

Please print in ink or type

SEP 30 2015

BEFORE THE STATE CLAIMS COMMISSION  
Of the State of Arkansas

RECEIVED

- Mr.
- Mrs.
- Ms.
- Miss

Dexter Harmon #152483 Claimant

vs.

State of Arkansas, Respondent

AR Dept. of Correction

Do Not Write in These Spaces	
Claim No.	16-0242-CC
Date Filed	September 30, 2015 (Month) (Day) (Year)
Amount of Claim \$	4,000.00
Fund	DOC

Failure to Follow Procedure,  
Negligence, Mental Anguish

COMPLAINT

Dexter Harmon #152483, the above named Claimant, of P.O. Box 970, Marianna, AR 72360  
(Name) (Street or R.F.D. & No.) (City)

County of LEE represented by Pro-se  
(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 Corrections Amount sought: \$4,000.00

Month, day, year and place of incident or service: June, 10<sup>th</sup> 2014 Varner Supermax unit (ADC) - Isolation-4

Explanation: On or about 1-15-14, I was housed in Varner Supermax unit Punitive Isolation-4 pending Disciplinary Court Review Status, which I ended up serving consecutive Punitive Sentences. Due to me being found guilty of Disciplinary Violations On 6-10-14, I completed my Punitive Sentence, which I advised the Isolation-4 sergeant Higgins to contact the Classification Officer Ms. Washington and ask her to move me out of Isolation-4, since I'm off Punitive Status, which he did, and later informed me, that Ms. Washington stated per Warden Jackson, she couldn't move me from Isolation-4 unless he gave her orders to do so. That day I was then moved to Punitive Isolation-4 Cell, which on 10-11-14 I went to my Classification Hearing and received my Level 1 on the Behavior Modification Incentive Level Program, and I asked Deputy Warden Jackson could I be moved out of Isolation-4 and to a cell block, since I'm no longer on Punitive Status, which he stated I would attend the B.M.T.C. Program from Isolation-4, which cell block was designated housing area for inmates attending the B.M.T.C. Program. And no B.M.T.C. Program was being conducted in Punitive Isolation-4, but I ended up staying in Isolation-4 for a 7-Day's Non Punitive Non-D.C.R. status, and there were inmates in cell block and other cell blocks who was on Punitive Status who I could've been switched out with. But Warden Jackson was using leaving me in Punitive Isolation-4 as a form of Retaliation, due to my past Disciplinary Behavior, which I had just finished serving a Punitive Sentence for being accused of trying to spit on Warden Jackson. Section of my Personal Property was being withheld from me, also my Privileges were taken. I did not consent to this Illegal Punitive Confinement and it wasn't Privileged. Officials had ample opportunity to correct this issue from the beginning but they refused and failed to do so. I done a 7-Day's in Punitive Isolation for something that could've been avoided. This claim is for "Wrongful Excessive Confinement" by Deputy Warden M. Jackson, who refused to move me out of Punitive Isolation-4, Also Mental Anguish and Failure to Follow Policy Procedure. Relief sought \$4,000 for Damages.

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? JUNE 12 2014; to whom? Warden R. WATSON - Arkansas Dept. of Corrections  
(Yes or No) (Month) (Day) (Year) (Department)

Varner/Varner Supermax unit and that the following action was taken thereon: Stated in fact's Inmate Harmon Punitive Expires on 9-14, and the Inmate had to wait for Bed Space to come available, on 7-7-14 were moved to cell block 6/11, therefore, I find this issue resolved.

and that \$ None was paid thereon: (2) Has any third person or corporation an interest in this claim? YES; if so, state name and address

ADC Deputy Director GRANT HARRIS P.O. Box #9707 Pine Bluff AR 71611  
(Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)

and that the nature thereof is as follows: Sent Appeal of Warden Watson Decision concerning Grievance  
Complaint of Inmate and was required on 9-8-14 in the following manner:  
Stated in fact's I find that I concur with the unit's response. "APPEAL DENIED"

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.

