

OCT 30 2013

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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

Terrence Moore, #105735 Claimant

State of Arkansas, Respondent Dept. of Correction

Do Not Write in These Spaces Claim No. 14-0366-CC Date Filed October 30, 2013 Amount of Claim \$ 5,000.00 Fund DOC

COMPLAINT Loss of Property, Failure to Follow Procedure

Terrence Moore, #105735 the above named Claimant, of 2501 State Farm Rd, Tucker, AR 72168

County of Jefferson represented by Pro-SE

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

State agency involved: Ark Department of Correction Amount sought: 5000

Month, day, year and place of incident or service: February 20th 2013 Varner Unit - ADC

Explanation: ON 2-20-2013 while housed at the Varner Facility of the Arkansas Department of Correction a shakedown of my personal property was conducted by several security staff in which thereafter I was transferred to another facility during the shakedown of my personal property security staff Sgt. Malcom Crompton confiscated twenty-one (21) of my personal photos and one (1) cosmetic gold grill removal palate that I had when I entered the ADC upon initial intake. SEE Exhibit ONE. After I was transferred to another facility my confiscated property was not shipped along with me. I timely submitted a unit level grievance concerning the matter indicating that I wanted to send my personal property to a third party. SEE Exhibit Two. According to the Varner Unit's head warden decision my personal property was not shipped along with me because some of the items were contraband. It was also indicated that the Varner Unit property room officer had custody of my property. After timely appealing the warden decision to the ADC Chief Deputy Director the decision was affirmed/denied. SEE Exhibit two. The affirmation is dated 5-31-2013 well after the effective date of administrative Directive #13.09 which offered me the opportunity to send my property to a third party. SEE Exhibit three page 5 of 15. There was a disciplinary writal against me for any contraband and the ADC is liable for the loss/destruction of my personal property.

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 31 2013 to whom? Deputy Director - ADC

and that the following action was taken thereon: MY personal property was deemed contraband

and that \$ 0 zero was paid thereon: (2) Has any third person or corporation an interest in this claim? NO

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 verily believes that they are true.

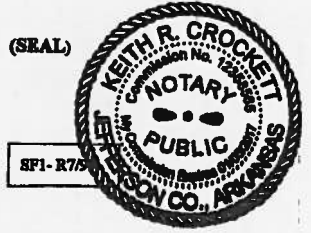
TERRENCE MOORE Terrence Moore (Print Claimant/Representative Name) (Signature of Claimant/Representative)

SWORN TO and subscribed before me at Tucker AR

on this 23 day of Oct 2013

Keith R. Crockett (Notary Public)

My Commission Expires: Jan 5 2017



SP1-R75

STATE OF ARKANSAS - DEPARTMENT OF  
 CONFISCATED FORM - AREA OR P

EXHIBIT - ONE

(Check One)  Inmate  Visitor  Staff  Area

Unit: WARDEN Building or Area: 512444 Barracks  Cell

Date and Time of Search: Feb 20 2013 1 (90) : pm : am

Officer(s) Conducting Search: (Print) Ed. O. ...

Officer(s) Conducting Search: (Signature) [Signature]

Inmate Name: T. Moore ADC #: 105735

Articles Seized (description and number of items):

Number	Description
<u>21</u>	<u>Photos</u>
<u>1</u>	<u>Build in ...</u>

Reason Seized:  Excess/Unauthorized Property  Disciplinary/Criminal Evidence

Other  

Inmate Signature: [Signature] 2-20-2013  Refused to Sign

Area/Shift/Supervisor: (Signature)  

Disposition of Contraband:  

Copy Delivered to Inmate: Date:   Time:  

Delivered By: (Signature)  

Disciplinary Written: ( ) No ( ) Yes By:  

Articles may be mailed to:  

Inmate authorizes deduction of postage from pen store account:  
 ( ) No ( ) Yes Inmate Signature:  

To be completed by UPCO

Destruction Date:   /   /  

UPCO: (Signature)   Witnessing Staff: (Signature)  

Distribution - White-Remains with Contraband; Yellow- Institutional File; Pink-Inmate Copy  
 (To Be Printed On NCR Paper)

