQUEST FOR ADMISSION NO. 7: Admit that I was in my rack asleep when I was brutally attached.

RESPONSE: ADC has insufficient information to admit or deny this request. However, for purposes of this pleading, deny same

Filed 18th November 2022.

Respectfully submitted,



Thomas Burns (02006)
Department 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 this pleading has been served this 18th day of November 2022, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Michael Todd [REDACTED]
[REDACTED]



Thomas Burns

Michael Todd

ADC #

CLAIMANT
Arkansas
State Claims Commission

JAN 25 2023

V.

CASE No. 221393

RECEIVED

ARKANSAS DIVISION OF CORRECTION,
ARKANSAS Department of Correction


RESPONDENT

CLAIMANT'S PLEADING FOR PRODUCING DOCUMENTS,
ELECTRONICALLY STORED INFORMATION, AND TANGIBLE THINGS, OR ENTERING
ONTO LAND, FOR INSPECTION AND OTHER PURPOSES

COMES NOW The CLAIMANT, MICHAEL TODD, ADC, with his pleading for production of documents pursuant to Ark. R. C. P. 34 requesting Re Respondent to produce the following documents within the next 30 days. The CLAIMANT's request the Respondent to do the following:

- (1) To produce and permit the requesting party or its representative to inspect, copy, test, or sample the following items in the responding party's possession, custody, or control:
 - (A) any designated documents or electronically stored information - including writings, drawings, graphs, charts, photographs, sound recordings, images, information can be obtained either directly or, if necessary, after translation by ~~the~~ responding party into a reasonably usable form; or
 - (B) any designated tangible things; or
- (2) To permit entry onto designated land or other property possessed or controlled by the responding party, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

REQUESTING

1. Camera Footage → of incident
2. Incident Report / Photos
3. Statement From Sgt Granville,
Lt Smith, Col DALE,
Infirmary Report
4. Transfer Report
5. DR's Report And

6. Damage That
was Done.

CERTIFICATE OF Service

I certify that a copy of this pleading has been served this 22nd day January 2023 on the Respondent By placing a copy of the same in the U.S. POSTAGE REGULAR MAIL TO:

ARKANSAS STATE CLAIM Commission
101 E. CAPITOL AVE SUITE 410
Little Rock AR 72201-3823

Richard [redacted]

Mika Tucker

From: Misty Scott on behalf of ASCC Pleadings
Sent: Monday, February 13, 2023 11:55 AM
To: Thomas Burns (DOC)
Cc: Leslie Browning (DOC); ASCC Pleadings; Mika Tucker
Subject: ORDER: Michael Todd v. ADC, Claim Nos. 221393 and 230137
Attachments: Michael Todd v. ADC3.pdf; Michael Todd-order2.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

February 13, 2023

Mr. Michael Todd (ADC [REDACTED])
[REDACTED]
[REDACTED]

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

(via email)

Re: ***Michael Todd v. Arkansas Division of Correction***
Claim Nos. 221393 and 230137

Dear Mr. Todd and Mr. Burns:

Enclosed please find the Order entered on February 9, 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

MICHAEL TODD (ADC 0 [REDACTED])

CLAIMANT

V.

CLAIM NO. 221393

CLAIM NO. 230137

**ARKANSAS DIVISION OF
CORRECTION**

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Claims Commission”) is the motion filed by the Arkansas Division of Correction (the “Respondent”) seeking to deem admitted its requests for admission propounded to Michael Todd (the “Claimant”) in Claim No. 221393. Also pending is the motion filed by Respondent to dismiss Claim No. 230137 of Claimant. Based upon a review of the motions, the arguments made therein, and the law of Arkansas, the Claims Commission hereby finds as follows:

Claim No. 221393

1. Claimant filed his claim on May 20, 2022, seeking \$50,000.00 in damages. Claimant alleges he was stabbed in his face, arms, stomach and head when Respondent breached security.
2. Respondent filed a motion to dismiss, which was denied by the Claims Commission on August 29, 2022. As part of that order denying the motion to dismiss, the parties were instructed to begin discovery.
3. Respondent sent requests for admission to Claimant on September 21, 2022.
4. Claimant filed responses to these requests on October 5, 2022.
5. Respondent then filed a motion to deem admitted, arguing that Claimant’s responses did not comport with Ark. R. Civ. Proc. 36(a).

6. Claimant subsequently filed amended responses to Respondent's requests for admission.

7. The Claims Commission finds that Claimant's filing of amended responses to Respondent's requests for admission moots Respondent's motion to deem admitted. As such, the Claims Commission will DENY Respondent's motion to deem admitted.

8. The Claims Commission also notes that Claimant has filed a "Pleading for Producing Documents..." To the extent that this pleading is a motion for discovery, the Claims Commission notes Claimant is not required under the Arkansas Rules of Civil Procedure to move for discovery. As such, Claimant's pleading is DENIED as moot.

9. The parties are instructed to continue discovery and to notify the Claims Commission when discovery is nearing completion, so that this claim can be added to the hearing docket.

Claim No. 230137

10. Claimant filed Claim No. 230137 on August 1, 2022, seeking \$50,000.00 in damages related to his allegations that Respondent's employee threw coffee and food at him.

11. Respondent filed a motion to dismiss pursuant to Ark. R. Civ. Proc. 12(b)(6), arguing, *inter alia*, that Claimant's claims are not barred by sovereign immunity and the Claims Commission has no jurisdiction.

12. Claimant responded to the motion to dismiss, arguing, *inter alia*, that dismissal is not proper.

13. 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)).

14. The Claims Commission elects to exclude the evidence attached to Respondent’s motion for purposes of considering this motion to dismiss. *See* Ark. R. Civ. P. 12(b). This exclusion relates only to this motion to dismiss. Respondent is free to use these documents as permitted by all applicable rules of practice and procedure and to file a motion for summary judgment once discovery is completed.

