

APR 29 2013

RECEIVED

Please Read Instructions on Reverse Side of Yellow copy

Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

- Mr. Mrs. Ms. Miss

Billy Adams, #101322, Claimant

vs.

State of Arkansas, Respondent Dept. of Correction

Do Not Write in These Spaces Claim No. 13-0752-CC Date Filed April 29, 2013 Amount of Claim \$ 1,000.00 Fund DOC

Loss of Property, Failure to Follow Procedure

COMPLAINT

Billy Adams, #101322, the above named Claimant, of POB 180, Brickeys, AR 72320

County of Lee represented by

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

State agency involved: ADC Amount sought: \$1,000.00

Month, day, year and place of incident or service: 2-1-12

Explanation: The original incident described herein occurred on 2-1-12. On that date the officers were conducting a major unit wide shakedown where each barracks was called one at a time to the gym. We were told to bring all of our property with us during the shakedown I had a total of (65) sixty-five books and magazines confiscated from me by officers Drake and Westmoreland. Within a matter of a few days I began writing request to the property room and to the major (Kolly) about my property because I knew there was no reason for it to had been taken to begin with. It soon became clear that my property had in fact been lost. I then initiated the grievance process on 2-12-12 and exhausted all steps. (See EA-12-0030 attached) Upon exhaustion of the grievance process I received a response from Chief Deputy Director Lacey may dated 5-18-12 which stated in part "I must find merit in your complaint, and corrective action will be taken." He further stated he would instruct the Unit Warden to forward a copy of corrective actions taken to my office. After months of waiting for these corrective actions to materialize I began to send in request to Warden Bural inquiring into what was going to be done about this matter. All of my request went unanswered except one dated 10-1-12 to which Warden Bural responded that I needed to specify what books and magazines were lost. I have written the warden several other request informing the warden that

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? approx. 6-29-12 to whom? State Claims Commission

and that the following action was taken thereon: dismissed

and that \$ was paid thereon: (2) Has any third person or corporation an interest in this claim?

and that the nature thereof is as follows:

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 verify believes that they are true.

Billy T. Adams (Print Claimant/Representative Name)

Billy T. Adams (Signature of Claimant/Representative)

SWORN TO and subscribed before me at Brickeys AR

(SEAL)

on this 12th day of April 2013

Michael [Signature] (Notary Public)

SF1-R7/99

My Commission Expires: March 1 2015

he could simply look at the picture that according to AOC policy should have been taken of the confiscated items. I have not received any further communication from the warden regarding this matter. Once again I exhausted the grievance process in an unsuccessful attempt to get some redress to this matter at the unit level. I received a response to step two in the grievance process from warden Buel which stated "It is not required for us to inform you of what type of corrective action was taken in this matter. Everything was forwarded to Mr. May's office as he requested. This should solve your complaint." I went on to file the final appeal to Mr. May and I received a response from him stating the same thing, "It is not a requirement that you be advised of the corrective action that was taken." ^{see EA-12-01927} Whatever secretive action the warden and Mr. May may be referring to it has done nothing to right the wrong that was done. My property is still gone and nothing has been done to redress that. I have done everything in my power to have this matter properly addressed and I have basically been told by Mr. May and warden Buel to just accept the loss. This opens the door for more of such abuses if nothing is done to correct it. I would ask that you compel the responsible party to compensate me for the loss of my property. Thank you.

MAY 1 2013

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

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BILLY ADAMS (ADC #101322)

CLAIMANT

V.

NO. 13-0752-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

ANSWER

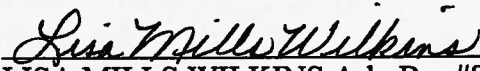
COMES NOW the Respondent, Arkansas Department of Correction, and for its Answer, states and alleges as follows:

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: HCA0100
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 1 day of May, 2013, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

BILLY ADAMS (ADC #101322)
EARU
P.O. Box 180
BRICKEYS, AR 72320-0180


 LISA MILLS WILKINS Ark. Bar #87190

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

BILLY ADAMS (ADC #101322)

CLAIMANT

V.

