

Please Read Instructions on Reverse Side of Yellow copy

Please print in ink or type

Arkansas State Claims Commission

FEB 09 2015

E4.

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

RECEIVED

- Mr. Mrs. Ms. Miss

Andrew Walker, #118512 Claimant

vs.

State of Arkansas, Respondent Department of Correction

Do Not Write in These Spaces Claim No. 15-0561-CC Date Filed February 9, 2015 Amount of Claim \$ 10,000.00 Fund DOC

COMPLAINT Negligence, Pain & Suffering Personal injury, fail to follow Procedure

Andrew Walker, #118512 the above named Claimant, of 880 E. Gaines St. Dermott, AR 71638 (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.) says:

State agency involved: ARKANSAS Department of Correction Amount sought: \$10,000.00

Month, day, year and place of incident or service: 12-8-13 5:45am Approx.

Explanation: on 11-13-13 I, Andrew Walker, received Surgery on my back due to a L4 & L5 vertebra injury. The disk was Fused on 12-8-13 I took a very hard fall onto my back. This fall was due to gross negligence of the part of the Arkansas Dep of Corrections (Wrightsville unit) Staff Sgt J. Henderson & Sgt Cockrell Kneep of the Ice on the Sidewalk, in which caused my fall, yet they did nothing to have it removed. Previous to my fall, two other inmates had fallen due to the ice on the sidewalk. The on duty Sergeants listed above, posted no Signs or Caution indicators warning me that the conditions were hazardous. I had no choice but to walk on the icy sidewalk for it was the only way to get to the Chow hall. The fall I took was so severe that I lost consciousness. After I regained consciousness, I was carried to the infirmary by two inmates. I believe that when I was carried by these inmates, to the infirmary, that it furthered the injury to my back. Now I suffer constant pain due to the fall. The ice that caused my fall was left on the sidewalk for three days. And by someone trying to clean the area in front of the Chow hall, which was negligently done making things worse. AS I still have complications to this day. An Extension of added pain that seems to get worse an worse Every day.

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? 12 13 13 to whom? Grievance Procedure Arkansas dep of Correction (Department)

and that \$ N/A was paid thereon: (2) Has any third person or corporation an interest in this claim? N/A; 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: N/A and was acquired on N/A, 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 verify believes that they are true.

Andrew Walker (Print Claimant/Representative Name) Andrew Walker (Signature of Claimant/Representative)

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

(SEAL) LESTER CHARLES FAUSNIGHT NOTARY PUBLIC-STATE OF ARKANSAS CHICOT COUNTY My Commission Expires 01-25-2021 Commission # 12388353 this 5th day of June 2014 (Date) (Month) (Year) Lester Charles Fausnight (Notary Public) My Commission Expires: 01-25-2021 (Month) (Day) (Year)

UNIT LEVEL GRIEVANCE FORM (Attachment I)

Unit/Center WRIGHTSVILLE

Name Andrew Walker

ADC# 118512 Brks # 1 Job Assignment Barracksporter

REC / EP

FEB 11 2014

WRIGHTSVILLE

FOR OFFICE USE ONLY	
GRV. #	<u>WR-13-00246</u>
Date Received:	<u>12/17/13</u>
GRV. Code #:	<u>900-26</u>

12-10-13 (Date) STEP ONE: Informal Resolution

12-15-13 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)

If the issue was not resolved during Step One, state why: I stated I slipped on a large sheet of ice from gross negligence from officers. I did not walk to the infirmary, I was carried to the infirmary.

(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? _____ 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 12-8-13 Around 5:55AM zone #1 Dining Hall, I was WALKING out of the Dining Hall And unknowingly Stepped on A large sheet of ice, I Slipped and went Air born, landed flat on my back, I just recently had surgery on my BACK, I went to medical After that immediately And nurse Jackson Noted my hip And BACK swollen, I have Noted to several officers that the roadways and side walks are Not clear From ice and debris, I have informed several officers of my recent back Surgery performed on 11-18-13, My injuries are the resultant of Gross Negligence by the WRIGHTSVILLE Unit Shift Supervisors, I was exposed to A unreasonable Amount of Risk of serious harm on the Above date 12-8-13. C/A Aab v CAUDILL Fla. App. 236 So. 2d, 180, 182, 183, 185, CLAUNCH v Bennett Tex. Civ App. 511 US 2d, 719, 724. Farmer v Brennan 511 US 825, 835 (1994).