F-401

Revised 8/28/2006

EXHIBIT-Two

Unit/Center \_\_\_\_\_

Name \_\_\_\_\_ MAR 04 2013

ADC# 105735 Brks # \_\_\_\_\_ Job Assignment \_\_\_\_\_ REGIONAL UNIT

GRV. Code #: 505  
Yellow Copy

(Date) STEP ONE: Informal Resolution

2-27-2013 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)

If the issue was not resolved during Step One, state why: still haven't heard anything about my property

(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):

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MAR - 8 2013

MAY 24 2013

VARNER UNIT GRIEVANCE

INMATE GRIEVANCE SUPERVISOR  
ADMINISTRATION BUILDING

Inmate Signature

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) ID Number Staff Signature Date Received

Describe action taken to resolve complaint, including dates: \_\_\_\_\_

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.

INMATE NAME: Moore, Terrance

ADC #: 105735B

GRIEVANCE #: VU-13-00270

WARDEN/CENTER SUPERVISOR'S DECISION

In response to grievance number VU-13-00270 you stated that "On 2-20-2013 Sgt Crompton gave me a (confiscation form F-401) for 21 photos and my gold grill. He didnot send my property with me to East AR Region Unit. He kept my property at the Varner Unit. I need my property so I can send it home to my family."

Be advised that according to Sgt. Malcolm Crompton he confiscated a teeth grill gold in color and 21 photos. He documented that he gave you a copy of the confiscation form for the items that was confiscated. The reason the items were not transferred along with you was because some of the items were contraband. All property was turned over to the property room officer. Therefore I find this grievance without merit.

Signature of Warden/Supervisor or Designee

Title

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? That teeth grill gold in color and 21 photos ARE my Personal Property. I came back to the ADC with that gold grill. I need my property so I can send it home. Why is the ADC holding my personal property. Every other inmate is ALWAYS allowed to send there personal property home. Why am I being treated different than every other inmate in the ADC. This is an act of retaliation against me because of a complaint I had against the Varner/Varner supermax in USDC. No one never took or tried to take my gold grill OR photos until my Attorney filed a complaint in USDC against the Varner/Varner supermax staff. I would like for my personal property to be sent home ASAP OR whenever I can send it. No one never told me my gold grill was contraband and if it was someone should have taken it from me when I first came back to the ADC.

Inmate Signature

ADC#

Date

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MAY 24 2013

INMATE GRIEVANCE SUPERVISOR  
ADMINISTRATION BUILDING

INMATE NAME: Moore, Terrance

ADC #: 105735

GRIEVANCE#: VU-13-00270

You grieved on 2/27/13 that on 2/20/13, Sgt Crompton gave you a (confiscation form F-401) for 21 photos and your gold grill, but he did not send your property with you to East AR Region Unit. He kept it at the Varner Unit. You state that you need your property to send home to your family.

The Warden responded by stating that according to Sgt. Malcolm Crompton, he confiscated a teeth grill gold in color and 21 photos. He documented that he gave you a copy of the confiscation form for the items that was confiscated. The reason the items were not transferred along with you was because some of the items were contraband. All property was turned over to the property room officer.

After review of your complaint and supporting documentation, I find that I concur with the Warden's decision. The reason the property you listed in your complaint was not transferred with you to the Varner Unit is because it is contraband, by policy.

Appeal denied.

17M7

5.31.13

Director

Date

EXHIBIT-Three



Director's Office  
PO Box 8707  
Pine Bluff, AR 71611-8707  
Phone: 870-267-6999  
Fax: 870-267-6258  
www.state.ar.us/doc

## ADMINISTRATIVE DIRECTIVE

**SUBJECT:** Inmate Property Control

**NUMBER:** 13-09

**SUPERSEDES:** 09-07

**APPLICABILITY:** To all employees and inmates

**REFERENCE:** AR 841 - Inmate Property Control

Page 1 of 16

**APPROVED:** Original signed by Ray Hobbs

**EFFECTIVE DATE:** 05/19/2013

### **I. POLICY:**

This policy is to establish uniform standards for possession of personal and state property by inmates within the Department of Correction.

