



STATE OF ARKANSAS BUREAU OF LEGISLATIVE RESEARCH

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TO: CLAIMS REVIEW SUBCOMMITTEE

FROM: Legal Division Staff

SUBJECT: Summary of legal issues
Pedro Johnson v. Department of Correction
No. 180306
Denied and dismissed claim/Appealed by Claimant

Date of Occurrence: July 19, 2017
Date of Claim Filed: September 27, 2017
Amount Claimed: \$5,000.00
Amount Awarded: N/A
Claimant's Representative: N/A
Respondent's Representative: Thomas Burns

Allegations of Claimant: The inmate argues that he was housed in segregated housing at the Tucker unit but that the cell to which he was assigned was not secure. He states that because of this, another inmate porter was able to enter his cell and rape him. The inmate argues that the non-secure door was in violation of ADC policy, and because he was in segregated housing, his cell should have been under constant supervision. He contends he also was denied medical services. The inmate now seeks damages for what he asserts is the ADC's failure to follow its own policy and procedure.

Agency Response: The agency moved to dismiss, arguing the inmate has failed to state facts upon which relief may be granted. Specifically, although the inmate assigns a dollar amount to damage, the agency states that 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 the sexual contact was consensual and that the inmate himself is considered a sexual predator. The agency also states that during the grievance process, the inmate was found guilty of lying to staff about the incident, engaging in sexual activity, and the use of drugs. Because of this, the agency argues that the inmate is attempting to appeal a disciplinary matter, which is outside the jurisdiction of the Claims Commission.

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 attempt to relitigate a disciplinary matter, which is beyond the jurisdiction of the commission. A motion for reconsideration was likewise denied.