RETURNED TO INMATE FOR THE FOLLOWING

RECEIVED

REASON(S): NOT

JAN 23 2014

Andrew Walker
Inmate Signature

PROCESSED, PREVIOUSLY 12-10-13
Date

INMATE GRIEVANCE SUPERVISOR

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 12-13-13 (date), and determined to be Step One and/or an Emergency Grievance NO (Yes or No). This form was forwarded to medical or mental health? NO (Yes or No). If yes, name of the person in that department receiving this form: _____ Date _____

P.W. JACKSON 49185 Sgt P.W. Jackson 12-13-13
PRINT STAFF NAME (PROBLEM SOLVER) ID Number Staff Signature Date Received

Describe action taken to resolve complaint, including dates: you accidentally fell. Staff immediately administered assistance & got you into the infirmary for further treatment after you got up & walked to the infirmary.

Sgt P.W. Jackson 12-15-13 Andrew Walker 12-15-13
Staff Signature & Date Returned Inmate Signature & Date 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: _____

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. 2

IGTT400
3GR

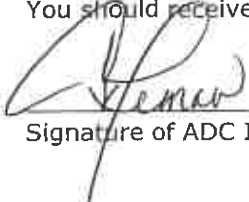
Attachment II

ACKNOWLEDGMENT OR REJECTION OF UNIT LEVEL GRIEVANCE

TO: Inmate Walker, Andrew S.
FROM: Coleman, Joyce B
DATE: 12/17/2013

ADC #: 118512A
TITLE: ADC Inmate Grievance Coord
GRIEVANCE #: WR-13-00246

Please be advised, I have received your Grievance dated 12/10/2013 on 12/17/2013.
You should receive communication regarding the Grievance by 01/17/2014



Signature of ADC Inmate Grievance Coord

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. 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

IGTT405
3GT

Attachment V

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

TO: Inmate Walker, Andrew S. ADC #: 118512A
FROM: Harris, Grant E TITLE: Deputy Director
RE: Receipt of Grievance WR-13-00246 DATE: 01/23/2014

Please be advised, the appeal of your grievance dated
12/10/2013
was received in my office on this date 01/23/2014

 **You will receive communication from this office regarding this Grievance by 03/07/2014**

- 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

IGTT410
3GS

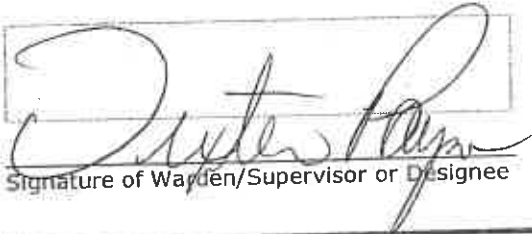
INMATE NAME: Walker, Andrew S. ADC #: 118512A GRIEVANCE #: WR-13-00246

WARDEN/CENTER SUPERVISOR'S DECISION

I am in receipt of your grievance date 12/10/13 received 12/17/13, in which you allege that you were injured because of gross negligence by the staff here at Wrightsville.

After a careful review of the information provided, I find that your injuries were not a result of the slip on ice but recent back surgery. It is noted that you were escorted to medical where you were examined and given only the verbal instruction to ambulate carefully and avoid trips and falls.

Therefore, I find this grievance without merit.


Signature of Warden/Supervisor or Designee

Warden
Title

1-15-14
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.