DEXTER HARMON Dexter Harmon  
(Print Claimant/Representative Name) (Signature of Claimant/Representative)

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

(SEAL) on this 26 day of Aug 2015  
(Date) (Month) (Year)



SF1-R7/99

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

UNIT LEVEL GRIEVANCE FORM (Attachment I)

Unit/Center Varner SuperMax

Name DEXTER HARMON *Warden Jackson*

FOR OFFICE USE ONLY  
GRV. 18M-14-2236  
Date Received: 6/18/14  
GRV. Code #: 205

ADC# 152493 Brks # 150-4-20 Job Assignment VSM

6-10-14 (Date) STEP ONE: Informal Resolution

6-17-14 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)

If the issue was not resolved during Step One, state why: It's general inmates on Punitive Status in cellblock-6 that I could be switched out with. Warden Jackson is retaliating against me, cause he accused me of spitting on him 1-15-14. Now he is refusing to move me out of

(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: punitive Isolation after compl of my Punitive sentence.

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): I'm writing a complaint against Warden Moses Jackson for Retaliation and Cruel and Unusual Punishment in violation of my 8<sup>th</sup> Amendment Constitutional Right's, By Refusing to Remove me from Punitive Isolation-4 after completion of my Punitive Sentence on 6-10-14, which my last Day on Punitive Status was 6-9-14. It's Common Knowledge in the Varner SuperMax unit that Warden Jackson has inmates he dislikes and he places them in Punitive Isolation cells, and he is only authorized to Remove those inmates from Isolation, and he Refuses has a Habit of leaving those inmates in Punitive Isolation, sometimes months after the completion of their Punitive Sentences, According to Classification Officer Ms. Washington, She isn't Allowed to Move me Per Warden Jackson, without the Authorization of Warden Jackson. I've Officially Completed my Punitive Sentence and I still haven't been moved from Punitive Isolation-4. I was Accused of Spitting on Warden Jackson on 2-15-14, and I've been Accused of Assaulting Several Officers in this SuperMax unit, and Warden Jackson is Retaliating against me by leaving me in Punitive Isolation-4 unjustifiable. Something must be done about this ISSUE. There are Several inmates in CellBlock-6 Assigned to the 18-month Program who are on Punitive Status, That I can be moved into Punitive Isolation, and be moved into there old cell in CellBlock-6 Program Barracks

Dexter Harmon  
Inmate Signature

6-12-14  
Date

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 \_\_\_\_\_ (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: \_\_\_\_\_ Date \_\_\_\_\_

PRINT STAFF NAME (PROBLEM SOLVER) W. Smith ID Number 1001 Staff Signature [Signature] Date Received 6/17/14

Describe action taken to resolve complaint, including dates: According to Warden Jackson I have not retaliate against him. Inmate is on the program in Isolation. Jail & there is no room available

Staff Signature & Date Returned W. Smith 6-17-14 Inmate Signature & Date Received \_\_\_\_\_

This form was received on 6-17-14 (date), pursuant to **Step Two**. Is it an Emergency? No (Yes or No). Staff Who Received Step Two Grievance: Scott Perkins Date: 6-17-14

Action Taken: Advised 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.

Exhibit-1B

IGTT410  
3GS

Attachment III

INMATE NAME: Harmon, Dexter J.

ADC #: 152483A

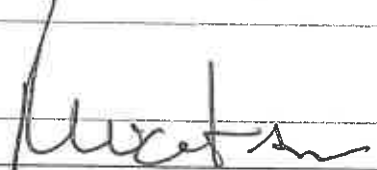
GRIEVANCE #: VSM14-02236


WARDEN/CENTER SUPERVISOR'S DECISION

In response to your grievance, Inmate Harmon, you state; "I'm writing this complaint against Warden Moses Jackson for retaliation and cruel and unusual punishment in violation of my 8th Amendment constitutional Right, by refusing to remove me form punitive isolation 4 after completion of my punitive sentence on 6-10-14, wich my last day on punitive status was 6-9-14. It's common knowledge in the Varner Supermax Unit that Warden Jackson has inmates he dislikes and he placed then in punitive isolation cells and he is only authorized to removed those inmates form isolation and he has a habit of leaving inmate in punitive isolation sometimes months after the completion of their punitive sentences. According to classification officer Ms Washington, she isn't allowed to moved me per Warden Jackson without the authorization of Warden Jackson. I've officially completed my punitive sentence and I still haven't been moved form punitive isolation 4. I was accused of spitting on Warden Jackson on 2-15-14 and I've been accused of assaulting several officers in this Supermax Unit and Warden Jackson is retaliating against me by leading me ion punitive isolation 4-unjustifiable, something must be done about thi issue...There are several inmates in cell block 6 assigned to the 18-month program who are on punitive status, that can be moved punitive isolation and me moved into there old cell in cell block 6 program barracks."

