

Please print in ink or type

Arkansas
State Claims Commission

FEB 02 2015

D16.

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

RECEIVED

☒ Mr.
☐ Mrs.
☐ Ms.
☐ Miss

Lloyd Hamm, #142452

Claimant

vs.

State of Arkansas, Respondent
Department of Correction

COMPLAINT

Failure to fol. proc

Loss of property

Lloyd Hamm, #142452

(Name)

the above named Claimant, of

7206 W. 7th Street, Pine Bluff, AR 71603

(Street or R.F.D. & No.)

(City)

(State) (Zip Code) (Daytime Phone No.)

County of

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: \$15,000.00

Month, day, year and place of incident or service: APRIL 30, 2014

Explanation: On April 30, 2014, while housed at the East Arkansas Regional Unit (EARU) of the Arkansas Department of Correction (ADC) in Barksdale, Arkansas, Claimant received three (3) books from the Edward B. Hamilton Bookseller Company at the EARU Mailroom. The books were never given to Claimant. The three books were: 1) the Office Brain: From Demeritis to Schizophrenia, hard back cover, 371 pages, measuring 8" by 11", and weighing less than three (3) pounds; 2) Overcoming Paranoid and Suspicious Thoughts, hard back cover, 192 pages, standard size, weighing less than three (3) pounds; and 3) Sacred Symbols: A Visual Tour of World Faiths, hard back cover, 792 pages, measuring 6 1/2" x 7", and weighing less than 3 pounds. None were more than four (4) inches thick.

EARU Mailroom Supervisor Ms. D. Roberts sent Claimant a "Return Mail Notice" claiming the three books to be "unauthorized material exposed", because the "books exceed policy weight and size." [EXHIBIT A] Dated May 7, 2014. Ms. D. Roberts did not present the books for review to the Book Review Committee as required by Arkansas Department of Correction Administrative Directive (AD) 14-22. (see Policy Requirement below).

Claimant sent Ms. Roberts a request concerning her Return Mail Notice on May 7, 2014, and May 12, 2014. Ms. Roberts responded that "if you [Claimant] want to see the books, you need to go to the EARU Mailroom." As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof? Yes; when? 5 14 2014; to whom? ADC GUIDANCE PROCEDURE and Unit Request Process (Department); and that the following action was taken thereon: Determined the issue was non-gravable and the Return Mail Notice was not utilized by ADC staff, denying Claimant right to appeal. and that \$ 0 was paid thereon: (2) Has any third person or corporation an interest in this claim? No; if so, state name and address N/A

and that the nature thereof is as follows: Failure to comply with ADC Policy for denial of publications to inmates; and was acquired on N/A in the following manner: N/A

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

Lloyd Hamm
(Print Claimant/Representative Name)

[Signature]
(Signature of Claimant/Representative)

SWORN TO and subscribed before me at

Pine Bluff

AR

(City)

(State)

on this

19 day of

December

2014

(Date)

(Month)

(Year)

(SEAL)
JONATHAN CHARLES SMART
NOTARY PUBLIC-STATE OF ARKANSAS
LINCOLN COUNTY
My Commission Expires 11-30-2020
Commission # 12379839

My Commission Expires:

11

30

20

(Month)

(Day)

(Year)

(2)

LLOYD HAMM #142452
RLW-CF
7206 W 7TH AVE
PINE BLUFF AR 71603-1498

17 DECEMBER 2014

ARK STATE CLAIMS COMMISSION
101 E. CAPITAL AVE STE 410
LITTLE ROCK AR 72206-3823

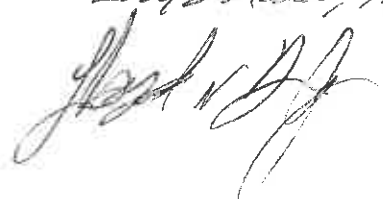
RE: Lloyd Hamm v. Ark. Dept of Correction.
NO. 12

Dear Commission:

I have enclosed the Original and five (5) copies of the above styled complaint. One copy is for return to me as filed.

If there are any questions please contact me at the above address.