### **II. AUTHORITY:**

Responsibility for administration of this procedure is assigned to the Unit Warden/Center Supervisor (hereafter referred to as Warden) of each Unit/Center (hereafter referred to as Unit).

### **III. DEFINITIONS:**

- A. **Legal Materials:** Pleadings and resource documents such as case law, court rules, statutes, transcripts, notes or legal forms.
- B. **Inmate Personal Property:** All items of approved property belonging to an inmate. (Attachment #1 and Attachment #2).
- C. **Unit Property Control Officer:** A staff member, assigned by the Warden, who is responsible for the inventory and storage of inmate personal property.
- D. **Receiving Unit:** Initial intake unit or unit receiving an inmate upon transfer.
- E. **Transferring Unit:** Unit that is transferring an inmate to another unit.

- F. **Property Box:** A storage box provided by the department for inmate property.
- G. **Excessive Property:** Property possessed by an inmate over and above that permitted by this policy.
- H. **Unauthorized Property:** Property possessed by an inmate that is not permitted in any amount or constitutes a nuisance as defined in AR 841, and will be treated as contraband.
- I. **Contraband:** Any item or items determined by the Board of Corrections or ADC to jeopardize the safety, security, or good order of its institutions, including but not limited to items which are illegal, authorized property that has been altered, unauthorized property, property in excess of established unit/center limits, property in an inmate's possession in an unauthorized area, spoiled food items, property accumulated for the purpose of barter or trade, property obtained through trafficking and trading or for which no reasonable explanation is given for its origin, or banned by policies.
- J. **Issued property:** State owned property issued to an inmate upon entry or transfer to a unit or facility of the ADC.

#### **IV. PROCEDURES**

##### **A. UNIT PROPERTY CONTROL OFFICERS DUTIES (UPCO):**

1. Be responsible for the retention and issuance of approved items to inmates upon arrival at a unit.
2. Ensure all inmate property is free of contraband during each inventory.
3. Inscribe each inmate's personal property with the inmate's ADC number to the extent possible. Ensure all footwear is notched.
4. Determine and list all personal items taken from the inmate and provide for excess or unauthorized items to be disposed of as provided herein (see form F-841-5).
5. Ensure all books stored and/or transferred are not property of the unit library. Any books in the possession of an inmate at the time of transfer/release belonging to any unit within the ADC shall be returned to the unit library or the Agency Librarian.
6. Ensure all records identifying and pertaining to storage of inmate personal property are appropriately filed and maintained in the inmate's institutional file and the Inmate Personal Property Record (Form 841-1) is completed accurately and legibly.
7. Provide a system for identification and accounting of items issued by the unit to the inmate.
8. Be responsible for the secure storage of sealed inmate property storage container.
9. Shall not permit inmates to inventory, document or store any other inmate's personal property.

10. Delegate responsibility to subordinates on a limited basis to ensure ordinary and prudent operations. However, delegation of responsibility will be made only to qualified personnel and then only with the agreement of the Warden.
11. Complete an inventory of all stored items in the event the UPCO is replaced. This will ensure the former UPCO is relieved of responsibility for the property and signifies the new UPCO's acceptance of responsibility.
12. Maintain up-to-date Form 841-1 forms for distribution as follows: White (Original) – Institutional File and Pink-Inmate copy
13. Retain confiscated property at the sending unit where it was confiscated.
14. Ensure that all completed property forms are scanned into eOMIS promptly upon completion. This shall serve as the UPCO's documentation for reference.