Deputy Warden Jackson is not retaliating against Harmon. Inmate Harmon punitive expired on 6-9-14 and the inmate had to wait for bed space to come available. On 7-7-14 you were moved to cell block 6/611.

Therefore, I find this issue resolved.

  
Signature of Warden/Supervisor or Designee

  
RECEIVED

7-15-14  
Date

JUL 29 2014

INMATE'S APPEAL

INMATE GRIEVANCE SUPERVISOR  
ADMINISTRATIVE DIVISION

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? Warden Jackson has Retaliated against me, Per Classification officer Ms. Washington she wasn't allowed to me out of Isolation, without the Authorization of Warden Jackson, which was the orders from Warden Jackson, Ask Ms. Washington to provide a statement regarding this Incident. I went to Classification on 6-11-14 to receive my Level-one Status and I advised Jackson that I was off Punitive and ready to be moved out of punitive Isolation, which he Refused to do so, It doesn't take 27 Days to find Bedspace available in cellblock-6 to move me, when it was several Inmate in Cellblock-6 on Punitive status who I could've been switched out with. Warden Jackson Refused to have me moved <sup>because he Accused me</sup> at a Timely Fashion out of Retaliation, and I was <sup>retaliating</sup> of spitting on him on 1-15-14, something must be done about this Issue.

Exhibit- 1c

*Dexter H. Moore*

152403

7-18-14

Inmate Signature

ADC#

Date

RECEIVED

JUL 29 2014

INMATE GRIEVANCE SUPERVISOR  
ADMINISTRATION BUILDING

4

INMATE NAME: Harmon, Dexter J.

ADC #: 152483

GRIEVANCE#: VSM14-02236

**CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION**

Your complaint, is that Deputy Warden Jackson refused to move you from punitive isolation #4 after completing your punitive time.

Based on the Warden's response in which he states in part, "Deputy Warden Jackson is not retaliating against Harmon. Inmate Harmon punitive expired on 6-9-14 and the inmate had to wait for bed space to come available. On 7-7-14 you were moved to cell block 6/611. Therefore, I find this issue resolved."

I find that I concur with the unit's response.

Appeal denied



Director

9-8-2014

Date

ARKANSAS DEPARTMENT OF CORRECTION  
SUPERMAX PLACEMENT REVIEW

INMATE NAME HARMON, DEXTER J. ADC NUMBER 152483 INCENTATIVE LEVEL VSM Level 1  
LAST REVIEW DATE T.E. / P.E. DATE HOUSING AREA: MAX4-16

INITIAL REASON(S) FOR SUPERMAX PLACEMENT - Assault on Staff @ Cummins PLACEMENT DATE 3/13/2013

- X Seriousness of offense resulting in placement on Maximum Security status.
- X Threat to the security and good order of the institution.
- Requires maximum protection from themselves or others require maximum protection from them.
- Chronic inability to comply with agency rules and regulations and is a threat to the agency mission.
- Chronic inability to adjust in the general population.
- Inmates pending transfer or holdover status awaiting permanent housing assignment as determined by the Classification Committee.
- Any inmates having been found guilty of taking over a part of the physical plant, battery, aggravated battery, rape, or forced sexual assault, taking of a hostage, or any act or acts defined as felonies or misdemeanors by the State of Arkansas.
- Any behavior or circumstances, which poses a serious threat to the security, good order, or quality of life for staff or inmate of the institution, will warrant consideration for assignment to Administrative Segregation.
- The inmate is likely to be exploited or victimized by others, sexual predators, and others who have needs for single housing.
- The inmate is potentially dangerous to himself or others.
- The inmate poses a serious escape risk.
- The inmate requests protection or is deemed by staff to require protection.
- The inmate requires immediate mental health evaluation and cannot be in contact with general population inmate.
- The inmate requires medical isolation and medical housing that is not otherwise available.
- Other, Specify

DECISION OF COMMITTEE

RETAIN IN SUPERMAX No Yes  PROGRESS TO NEXT LEVEL: No Yes   
RETAIN AT CURRENT LEVEL No Yes  REDUCE TO LEVEL:

REASON FOR REVIEW COMMENT VSM 60 Day Review/Level Review  
*I completed paperwork. I wanna know when I can get moved from 450*

M. Jackson  
F. Washington  
Pickens  
Ludlam / Lewis  
Malone / Stephens

COMMITTEE MEMBERS SIGNATURES  
Deputy Warden  
Classification  
Mental Health  
Infirmary  
Security