15. The Claims Commission finds that dismissal of Claimant’s claim is premature.

16. Respondent’s motion to dismiss is DENIED, and the parties are instructed to conduct discovery.

17. Respondent is free to file a separate motion briefing the jurisdictional issues referenced in its motion to dismiss.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Dexter Booth



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair

DATE: February 9, 2023

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).

Mika Tucker

From: Mika Tucker
Sent: Monday, February 13, 2023 12:07 PM
To: Thomas Burns (DOC); ASCC Pleadings
Cc: Leslie Browning (DOC)
Subject: RE: ORDER: Michael Todd v. ADC, Claim Nos. 221393 and 230137
Attachments: Todd discovery requests and responses.pdf

Hi, Thomas. Please see attached.

Thank you,
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: Monday, February 13, 2023 12:03 PM
To: ASCC Pleadings <ASCCPleadings@arkansas.gov>
Cc: Leslie Browning (DOC) <Leslie.Browning@arkansas.gov>; Mika Tucker <Mika.Tucker@arkansas.gov>
Subject: RE: ORDER: Michael Todd v. ADC, Claim Nos. 221393 and 230137

This order states the inmate responded to admission in claim 221393 subsequent to our filing of a mtda. We have nothing showing an amended response. Could we please receive a copy?

-TB
Legal Division
Arkansas Department of Corrections
Division of Correction

From: Misty Scott <Misty.Scott@arkansas.gov> **On Behalf Of** ASCC Pleadings
Sent: Monday, February 13, 2023 11:55 AM
To: Thomas Burns (DOC) <Thomas.Burns@arkansas.gov>
Cc: Leslie Browning (DOC) <Leslie.Browning@arkansas.gov>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Mika Tucker <Mika.Tucker@arkansas.gov>
Subject: ORDER: Michael Todd v. ADC, Claim Nos. 221393 and 230137

Thomas:

Please see attached. Contact Mika Tucker with any questions.

Thank you,

Misty

Misty Scott
Arkansas State Claims Commission

ARKANSAS STATE CLAIMS Commission

Michael Todd

case: 221393

Claimant

Arkansas Division of
CORRECTION

Respondent

Arkansas
State Claims Commission

MAR 07 2023

RECEIVED

NOTICE

Comes now on this 28th day of Feb 2023
Claimant MICHAEL TODD # [REDACTED] FILING HIS
NOTICE TO THE CLAIMS Commission
THAT TO THE BEST OF HIS KNOWLEDGE
AND CONCERNS DISCOVERY IN THIS CASE
IS COMPLETE FINISHED. AND CAN NOW
BE SET FOR HEARING... THANKS.

Respectfully - Michael Todd # [REDACTED]

Mika Tucker

From: Kathryn Irby
Sent: Tuesday, March 21, 2023 1:43 PM
To: Thomas Burns (DOC); Leslie Browning (DOC)
Cc: Mika Tucker
Subject: HEARING SCHEDULED: Todd v. ADC, Claim No. 221393
Attachments: Todd v. ADC -- 221393 -- hearing ltr.pdf

Thomas, please see attached. Please make sure Mr. Todd's unit is aware of this Zoom hearing. Thanks!

Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

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

March 21, 2023

Mr. Michael Todd (ADC [REDACTED])
[REDACTED]
[REDACTED]

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

(via email)

RE: ***Michael Todd v. Arkansas Division of Correction***
Claim No. 221393

Dear Mr. Todd and Mr. Burns,

The Claims Commission has scheduled this claim for hearing on **Friday, September 22, 2023**, beginning at 9:00 a.m. All parties will attend via Zoom. The Zoom invitation is enclosed.

Each party's witness lists, exhibit lists, and exhibits are due by August 11, 2023. If the parties would like for the Claims Commission to review prehearing briefs, the briefs are due at the same time.

If Claimant would like to call other inmates or ADC employees as witnesses, Claimant will need to submit subpoena requests by August 11, 2023. The subpoena requests must include the witnesses' names and addresses. If ADC objects to issuance of any subpoena, ADC will have until August 16, 2023, to file a motion to quash or detailed objections to the witness's proposed testimony.

If Claimant would like to call a witness outside of ADC, Claimant will need to arrange for that witness's virtual attendance at the hearing. Claimant can direct the witness to contact the Claims Commission for the Zoom invitation. If a subpoena will be necessary to compel a witness'

testimony, Claimant will need to submit a subpoena request by August 11, 2023. The subpoena request must include the witness's name and address. Once the Claims Commission issues the subpoena, Claimant will need to have the subpoena served upon the witness pursuant to Rule 45 of the Arkansas Rules of Civil Procedure.

If Respondent will require subpoenas in order to compel the testimony of any of its witnesses, those subpoena requests are also due on August 11, 2023.

Absent good cause shown, any subpoena requests received after August 11, 2023, will be denied.

To the extent that either party intends to file a motion of any kind, absent a showing of good cause, the motion must be submitted in sufficient time to allow the motion to be fully briefed by August 11, 2023.

Please note that a copy of any subpoena requests, witness lists, exhibit lists, and exhibits must be served upon the opposing party via U.S. Mail in accordance with the Arkansas Rules of Civil Procedure.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Kathryn Irby

ES: kmirby

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

Topic: Claims Commission -- hearings

Time: Sep 22, 2023 09:00 AM Central Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/88499326899?pwd=YUJ TZi9Z RnFk b m9a e X d q c T V Q U z R m Q T 0 9>

Meeting ID: 884 9932 6899

Passcode: waf37R

One tap mobile

+13126266799,,88499326899#,,, *482369# US (Chicago)

+16469313860,,88499326899#,,, *482369# US

Dial by your location

+1 312 626 6799 US (Chicago)

+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

+1 564 217 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)

+1 360 209 5623 US

+1 386 347 5053 US

+1 507 473 4847 US

Meeting ID: 884 9932 6899

Passcode: 482369

Find your local number: <https://us06web.zoom.us/j/88499326899>

April 11-23
Arkansas
State Claims Commission

DEAR MS Irby

CASES # 221393-230137 APR 13 2023

RECEIVED

IN THE TWO ABOVE SHOWN CASES
HOW WOULD I GO ABOUT GETTING
A NEGOTIATION CONVERSATION?