NO. 13-0752-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

RESPONDENT'S MOTION TO DISMISS

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

1. Claimant alleges that on February 1, 2012, he had property confiscated and lost during a shakedown. He seeks \$1,000.00 in damages.
2. This matter is the same claim as previously filed in Claim number 13-0006-CC as he states in his complaint and was dismissed. This matter should be dismissed on the basis of collateral estoppel and res judicata.
3. Claimant is not entitled to a 'second bite at the apple.'


WHEREFORE, for the reasons stated above the Claim filed must be dismissed.

Respectfully submitted,
Department of Correction
Office of Counsel

**ARKANSAS STATE
CLAIMS COMMISSION**

MAY 31 2013

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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 pleading has been served this 30 day of May, 2013, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

BILLY ADAMS (ADC #101322)
EARU
P. O. Box 180
Brickeys, AR 72320-0180


LISA MILLS WILKINS Ark. Bar #87190

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 1,000.00

Claim No. 13-0752-CC

Billy Adams, #101322 Claimant

Attorneys Pro se Claimant

vs.

Department of Correction Respondent

Lisa Wilkins, Attorney Respondent

State of Arkansas

Date Filed April 29, 2013

Type of Claim Loss of Property & Failure to Follow Procedure

FINDING OF FACTS

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss," solely for Claimant's failure to respond. Therefore, this claim is hereby unanimously denied and dismissed.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss," solely for Claimant's failure to respond. Therefore, this claim is hereby unanimously denied and dismissed.

Date of Hearing June 17, 2013

Date of Disposition June 17, 2013

Pat Moran Chairman
Bill Lancaster Commissioner
Jim Baber 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.

Billy Adams ADC# 101322

CLAIMANT

Arkansas Claims Commission

v.

NO. 13-0752-CC

JUN 26 2013

ARKANSAS Dept. OF CORRECTION

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RESPONDENT

Claimant's Response to motion To Dismiss

1. Respondent Filed a motion to dismiss stating " this matter is the same matter claim as previously Filed in claim # 13-0006-cc as he states in his complaint and was dismissed. This matter should be dismissed on the basis of collateral estoppel and RES judicata".
2. Respondent is mistaken in stating that this is the same claim as previously dismissed in claim # 13-0006-cc. This is a new claim based on the fact that no justifiable corrective action was taken to correct the wrong suffered in the loss of claimant's property. It is clear from the record that the property was taken and lost and that I received no compensation. ADC policy on Search of Person and Various Areas For the Control of Contraband states in part " Although it is essential that all searches be thorough and systematic, it is equally important no damage, loss or abuse occurs to any personal property. Any such loss or damage that is determined to be the result of neglect may result in disciplinary action against the negligent employee(s) and they will be liable for replacing the cost of replacing such items." Claimant has received no such just compensation as outlined in ADC policy.
3. Furthermore, the previous claim that respondent refers to being dismissed was dismissed on a motion to dismiss (that I did not receive until after the fact) and not on the merits as is essential under the doctrine of RES judicata. Respondent is not entitled to dismissal on the stated grounds.

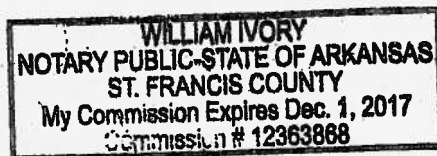
Wherefore, For the reasons stated above Claimant asks that this claim be set for a hearing as Respondent is not entitled to dismissal.

Respectfully submitted,

Billy Adams ADC# 101322

State of ARKANSAS
County of Lee }

Subscribed and sworn to before me a Notary Public, on this
9 day of June, 2013



William Ivory
NOTARY PUBLIC

Arkansas
State Claims Commission
JUL 22 2013

July 16, 2013

Re: Billy Adams

Claim # 13-0752-CC

RECEIVED

vs.

