



STATE OF ARKANSAS
**BUREAU OF
LEGISLATIVE RESEARCH**

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TO: CLAIMS REVIEW SUBCOMMITTEE

FROM: Legal Division Staff

SUBJECT: Summary of legal issues
Stephen B. Roberts v. Department of Correction
No. 180219
Denied and dismissed claim/Appealed by Claimant

Date of Occurrence: June 2, 2017
Date of Claim Filed: September 6, 2017
Amount Claimed: \$1,142.40, plus medical
Amount Awarded: N/A
Claimant's Representative: N/A
Respondent's Representative: Thomas Burns

Allegations of Claimant: The inmate argues that he was in his barracks when he was attacked by several inmates while the officer that was supposed to be there providing security was at church. He asserts that he had a number of items stolen from him at that time, including a watch, his ID badge, and a key to his locker, from which more of his personal items were stolen immediately after. He also states his cheekbone was broken during the attack. He now seeks damages for the agency's failure to follow procedure, personal injury, and property loss.

Agency Response: The agency moved to dismiss, arguing the inmate has failed to state facts upon which relief may be granted. Specifically, the agency states that although the inmate assigns a dollar amount to damage, he does not plead any basis for that amount, which is required as damages is an element of a negligence claim. The agency argues that he has also failed to fully exhaust his available remedies by failing to exhaust the grievance procedure.

Opinion of the Claims Commission: The commission treated the agency's motion to dismiss as a motion for summary judgment under Rule 56(c)(2) and dismissed the claim due to the inmate's failure to exhaust state remedies.