YOU SAID CONTACT YOUR OFFICE
IF I HAD ANY QUESTION?

IF POSSIBLE I WOULD LIKE TO
ASK IF WE COULD KILL TWO BIRDS
WITH ONE STONE, "LITTLE STONE TOO..."

thanks.

Sincerely, Michael [redacted]

Mika Tucker

From: Thomas Burns (DOC)
Sent: Monday, April 24, 2023 9:01 AM
To: ASCC Pleadings
Cc: Leslie Browning (DOC)
Subject: Michael Todd v ADC 221393
Attachments: 4040_001.pdf

Motion for PO

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

MICHAEL TODD (ADC [REDACTED])

CLAIMANT

v

NO. 221393

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, inmate has presented the ADC with a document purporting to be First 2nd Set Interrogatories and Request for Production. *See attached Ex. A*. Also, he has presented First 2nd set of Requests for Admission. *See attached Ex B*

2. The requests are the exact same request the Inmate made back in November 2022, which were answered.

3. A party may not use discovery for a fishing expedition. *BHW v Metropolitan Nat. Bank, 267 Ark. 182, 590 S.W.2d 247 (Ark. 1997)*.

3. The proposed discovery will cause the Respondent annoyance, embarrassment, oppression or undue burden or expense.

4. The inmate is using discovery in a manner the is not in comport with the notions of good faith and fair dealing that are implicit under Rule 26 of the Arkansas Rules of Civil Procedure.

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 Respondent asks this Commission require inmate to remove duplicative questions, immaterial inquires , and limit the scope of their inquiry to the action at hand, which is a straight forward claim wherein the Inmate just doesn't agree with the investigative outcome.

9. The inmate should have to pay a reasonable attorney fee for having to bring this protective order motion.

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 24th day of April 2023, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Michael Todd ([REDACTED])
[REDACTED]



Thomas Burns

Before THE ARKANSAS STATE CLAIMS Commission

Michael Todd # [REDACTED]

Claimant

vs.

Claim No: 221393

ARKANSAS Department of Corrections
Division of Correction

Respondent

First ^{2nd} Set of Interrogatories / Request for Production
Propounded to Respondent

Comes now claimant Michael Todd # [REDACTED] with his First ^{2nd} Set of Interrogatories / Request for Production Propounded to Respondent as follows:

INTERROGATORY NO. 1: Please Produce or Have the Camera Footage of the Incident the Night of 3-2-22, 10:50 PM At Any Hearing Relating to this Matter / A Synopsis of what you have Reviewed...

INTERROGATORY NO. 2: Please State the Reason for Security Lights.

INTERROGATORY NO. 3: Please state "It's being grabbed by [REDACTED]"

INTERROGATORY NO. 4: Please State what is Compensation?

INTERROGATORY NO. 5: Please State why the Warden/Director Found my Grievance to have merit.

INTERROGATORY NO. 6: Please State How Inmates Got "SHANKS" Past Security. Inside the Barracks.

INTERROGATORY NO. 7: Please State How/Why the ADC House Non-Violent offenders with Violent offenders.

INTERROGATORY NO. 8: Please state How A whole Conviction Can be Legal → 153 years Non Violant And No Arrest ever Issued?

INTERROGATORY NO. 9: Please Have Incident Report
FROM HOSPITAL / INFIRMARY Since Claimant Cannot
Have Access TO IT.

Respectfully Submitted:
Michael Todd #93800
Michael Todd [REDACTED]
[REDACTED]

Certificate of Service

I CERTIFY that a copy of this pleading has been served
this 22nd day of Oct 2022 on the Respondent by placing a
copy of the same in the US Mail Regular Postage TO:

Thomas Ryan (02006)
Division of Correction
6814 Princeton Pike
Pine Bluff AR
71602

Michael Todd [REDACTED]

BEFORE THE ARKANSAS STATE Claims Commission
MICHAEL TODD [REDACTED] Claimant

CLAIM NO: 221393

ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION

Respondent

FIRST ^{and} SET OF REQUEST FOR ADMISSIONS
TO Respondent

Come's Now the Claimant Michael Todd [REDACTED] For His
First set of Request for Admissions to Respondents
To be Answered in Accordance with the ARK Rule of Civil
Procedure, States:

Request for Admission No. 1: Admit That Camera
Footage Could not See inside the Barrack the
Night of This Incident,

Request for Admission No. 2: [REDACTED] had to
be transferred to [REDACTED]
[REDACTED]

Request for Admission No. 4: Admit That I could
have lost my life Due to This Breach of Security

Request for Admission No. 5: Admit That The
Warden / DIRECTOR Already Admitted Fault - on
Grievance Response.

Request for Admission No. 6: Admit That you had some
thing to do with me being held in seg MAX in This Cell
So I cant be in population where I can Get Help
with this Claim...

Request for Admission No. 7: Admit That I was in my
rack Asleep when I was brutally Attacked

Respectfully submitted
Michael Todd
Michael Todd

Certificate of Service

I certify that a copy of this Pleading has been served
This 22nd day of Oct 2022 on the Respondent by placing a copy
of the same in the U.S. Mail Regular Postage to:

THOMAS BLAIR (02006)
DIVISION OF CORRECTIONS
6814 Princeton Pike
Pine Bluff, AR
71602

Michael Todd

Mika Tucker

From: Thomas Burns (DOC)
Sent: Thursday, August 17, 2023 10:49 AM
To: ASCC Pleadings
Subject: Michael Todd v ADC 221393
Attachments: 0488_001.pdf

Response to Motion

Thank you,
-TB



THOMAS BURNS
PENITENTIARY WARDEN
Arkansas Department of Corrections
2044 Prisoners Pl
Ft Smith, Arkansas 72530
Phone: (501) 281-1000 ext. 2000
Fax: (501) 281-1000
Email: Burns@adoc.state.ar.us

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BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

MICHAEL TODD (ADC

CLAIMANT

V.