Thank You,

Lloyd Hamm, Jr Se


cannot receive your publications then you should have received a notice. Publication Review you had 10 days to make a decision. Return Mail Notice you had 30 days to make a decision. If no decision was made they are ~~not~~ to be destroyed." [EXHIBIT B].

After receiving Ms. Roberts's May 12, 2014, response - that makes absolutely no sense due to Claimant never receiving any notice of the books being held for review by the Book Review Committee (Committee), or the Committee's decision - Claimant tried to grieve Ms. Roberts's failure to comply with policy and was by Sgt. M. Allen that the books "were refused ... due to Unit Policy 16.05.0 per Madison Supervisor Mrs. Roberts." [EXHIBIT C]. Claimant proceeded to the next step as required by ADC Policy. This grievance was not a grievance of the Publication Review Committee's decision - which is a non-grievable issue (AD 14-16, III, G. 8) - but of Ms. Roberts's decision on publication without authorization and denying Claimant his right to appeal.

The second step of the Grievance was rejected by EABU Grievance Officer Keeiyona M. Hill (Ms. Hill) as being non-grievable (Publication). [EXHIBIT D].

Claimant filed a timely appeal of the "Rejection."

On June 3, 2014, Deputy Director Grant E. Harris (Dep. Dir. Harris) also rejected the appeal without specific indication, but conclusively because of determination the issue is non-grievable.

[EXHIBIT E].

Ms. Roberts made a decision concerning publications that is beyond her authority and therefore wrongly denied Claimant use of books that would expand Claimant's knowledge and the right to use that knowledge in ways beyond measure from May 7, 2014, through the date of determination by the State Claims Commission.

Ms. Roberts failed to follow ADC Policy required to deny Claimant possession of publications received through the mail and thereby denied Claimant his right to decision about the three (3) publications by the proper ADC Review Committee, and the right to appeal any adverse decision of that Committee.

Both Ms. Hill and Mr. Harris failed to address the issue of Claimant's grievance - Claimant's denial of Review of Publication by the Committee because of Ms. Roberts's improper conduct - rather rejecting the grievance as being non-grievable, and further denied Claimant access to the publications and to proper process for publication review.

ADC PUBLICATION POLICY REQUIREMENT:

PUBLICATIONS

AD 14-22

EFFECTIVE: 4/18/2014

IV. PROCEDURES:

A. The Warden/Center Supervisor shall designate staff to review

incoming publications.

B. Publications may be rejected if they are believed to contain, but not limited to, the following information:

9). Publications which meet two of the following conditions:

A. Books that measure more than 9" X 11".

B. Hardback books thicker than 2".

C. Softback books thicker than 4".

D. Any book heavier than 3 lbs.

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

All books were of either educational or religious information, or both, and had the proper procedure been followed by Mr. Roberts, Mr. Hill, and Mr. Harris, the Warden could have granted Claimant permission to receive the books despite any measurement or weight issues. Claimant was denied his right request for exception because the process was improper from the date the books were received by Mr. Roberts in the Mailroom at EACU.

RELIEF:

For denial of the educational and/or religious information contained in the publications [EXHIBIT F] by failure to follow AOC Policy by Mr. Roberts, Mr. Hill, and Mr. Harris,

and use of such knowledge by Claimant in both his secular and religious life; Claimant is requesting that the State Claims Commission award him a total of fifteen-thousand dollars (\$15,000), or such Monetary relief as the Commission deems just and proper under the circumstances of this case.

DATED this 17TH Day of December, 2014.


SIGNATURE OF CLAIMANT

ARKANSAS DEPARTMENT OF CORRECTION
RETURN MAIL NOTICE

Barracks No. 6/66 Date: 5/7/14
Inmate's Name Edward K Hamilton ADC # 142452
Regarding Letter/Package from Edward K Hamilton

The above item has to be returned to sender for the following reason(s):

- ☐ No ADC Number On Letter ☐ Incorrect ADC Number On Money Order ☐ Postage Stamps
- ☐ Stamped Envelope ☐ Unauthorized Photos ☐ Reading Material
(Must come from publisher or Bookstore)
- ☐ Unauthorized Money Order ☐ Money Order did not include your ADC number
(All money orders must include inmate name and ADC Number)
- ☐ Cash Enclosed (Amount \$ _____) ☒ Unauthorized Material Enclosed
- ☐ Pornographic Material ☐ Unauthorized Correspondence
- ☒ Other books exceed policy weight & size
- ☐ You need to send a stamped envelope to return this item to the above person.
- ☒ Letter too large to fit in regular-size envelope. Send a signed Inmate Check for the amount of \$ 4.86
- ☐ Please send a signed Inmate Check for \$ _____ and a stamped envelope.