DATE OF REVIEW: 6/11/2014 DATE OF NEXT REVIEW:

REVIEW BY WARDEN:

COMMENTS: APPROVE DENY  
*Per Mr Jackson will be moved to the cellblock D.W Jackson advised will participate in the program from level-1*

WARDEN'S SIGNATURE DATE 6-12-14

TO BE USED FOR ANNUAL REVIEW AND REINTEGRATION RECOMMENDATION ONLY

CHIEF DEPUTY DIRECTOR OR DESIGNEE REVIEW:

COMMENTS: APPROVE DENY

Signature / Chief Deputy Director, or Designee Date

Check out

# 3



Arkansas Department of Correction

Property of the  
Dept. of Correction  
East Arkansas

PO Box 8707  
Pine Bluff, AR 71611-8707  
Phone: 870-267-6200  
Fax: 870-267-6244  
www.adc.arkansas.gov

Property of the  
Dept. of Correction  
East Arkansas

**ADMINISTRATIVE DIRECTIVE**

**SUBJECT:** Punitive Segregation/Restriction

**NUMBER:** 12-24

**SUPERSEDES:** 10-20

**APPLICABILITY:** To all employees, especially those involved in the operation of punitive segregation; and inmates

**REFERENCE:** AR 839 – Punitive Segregation

**PAGE** 1 of 9

**APPROVED:** Original signed by Ray Hobbs

**EFFECTIVE DATE:** 08/03/2012

**I. POLICY:**

It shall be the policy of the Department of Correction to provide safe, secure housing for inmates who require a higher degree of physical control because they have been found guilty of committing serious rule violations. Additionally, to provide for a consistent method of applying punitive restrictions to inmates who are removed from punitive segregation areas prior to the completion of the punitive segregation time imposed by the Disciplinary Hearing Officer. This policy applies only to the punitive segregation portion of a disciplinary sentence and is not meant to add to or negate any restrictions imposed by the Disciplinary Hearing Officer.

**II. EXPLANATION:**

Any inmate who has been found guilty of violating departmental rules and regulations may be placed in punitive segregation after an impartial due process hearing pursuant to procedures in the Disciplinary Manual and shall be subject to the following restrictions and/or conditions of confinement while in punitive segregation. Punitive measures may include punitive segregation or punitive restriction.

**III. PROCEDURES:**

## A. Restrictions and/or Conditions of Confinement

Any exception or deviation from this policy must be authorized by the Director.

1. Mail – Inmates in punitive segregation will be allowed to send and receive letters on the same basis as inmates in the general population. This will include both general and privileged correspondence.
2. Newspapers/Magazines - Inmates will not be able to receive newspapers or magazines in punitive segregation. During their 48-hour relief, inmates will be allowed to receive the two most current newspapers and magazines on a one-for-one exchange basis.
3. Visitation – Inmates in punitive segregation have opportunities for visitation unless there are substantial reasons for withholding such privileges. Visits will be conducted for two (2) hours, once a month (calendar) and scheduled at least 24 hours in advance. The Warden or designee must approve all such visits. Approval will be contingent upon but not limited to:
  - a. Nature of rule violation.
  - b. No further rule violations while housed in punitive.
  - c. Satisfactory cell inspection reports.

A legal visit may be approved in advance by the Warden/Center Supervisor. This is to be done only when the attorney can justify the urgency of the legal matter prior to the release from punitive status, then only with the consistent need for good security.

4. Exercise – Inmates in punitive segregation will be offered a minimum of one hour of exercise per day outside their cells, five days per week, unless security or safety considerations dictate otherwise.
  - a. The exercise periods are to be conducted outside, security and weather permitting. During inclement weather, coats and raincoats are available.
  - b. During these exercise periods, the inmate will not be afforded any recreational equipment, television, or radio.
  - c. Exercise periods should be documented. Any imposition of constraint during the exercise period will be justified and documented.