**B. INTAKE INVENTORY OF INITIAL COMMITMENTS**

1. Inventory of Personal Property, Issuance of State Property & Medication and Medical Devices
  - a. ~~Upon commitment to the Department of Correction, each inmate must have all funds, if applicable, and personal property inventoried by the appropriate intake officer or the UPCO using Form 841-1. During this inventory, the UPCO or designee will determine what items are authorized for retention.~~  
Upon commitment to the Department of Correction, each inmate must have all funds, if applicable, and personal property inventoried by the appropriate intake officer or the UPCO using Form 841-1. During this inventory, the UPCO or designee will determine what items are authorized for retention.
  - b. Each Unit receiving a newly assigned inmate must provide the inmate with the minimum clothing, bedding, and personal hygiene items required (Attachment #1).
  - c. New commitments will not be allowed to keep driver's license, social security card, other identification cards, valuable documents, or money on their person. Each of these items will be scanned and the originals kept in the institutional file. At the request of the unit, a birth certificate, driver's license, social security card, or similar item mailed to the unit for an inmate's institutional file shall be scanned and the originals kept in the institutional file. Any money possessed by a new commitment will be placed into the inmate's account.
  - d. A receipt will be prepared for any funds, which may include money orders, veterans, social security, dividend, and certified checks. The original of the receipt will accompany the money to the unit business office. Both the UPCO and the inmate will retain a copy of the receipt. The Unit Business Manager will transfer funds to the centralized banking system. Said funds are available regardless of unit assignment.
  - e. All Medications will be inventoried and delivered to the medical staff who will determine whether to continue the medications. Receipt of medications will be signed for by the officer and a medical staff member. If determined that the medication must be destroyed, the destruction will be conducted by the appropriate medical staff and performed in accordance with pharmaceutical and state health regulations.



- f. The use or issuance of medical devices/equipment shall be processed in accordance with the appropriate policy and advice of medical authority.

### C. EXCESSIVE AND UNAUTHORIZED PROPERTY AT INTAKE

1. Amounts allowed. Items listed on Attachment #1 and 2 and those approved items purchased from the commissary are considered the total possible number of personal property items appropriate for retention by an inmate.
2. An inmate may possess personal property, both non-expendable and expendable, not exceeding an aggregate total of Two Hundred Dollars and no/cents (\$200.00).
3. Any inmate found to possess unauthorized/excessive items must within fourteen (14) days beginning with the date of arrival at ADC; choose from one of the following options:
  - (a) Mail the items at the inmate's expense to a party of the inmate's choosing.
  - (b) Destruction, if authorized by the inmate completing and signing the destruction section of Form F-841-5 and destruction is witnessed by the UPCO and another staff member; or
  - (c) Pick-up by a party of the inmate's choosing from the unit where it was confiscated if the inmate has been transferred from that unit. Pick up must occur within thirty (30) days from the date the inmate chooses this option to have the item picked up. Confiscated property will not be transferred with the inmate or to another more convenient location for pick-up. Any person authorized by an inmate to receive excess personal property will sign the appropriate section of the F-841-5 form.
4. Items not disposed of as provided in (3) (a), (b), or (c) will be destroyed.

### D. TRANSFERS AND SUBSEQUENT INVENTORIES

1. Whether the transfer is temporary or permanent, both sending and receiving units shall inventory all property and clothing on a Form F-841-1 at all sending and receiving institutions, 48 hour on and 48 hour off relief, and segregation. The Form F-841-1 shall be signed by the UPCO or designee with his/her name printed, signed and AASIS number thereon or a designee and by the inmate with ADC# written. If the inmate refuses to sign the inventory or is incapable of signing due to emergency or behavior, a second officer will sign in the presence of the inmate. It will be the inmate's responsibility to maintain the pink copy of the current property inventory form at all times in the process.
2. Upon completion of the form, give the inmate the pink copy and place the white original in the bag with the property. The original must be scanned into eOMIS before being placed into the property bag. The bag will be sealed with notations on the seal of the date, name, and ADC # of the inmate. Upon arrival at the new location or upon return to the inmate, as feasibly as is possible, the inmate, if he/she desires to have his copy completed, will hand the pink copy to the UPCO and inventory completed. The completed pink copy will be returned to the inmate. When the receiving/returning unit completes the inventory, the Form F-841-1 shall be signed by the UPCO with his/her name printed, signed and AASIS number thereon or a designee and by the inmate with

3. ADC# written. If the inmate refuses or is unavailable to sign the inventory, a second officer will sign in the presence of the inmate.
4. The completed white original will be forwarded to the records office to be placed in the inmate's institutional file and the inmate will keep the pink copy. Property inventory shall be immediately scanned into eOMIS.