All money orders that do not have an ADC Number must be returned to the sender to have the number put on it. And in accordance with the new postal regulation, postage has to be paid on letters that are returned to the sender. Therefore, you need to send me a stamped envelope addressed to the above person.

Advise your correspondent that **ALL** of the required information **MUST** be included in your address. The information which shall be required is:

Please check one of the boxes below and return this notice to the Mailroom.

I Wish To:

- ☐ Donate above items
☐ Return to sender
☐ Destroy above items

D. Roberts
Mail Room Supervisor

Inmate's Signature

Date

DC/dh 491

EXHIBIT
A

ACI-7508

7

East Arkansas Regional Unit Inmate Request Form

Inmate Name (Please Print):

Lloyd H. Harmon Jr.

ADC #:

142452

Housing assignment:

B-66

GT Class:

1

Job Assignment:

Barber Shop

Check the appropriate box for area of concern:

☐ Classification

☒ Mail

☐ Personal Hygiene

☐ Parole

☐ Mental Health

☐ Medical / Infirmary

☐ Bookkeeping (Inmate Money)

☐ GTL Phone System

☐ Law Library

☐ EARU Staff

☐ Visitation

☐ Commissary

☐ Property

☐ Job Assignment

☐ Housing Assignment

☐ Other:

Staff request to:

Ms Roberts

Office:

Mailroom

Please give a detailed summary regarding your request:

I do not remember what three books I actually ordered, but I do believe that there should be two psychological text books & a collection of short stories. I try to order books that I can enjoy without ever always denying me of that pleasure. Four years ago I hated only 65 hours having my bookshelves of abnormal/behavioral psychology, & I have ordered nearly two hundred books in my field of study before you took over the mailroom. Now, it is always a hassle for me to get my mail, books, & magazines! I feel as if you have a personal vendetta against me for something. I just want to be able to receive my mail on time like everybody else! So I am asking you to please reconsider your decision & let me choose from my books for free!

Have you previously spoken with any staff regarding your request: (Circle One) YES / NO

If yes, please state who:

Date:

Inmate Signature:

Lloyd H. Harmon Jr.

May 7 2014

[Signature]

DO NOT WRITE BELOW THIS LINE

Staff Responding:

Roberts

Date:

5/12/14

I have reviewed your request and here is my finding:

if you cannot receive your publications then you should have received a notice. Publication Review you had 10 days to make a decision. Return Mail Notice you had 30 days to make a decision. if no decision was made they are not to be destroyed.

I am referring this request to:

I consider this issue:

☐ Resolved

☐ Not Resolved

Staff Signature:

EXHIBIT

B

UNIT LEVEL GRIEVANCE FORM (Attachment I)

Unit/Center EA RU

GRIEVANCE/RECEIVED

Name Lloyd H. Lamm Jr

MAY 16 2014

ADC# 142452 Brks # 6.66 Job Assignment STAFF REGIONAL UNIT

FOR OFFICE USE ONLY

GRV. #

EA-14-00780

Date Received:

5-16-14

GRV. Code #:

3005-14-14 (Date) STEP ONE: Informal Resolution5-15-14 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)If the issue was not resolved during Step One, state why: Because I am being denied my right to better myself & receive any mail that she decided I should have out of spite.

(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 a serious nature). If you marked yes, give this completed form to the designated problem-solving staff, who will sign the attached emergency receipt. If an Emergency, state why:

Is this Grievance concerning Medical or Mental Health Services? No 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 5-7-14 I received notice from Ms Roberts that the three books, 2 being psychological text books & the other on symbols of world faith, were of excessive weight & size. But everytime I am to receive anything through her office, I am always denied the opportunity to gain possession whether it be literature, publications, or even general mail. I have made attempts to find an understand on why she seems so refuse to allow me any of my mail, but have only received foul language & more problems with my mail. On this occasion, I immediately sent a return request to Ms Roberts in the mail room to attempt a reconsideration of my books, only to receive an answer on 5-14-14, dated 5-12-14, informing me to either make a decision or run the risk of having my books destroyed. I sensed a lot of the same hostility in this returned request as I receive in person, & all I want is my mail, & it not be a year & a half old like the letter I received in February 2014 dated October 4, 2012 (which I had signed & dated by an officer & still have).