5. Commissary – Inmates serving consecutive punitive isolation sentences will receive 48-hour relief at the end of each 30-day sentence. Inmate privileges as previously outlined in this policy will be restored during the 48-hour relief period and will be restricted again at the beginning of the next punitive sentence. Commissary purchases may be made by an inmate only if the inmate's 48-hour relief falls on his/her regularly scheduled commissary day, and will be limited to a quantity that can reasonably be consumed in 48 hours.
6. Mattresses – Inmates in punitive segregation will not be allowed to have mattresses in the cells between the hours of approximately 7:00 a.m. and 7:00 p.m. daily.
7. Showers – Inmates in punitive segregation will be afforded the opportunity to shave and shower a minimum of three times per week. Female inmates will be afforded the opportunity to shave once a week. Exceptions are permitted when found necessary by the senior officer on duty. All exceptions will be recorded in the log and justified in writing.
8. Law Library – After having been in punitive segregation for twenty days, inmates may order legal materials from the law library if just cause or adequate need arises for legal material to be delivered once per week.

EXCEPTION: Legal materials will be made readily accessible to those inmates who need to meet statutory or court imposed deadlines.

9. Personal Property – Inmates sentenced to punitive segregation are not allowed personal property; thereby, personal property will be inventoried in accordance with appropriate policy addressing inmate property control. While in punitive segregation, the inmate will be allowed to have the following items only, contingent upon good security.
  - a. Legal materials/Religious text– only that amount of legal material which can be kept neat and orderly and does not clutter the cell, plus one religious text (i.e., Bible, Koran, etc.)
  - b. Soap
  - c. Dental hygiene items
  - d. Wash cloth
  - e. Self-improvement reading materials provided by Treatment Services (one)

- Exhibit-2
- f. Comb (no pick)
  - g. Deodorant
  - h. Sanitary napkins (females)
  - i. Paper
  - j. Flex pen
  - k. Stamped envelopes/Legal envelopes
  - l. Shampoo (female inmates only)
  - m. Conditioner (female inmates only)
  - n. Consumable items (during 48-hour relief only)
  - o. Medications as authorized in paragraph #18

Toilet paper will be issued in increments by the punitive area supervisor on an as-needed basis.

- 10. Telephones – Inmates will not be afforded telephone privileges. Inmates may make attorney calls when a need can be verified that will not wait until the conclusion of punitive confinement.
- 11. Religious Services – Inmates in punitive segregation will not be allowed to participate in group religious activities. A religious leader approved by the Department will be available upon request for one-on-one visits, at the inmate's cell, subject to approval by the Warden. A departmental chaplain must make rounds in punitive at least once per week.
 

Provisions will be made for Muslim inmates to participate in the Ramadan fast.
- 12. Meritorious Good Time – Inmates in punitive segregation will not earn good time.
- 13. Work Assignment – Inmates in punitive segregation will not have work assignments.
- 14. Library – Inmates in punitive segregation will not have regular library privileges.
- 15. Program Activities – Inmates in punitive segregation will not be allowed to participate in any group program activities (i.e., Inmate Council, SATP, education, movies, etc.).

OCT 14 2015

RECEIVED  
CLAIMANT

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

DEXTER HARMON (ADC 152483)

V. NO. 16-0242-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 13 day of October, 2014, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Dexter Harmon (ADC 152483)  
East Arkansas Max Unit  
PO Box 970  
Marianna, AR 72360-0970

*Lisa Mills Wilkins*  
 LISA MILLS WILKINS Ark. Bar #87190

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

DEXTER HARMON (ADC #152483)

CLAIMANT

V.

NO. 16-0242-CC

Arkansas Claims Commission

NOV 09 2015

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

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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 \$4,000.00 for allegedly being held in punitive isolation after his time expired. Claimant has failed to state a claim upon which relief can be granted herein under ARCP Rule 12(b)(6) and 12(b)(1) lack of jurisdiction for the reasons herein. "A motion to dismiss should be granted if "it appears beyond doubt that the plaintiff can prove no set of facts which would entitle him to relief."
2. As Claimant stated, he was informed he was going to remain in that area to complete the Behavior Modification Incentive Program and was moved to a different cell in Isolation 4. This is a regular business activity of the ADC, the movement of inmates for programs. The ASCC excludes this type of activity from its jurisdiction. "The Commission's jurisdiction does not encompass issues involving the constitutionality or validity of any agency or state government's business activities..."
3. Claimant has merely stated a conclusion that he was kept in the punitive isolation area as retaliation for a grievance he filed on Warden Jackson. He has failed to state any facts to support the claim of retaliation. Conclusory allegations are insufficient to avoid summary judgment. *Hugh Chalmers Motors, Inc. v. Toyota Motor Sales U. S. A., Inc.* 184 F. 3d 71, 763 (8<sup>th</sup> Cir. 1999).

