

Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

RECEIVED

- Mr.
- Mrs.
- Ms.
- Miss

Walter Sims, #134577 Claimant

vs.

State of Arkansas, Respondent
AR Dept. of Corrections

Do Not Write in These Spaces		
Claim No.	16-0006-CC	
Date Filed	July 6, 2015	
	(Month)	(Day) (Year)
Amount of Claim \$	5,000.00	
Fund	DOC	
Failure to Follow Procedure		

COMPLAINT

Walter Sims, #134577, the above named Claimant, of P.O. Box 970, Marianna, AR 72360
(Name) (Street or R.F.D. & No.) (City)

County of _____ represented by _____
(State) (Zip Code) (Daytime Phone No.) (Legal Counsel, if any, for Claim)

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

State agency involved: Arkansas Department of Correction Amount sought: \$5,000

Month, day, year and place of incident or service: 12-19-14 EARU "20 barrack"

Explanation: On the 12-19-14 Lt. C. Burnett, Sgt. T. Allison and Sgt. D. Williams entered 20 barrack zone 3 and went to rack 33 which inmate Walter Sims was assigned. They search Mr. Sims which no contraband was found on him and then his rack was search which no contraband was found. Then went to the ceiling and found two cell phones along with some more items which nothing belong to Mr. Sims. But Sims was place in handcuff and was lock in Punitive Isolation for 30 days while Sims was being had they did there investigation on the phones which came back belonging to two other inmates who received disciplinary for each phone. So Mr. Sims appeal his disciplinary because those items were not found in his possession which also no type of information or numbers of Sims was found in either phone. "Possession is nine tenths of the law" so since those items were found in the ceiling there's no way possible they belong to Mr. Sims. They denied Sims appeal stating "several unauthorized items were found in Sims cell" which that was not a cell. Those items were found in a open barrack and it houses 50 inmates then the ceiling is known to be a common area which anybody have access to.

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?

No; when? _____; to whom? _____
(Yes or No) (Month) (Day) (Year) (Department)

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

and that the nature thereof is as follows: _____ (Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)

_____ and was acquired on _____ in the following manner: _____

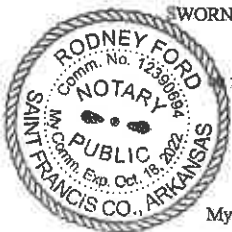
THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verily believes that they are true.

Walter Sims #134577
(Print Claimant/Representative Name)

Walter Sims #134577
(Signature of Claimant/Representative)

WORN TO and subscribed before me at Bridges _____
(City) (State)

(SEAL) this February 23 day of June 2015
(Date) (Month) (Year)



My Commission Expires: Oct 18 2022
(Month) (Day) (Year)

"Exb 7"

ISSR100

Arkansas Department of Corrections
East AR Region, Unit Unit
MAJOR DISCIPLINARY

If the C.S.O. determines that the violation(s) described on this document are felonious; he/she must hand carry this document to the Unit Warden who must immediately notify the Director.

Inmate: Sims, Walter J Jr

ADC#: 134577B

Assignment: AM/PM:Disc! Court Review

Class: I-C is being charged by Burnett, Cecil D
with code violation(s):

Title: Lieutenant

- 07-1 Unauthorized use of state property/supplies
- 09-5 Possession/Introduction of clothing OR property not issued OR authorized by the center/unit
- 09-13 Possession/introduction/use of a cell phone may result in Penalty Class A in the loss of all good time and will result in the loss of Inmate Telephone System privileges for one (1) year.
- 09-12 Possession of Tobacco Products.
- 12-1 Failure to obey verbal and/OR written orders of staff
- 15-1 The purchase OR exchange of unauthorized articles OR of authorized articles through unauthorized channels

Date & Time: 12/19/2014 8:17 AM

Notice of Charges:

Incident Report Unit: East AR Region, Unit
 Incident Report Date/Time: 12/19/2014/08:17:00 AM
 Incident Report Number: 2014-12-130
 Incident Report Comments By: Cecil D Burnett
 On December 19, 2014 at approximately 8:17 a.m. I Lt. C. Burnett assisted by Sgt. T. Allison and Sgt. D. Williams after receiving information from Capt. J. Lane that there were possible inmate(s) in possession of cell phones hidden inside 20 barrack zone 3 at or above bed #33 in which inmate Walter Sims Jr. ado #134577 was assigned according to 20 barrack housing roster as well as eomis information. We entered the barrack and proceed to the upper level of 20 barrack to bed #33 in which inmate Walter Sims was presently sitting on. I Lt. C. Burnett asked inmate Walter Sims his assigned bed number for verification in which he stated, "33", he was then given a direct order to stand and submit to a search of his person in which he complied to in which no contraband was found on his person inmate Walter Sims was then placed in handcuffs and search of his bed area in including light fixtures as well as accessible ceiling fixtures in which the following items was found hidden in the ceiling space (see attached photos) inside 3 (Three) socks. The socks were removed and open and the contents were removed and the following contraband items were as listed: 2 (two) Verizon Samsung prepaid flip cell phones black in color (serial #281-673-9193) and (serial #334-453-1732) with wires attached on one phone, 1 (one) digital camera plug in charging base with digital camera battery with wires attached, 1 (one) phillip screw bit, 1 (one) 2 inch socket extender with 1 (one) socket tip, sheets of cigarette smoking paper (3 packs). A further search of his locker box area was conducted in which one clear am/fm radio was found with a homemade battery pack with 8 (eight) Batteries attached. The items were confiscated (see F-401 form). Inmate Walter Sims was then removed from the barrack and escorted to the maximum security unit pending medical assessment as well as cell placement. Inmate Walter Sims #134577 is aware that his actions are against ADC rules and unit policy therefore I am charging the stated inmate with the following rule violations: 7-1, 9-5, 9-13, 9-12, 12-1, 15-1 pending disciplinary court review. End of statement.

I affirm that the information in this report is true to the best of my knowledge;

Signature of Charging Officer

NOTIFICATION:	Officer _____	Date & Time Notified _____
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Witness Statements: No If yes, list:

 Inmate's Signature

C.S.O. Review:	Outcome: Refer to Hearing Officer/Comm.
By:	Cobbs, Mary G
Date	12/22/2014

Extension:	No <input checked="" type="checkbox"/> Yes _____	Has extension form been completed? _____
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"Exb 2"

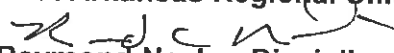


Arkansas Department of Correction

Internal
Affairs
Division
P.O. Box 8707
Pine Bluff, Arkansas 71611-8707
Phone: (870) 267-6218
Fax: (870) 267-6226

MEMORANDUM

TO: Inmate Walter Sims ADC# 134577
East Arkansas Regional Unit

FROM: 
Raymond Naylor, Disciplinary Hearing Administrator

RE: Major Disciplinary Appeal Modification

DATE: February 13, 2015

Please be advised that I am in receipt of your disciplinary appeal dated January 15, 2015 regarding the major disciplinary you received on December 19, 2014, 8:17am, by Lt. Cecil Burnett.

After a thorough review of all the documents pertaining to this matter, I find that I must modify the decision of the major disciplinary hearing officer to read Not Guilty of Rules 15-1 and 07-1, and your punishment will remain the same.

If you so desire, you may appeal further to the Director of the Department of Correction.

RN1

Cc: Warden Lay / Inmate File
File

"Ex 63"



Arkansas Department of Correction

Director's Office
P.O. Box 8707
Pine Bluff, Arkansas 71611-8707
Phone: (870) 267-6200
Fax: (870) 267-6244
www.arkansas.gov/doc

MEMORANDUM

TO: Inmate W. Sims, ADC #134577
East Arkansas Regional Unit
From: Wendy Kelley
Director
Date: April 1, 2015
RE: Disciplinary Appeal

Handwritten signature of Wendy Kelley

I am in receipt of your disciplinary appeal regarding a major disciplinary you received on 12/19/2014, at 8:17 a.m., by Lieutenant C. Burnett.
Handwritten notes: decision same from written on me by Lt. C. Burnett on 12/19/14

After reviewing your appeal, I find no due process violations that would warrant modification or reversal of the disciplinary hearing officer's decision. Although Mr. Naylor reversed two of the rule violations, 15-1 and 7-1; however, you remained guilty of the rule violations 9-5, 9-13, 9-12, and 12-1 with the punishment remaining the same. Still, several unauthorized items were found in your cell; therefore your appeal is denied.