Inmate Signature

Date

May 14, 2014

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 5-15-14 (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:Sgt M. Allen7306Sgt M. Allen5-15-14

PRINT STAFF NAME (PROBLEM SOLVER)

ID Number

Staff Signature

Date Received

Describe action taken to resolve complaint, including dates: These items were refused to you due to Unit Policy 16.05.0 per Mail Room Supervisor Mrs. Roberts.Sgt M. Allen5-15-14

Staff Signature & Date Returned

May 15 2014

Inmate Signature & Date Received

RECEIVED

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

Staff Who Received Step Two Grievance:

Date:

JUN 03 2014

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

If forwarded, provide name of person receiving this form:

DATE: JUN 03 2014
GRIEVANCE SUPERVISOR

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

EXHIBIT C

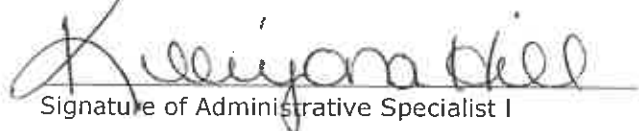
9

IGTT400
3GR

Attachment II

ACKNOWLEDGMENT OR REJECTION OF UNIT LEVEL GRIEVANCETO: Inmate Hamm, Lloyd N. Jr
FROM: Hill, Keeiyona M
DATE: 05/19/2014ADC #: 142452B
TITLE: Administrative Specialist I
GRIEVANCE #: EA-14-00780

Please be advised, I have received your Grievance dated 05/14/2014 on 05/16/2014.
Your grievance was rejected as either non-grievable, untimely, duplicative, frivolous, or vexatious.



Signature of Administrative Specialist I

RECEIVED

AUG 18 2014

CHECK ONE OF THE FOLLOWING

INMATE GRIEVANCE SUPERVISOR

- ☐ This Grievance will be addressed by the Warden/Center Supervisor or designee. ADMINISTRATION BUILDING
- ☐ 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 (Publications), 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. 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.



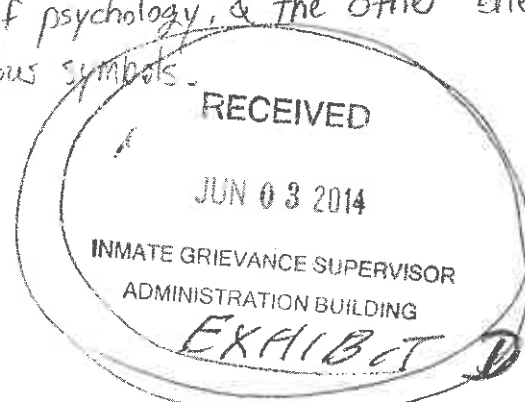
Inmate Signature

ADC #

Date

2 of these books are text books in the field of psychology, & the other one is of a religious nature displaying & describing religious symbols.

RETURNED TO INMATE
FOR THE FOLLOWING
REASON(S): NOT
PROCESSED, PREVIOUSLY
ANSWERED, REJECTED,
OR A DUPLICATE



IGTT405
3GT

Attachment V

ACKNOWLEDGEMENT OF GRIEVANCE APPEAL or REJECTION OF APPEAL

TO: Inmate Hamm, Lloyd N. Jr
FROM: Harris, Grant E
RE: Receipt of Grievance EA-14-00780

ADC #: 142452B
TITLE: Deputy Director
DATE: 06/03/2014

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

Please be advised, the appeal of your grievance dated
05/14/2014
was received in my office on this date 06/03/2014

