

DEC 06 2017

Arkansas Claims Commission

JUL 31 2017

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RECEIVED
BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

RECEIVED

- Mr.
- Mrs.
- Ms.
- Miss

Kevin Linn, #119571 Claimant

vs.

State of Arkansas, Respondent

Do Not Write in These Spaces	
Claim No.	180099
Date Filed	August 3, 2017 (Month) (Day) (Year)
Amount of Claim \$	100,000.00
Fund	Failure to follow procedure

COMPLAINT

Kevin Linn, #119571 the above named Claimant, of Post Office Box 600, Grady, Arkansas 71644
(Name) (Street or R.F.D. & No.) (City)

(State) (Zip Code) (Daytime Phone No.) County of Lincoln represented by Pro Se
(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 Community Correction Amount sought: \$100,000.00

Month, day, year and place of incident or service: March of 2017, Area 2 parole office, Mt. View, AR

Explanation: Arkansas Dept of Community Corrections (ACC) agent Brian Zini, area manager for the area 2 parole office in Mt. View, AR, denied my parole plan to my father's home in Clinton, AR without any justified grounds and in violation of ACC policy, and has thereby prevented my release from prison on parole to my father's house, the only place I have to go. This policy violation by Mr. Zini has unnecessarily prolonged my time in prison. ADC Varner Unit Institutional Release officer Ms. Collins told me that the reason my parole plan to my father's house was denied is because my father is my victim, but my father is not my victim. I have never been charged with - or convicted of - any crime involving my father. My father and I once had an argument back in 2012, but that has long since been resolved and my father and I are on very good terms. My father wants me to parole to his house, but Mr. Zini is unlawfully preventing that from happening by violating ACC policy by denying my parole plan to my father's house without any justified grounds. I've not yet been released on parole to ACC supervision so I do not yet have access to the ACC grievance procedure, nor have I been assigned to the supervision of any ACC area manager to whom I could submit a grievance to per ACC policy. However, I have submitted a letter of complaint to ACC Director Shicki Sharp but have gotten no response. For this claim, I ask the Claims Commission to afford me equal protection of the laws and of the Rules of Civil Procedure, and to not dismiss my claim solely out of prejudice because I am an inmate. Please uphold the Constitution! Please also allow time for discovery to take place in this matter. I would voluntarily dismiss this claim if the ACC would immediately release me on parole to my father's house pursuant to ACC policy.

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? May & July, 2017 to whom? Arkansas Department of Community Correction. (Department)
(Yes or No) (Month) (Day) (Year)
(ACC) and that the following action was taken thereon: None.

and that \$ zero was paid thereon: (2) Has any third person or corporation an interest in this claim? No; if so, state name and address

(Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)
and that the statement thereof is as follows: and was acquired in the following manner:

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



COPY

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

KEVIN LINN (ADC 119571)

CLAIMANT

V.

CLAIM NO. 180099

**ARKANSAS DEPARTMENT OF
COMMUNITY CORRECTION**

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the "Claims Commission") is the motion filed by Arkansas Department of Community Correction (the "Respondent") to dismiss the claim of Joshua Coleman (the "Claimant"), as well as the supplement filed by Respondent to its motion to dismiss. Based upon a review of the Respondent's motion and the supplement, Claimant's response to both pleadings, and the law of Arkansas, the Claims Commission hereby finds as follows:

1. Claimant filed his claim alleging that Respondent violated its own policies and procedures by denying him parole. Claimant asks the Claims Commission to uphold the "Constitutions" and to "afford [him] equal protection of the laws and of the Rules of Civil Procedure." Claimant seeks \$100,000.00 in damages.

2. Respondent filed a motion to dismiss, stating that Claimant has no constitutional or legal right to parole. In the supplement to the motion to dismiss, Respondent asserts that because Claimant has been released from incarceration, the instant claim is now moot.

3. Claimant responded to the supplement, disagreeing that his claim for damages is now moot.

4. The Claims Commission agrees with Claimant that his claim is not moot. His claim is based upon Respondent's denial of his parole in March 2017, which is not mooted by the fact that he was subsequently granted parole.

5. However, Claimant's claim is based upon alleged constitutional violations that the Claims Commission does not have jurisdiction to consider. *See* Ark. Code Ann. § 19-10-204(b)(2)(A). This claim could be filed in a court of general jurisdiction. *See id.*

6. As such, Claimant's claim is dismissed for lack of jurisdiction pursuant to Rule 12(b)(1) of the Arkansas Rules of Civil Procedure.

7. Respondent's motion to dismiss is GRANTED, and Claimant's claim is DISMISSED.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION

Dexter Booth
Henry Kinslow, Co-Chair
Bill Lancaster
Sylvester Smith
Mica Strother, Co-Chair

DATE: November 9, 2017

DEC 06 2017

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

KEVIN LINN

CLAIMANT RECEIVED

V.

CLAIM NO. 180099

ARKANSAS DEPARTMENT OF

COMMUNITY CORRECTION

RESPONDENT

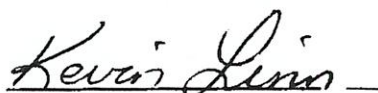
NOTICE OF APPEAL

COMES NOW Kevin Linn, the Claimant, and for his notice of appeal, states as follows:

1. The Claimant hereby gives notice that he will appeal the final order of the Claims Commission entered on November 18, 2017 granting Respondents motion to dismiss the claim. Claimant now appeals to the Arkansas General Assembly, Claims Review Subcommittee.
2. The Claimant, Kevin Linn, filed claim no. 180099 against the Arkansas Department of Community Correction on August 03, 2017 (see Attachment # 1).
3. The Respondent then filed a motion to dismiss, which the Claimant responded to.
4. On November 18, 2017, the Commission entered an Order Granting the Respondents motion to dismiss, however, in the body of said Order the Commission names the wrong Claimant, naming Joshua Coleman as the Claimant rather than naming Kevin Linn who is the actual Claimant (see Attachment # 2).

WHEREFORE, due to Commission naming the wrong Claimant in the Order dismissing Claimants claim, the Commission has committed reversible error, and therefore Claimant prays for leave to appeal to the Claims Review Subcommittee for relief from the Commissions eroneous decision of dismissal.

Respectfully submitted,



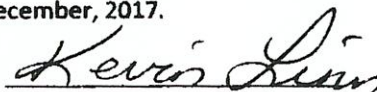
12/04/2017

C

Claimant	Date
Kevin Linn	
3059 Hwy. 95 E.	
Clinton, AR 72031	

PROOF OF SERVICE

I, Kevin Linn, declare under penalty of perjury that I have emailed a copy of the above Notice to the Respondents attorney, Amber Schubert, on this 04th day of December, 2017.



Claimant