WHY DO YOU DISAGREE WITH THE ABOVE RESPONSE?
ON 11-8-13 I had surgery on my lower BACK Around or About 20 days later I had no pain and that's until I slipped and fell on my back which upset normal conditions of the healing process, and damaged the area even more. I wasn't escorted by staff medical, nor by medical staff; I was escorted to medical by other inmates. The two officers who came out where I landed were Sgt's 'COCKRELL' J. Henderson -- one of those Sgt's opened the gates of the morning of and was very aware (had prior knowledge) of the ice being in front of the exit door. No caution sign(s) placed anywhere around the area in which I slipped and fell to indicate that the area was icy or slippery. It was also very obvious of the ice being on the ground by correctional officers when over 55% of the grounds were covered in ice as well, and despite my efforts to stay up right on my feet, it was the negligence of security staff on the sidewalks and streets safe that ultimately lead to me slipping and falling on my back, which lead to re-injuring my back. ON 1-13-14 Dr. Jones stated to me that the shocking sensations could be due to more

Andrew Walker
Inmate Signature

118512
ADC#

1-18-14
Date

RECEIVED

JAN 23 2014

INMATE GRIEVANCE SUPERVISOR
ADMINISTRATION BUILDING

INMATE NAME: Walker, Andrew S.

ADC #: 118512

GRIEVANCE#:WR-13-00246

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

I have received your formal grievance appeal dated 12/15/13 in reference to walking from the chow hall and slipping on some ice and injuring your back.

After reviewing all supporting documentation, I have determined that I concur with the Warden's response of no merit. Proper protocol was followed concerning your fall. Medical evaluation preformed on 12/08/13, noted no swelling.

Appeal denied.



Director

3-5-2014
Date

6

Arkansas Claims Commission

MAR 16 2015

RECEIVED

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

ANDREW WALKER (ADC 118512)

CLAIMANT

V. NO. 15-0561-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
 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 March, 2014, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Andrew Walker (ADC 118512)
Cummins Unit
P.O. Box 500
Grady, AR 71644-0500

Lisa Mills Wilkins
 LISA MILLS WILKINS Ark. Bar #87190

STATE CLAIMS COMMISSION DOCKET
OPINION

10,000.00

15-0561-CC

Amount of Claim \$ _____

Claim No. _____

Andrew Walker #118512

Attorneys

Pro se

Claimant

Claimant

vs.

AR Department of Corrections

Lisa Wilkins, Attorney

Respondent

Respondent

State of Arkansas

February 13, 2015

Negligence, Pain & Suffering,

Date Filed _____

Type of Claim

Personal Injury, Failure to Follow
Procedure

FINDING OF FACTS

This claim was filed for the negligence, pain & suffering, personal injury and failure to follow procedure in the amount of \$10,000.00 against Arkansas Department of Corrections.

Present at a hearing December 9, 2015, was the Claimant, pro se, and the Respondent, represented by Lisa Wilkins, Attorney.

The Claims Commission hereby unanimously denies and dismisses this claim for Claimant's failure to prove by a preponderance of the evidence any liability on the part of the Respondent.

Therefore, this claim is hereby unanimously dismissed.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

Upon consideration of all the facts, as stated above, the Claims Commission unanimously denied and dismissed this claim for Claimant's failure to prove by a preponderance of the evidence any liability on the part of the Respondent.

Date of Hearing December 9, 2015

Date of Disposition December 9, 2015

Richard May
Chairman

Bill Farnsworth
Commissioner

John [Signature]
Commissioner

**Appeal of any final Claims Commission decision is only to the Arkansas General Assembly as provided by Act #33

ARKANSAS STATE CLAIMS COMMISSION

Arkansas Claims Commission
DEC 30 2015

RECEIVED

ANDREW WALKER #118512

CLAIMANT

NO: 15-0561-CC

ARKANSAS DEPT. OF CORRECTION

RESPONDENT

RULE 7.1 RE-HEARING RECONSIDERATION

Comes now, Andrew Walker through his own power for this reconsideration of a rehearing under Rule 7.1.

Everything that came out of the respondents mouth at the hearing was misleading and a violation of the claims commissions rules and regulations.

When being sworn in under oath means to tell the truth about everything and not lie and say things about I can't recall. I can't recall is the easiest way to lie in court, and for the claimant and his claim to be dismissed was something that the claims commission shouldn't have allowed.

The ice and snow started on 12-6-13, and it can be seen on the weather climate control; and from that 6th day of December ice was left on all walk ways and sidewalks that whole weekend. I repeat, the whole weekend, and at no time was any walkway on the compound attempted to be cleared.