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 Department's control and/or matter of State/Federal law
 - ☐ (f) Involves an anticipated event
- ☒ You did not send all the proper Attachments:
 - ☐ (a) Unit Level Grievance Form (Attachment 1)
 - ☐ (b) Warden's/Center Supervisor's Decision (Attachment III); or Health Services Response Attached (Attachment IV for Health Issues Only)
 - ☐ (c) Did not give reason for disagreement in space provided for appeal
 - ☐ (d) Did not complete Attachment III or IV with your name, ADC#, and/or date
 - ☐ (e) Unsanitary form(s) or documents received
 - ☒ (f) This Appeal was REJECTED because it was a duplicate of , or was frivolous or vexatious

EXHIBIT
E

Order# 175611874

Order received: April 28, 2014

Customer# 19239521

Lloyd Hamm Jr

#142452 ASP

PO Box 180

Brickeys AR 72320-0180

Paid \$17.35 for 3 items 371 365

3 items shipped April 30

Titles ordered:

VG	1	53E2-C Other Brain: From Dementia to Schizophre	5.95	4469399
YE	1	19J2-P Overcoming Paranoid and Suspicious Thoug	3.95	4306376
SG	1	08A1-C Sacred Symbols: A Visual Tour of World F	3.95	5505607

9245890101249118463324 4/30/2014 4:34:18 PM 72320

EXHIBIT
F

FEB 11 2015

RECEIVED

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

LLOYD HAMM (ADC 142452)

CLAIMANT

V.

NO. 15-0548-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT


ANSWER

COMES NOW the Respondent, Arkansas Department of Correction, 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,
Department of Correction Office of Counsel


LISA MILLS WILKINS Ark. Bar #87190
Attorney Supervisor
Post Office Box 8707
Pine Bluff, AR 71611
(870)267-6844 Office
(870)267-6373 Facsimile

CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been served this 9 day of February, 2014, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Lloyd Hamm (ADC 142452)
Randall L. Williams Unit
7206 W. 7th Ave.
Pine Bluff, AR 71603


LISA MILLS WILKINS Ark. Bar #87190

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

LLOYD HAMM (ADC#142452)

V.

NO. 15-0548-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

RESPONDENT'S MOTION TO DISMISS

COMES NOW the Respondent, Arkansas Department of Correction, and for its MOTION TO DISMISS, states and responds as follows:

1. Claimant seeks \$15,000.00 for loss of property when three books valued at \$13.85, were denied entry into the unit by the mailroom on April 30, 2014. Claimant has failed to state a claim upon which relief can be granted.
2. Sacred Symbols, hardcover edition was the reason the shipment was denied entry. It was due to size and weight. The book was 2.8" thick and weighed 3.6 pounds. See Exhibit "A".
3. As Claimant correctly stated on page 4 of his complaint, Publications AD 14-22 prohibits hard back books from entry which are over 2 inches thick and any book heavier than 3 pounds.
4. Claimant was notified on May 7, 2014, that the books were denied and he needed to authorize a return shipment check for \$4.86, or otherwise dispose of his books. Claimant responded on May 12, 2014, to this notification by arguing that he believed her to be creating a hassle to receive his books since Mrs. Roberts assumed the mail room supervisor duties. Instead, Claimant wanted to grieve the fact that Mrs. Roberts did not send the books to Publications review to determine if there was a violation of policy. Mrs. Roberts is not required to obtain permission to return the books.
5. It is apparent by the Return Mail Notice form that the Mail Room Supervisor can authorize a return mail shipment by her signature.
6. Based on the foregoing statements, Claimant has failed to state a claim upon which relief can be granted herein under ARCP Rule 12(b)(6).

Respectfully submitted,
Department of Correction Office of Counsel

Lisa Mills Wilkins

LISA MILLS WILKINS Ark. Bar #87190

Attorney Supervisor

Post Office Box 8707

Pine Bluff, AR 71611

(870)267-6844 Office

(870)267-6373 Facsimile

CERTIFICATE OF SERVICE

I certify that a copy of the MOTION TO DISMISS has been served this 3 day of March, 2015, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

LLOYD HAMM (ADC#142452)

~~MAIL ROOM~~ *RLW*

~~P.O. Box 970~~

~~BRICKS, AR 72568-0930~~

2706 W. 7th

PB AR 71603

Lisa Mills Wilkins
LISA MILLS WILKINS Ark. Bar #87190

Sacred Symbols Hardcover – May 1, 2009

by Robert Adkinson (Editor)