WK/cv

cc: Inmate File
Hearing Officer Administrator
File

"Exb 3"




Arkansas Department of Correction

Director's Office
P.O. Box 8707
Pine Bluff, Arkansas 71611-8707
Phone: (870) 267-6200
Fax: (870) 267-6244
www.arkansas.gov/doc

MEMORANDUM

TO: Inmate Walter Sims, ADC # 134577
East AR Regional Unit

FROM: Jada Lawrence, Executive Assistant to
Director Wendy Kelley 

RE: Major Disciplinary Appeal

DATE: May 15, 2015

Please be advised that I am in receipt of your disciplinary appeal regarding the major disciplinary you received on 12/19/2014 at 8:17 a.m. by Lt. C. Burnett.

After a thorough review of all the documents pertaining to this matter, I found that you have exhausted the disciplinary appeal process outline in AD 15-01. The findings were upheld by the unit warden; modified by the Disciplinary Hearing Administration and the Director upheld the modification(s) made by the DHA.

cc: Warden / Inmate File / File

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

WALTER SIMS (ADC 134577)

Arkansas

CLAIMANT

V.

NO. 16-0006-CC

State Claims Commission

JUL 16 2015

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

ANSWER


RECEIVED

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 16 day of July, 2014, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Walter Sims (ADC 134577)
East Arkansas Regional Unit
PO Box 970
Marianna, AR 72360-0970


LISA MILLS WILKINS Ark. Bar #87190

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

WALTER SIMS (ADC #134577)

Arkansas Claims Commission

CLAIMANT

V.

NO. 16-0006-CC

DEC 28 2015

ARKANSAS DEPARTMENT OF CORRECTION

RECEIVED

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 alleges a claim of failure to follow procedure. Claimant is seeking \$5,000.00. Claimant has failed to state a claim upon which relief can be granted under ARCP Rule 12(b)(6) and failed to exhaust his remedies and the matter should be dismissed.
2. Claimant's argument is that he was found guilty of a disciplinary arising on December 19, 2014, alleging that he was falsely accused and convicted.

Code Violation	Plea	Verdict
Unauthorized Use Of State Prop	Not Guilty	Not Guilty
Possession/Introduction Of Clothing	Not Guilty	Guilty
Possession/Introduction/Use of Cell Phone	Guilty	Guilty
Possession of Tobacco Products	Not Guilty	Guilty
Failure To Obey Order Of Staff	Not Guilty	Guilty
Purchase Of Unauthor Articles	Not Guilty	Not Guilty

His disciplinary was upheld at all levels of appeal with some modification resulting in a finding of not guilty on two of the charges..

Appealed to Warden Date: 12/30/2014 Outcome: Findings Upheld Date: 01/05/2015

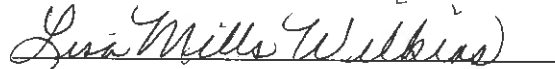
Appealed to H/O Admin. Date: 01/15/2015 Outcome: Modified Date: 02/13/2015

Appealed to Director Date: 03/06/2015 Outcome: Findings Upheld Date: 04/01/2015

3. Claimant is merely trying to reargue and appeal to the commission his conviction. Administrative agencies, due to their specialization, experience, and greater flexibility of procedure, are better equipped than courts to analyze legal issues dealing with their agencies. *Crawford v. Cashion*, 361 S.W. 3d 268, 271 (2010).
4. A motion to dismiss is proper when there are no facts upon which relief can be granted. ARCP 12(b)(6). Respondent moves that the commission dismiss this claim.

WHEREFORE, for the reasons stated above and the evidence submitted the Claim must be dismissed.