On 12-8-13AM time, before the chow hall was opened up for the population, the front area of chow hall was covered with ice and some of that ice was removed. The remainder of ice was pushed up in the corner behind the exit door.

When I slipped an fell I was right in front of the exit door, coming down on my back and head real hard when everything went black is when I was unconscious, for how long, I don't know.

The accumulation of ice and snow was from Friday when it started - so it didn't just start snowing that morning; matter of fact ice or snow wasn't falling from the sky at that time, it was just real, real cold outside. And for water to be used to attempt to move the ice was a bad decision to make. Because that only made the conditions more slippery than they already were. These conditions presented a imminent threat of harm. No one got escorted to the chow hall that morning, "At All!" of that weekend.

And for the previous calls that were made by Sgt. J. Henderson to the infirmary for assistance, because of others slipping and falling shows and proves the negligence of respondent. And a rehearing should be granted.

As I stated in my affidavits, Sgt. Sutton knows of all slip 'n falls that happen that morning, 12-8-13, because she was the responding party on the other end. And it shows that she has knowledge of all incidents and for her not to be allowed to testify would be a miscarriage of justice.

And for Sgt. J. Henderson not being present at the hearing was set up to where he didn't have to take the stand and his testimony wouldn't have been the same as Sgt. S. Cockrell.

Sgt. J. Henderson was the one who made all the calls to the infirmary requesting assistance and has personal first hand knowledge of every incident.

And nurse Jackson the nurse that was working the infirmary that morning has knowledge of the other incidents because she was the responding nurse.

When I, claimant A. Walker, was laying on the exam. table crying from the pain and shock from the slip 'n fall, Sgt. Sutton was standing there, right outside the doorway asking, "why is he crying like that?" And nurse Jackson's response was something like, "he just had back surgery."

Not being out of the first surgery 30 days yet, claimant slipped and fell real, real, hard on his backside. Claimant was never in any pain before the slip 'n fall because surgery was just performed by Dr. Crowell.

That pre-existing surgery was damaged, and aggravated from the slip n fall incident that occurred on 12-8-13. If the claimant wouldn't have slipped an fell the claimant wouldn't be walking around with screws in his back. If procedures would have been followed claimant wouldn't have had to have screws placed in lower back. No caution signs were set in place, no salt was used, no warning at all. And the ones responsible for not taking any precautions are Sgt. S. Cockrell and Sgt. J. Henderson.

After the first incident that happen that morning, caution-slippery wet floor signs should have been set in place but that didn't happen. And the pile of ice that was behind the exit door, that pile of ice wasn't put there by the 2 Sgt.'s, they didn't get out there and grab a shovel and push that snow and ice in the corner, why would they, they have inmates for that.

In this case the 2 sergeants and kitchen supervisor had constructive and actual notice of the re-freezing ice in the front area of food service chow hall.

Respondent sent the claimant a motion to squash subpoena 2 days prior to the hearing, and claimant wasn't given the opportunity to respond before that motion was granted and that's a miscarriage of justice because that witness was the responding party that took all the calls that were reported to the infirmary about all incidents, and Sgt. Sutton was with nurse Jackson when she was on her way to come assist me.

Before I was carried to the infirmary Sgt. J. Henderson told the 2 other inmates, "don't carry him across the sidewalk, it's too slick, walk on the grass." This was said by Sgt. J. Henderson. So at that point Mr. Henderson is acknowledging that these conditions are too icy to walk on, and allows 2 inmates to assist me to the infirmary, which was a negligent act.

The first negligent act was committed when no precautionary measures were taken after the first incident, and the second negligent act was committed after no precautionary measures were taken after that first incident, and the 3rd

negligent act was committed when Sgt. J. Henderson allowed 2 inmates to carry me to the infirmary without any supervision from the 2 sergeants.

If the claimant was allowed a rehearing, the claimant could prove all elements to everything that's been put forth and said by the claimant. And with nurse Jackson's testimony, which will prove everything that I've been talking about and saying about myself that happen that morning is true. And with the allowance of the claims commission to allow me this opportunity for nurse Jackson's testimony won't prejudice the respondent in any way at all.