NO. 221393

**ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION**

RESPONDENT

ADC RESPONSE TO MOTION FOR

Respondent, Arkansas Department of Correction (ADC), for its reply, states:

1. The ADC denies each and every allegation contained in the Inmate's motion unless specifically admitted herein.
2. The ADC denies paragraph 1, based on safety and security of the unit. Any video outside of the area if not requested within thirty (30) days would be rewritten.
3. The ADC has no idea what the inmate means in this paragraph, therefore denies.
4. The ADC denies paragraph 3. Inmates are not allowed medical records for their own personal safety and security.
5. The ADC denies paragraph 4 and home addresses of Officers will not be disclosed and are protected.
6. The inmate can use the proper discovery procedure if he wants, and he had received everything he has asked for in discovery.
7. The Inmate is held to the same standard as an attorney if he elects to proceed Pro Se. The Inmate continues to abuse the process and his claim should be dismissed with prejudice.

WHEREFORE, Respondent prays that this Motion for _____ be denied; that his claim be dismissed with prejudice; 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 Support Unit
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 this pleading has been served this 17th day of August 2023, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Michael Todd ([REDACTED])

[REDACTED]



Thomas Burns

IN THE ARKANSAS STATE CLAIMS Commission

Michael Todd

Case # 221393

Claimant

Arkansas Department of Correctional
ARK DIVISION OF CORR

Respondent Arkansas
State Claims Commission

MOTION FOR

AUG 21 2023

Comes Now Claimant Michael Todd # [REDACTED] Pro se
Filing His MOTION FOR Subpoena Request For The
Following Reason:

1. Claimant Ask That The Camera Footage OF The Incident the Night OF 3-3-22 be Preserved For EXHIBIT'S At The Hearing Sept ~~22~~ 2023, HALLWAY OF 9, 10, 11, 12 Inside 9BKS 10:30^{PM} TO 10:50^{PM}
2. Infirmary Report of Movement/Transportation For The Incident on 3-3-22
3. DR's Report From Forrest City Hospital

[REDACTED]

4. Witness Statements From :
 1. Sgt Wilson
 2. Sgt Grainville
 3. Col DALE
 4. Lt Smith

All of which work For
[REDACTED] A.D.C

ADDRESS

WHEREFORE, the Claimant Prays That the Motion For Subpoena be Granted and All other Just/Proper relief to which he may be entitled.

Respectfully Submitted;
Michael Todd

CERTIFICATE OF SERVICE

I certify that a copy of this pleading has
been served this 30 DAY of July ~~20~~
2023 on the Respondent by placing a copy
of the same in the U.S. Postage Regular
Mail to;

ARKANSAS STATE CLAIM COMMISSION
101 E. CAPITOL AVE. SUITE 410
LITTLE ROCK AR
72201-3823

Mika Tucker

From: Mika Tucker
Sent: Thursday, August 31, 2023 8:38 AM
To: Thomas Burns (DOC)
Subject: RE: Michael Todd v ADC 221393

I apologize. I think this response may relate to Claimant's motion for subpoena. Please disregard my previous email.
-Mika

From: Mika Tucker
Sent: Thursday, August 31, 2023 8:36 AM
To: Thomas Burns (DOC) <Thomas.Burns@arkansas.gov>
Subject: FW: Michael Todd v ADC 221393

Hi, Thomas.

Could you clarify what motion this response is related to? We do not have a pending motion by the Claimant in this matter.

Thank you.
-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: Thursday, August 17, 2023 10:49 AM
To: ASCC Pleadings <ASCCPleadings@arkansas.gov>
Subject: Michael Todd v ADC 221393

Response to Motion

Thank you,
-TB



THOMAS BURNS
Arkansas Department of Corrections
1945 Prisoners' Fair
Fair Hall, Arkansas State
Phone: (501) 251-1111 ext. 2000 (501) 251-1111
Email: Thomas.Burns@adoc.net

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SEP 11 2023

RECEIVED

9-7-2023

TO: THE ARKANSAS State
Claims Commissioner

[REDACTED]
This is Michael Todd
Letting you know
of change of Address

[REDACTED]

Thanks

Mika Tucker

From: Thomas Burns (DOC)
Sent: Monday, September 18, 2023 8:55 AM
To: Moses Jackson (DOC)
Cc: Geneva Jones (DOC); Tyrone Allison (DOC); ASCC Pleadings; Mika Tucker
Subject: RE: Claims Commission Hearing 9/22/2023

10-4 Thank you

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

From: Moses Jackson (DOC) <Moses.Jackson@arkansas.gov>
Sent: Monday, September 18, 2023 8:35 AM
To: Thomas Burns (DOC) <Thomas.Burns@arkansas.gov>
Cc: Geneva Jones (DOC) <Geneva.Jones@arkansas.gov>; Tyrone Allison (DOC) <Tyrone.Allison@arkansas.gov>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Mika Tucker <Mika.Tucker@arkansas.gov>
Subject: RE: Claims Commission Hearing 9/22/2023

Michael Todd ([REDACTED])



Moses Jackson, III
Superintendent
Arkansas Department of Corrections
East Arkansas Regional Unit
East Arkansas Regional Maximum Security Unit
326 Lee Road 603 #601
Brickeys, AR 72320
(870) 295-4700 Unit
(870) 540-7085 State cell
(870) 692-9761 Cell
(870) 295-6564 (Fax)
moses.jackson@arkansas.gov

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From: Thomas Burns (DOC) <Thomas.Burns@arkansas.gov>
Sent: Monday, September 18, 2023 8:18 AM
To: Moses Jackson (DOC) <Moses.Jackson@arkansas.gov>
Cc: Geneva Jones (DOC) <Geneva.Jones@arkansas.gov>; Tyrone Allison (DOC) <Tyrone.Allison@arkansas.gov>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Mika Tucker <Mika.Tucker@arkansas.gov>
Subject: Claims Commission Hearing 9/22/2023

The following inmates have hearing beginning at 9am on Friday. Please have online and ready by 9am. I have attached the notices and zoom instructions (all the zoom will be the same.)