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 the above MOTION TO DISMISS has been served this 22 day of December, 2015, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

WALTER SIMS (ADC #134577)

EARU

P. O. BOX 970

MARIANNA, AR 72360-0970



LISA MILLS WILKINS Ark. Bar #87190

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

Arkansas Claims Commission
JAN 06 2015
RECEIVED

Walter Sims (A.D.C. #134577)

Claimant

V.

No. 16-0006-CC

Ark. Dept. of Corrections

Respondent

Claimant's Objection to Motion To Dismiss

Comes now the Claimant, Walter Sims, in submission of his instant objection does hereby state and responds as follows:

1. The respondent has provided false information to this Commission at #2 of it's Motion to Dismiss. The Claimant did not plead guilty to any of the charges that were fabricated against him.
2. The Claimant is not merely trying to reargue and appeal to this Commission his false conviction. The A.D.C. has established rules that they routinely break in illegally injuring inmates. If proven, the Claimant has a right to seek compensation from this Commission.
3. The Claimant asserts that he can prove same if an evidentiary hearing is held in this matter.

Wherefore, the Respondent's Motion to Dismiss should be denied and further proceedings held.

Certificate of Service

I hereby certify that a copy of this instant objection has been served on the Respondent, via U.S. Postal Service, on this 3 day of ~~December~~, 2015, with sufficient postage affixed thereto.

Respectfully Submitted,

Walter Sims

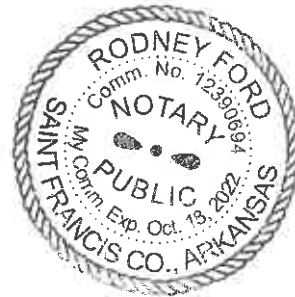
Mr. Walter Sims #134577
P.O. Box 970
Marianna, AR. 72360

State of Arkansas
County of Lee

Subscribed and sworn to before me, a Notary Public, on this 03 day of Jan, 2015.

My commission expires: Oct. 18, 2015

Notary Public: [Signature]



STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 5,000.00

Claim No. 16-0006-CC

Attorneys

Walter Sims, #134577 Claimant
vs.

Pro se Claimant

AR Dept. of Correction Respondent
State of Arkansas

Lisa Wilkins, Attorney Respondent

Date Filed July 6, 2015

Type of Claim Failure to Follow Procedure

FINDING OF FACTS

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss" for reasons set forth in paragraphs 2-4 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 2-4 contained in the motion. Therefore, this claim is hereby unanimously denied and dismissed.

Date of Hearing January 14, 2016

Date of Disposition January 14, 2016

[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.

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

Walter Sims #134577

Arkansas
State Claims Commission
JAN 28 2016

Claimant

VS.

NO.16-0006-CC

RECEIVED

ARKANAS DEPT. OF CORRECTION

Respondent

NOTICE OF APPEAL

Notice is hereby given that Walter Sims #134577, claimant, appeals to the State Claims Sub-Committee of the Arkansas Legislative council from the decision/opinion made on Jan. 14th, 2016; that denied and dismissed his claim.

APPELLATE JURISDICTION

The appellate jurisdiction of the Arkansas General Assembly is invoked pursuant to Ark. Code Annotated Sec. 19-10-211.

DESIGNATION OF RECORD

The claimant hereby designates the entire record, and all proceedings, exhibits, evidence, and documents introduced in evidence to be contained in the record on appeal, and timely forwarded to the secretary of the state claims review subcommittee of the Arkansas Legislative council/General Assembly for adequate review.

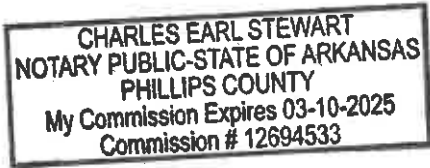
Respectfully Submitted,

Walter Sims
#134577

Walter Sims
ADC # 134577
East Arkansas Regional Unit
Arkansas Department of Correction
Marianna, AR 72360

State of Arkansas)
) SS
Count of Lee/Phillips)

Subscribed and sworn to before me, a notary, on this 22 day of January, 2016.



Charles Earl Stewart
Notary Public

My Commission expires: 03-10-2025

CC: Director-Arkansas State Claims Commission.
Ms. Lisa Wilkins, counsel for respondent.