As the claimant was being carried across the prison yard by the 2 inmates, Ms. Sutton was with the nurse and they both attempt to go and assist the claimant, and words were said by one of them, "I hope it ain't Walker, because he just had surgery."

Arkansas Dept. of Corrections has responsibilities and obligations to take action to prevent one from bringing harm to himself when the claimant was compelled to even walk out in the extreme winter weather. After explaining the conditions the claimant was in, shows that the respondent was negligent - and goes to show that if the claimant wouldn't have walked out in that bad weather - claimant wouldn't have slipped and aggravated pre-existing surgery to a degree of having his back cut up with screws and bolts being put inside.

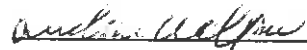
It took some act to cause such needs, and that act was me slipping and falling approx. 21 days after surgery that was performed by Dr. Crowell.

After the slip 'n fall claimant never had x-rays at all. "MRI was taken approx. 51 days later, which was positive for a scar that causes pain. The pain and suffering I went through up until 12-12-14 is something I hope I never go through again.

Claimant was foreseeable at risk and the 2 sergeants knew it. It was foreseeable that anyone who came across the sidewalks and path walkway in front

of the chow hall would injure their-self, since others had already slipped on the slippery ice. Claimant is deserving of a re-hearing on this claim.

Respectfully Submitted



Andrew Walker #118512

Claim #15-0561-CC

STATE OF ARKANSAS)
COUNTY OF Lincoln)SS

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, on this 28 day of
December, 2015.

Latahia Lanae Taylor
Notary Public

1-24-2021
My Commission Expires:

LATASHIA LANAE TAYLOR
NOTARY PUBLIC-STATE OF ARKANSAS
LINCOLN COUNTY
My Commission Expires 1-24-2021
Commission # 12380458

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 10,000.00

Claim No. 15-0561-CC

Andrew Walker, #118512
Claimant

Attorneys Pro se
Claimant

vs.
Department of Corrections
Respondent

Lisa Wilkins, Attorney
Respondent

State of Arkansas
Date Filed February 9, 2015

Failure to Follow Procedure, Pain &
Type of Claim: Suffering, Personal Injury, Failure to Follow
Procedure

FINDING OF FACTS

The Claims Commission hereby unanimously denies Claimant's "Motion for Reconsideration" for the Claimant's failure to offer evidence that would change the prior decision of the Claims Commission. Therefore, the Commission's December 9, 2015 order remains in effect.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

The Claims Commission hereby unanimously denies Claimant's "Motion for Reconsideration" for the Claimant's failure to offer evidence that would change the prior decision of the Claims Commission. Therefore, the Commission's December 9, 2015 order remains in effect.

Date of Hearing January 14, 2016

Date of Disposition January 14, 2016

Hanson
Chairman
Strohler
Commissioner
Bill Fancette
Commissioner

Before The State Claims Commission
Notice of Appeal To The General
Assembly

Andrew Walker #118512

15-0561-10

Claimant

Arkansas State of Insurance

Arkansas Claims Commission

JAN 29 2016

RECEIVED

Respondent

Arkansas General Assembly Act 33
19-10-21 Arkansas Code Annotated
Appeals of decisions

Notice is hereby given that Andrew Walker
Claimant in the above styled case, hereby
appeal to the General Assembly for the
final judgment from an order entered
in on this action on the 9th day of
December 2015

1-6-16

Andrew Walker
Claimant

1-24-16

Arkansas Claims Commission

JAN 29 2016

RECEIVED

BEFORE THE STATE CLAIMS COMMISSION

ANDREW WALKER #118512

CLAIMANT

15-0561-CC

ARKANSAS DEPT. OF CORRECTION

RESPONDENT

**ARKANSAS GENERAL ASSEMBLY ACT.33 1997
APPEAL ARKANSAS CODE ANNOTATED 19-10-211**

This appeal is for the claimant for its dismissed claim that was dismissed on December the 9th. will all due respect to the General Assembly Erra was made when the claim was dismissed on December the 9th for numerous reasons.

The claim shouldn't have been dismissed because of the claimant not addressing all the right issues.

The claimant not having any witnesses present to testify is another reason why the commissions decision should be reversed.

And then the respondent testimony by Sgt. S. Cockrell was all lies.