Billy Brooks [REDACTED]
Michael Todd [REDACTED]
Clifton Thompson [REDACTED]
Kwasi McKinney [REDACTED]
Roy Hoggard [REDACTED]

Thank you,
-TB



THOMAS BURNS
PENITENTIARY CHIEF, ARKANSAS DEPARTMENT OF CORRECTIONS
Arkansas Department of Corrections
1944 Prisoners' Hall
P.O. Box 100, Little Rock, AR 72203
Phone: (501) 241-1000 ext. 2000 (501) 241-1000
(501) 241-1000
Email: tburns@adoc.state.ar.gov

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Mika Tucker

From: Thomas Burns (DOC)
Sent: Monday, September 18, 2023 8:57 AM
To: Todd Ball (DOC)
Cc: Tomeka Caldwell (DOC); Antonio Johnson (DOC); ASCC Pleadings; Mika Tucker
Subject: Claims Commission Hearing 9/22/2023
Attachments: Todd v. ADC -- 221393 -- hearing ltr.pdf

The following inmate has hearing beginning at 9am on Friday. Please have online and ready by 9am. I have attached the notices and zoom instructions (all the zoom will be the same.)

Michael Todd ([REDACTED])

Thank you,
-TB



THOMAS BURNS
PENITENTIARY SUPERINTENDENT
Arkansas Department of Corrections
244 Prisons Pl
Ft. Smith, Arkansas 72530
Phone: (501) 297-6541 (ext. 200) 200-4473 (ext. 200)
(501) 447-3000 (ext. 200)
Email: Burns.Thomas@adoc.state.ar.us

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Mika Tucker

From: Misty Scott on behalf of ASCC Pleadings
Sent: Monday, October 23, 2023 3:58 PM
To: Thomas Burns (DOC)
Cc: ASCC Pleadings; Mika Tucker
Subject: ORDER: Michael Todd v. ADC, Claim No. 221393
Attachments: Michael Todd v. ADC4.pdf; Michael Todd-Order3.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

October 23, 2023

Mr. Michael Todd (ADC [REDACTED])
[REDACTED]
[REDACTED]

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

(via email)

Re: ***Michael Todd v. Arkansas Division of Correction***
Claim No. 221393

Dear Mr. Todd and Mr. Burns:

Enclosed please find an Order entered on October 20, 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

MICHAEL TODD (ADC [REDACTED])

CLAIMANT

V.

CLAIM NO. 221393

**ARKANSAS DIVISION OF
CORRECTION**

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Commission”) is the claim filed by Michael Todd (the “Claimant”) against the Arkansas Division of Correction (the “Respondent”). At the hearing on September 22, 2023, Claimant proceeded *pro se*, and Thomas Burns appeared on behalf of Respondent. Based upon a review of the testimony and evidence presented, as well as the arguments of the parties and the law of the State of Arkansas, the Commission hereby finds as follows:

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2. Respondent denied liability.
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door,” that the camera and security lights were covered up and that Respondent’s employee had not made any rounds. Claimant testified that he made it to the infirmary and was sent to the hospital, and that was all he remembered. Claimant testified that Respondent’s failure to follow policy and procedure caused the incident. Claimant testified that it was not his fault that Respondent was “short on security.”

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10. Upon a question from a commissioner, Claimant testified that he was “covered up” and had a blanket over his head when something hit him in the head and that he was stabbed in his eye. Claimant testified that [REDACTED] Claimant testified that he also had stab wounds in his head and stomach, which he called “big puncture holes.” Upon a question from a commissioner, Claimant testified that [REDACTED] [REDACTED] Upon a question from a commissioner, Claimant testified that [REDACTED] [REDACTED]. Upon a question from a commissioner, Claimant testified that he did not think Respondent could tell who “did this to” him because the security lights were covered up. Claimant testified that he thought the barracks were “just black.”

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18. The Commission is not persuaded by Respondent's argument that this claim should be filed in federal court. The Commission finds that it has jurisdiction over this claim involving negligence related to a single event.

19. The Commission finds that Claimant's testimony was credible and unrefuted. The Commission finds it persuasive that Respondent was short-staffed when the incident occurred, that only one officer was assigned to five barracks and remained "on the door" that evening, and that the lights in the barracks had been covered prior to the incident. The Commission also finds it persuasive that Claimant has lingering issues related to the injuries he sustained during the incident.

20. To establish a claim for negligence, the evidence must show "(1) the existence of a duty on the part of the [respondent] to conform to a specific standard of conduct to protect the [claimant]; (2) breach of that duty by the [respondent]; (3) injury to the [claimant] actually and proximately caused by the [respondent]'s breach; and (4) resulting damages to [claimant]..." *Peregrine Trading, LLC v. Rowe*, 2018 Ark. App. 176, 17, 546 S.W.3d 518, 529 (2018). For the reasons set forth above, the Commission finds that Respondent was negligent. As such, the Commission AWARDs Claimant \$7,503.00, which represents damages for pain and suffering as well as the cost of Claimant's co-pay for his medical treatment after the incident. The Commission directs the Commission clerk to issue a voucher in payment thereof.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Courtney Baird



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair



ARKANSAS STATE CLAIMS COMMISSION
Sylvester Smith

DATE: October 20, 2023

Notice(s) which may apply to your claim

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- (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).