5 customer reviews

See all 3 formats and editions

Hardcover
\$23.18

54 Used from \$5.08
36 New from \$7.95

Throughout history, symbols have formed and shaped our mental and emotional states, and influenced our behavior. Robert Adkinson's compendium of religious, philosophical, and cultural emblems from a variety of contexts reveals the universal power of these elemental images, bridging the gap between languages and civilizations all over the world. With illuminating commentary, Adkinson positions each image within its cultural context, from the early societies of



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Frequently Bought Together



Show availability and shipping details

☒ This item: Sacred Symbols by Robert Adkinson Hardcover \$23.18

Customer

ght

Page 1 of 4

Product Details

Hardcover: 792 pages

Publisher: Harry N. Abrams (May 1, 2009)

Language: English

ISBN-10: 0810937964

ISBN-13: 978-0810937963

Product Dimensions: 6.4 x 2.8 x 7 inches

Shipping Weight: 3.6 pounds (View shipping rates and policies)

Average Customer Review: (5 customer reviews)

Amazon Best Sellers Rank: #550,427 in Books (See Top 100 in Books)

Tell the Publisher!

I'd like to read this book on Kindle

Don't have a Kindle? Get your Kindle here, or
download a FREE Kindle Reading App

Best of the
Month

ADC

Exhibit
A

Books of the
new books in more than...

15

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

Arkansas Claims Commission

LLOYD HAMM (ADC #142452)

MAR 24 2015

CLAIMANT

RECEIVED

VS.

NO. 15-0548-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

CLAIMANT'S RESPONSE TO

RESPONDENT'S MOTION TO DISMISS

COMES Claimant Lloyd Hamm (ADC #142452) (Claimant), Pro Se, having been served a copy of Respondent's Motion to Dismiss on March 9, 2015, and allowing three (3) days service by mail as provided by Arkansas Rule of Civil Procedure 6(e) and (d), and Commission Rule 8.1, files his Response showing why the motion should be denied and this case should be heard, states:

Respondent has confused the claim by trying to obtain dismissal on proof that one (1) of the three (3) books returned weighed more than three (3) pounds.

The claim in this case is that Ms. Roberts, mailroom personnell at East Arkansas Regional Unit (EARU) failed to follow ADC policy for rejection of the books received on April 30, 2014.

Arkansas Department of Correction Administrative Directive (AD) 14-22, requires that a Unit Publication Review Committee

designated by the Unit Warden may reject a publication for a number of reasons - including "[a]ny book heavier than 3 pounds - and that "[p]ublications recommended for rejection will be referred to the Warden [] for final decision." The Warden has authority to waive any condition causing rejection for "legal, educational and religious publications." If rejected by the Warden, the prisoner has a right to appeal the denial to the Central Office Publication Review Committee (COPRC). Both Warden and the COPRC have the right to waive rejection. The decision of Ms. Roberts to utilize the Rejected Mail process (Return Mail) rather than the publication review process was a failure to follow ADC policy that denied Claimant the right to seek waiver (if the book actually required review. The weight proof offered by Respondent is not clear whether "shipping weight" includes any additional packaging weight or is the actual weight of the book) and denied him his right to appeal rejection by the Warden to the COPRC. AD-1422. IV. A-D.

Failure to adhere to agency policy is the claim in this case, and damages are based on the results of that failure.

WHEREFORE, Respondent has failed to show that the allegations in this case fail to state a claim. Therefore,

the motion to dismiss should be denied.

RESPECTFULLY SUBMITTED


LLOYD HAMM - 142452, PROSE

RLW-CC
7206 W 7TH AVE

PINE BLUFF, AR 71603-14298

CERTIFICATE OF SERVICE

I certify that a copy of the Plaintiff's Response to Respondent's Motion to Dismiss has been served this 18th day of MARCH, 2015, on the Respondent's Counsel by placing a copy of the same in the U.S. Mail, regular postage to:

LISA M. WILKINS

ATTORNEY SUPERVISOR

P.O. Box 8707

PINE BLUFF, AR 71604-8707


LLOYD HAMM, PROSE

STATE OF ARKANSAS)
COUNTY OF Jefferson Co) SS

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, on this 5th
day of March, 2015.