And then the testimony by [Gena Walker] wasn't even relevant to the claims made by the claimant.

And for [Sgt. J. Henderson] to not even be present goes to show that the respondents were hiding something. [Sgt. J. Henderson] is the one who made all the emergency calls to the infirmary on 12-8-13, and [Mr. Henderson] testimony would have been different from [Mr. Cockrell's] testimony.

Mr. Cockrell said in his testimony that it had just started to sleet and snow, ___ that was a lie. The ice build up from Friday and Saturday and its accumulation was severe and extreme and with no safety precautions at all taken to these conditions that whole weekend.

The cameras will show from the 6th day of December 2013 how bad the conditions were and the camera's will prove and show that the respondent was negligent that whole weekend and on 12-8-13 none of the ice or snow got removed from any of the walk ways inside of the compound or from in front of the chow-hall area.

12-8-13 early morning, the gates of chow-hall had to be unlocked for the inmates to be able to enter the chow-hall who ever unlocked these gates knew about the ice build up that accumulated from when it started Friday, and knew that the area needed to be cleared before the population was even let out for chow-hall.

The front of the chow-hall has 2 sides to it, the front side of the flower bed which has a side walk that goes from gate to gate that has to be opened up for inmates to walk back and forth, and it connects to the front area of the chow-hall, the area were the enter and exit door ways are was dashed with water to attempt to remove the accumulated ice. Which made the hazard more of an unreasonable risk to anyone who walked through the area and the pile of ice that was behind the exit door in the corner is relevant and shouldn't be over looked at all.

What my eyes seen that morning wasn't something that was made up the water that was coming from the ice pile and then re-freezing right before my eyes, and the ice and snow along the building and the flower bed that was still melting from being dashed with water before one barracks was called for chow water was used to attempt to clear the accumulated ice, which was done in a negligent way and should have been done in another way. Before one barracks was called for chow there were 2 prior incidents that occurred from slipping and falling by 2 other inmates. That first person that slipped and fell was taken to the infirmary, and if he wasn't taken to the infirmary it shows that procedures were not followed.

Nurse Jackson knows of the prior incidents but I was unable to get her as a witness, her and Sgt. Sutton were the responding party. Sgt. Sutton wasn't able to testify because it was said that she had no personal knowledge of the incident and that's not true. Because she did have knowledge of the incident because she was the responding party, not only to my incident, but to the prior incidents as well.

Claimant received a motion to quash subpoena 2 days before the hearing and I wasn't given the time to respond to that motion, and that wasn't right under all circumstances of being a last minute motion. With me not experiencing any pain at all before the slip-n-fall should show that the slip-n-fall did indeed cause me pain and for Dr. Crowell to tell me that it was a special procedure that he could do to take away the pain that I was going through after the slip-n-fall, and then cut my back open and insert screws inside me. If claimant wouldn't have

slipped-n-fell on that ice claimant wouldn't have had to have screws placed in his back MRI was taken 51 days later which it was found to be positive for a scar that causes pain and has to be relevant to the slip-n-fall and being out of surgery only 20 something days and slipping an falling the way I did has to be relevant to the claim.

If the claimant wouldn't have damaged or aggravated pre-existing surgery why would Dr. Crowell be wanting to cut on me if I did hurt myself from the slip-n-fall. There are genuine issues of material fact that should't have been over looked by the claims commission, and if the appeals court over looks these genuine issues of material facts, it would be a miscarriage of justice.

The 2 sergeants knew of the icy conditions and failed to respond, and didn't take any precautions at all to prevent someone from falling when knowing the risk was very high.

As a matter of law. The law imposes upon every person who enters upon an active cause of conduct the positive duty to exercise ordinary care to protect others from harm. A violation of such duty constitutes negligence [Id Williamson v. Clay 243 N.C. 337. 90 SE 2d 727 !956)].

Banks v. Quay, said, to find constructive notice of icy conditions on sidewalk there must be some evidence that ice was on the sidewalk long enough prior to the fall that prison officials should have known about it and removed it.