Mika Tucker

From: Thomas Burns (DOC)
Sent: Monday, November 27, 2023 2:29 PM
To: ASCC Pleadings
Subject: Michael Todd v ADC 221393
Attachments: 1903_001.pdf

Motion Reconsideration

Thank you,
-TB



THOMAS BURNS
PRISON CHIEF, ARKANSAS DEPARTMENT OF CORRECTIONS
Arkansas Department of Corrections
2044 Prisoners Pl
Ft. Smith, Arkansas 72534
Phone: (501) 281-1000 (ext. 2000) (501) 281-1000
(501) 281-1000
Email: Burns@adoc.state.ar.us

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BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

MICHAEL TODD ([REDACTED])

CLAIMANT

v

NO. 221393

**ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION**

RESPONDENT

MOTION FOR RECONSIDERATION

Comes Now the Respondent, Arkansas Department of Corrections (ADC), by Thomas Burns, and for their Motion for Reconsideration, states:

1. The Commission issued an Order October 20, 2023, awarding the inmate \$7,503.00 in damages. *See attached Ex A*
2. The inmate put on absolutely zero (0) evidence, not even a scintilla of damages.
3. In fact, during the inmates case in chief all he said was “Lights were covered up, I made it to the hallway, was sent to the hospital, that’s all I remember”. He was then asked by the Chair if there was anything else that he wanted the Commission to know about. The inmate replied with “Failure to follow procedure caused the incident and it was not my fault they were short on security and all that there”.
4. The Chair then moved to the ADC and the ADC crossed the inmate about smoking “duce” and other things. Never did the ADC mention the inmate’s injuries or effects of the injuries. At the end of the questioning the Chair asked if any Commissioners had any questions. A Commissioner then asked the inmate “tell us more about your injuries” “what was your recovery like”, and “what are the lingering effects of this” The are inappropriate for a Commissioner to ask as developing damages is the inmates burden. A Commissioner should ask neutral question to elicit clarifying

information. Not direct questions to prove damages. Also, this is beyond the scope of the ADC's cross.

5. 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). Regarding proof of damages, the burden of proof is on the party claiming damages, and such proof must consist of facts, not speculation. *Marine Servs. Unlimited, Inc. v. Rakes*, 323 Ark. 757, 918 S.W.2d 132 (1996).

6. The amount of damages a plaintiff is entitled to is a question of fact. *Quality Truck Equipment Co. v. Layman*, 51 Ark. App. 195, 912 S.W.2d 18 (1995). The burden of proof regarding damages is on the party claiming them. *Grand State Mktg. v. Eastern Poultry Distrib., Inc.*, 63 Ark. App. 123, 975 S.W.2d 439 (1998). Exactness of proof of damages is not required and if it is reasonably certain that some loss occurred, it is enough that damages can be stated only approximately. *Morton v. Park View Apartments*, 315 Ark. 400, 868 S.W.2d 448 (1993); *Employers Ins. of Wausau v. Didion Mid-South Corp.*, 65 Ark. App. 201, 987 S.W.2d 745 (1999). However, a plaintiff's proof of damages must be certain enough to allow findings from established facts, not from speculation or conjecture. *Riffle v. United Gen. Title Ins. Co.*, *supra*.

7. The inmate's complaint sought \$50,000.00 in damages. The inmate offers no proof of this amount and offered no proof of this amount during the hearing.

8. The inmate testified that he paid a \$3.00 co-pay that they took out of his account. He then testified that the ADC paid for his medical care.

9. The inmate stated he did not have any enemy alerts on file. The Claims Commission has ruled: "The Claims Commission agrees with Respondent that dismissal

is proper under *Hodges*. Even liberally construing the complaint, Claimant has not stated how Respondent breached its duty. The mere fact that Claimant was attacked does not automatically mean that Respondent violated its duty to protect Claimant. The Claims Commission agrees with Respondent that if it is unaware of a dispute between inmates or groups of inmates, it cannot institute protocols to protect those inmates from each other. Claimant has stated no facts regarding Respondent's knowledge of a threat to Claimant from his attacker. The mere fact that Claimant's attacker had an incident of violence with another inmate does not put Respondent on notice that Claimant's attacker is a potential threat to every other inmate in Respondent's units. *Corey Steward v ADC Claim 180915 (2018)*"

10. Lt. Harris stated that everyone followed policy and procedure.

11. The inmate has no lingering effects of this incident. *See attached Ex B*¹

12. The Inmate here alleged Staff shortages exactly like the claim in Muniz.

"Muniz, was beaten unconscious by other prisoners after a guard locked him in a dormitory. The prisoner argued that the prison officials were negligent in failing to provide enough guards to prevent the assault. The court said that this type of claim is appropriate under the FTCA *United States v. Muniz*, 374 U.S. 150 (1963)". This claim is clearly one for the Federal Courts and not the Arkansas State Claims Commission.

13. An assault on an inmate by a fellow prisoner has been held to constitute cruel and unusual punishment. The underlying rationale is that prison officials have a duty to protect the inmates from such assaults and failure to do so makes the conditions of confinement so intolerable that it constitutes cruel and unusual punishment. *See, e.g.,*

¹ Health Policy 1166.00 Inmates are not allowed to have copies of their medical records. If an inmate wants to review his or her records they can make a inmate request to the Warden to review their personal records.

Little v. Walker, 552 F.2d 193 (7th Cir. 1977), cert. denied, 46 U.S.L.W. 3586 (U.S. Mar. 21, 1978) (77-121); *Woodhous v. Virginia*, 487 F.2d 889 (4th Cir. 1973); *Roberts v. Williams*, 456 F.2d 819 (5th Cir. 1972); *Holt v. Sarver*, 442 F.2d 304 (8th Cir. 1971); *Coffin v. Reichard*, 143 F.2d 443 (6th Cir. 1944); *Fore v. Godwin*, 407 F. Supp. 1145 (E.D. Va. 1976); *Penn v. Oliver*, 351 F. Supp. 1292 (E.D. Va. 1972).