NOTARY PUBLIC

My Commission Expires: 9/25/2018

ANNETTE GOINS
NOTARY PUBLIC-STATE OF ARKANSAS
JEFFERSON COUNTY
My Commission Expires 09-25-2018
Commission # 12367971

CERTIFICATE OF SERVICE

I, Royd W. Harmon Jr., petitioner herein, do certify that
a copy of the foregoing petition has been served on the ADC Attorney Supervisor
Prosecuting Attorney of
Jefferson County, Arkansas 71611, by placing same in the U.S. Mail
with sufficient postage affixed to ensure delivery, on this 5 day of
March, 2015.

Petitioner, pro se
ADC# 142152

ATTATCH COPY OF COMMITMENT ORDER CANNOT BE PROCESSED
WITHOUT COMMITMENT ORDER

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 15,000.00

Claim No. 15-0548-CC

<u>Lloyd Hamm, #142452</u> Claimant		<u>Attorneys</u>	
vs.		<u>Pro se</u> Claimant	
<u>AR Dept. of Correction</u> Respondent		<u>Lisa Wilkins, Attorney</u> Respondent	
<u>State of Arkansas</u>			
<u>Date Filed</u> <u>February 2, 2015</u>	<u>Type of Claim</u> <u>Failure to Follow Procedure,</u> <u>Loss of Property</u>		

FINDING OF FACTS

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss" for reasons set forth in paragraphs 1-5 contained in the motion. Therefore, this claim is hereby unanimously denied and dismissed.

(See Back of Opinion Form)

CONCLUSION

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss" for reasons set forth in paragraphs 1-5 contained in the motion. Therefore, this claim is hereby unanimously denied and dismissed.

Date of Hearing April 9, 2015

Date of Disposition April 9, 2015

[Signature] Chairman
[Signature] Commissioner
[Signature] Commissioner

**Appeal of any final Claims Commission decision is only to the Arkansas General Assembly as provided by Act #33 of 1997 and as found in Arkansas Code Annotated §19-10-211.

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IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS

LLOYD HAMM, #142452

CLAIMANT

VS.

CLAIM NO. 15-0548-CC

ARKANSAS DEPARTMENT OF
CORRECTION

RESPONDENTS

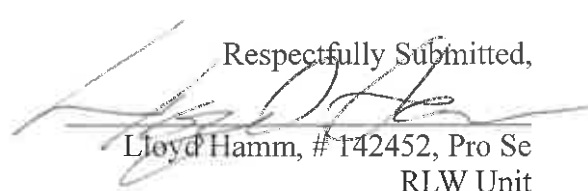
NOTICE OF APPEAL

PLEASE TAKE NOTICE that Claimant LLOYD HAMM, # 142452, hereby appeal the dismissal of his claim by the Commission dated April 9, 2015, to the Senate State Claims Review Committee.

Claimant hereby designates all documents recorded in this case to be necessary for transmission to the Senate State Claims Review Committee so that this appeal may be effectively processed through that reviewing body.

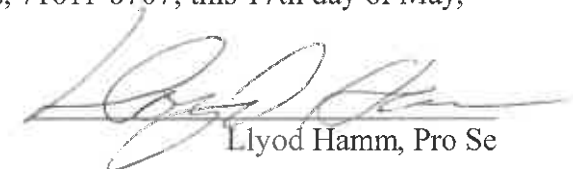
Dated this 17th day of 2015.

Respectfully Submitted,


Lloyd Hamm, #142452, Pro Se
RLW Unit
7206 West 7th Avenue
Pine Bluff, Arkansas 71603-1498

CERTIFICATE OF SERVICE

This is to certify that I have mailed a true copy of the foregoing to Lisa Mills Wilkins, Attorney Supervisor, P. O. Box 8707, Pine Bluff, Arkansas, 71611-8707, this 17th day of May, 2015, first class postage prepaid.


Lloyd Hamm, Pro Se

Arkansas
State Claims Commission

MAY 19 2015

RECEIVED