In this case, the ice was there long enough and should have been removed. The re-freezing ice was known about because water was used in the attempt to remove the accumulated ice before the chow-hall was opened up for chow that morning, and Sgt. J. Henderson knows it, knows about it and couldn't denied it, thats the reason he was unable to be present at the hearing, Mr. Henderson could have gave his testimony through affidavit, and would have been the right thing to do. And I feel by Mr. Henderson not giving his testimony shows his morals and his intentions on that morning of 12-8-13. Respondent failed to follow procedures when they didn't place ant safety devices in place, and when they allowed 2 inmates to carry me to the infirmary.

Respondent knew about the re-freezing ice but didn't respond in a timely manner, which caused me to slip-n-fall, damage and aggravate pre-existing surgery, to were & had to have my back cut open with screws being added.

The slip-n-fall did indeed cause me pain and caused me to suffer. Adding water to ice in freezing temperatures was the wrong thing to do and shouldn't have done that way.

Respondent already said that no precautionary measures were followed, and by law that hols him liable for the harm that was brought upon me. Before the claimant was carried off to the infirmary Sgt. J. Henderson tells the 2 inmates don't walk on the sidewalk its to slick, walk on the grass. Those were words by Sgt. J. Henderson and are relevant to his responsibilities. Allowing a pile of ice to

be pushed behind the exit door was the wrong thing to do and was a negligent act instead of pushing the pile of ice to the top of the front area of the chow-hall it should have been pushed to the bottom of the front sidewalk were all the other ice build up was that persisted to stay. Did the 2 sergeants get out their and remove some of the ice, I don't think they did. Why would they when they have inmates to do that. Thats were respondent supervisor comes in at about this case, and its also were the zone-of-danger rule comes into affect. Denying this appeal would be a miscarriage of justice.

Claimant was in a dangerous area created by the respondent. Respondent failed to exercise ordinary or reasonable care relative to the premises upon which the claimant was approaching Respondent was negligent under all circumstances. As the claimant was being carried to the infirmary the claimant passed nurse Jackson and Sgt. Sutton, the prison guard working at the infirmary at the time of accident.

Sgt. Sutton was the responding party at the time of the incident, and it shows she had knowledge of the slip-n-fell because Ms. Sutton had to write down the incident report. Sgt. Sutton's testimony is relevant to this claim and her subpoena should't have been quashed. Respondents were responsible for all the inmates on 12-8-13. Respondents had a duty to see that other wouldn't have slipped and fell like the first one did but they failed to see to that by not using any care at all and should be held accountable for their negligent actions and for their

negligent when the claimant requested his food tray brought to him because of hearing of 2 incidents back to back of slipping an fall, that should have been taken into consideration under all circumstances claimant no has screws in lower back that were placed inside after the slip-n-fall incident, that was performed on 12-12-14 which would have been performed earlier if the claimant wouldn't have been transfered from the Wrightsville unit the transfer only caused extreme delays and caused the claimant to suffer and go through pain for no reason at all, all because the Wrightsville unit didn't want to deal with the slip-n-fall incident that they knew they caused.

Claimant has no complete remedied at law about this case, but the claimant does know that he was harmed by the slip-n-fall and the respondents was the cause of this slip-n-fall which caused the claimant to go through another surgery procedure that could have been prevented if procedures would have been followed.

Respondent having constructive and actual notice of the hazardous re-freezing ice in the front area of the food service chow-hall, and by them knowing the pile of ice being in the corner behind the exit door shows the respondents negligent supervision.

Claimant was foresee-ably at risk and both sergeants knew about it. It was foreseeable that any one who came across the sidewalks and the path walk ways in-front of the chow-hall would injure their self due to the accumulation of ice.

One is liable for natural and probable consequences of his negligent acts. Respondents were negligent and their negligence was the direct and proximate cause of the claimant's damaging and aggravating pre-existing surgery. ADC has responsibilities and obligations to take action to prevent one from bringing harm to his self, when A.D.C or its employees don't take action in preventing that harm violates his contract and is negligent, and is liable for negligence.

In order to establish actionable negligence one seeking recovery must show the existence of a duty, the breach of that duty, and injury resulting proximately therefrom. [Feldman v. Howard (1967) 10 Ohio St. 2d 189 193 226 NE 2d 564.]