15. The Commission finds it persuasive that the ADC was short staffed, this again leads to a Section 1983 issue. *Id*

16. While the Commission finds the inmate has lingering issues, the inmate put on zero evidence of that, and records show that he does not have lingering effects. *Id*

17. While the Commission tries to make this a negligence claim it clearly is not. The Commission need only look to its previous ruling in *Steward* to see this Commission lacks jurisdiction.

18. Given an inmate's own inability to anticipate a surprise attack by another prisoner which injured him, and his decision not to report his altercation with that prisoner the previous afternoon, his claim that prison employees failed to protect him from a specific threat posed by the other prisoner failed. Even assuming that the plaintiff satisfied the objective component of his failure-to-protect claim, the record was devoid of evidence suggesting that any of defendants were subjectively aware of, or deliberately indifferent to, a substantial risk of harm to inmate safety. *Patterson v. Kelley*, #16-3891, 2018 U.S. App. Lexis 25131 (8th Cir.).

19. The inmate stated in his complaint and the hearing that no one from the ADC wrongfully or offensively touched him during the altercation. Instead, he contents

the ADC failed to prevent this attack by being short staffed, that therefore, should be a claim he can pursue under Section 1983.

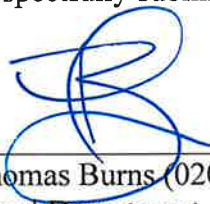
20. Arkansas State Claims Commission Rule 7.1 Motions for Reconsideration “will only be entertained if they set forth new or additional evidence which was not previously available.”

21. This motion puts forth new and additional evidence the was not available at the hearing.

22. The Commission should reverse the ruling, dismiss the complaint.

WHEREFORE, the Respondent prays that the Commission reconsider the order of October 20, 2023; that this Commission set aside the award of damages for lack of evidence; for their attorney fees and costs; and for 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 27th day of October 2023, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Michael Todd ([REDACTED])
[REDACTED]



Thomas Burns

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

MICHAEL TODD (ADC [REDACTED])

CLAIMANT

V.

CLAIM NO. 221393

**ARKANSAS DIVISION OF
CORRECTION**

RESPONDENT

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IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Courtney Baird



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair



ARKANSAS STATE CLAIMS COMMISSION
Sylvester Smith

DATE: October 20, 2023

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Mika Tucker

From: Mika Tucker
Sent: Monday, December 18, 2023 9:00 AM
To: Thomas Burns (DOC)
Subject: HEARING SCHEDULED: Michael Todd v. ADC, Claim No. 221393
Attachments: Todd v. ADC, 221393 hearing letter (motions).pdf

Hi, Thomas. Please see the attached correspondence.

Thank you,
Mika

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

ARKANSAS STATE CLAIMS COMMISSION

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



KATHRYN IRBY
DIRECTOR

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

December 18, 2023

Mr. Michael Todd (ADC 0 [REDACTED])
[REDACTED]
[REDACTED]

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

(via email)

RE: ***Michael Todd v. Arkansas Division of Correction***
Claim No. 221393

Dear Mr. Todd and Mr. Burns,

The Claims Commission has scheduled a hearing on any pending motions for **Thursday, January 18, 2024**, beginning at 8:45 a.m. All parties will attend via Zoom. The Zoom invitation is enclosed.

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

Sincerely,

Mika Tucker

ES: mtucker

Kathryn Irby -- Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings

Time: Jan 18, 2024 09:00 AM Central Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/87348644534?pwd=UnAvWmlBVVA4VnNuMVB6WFpuclRodz09>

Meeting ID: 873 4864 4534

Passcode: BZ1fnd

One tap mobile

+16469313860,,87348644534#,,,,*299333# US

+19294362866,,87348644534#,,,,*299333# 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)
- +1 360 209 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: 873 4864 4534

Passcode: 299333

Find your local number: <https://us06web.zoom.us/j/87348644534>

Mika Tucker

From: Mika Tucker
Sent: Tuesday, January 16, 2024 9:45 AM
To: Thomas Burns (DOC)
Cc: Kathryn Irby
Subject: HEARING REMOVED: Todd v. ADC, Claim No. 221393
Attachments: CORR Todd v. ADC -- 221393.pdf

Hi, Thomas. Please see the attached correspondence. Thank you.
-Mika

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

ARKANSAS STATE CLAIMS COMMISSION

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



KATHRYN IRBY
DIRECTOR

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

January 16, 2024

Mr. Michael Todd (ADC [REDACTED])
[REDACTED]
[REDACTED]

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

(via email)

Re: ***Michael Todd v. Arkansas Division of Correction***
Claim No. 221393

Dear Mr. Todd and Mr. Burns,

The Claims Commission has removed the motion hearing in above-referenced claim from the docket. The Claims Commission will review the pending motion and enter an order soon.

Our office asks the ADC to please hand-deliver a copy of this letter to Mr. Todd as soon as possible so that he will be aware of the removal of the hearing prior to January 18, 2024.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Mika Tucker

ES: mtucker

Mika Tucker

From: Misty Scott on behalf of ASCC Pleadings
Sent: Monday, January 22, 2024 1:25 PM
To: Thomas Burns (DOC)
Cc: Mika Tucker; ASCC Pleadings
Subject: ORDER: Michael Todd v. ADC, Claim No. 221393
Attachments: Michael Todd v. ADC.pdf; Michael Todd-order4.pdf

Thomas:

Please see attached. Contact Mika Tucker with any questions.