Dept. of Corrections

Motion For Reconsideration

Dear Mr. Strickland,

I received a commission docket opinion dated April 29th, 2013 dismissing my claim solely for failure to respond to the Respondent's "motion to Dismiss". I then promptly sent in a letter explaining that I had indeed responded to the Respondent's motion in a timely fashion and asked that search be made to find it. I subsequently received another letter from your office ~~to~~ informing me that my response was not received until June 26, 2013 making it late. The letter went on to say that I could file a motion for reconsideration by July 27, 2013 and that the Commission would review it during its August meeting and that I should attach any new evidence I might have in support of my motion.

Claimant does not know what the reason was that the motion was received so late but it should have been received within the timeframe. Attached is a request to the unit business manager and a copy of the inmate check date stamped showing when the postage should have been affixed to the envelope and it should have been

mailed out the same day June 10, 2013. Furthermore the envelope itself was signed and dated by a unit Sgt. according to procedure and placed in the unit mailbox. From that point on it was beyond my control. Claimant did everything in his power to comply with all timeframes and push this matter forward.

Claimant ask that the commission grant his motion for reconsideration and promptly set this matter for a hearing.

Sincerely,

Billy T. Adams

East Arkansas Regional Unit Inmate Request Form

Inmate Name (Please Print):

Billy T. Adams

ADC #:

101322

Housing assignment:

7-34

GT Class:

1-C

Job Assignment:

P.4.13

Check the appropriate box for area of concern

- | | |
|----------------------------------------------|--------------------------------------------------------------------|
| <input type="checkbox"/> Classification | <input type="checkbox"/> Law Library |
| <input type="checkbox"/> Mail | <input type="checkbox"/> EARU Staff |
| <input type="checkbox"/> Personal Hygiene | <input type="checkbox"/> Visitation |
| <input type="checkbox"/> Parole | <input type="checkbox"/> Commissary |
| <input type="checkbox"/> Mental Health | <input type="checkbox"/> Property |
| <input type="checkbox"/> Medical / Infirmary | <input type="checkbox"/> Job Assignment |
| | <input type="checkbox"/> Housing Assignment |
| | <input checked="" type="checkbox"/> Other: <i>BUSINESS manager</i> |

Received
Business Office

JUL 15 2013

Arkansas Dept. of Correction
East Arkansas Regional Unit

Staff request to:

MR. Guy

Office:

Business manager/bookkeeping

Please give a detailed summary regarding your request:

I had sent out some legal mail on June 10th using a blank envelope attached with an inmate check. Could you please send me some thing showing when the funds for the postage was deducted from my account? Thank you

Have you spoken with any staff regarding your request: (Circle One) YES / NO
If yes, please state who: _____

Inmate Signature:

Billy T. Adams

Date: _____

Staff Responding:

DO NOT WRITE BELOW THIS LINE

Date: _____

have reviewed your request and here is my finding:

See attached

J. J. J. J.

referring this request to:

I consider this issue:

- Resolved
 Not Resolved

Arkansas
State Claims Commission

JUL 22 2013

Signature:

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INMATE PERSONAL WITHDRAWAL REQUEST FORM

Business Office

JUN 10 2013

E.A.R.U.

ADC Unit

Arkansas Dept. of Correction
East Arkansas Regional Unit

Billy T. Adams
Print Inmate Name

101322
ADC Number

7-34
Barracks Number

PLEASE PRINT REQUESTED INFORMATION

Date of Request 6-10-13 Amount of Request \$ postage 46

Dollars

Check is to be Payable To: postmaster

Check is to be Mailed To: _____ Name

_____ Street or P.O. Box

_____ City, State, Zip

Purpose of Withdrawal Request legal mail / postage

Billy T. Adams
Inmate Signature

SGT L. Allen
ADC Witnessed Signature

Approved: Circle One YES

NO _____

Reason for Denial

Signature Warden / Warden Designee

Business Manager - Print Name

Business Manager Signature

TrustFund Centralized Banking: Inmate Funds Available - Circle One Yes No

STATE CLAIMS COMMISSION OPINION

Amount of Claim \$ 1,000.00

Claim No. 13-0752-CC

Billy Adams, #101322 Claimant

Attorneys Pro se Claimant

Department of Correction Respondent

Lisa Wilkins, Attorney Respondent

State of Arkansas Date Filed April 29, 2013

Type of Claim Loss of Property & 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 was not previously available. Therefore, the Commission's June 17, 2013, 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 was not previously available. Therefore, the Commission's June 17, 2013, order remains in effect.