In this case the claimant has shown all the elements of their negligent actions and their negligence, Respondents should be held accountable for their negligence. See [Ross v. Nutt] (1964) 177 Ohio St. 113, 114, 203 NE. 2d 118. It is well settled that in order for a person to be entitled to recover in damages for a claimed negligent injury the act complained of must be the direct and proximate cause of the injury.

The law of foreseeability as announced in [Neff Lumber Co. v. First National Bank] (1930) 122 Ohio St. 302, 309. 171 NE 327 and followed in Mudrich v. Standard Oil Co. (1950) 153 Ohio St. 31. 39. 90 NE 2d 859 is as follows:

It is not necessary that the respondent should have anticipated the particular injury it is sufficient that his act is likely to result injury to some one, it has also been held that if an event causing injury appears to have been closely related to the danger created by the original conduct, it is regarded as within the scope of the risk. Reed v. State Through the Department of Corrections 351 So. 2d 788 La. App. 1st Cir 1977.

The risk involved in this case was within scope of the duty owed by the respondents to the claimant.

This appeal should be upheld for the favor to the claimant and justice should't be denied when it is si clear and apparent. Claimant is deserving of justice on this matter and the judgment should be reversed and rendered as matter of law. Under penalty and perjury I declare that the foregoing is true to the best of my knowledge.

Claimant prays that the Appeals Court can see the wrong so described in this appeal and prays that justice is not denied twice. Liability for negligence is predicated upon injury caused by failure to discharge duty owed to the injury-ed party.

Respondent breached their duty by failure to meet appropriate standard of care, and aggravating pre-existing surgery was caused by the respondent failure to perform their duty.

Respondent failed to supervise the particular area of accumulated ice, which was attempted to be cleared by inmates that were assigned to the chow-hall. Before the population was let out for chow-hall.

Respondent had relative knowledge to the danger of the icy winter weather. Respondent had relative control over the situation. Respondent's degree of conduct was clearly voluntary not to take any precautionary measures to the serve icy slippery sidewalks and the alternatives that were available were there and again was ignored.

Respondents obviousness of the danger was there, and the relative ability to eliminate the danger was their and was ignored as well {Council v. Dickerson's Inc.] 233 N.C. 472, 474-5, 64 SE 2d 551, 553 (1951) (Says) that it immaterial wheather the person acts in his own behalf or under contract with another. Boles v. Montgomery Ward and Company, 153 Ohio St. 381. 92 N.E 2d 9:

A master servant relationship exist when one party holds the right of control over another actions. Pickens and Plummer v. Diecker and Brother (1871), 21 Ohio St. 212. Respondent superior is applicable where the attainment of the masters goals are achieved through the right of control over a servants acts. McAfee v. Overbers (1977) 51 Ohio Misc. 86. 5 0.0 3d 345, 367 NE 2d 942. Reasonable or ordinary care is that degree of caution and foresight which an ordinary prudent person would employ in similar circumstances.

Respondent superior is applicable when goals were achieved through control over inmates acts. In the exercise of due care, claimant could not have avoided the injuries suffered from the slip-n-fall. Therefore Respondent was negligent, and Respondent's negligence was direct and proximate cause of claimant aggravating pre-existing surgery. *Zawitz v. Ohio Dept. of Rehabilitation and Correction* 61 Ohio Misc. 2d 798, 585 N.E. 2d 573.

The risk involved in this case at hand was within the scope of the duty owed by the Respondent to inmate A. Walker 118512. *Kuykendall v. Newgent*, 255 Ark 945, 504 S.W. 2d 344.

In the Supreme Court of Arkansas Newgent testified that he saw and recognized the dangerous conditions, and in that case the jury's verdict was for the plaintiff. If justice was prevailed in that case, its no reason why justice can't be prevailed to claimant.

Respondent failed to follow procedures, which resulted in the claimant being carried to the infirmary by inmates, which is a negligent act, and surely is not proper protocol.

Claimant seeks fairness and justice before the Court of Appeals on these issues. Claimant seeks relief monetary, punitive damages.

Respectfully Submitted

Andrew S. Walker 118512
Claim #15-0561-CC