Thank you,

Misty

Misty Scott
Arkansas State Claims Commission

ARKANSAS STATE CLAIMS COMMISSION

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



KATHRYN IRBY
DIRECTOR

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

January 22, 2024

Mr. Michael Todd (ADC [REDACTED])
[REDACTED]
[REDACTED]

Re: ***Michael Todd v. Arkansas Division of Correction***
Claim No. 221393

Dear Mr. Todd:

Enclosed please find an Order entered on January 18, 2024, 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

MICHAEL TODD (ADC [REDACTED])

CLAIMANT

V.

CLAIM NO. 221393

**ARKANSAS DIVISION OF
CORRECTION**

RESPONDENT

**ORDER ON RESPONDENT'S
MOTION FOR RECONSIDERATION**

Now before the Arkansas State Claims Commission (the “Commission”) is a motion filed by the Arkansas Division of Correction (the “Respondent”) for reconsideration of the Commission’s October 20, 2023, order awarding Michael Todd (the “Claimant”) \$7,503.00 in damages. Based upon a review of the claim file, including Respondent’s motion, and the law of the State of Arkansas, the Commission hereby finds as follows:

1. Claimant filed his claim on May 20, 2022, seeking \$50,000.00 in damages. Claimant alleges he was stabbed in his face, arms, stomach, and head when Respondent breached security.
2. Respondent denied liability. Respondent also filed a motion to dismiss, which was denied by the Commission on August 29, 2022.
3. Following a hearing on September 22, 2023, the Commission entered an order awarding Claimant \$7,503.00, which represented damages for pain and suffering as well as the cost of Claimant’s co-pay for his medical treatment after the incident.¹
4. Respondent subsequently filed the instant motion for reconsideration, arguing that it was submitting new and additional evidence not available at the hearing.

¹The order also denied a motion for protective order filed by Respondent as moot and denied a motion to subpoena documents filed by Claimant.

5. Claimant did not respond to Respondent’s motion.

6. 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”

7. The Commission finds that Respondent’s motion does not set forth new or additional evidence not previously available. The Commission specifically notes the following:

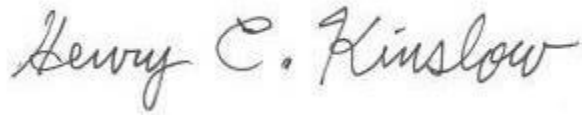
- a. As to Respondent’s argument that Claimant failed to present evidence, the Commission finds this argument to be entirely incorrect. Testimony *is* evidence, and in the October 20, 2023, order, the Commission found Claimant’s testimony to be both credible and unrefuted. *See* Order at ¶ 19.
- b. As to Respondent’s argument that it was “inappropriate” for a commissioner to ask questions related to Claimant’s damages, the Commission finds this argument to be incorrect and directly contrary to the Commission’s Rules, which recognize that the Commission is “a fact-finding body for the General Assembly” and which specifically allow “the Commission members . . . [to] question . . . [a] witness to ascertain *any* points or facts.” *See* Commission Rules at Rule 4.1, 4.4. (emphasis added). The Commission also notes that Respondent did not cite to any authority in support of its argument.
- c. As to Respondent’s argument regarding the lack of an enemy alert between Claimant and Claimant’s attackers, the Commission finds this argument to be unpersuasive. Respondent can still be found liable for negligence in the absence of an enemy alert. Moreover, the Commission is confident that Respondent’s

employees are expected to be alert at all times, even in the absence of notification of a conflict between inmates.

- d. As to Respondent's argument that this is a federal law claim, the Commission finds this argument unpersuasive as the Commission addressed this argument in its order. See Order at ¶¶16 and 18.
- e. As to Respondent's argument that Claimant did not provide "proof" as to the amount of claimed damages, the Commission finds this argument to be unpersuasive. Given the credible testimony from Claimant at the hearing regarding his pain and suffering, as well the cost of his medical co-pay, the Commission determined that \$7,503.00 was an appropriate award. *See* Order at ¶ 20.

8. As such, Respondent's motion for reconsideration is DENIED, and the October 20, 2023, Commission order remains in effect.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair



ARKANSAS STATE CLAIMS COMMISSION
Sylvester Smith

DATE: January 18, 2024

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).

Mika Tucker

From: Thomas Burns (DOC)
Sent: Friday, February 2, 2024 9:52 AM
To: ASCC Pleadings
Subject: Michael Todd v ADC 221393
Attachments: 2682_001.pdf

Notice of Appeal to Claims Subcommittee

Thank you,
-TB



THOMAS BURNS
PENITENTIARY WARDEN
Arkansas Department of Corrections
2044 Prisoners Plz
Ft. Smith, Arkansas 72344
Phone: (501) 281-1000 ext. 2000 (501) 281-1000
Fax: (501) 281-1000
Email: Burns@adoc.state.ar.us

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BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

MICHAEL TODD ([REDACTED])

CLAIMANT

v.

NO. 221393

**ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION**

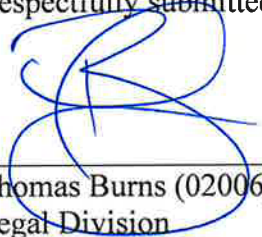
RESPONDENT

NOTICE OF APPEAL

Comes now the Respondent, Division of Correction (ADC) by and through counsel, Thomas Burns, and for notice, states:

1. That notice is hereby given that the ADC appeals from the Order of the Arkansas State Claims Commission (ASCC) made on the 18TH January 2024.
2. This appeal is taken to the Claims Subcommittee of the Joint Budget Committee, and the ADC hereby requests and directs that the ASCC files all documents pertaining to this case with the Claims Subcommittee.

Respectfully submitted,



Thomas Burns (02006)
Legal Division

Division of Correction
6814 Princeton Pike
Pine Bluff, AR 71602
(870) 267-6845 Office
thomas.burns@arkansas.gov

CERTIFICATE OF SERVICE

I certify that a copy of the above pleading has been served this 2nd day of February 2024, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Michael Todd [REDACTED]

[REDACTED]



Thomas Burns