Furthermore, any claim of retaliation is a violation of Arkansas Civil Rights Act codified at 16-123-105:

**Liability for deprivation of rights, privileges, immunities--Costs and attorney fees--Guidance for construction of section**

(a) Every person who, under color of any statute, ordinance, regulation, custom, or usage of this state or any of its political subdivisions subjects, or causes to be subjected, any person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Arkansas Constitution shall be liable to the party injured in an action in circuit court for legal and equitable relief or other proper redress.

(b) In the discretion of the court, a party held liable under this section shall also pay the injured party's cost of litigation and a reasonable attorney's fee in an amount to be fixed by the court.

(c) When construing this section, a court may look for guidance to state and federal decisions interpreting the federal Civil Rights Act of 1871, as amended and codified in 42 U.S.C. § 1983, as in effect on January 1, 1993, which decisions and act shall have persuasive authority only.

The rules of the Arkansas State Claims Commission state that civil rights and constitutional issues cannot be filed with it. See attached. Therefore, it is proper that the matter be dismissed.

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

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 4 day of November, 2015, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

DEXTER HARMON (ADC #152483)  
EARU  
P. O. BOX 970  
MARIANNA, AR 72360-0970

Lisa Mills Wilkins  
LISA MILLS WILKINS Ark. Bar #87190

## Before The Arkansas State Claims Commission

Dexter Harmon, ADC # 152483

Claimant

Arkansas Claims Commission

V.

Claim # 16-0242-CC

NOV 16 2015

Arkansas Department of Corrections

Respondent

RECEIVED

Claimants Opposition To Respondents Motion To Dismiss

Comes Now, The Claimant, Pro-se Dexter ~~Harmon~~<sup>Harmon</sup> and for its Opposition To Respondent's Motion To Dismiss, States and Responds as Follows:

1. According to the Arkansas State Claims Commission Rules and Regulations Handbook under Pleading Specifications it states: After Claim Filed, unless the Commission directs or permits otherwise All Motions shall be filed within Thirty (30) Day's upon service of the Complaint, The Respondent didn't obey this Rule when Filing this Motion To Dismiss.
2. Claimant is seeking Relief of \$4,000 for Damages on Claims of Wrongful Excessive Confinement, Mental Anguish, and Failure to Follow Policy and Procedure, and the Arkansas State Claims Commission does have Jurisdiction to hear these Claims, and it does appear the Claimant can prove the Facts which would entitle him to Relief.
3. Claimant being held in Punitive Isolation-4 approximately 27-Day's after his Punitive Sentence Time had expired, which staff informing Claimant he was to complete the Behavior Modification Incentive Level Program in Punitive Isolation-4, was NOT a Normal Activity of the ADC. (See Exhibit-2, That was submitted with original Claim Form - AD-10-20 - Punitive Segregation/Restriction Policy page #4 of 9 Number #15 - Program Activities - Inmates in Punitive Segregation will Not be allowed to participate in any group Program Activities, i.e., Inmate Council, SATP, Education, Movies, etc).
4. Claimant was punished and Wrongfully Excessively held in Punitive Confinement approximately 27-Day's after Punitive Isolation Sentence/Time had expired, All Claimant's Privileges were taken (See Exhibit-2 That was submitted with original Claim Form - AD-10-20 - Punitive Segregation/Restriction Policy pages #1 Thru 4), No Television, No Radio, Personal Property taken, had to Endure standing and sitting on Concrete for 12-Hours per Day, because Punitive Isolation

2012

Inmates are not allowed a mattress between the hours of 7 A.M. thru 7 P.M., also no video games, no commissary food products, due to a simple error the ADC made and refused to correct when they had ample time to do so, my claim has merits and I have stated facts upon which relief can be granted.

Wherefore, for the reasons submitted above claimant request that its opposition to dismiss be granted and respondents motion to dismiss be denied.

"Certificate of Service"

I certify that a copy of this opposition to respondent's motion to dismiss has been served this 12<sup>th</sup> day of November 2012, on the below respondent attorney by placing a copy of the same in the U.S. mail, regular postage paid:

Lisa Mills Wilkins

Attorney Supervisor

P.O. Box # 9707

Pine Bluff, AR 71611

Dexter Harmon

Dexter Harmon # 152483

East Arkansas Regional Unit - Max

P.O. Box # 970

Marianna, AR 72360

STATE CLAIMS COMMISSION DOCKET  
OPINION

Amount of Claim \$ 4000.00

Claim No. 16-0242-CC

Attorneys

Dexter Harmon, #152483 Claimant  
vs.