Date of Hearing August 14, 2013

Date of Disposition August 14, 2013

Handwritten signatures of Paul Morrow (Chairman), Bill Lancaster (Commissioner), and Jim Baker (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.

"Appeal From order Dismissing claim"

Claim Review Subcommittee
#1 Capital Mall, 5th Floor SB111
Little Rock, AR 72201

Arkansas
State Claims Commission

August 27, 2013

SEP 03 2013

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Re: Billy Adams
Claim #13-0752-CC
vs.
Dept. of Correction

I am writing to appeal the dismissal of my claim. This marks the second time that I have tried to bring this matter before the claims committee and both times it has been dismissed without giving any regards to the merit of my claim.

Allow me to give you a brief history of the matter. The claim stems from some books and magazines that were taken from me in violation of ADC policy and subsequently lost. After going through the grievance process I received a final response from Mr. Larry May, Deputy Director ADC, stating in part that my grievance had merit and that he had instructed the unit warden to take corrective action. After waiting a reasonable amount of time and no such corrective action was forthcoming I proceeded to file a claim on the matter (No. 13-0006-CC). The first claim was dismissed for reasons 1-6 contained in Respondent's "Amended motion to Dismiss". I wrote into the claim commission informing them that I had not received an amended motion to dismiss. Thereafter I received another opinion from the commission with a yellow post-it note on it stating "Correction motion to Dismiss" not amended motion to dismiss. The motion that the commission bases its dismissal on has a total of seven numbered paragraphs, however, none of them state a specific reason why the claim should be dismissed. The first three paragraphs merely lay out the basis for the claim and paragraph (7) states "Based on the foregoing statements, has failed to state a claim upon which relief can be granted herein under ARCP Rule 12(b)(6).

AFTERWARD claimant again resorted to utilizing the grievance process in an attempt to dispose of the matter at the unit /departmental level. When that failed I filed another claim on the matter claim no. 13-0752-cc. AFTER receiving Respondent's motion to dismiss I promptly replied. It came as a surprise when I received an opinion from the commission dismissing my claim solely on claimant's failure to respond to Respondent's motion to Dismiss. I then promptly sent a letter in to the commission informing them that I had in fact responded in a timely manner to Respondent's motion to Dismiss and would they search for my response. I received a letter in reply dated July 8, 2013 letting me know that my response wasn't received until June 26, 2013 making it late and that I could file a motion for re-consideration and that I should attach any new evidence I might have in support of the motion, along with documentation(s) of your reasons for not responding to Respondent's motion in a timely manner. I filed the motion for reconsideration again stating that I had sent the motion in in a timely manner and explained the unit procedure for mailing out legal mail. The envelope itself was sealed and dated June 10, 2013 by a sergeant. Attached to it was an inmate check for deducting funds from my account to cover postage. I sent in a copy of the check itself filemarked with a date stamp June 10, 2013. Once it was placed in the mail box it was out of my hands and beyond my control. It should have made it within the timeframe and I don't know why it didn't. It appears that it did in fact leave the unit in time and the delay was either with the post office or the commission itself. But again I was surprised when I received another opinion from the commission unanimously denying my motion for reconsideration for the "Claimant's Failure to offer evidence that was not previously available". I don't understand exactly what this means nor do I understand why the claims commission refuses to address the merits of my claim when even the Deputy Director of the ADC has said that my complaint has merit and has ordered that

corrective action be taken which never was taken.

Based on the foregoing statements claimant request that the opinion of the committee dismissing the claim be reversed and that a hearing be ordered in this matter.

Respectfully Submitted,

Billy T. Adams