Pro se Claimant

Department of Corrections Respondent  
State of Arkansas

Lisa Wilkins, Attorney Respondent

Date Filed September 30, 2015

Type of Claim Failure to Follow Procedure, Negligence,  
Mental Anguish

FINDING OF FACTS

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss" for reasons set forth in paragraphs 2-3 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 2-3 contained in the motion. Therefore, this claim is hereby unanimously denied and dismissed.

Date of Hearing December 10, 2015

Date of Disposition December 10, 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.



Before The Arkansas State Claims Commission

Dexter Harmon, ADC # 152483

Claimant  
Arkansas Claims Commission

V.

No. 16-0242-CC

JAN 11 2016

RECEIVED

Arkansas Department of Corrections

Respondent

Claimant's Motion For Reconsideration

Comes Now the Claimant, Dexter Harmon, and for its Motion for Reconsideration States and Alleges as follows

1. Claimant is requesting that the Claims Commission Reconsider <sup>12-10-15</sup> there decision on ~~the~~ of granting the Respondents Motion to Dismiss for reasons set forth in paragraphs 2-3 contained in the Motion, And to Reconsider Claimants opposition To Respondent Motion To Dismiss.
2. In Claimants opposition To Respondents Motion To Dismiss, Claimant stated in part: Claimant is seeking Relief of \$4,000 for Damages on Claims of Wrongful Excessive Confinement, Mental Anguish, and Failure to follow Policy and Procedure, and the Arkansas State Claims Commission does have Jurisdiction to hear these Claims, and it does appear that Claimant can prove the facts which would entitle him to Relief. Therefore Claimant has NOT ~~stated~~ ~~stated~~ Civil Rights Issues in his Complaint, but only VALID Claims.

Wherefore, The Claimant prays the Commission Grants his Motion For Reconsideration.

(Certificate of service)

I, Dexter Harmon, certify I mailed the foregoing Document(s) to the Respondent Attorney Lisa Mills Wilkins by placing a copy of the same in mail box using the U.S. Postal Service on January, 7, 2016.

Dexter Harmon #152483  
East Arkansas Regional Unit  
Po. Box # 970

Dexter Harmon

Marionna, AR 72360

STATE CLAIMS COMMISSION DOCKET  
OPINION

Amount of Claim \$ 4000.00

Claim No. 16-0242-CC

Dexter Harmon, #152483 Claimant  
vs.

Attorneys  
Pro se Claimant

Department of Corrections Respondent  
State of Arkansas

Lisa Wilkins, Attorney Respondent

Date Filed September 30, 2015

Type of Claim Failure to Follow Procedure, Negligence,  
Mental Anguish

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 10, 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 10, 2015 order remains in effect.

Date of Hearing \_\_\_\_\_

Date of Disposition \_\_\_\_\_

H. Moore Chairman  
M. Strohler Commissioner  
Bill Jones Commissioner

Before The Arkansas State Claims Commission

Dexter Harmon, ADC # 152483

Arkansas State Claims Commission  
Claimant  
JAN 21 2016

V.

No. 16-0242-CC

RECEIVED

Arkansas Department of Corrections

Respondent

Claimant's Notice of Appeal

Comes Now the Claimant, Dexter Harmon, and for its Notice of Appeal states and alleges as follows:

1. Notice is hereby given that the Claimant is Appealing the Granting of the Respondent's "Motion to Dismiss", by the Arkansas State Claims Commission, rendered December, 10, 2015 in the Above matter to the General Assembly of the State of Arkansas in accordance with Arkansas Statute §19-10-211. The Claimant did file a Motion For Reconsideration regarding the Claims Commission Granting of the Respondent's "Motion To Dismiss", but the Motion was Denied on January, \_\_\_\_\_, 2016.

Claimant hereby designates the entire record, and all proceedings, exhibits, evidence, and documents introduced in evidence to be contained in the record on Appeal.

Respectfully submitted

"Certificate of Service"

I, Dexter Harmon, certify I mailed the ~~foregoing~~ foregoing Document(s) to the Respondent Attorney Lisa Mills Wilkins by placing a copy of the same in mail box ~~at~~ using the U.S. Postal Service on January, 19, 2016.

Dexter Harmon #152483  
East Arkansas Regional Unit  
PO. Box # 970

*Dexter Harmon*

Marianna, AR 72360