#### **E. EXCESSIVE PROPERTY AND CONTRABAND AFTER INTAKE**

1. Any property found in the possession of an inmate, which is not listed on either Form 841-1 or 841-3 or approved for purchase from the commissary will be deemed contraband.
2. Form 401 must be completed to identify all property taken from the inmate as either excess/contraband or disciplinary/criminal evidence. After completion the form must be immediately scanned into eOMIS. The form must include at least the Inmate name, ADC Number, date of receipt, a description of the property item(s) in sufficient detail for easy identification; the reason the property was taken from the inmate; disposition of the items; and the confiscating officer and inmate will co-sign the form. If the inmate refuses to sign the form, it will be signed by a second officer in the presence of the inmate.
3. ~~Hold property until proceedings complete. Confiscated items to be used for disciplinary, grievance or judicial proceedings will be secured until proceedings are completed. Photograph all items if necessary, attach to the Property Confiscation Form, Form F-401 and document all actions relative to these items on Form F-401.~~
4. Unauthorized property shall be disposed of as follows:
  - (a) Mail the items at the inmate's expense to a party of the inmate's choosing. No lien will be placed on the inmate's account for postage to mail unauthorized property.
  - (b) Destruction, if authorized by the inmate completing and signing the destruction section of Form F-841-5 and destruction is witnessed by the UPCO and another staff member; or
  - (c) Pick-up by a party of the inmate's choosing during visitation or from the unit where it was confiscated if the inmate has been transferred from that unit. Confiscated property will not be transferred with the inmate or to another more convenient location for pick-up. Any person authorized by an inmate to receive excess personal property will sign the appropriate section of the F-841-5 form.
5. A disciplinary may be written on all confiscated property as unauthorized excessive or contraband.
6. Excess property of that which is allowed in Attachments #1 and #2 is treated as contraband and shall be destroyed as provided herein. However, if an inmate voluntarily produces any excess property before the start of a pat down, shake down, transfer, inspection, or other method designed to account for inmate property, the inmate will be allowed to dispose of such property as follows:

- (a) Mail the items at the inmate's expense to a party of the inmate's choosing. The inmate's account must be sufficient to cover the cost of postage.
  - (b) Destruction, if authorized by the inmate completing and signing the destruction section of Form F-841-5, which must be immediately scanned into eOMIS upon completion, and destruction is witnessed; or
  - (c) Pick-up by a party of the inmate's choosing from the unit where it was confiscated. Confiscated property will not be transferred with the inmate or to another more convenient location for pick-up. Any person authorized by an inmate to receive excess personal property will sign the appropriate section of the F-841-5 form.
7. The inmate can be instructed to produce the Form F-841-1 form in the event of a search.
  8. Weapons and drugs confiscated and not used as evidence in disciplinary or judicial proceedings will be disposed of pursuant to instructions from Internal Affairs.
  9. Wireless telephone devices that are confiscated may be donated to a non-profit or other outside agency in lieu of destruction at the discretion of the Director. No mobile or wireless telephone device will be donated without first obtaining written approval from Internal Affairs to insure the preservation of evidence to any charges pending.
  10. Medical devices, including, but not limited to eyeglasses, prostheses, canes, knee or other braces, which are confiscated upon no proof of medical script or medical necessity shall be returned to the medical department of the unit from which it was confiscated.

#### **F. ADDITIONS AND CHANGES TO PERSONAL PROPERTY INVENTORY**

1. The only means by which an inmate can acquire personal property/expendable items is by one of the following:
  - a. purchases from a unit commissary,
  - b. medical items issued by health service administrators, and
  - c. authorized vendors of publications, religious, and work craft items.
2. Issuing staff must complete a Property Addition Form 841-3, which must be scanned into eOMIS upon completion immediately.
3. Any property found in the possession of an inmate, which is not listed on either Form F-841-1 or Form F-841-3 will be considered contraband and dealt with accordingly.
4. The deletion of an item(s) from an inmate's personal property form must be made by the UPCO or designee.
5. The distribution of F-841-1 forms associated with this document will be as follows: White (Original) –Institutional File and Pink-Inmate copy.

#### **G. SPECIAL ITEMS OF PERSONAL PROPERTY**

1. ADC is not responsible for sentimental value of any item.
2. **Watch, Ring, & Religious Medal:** An inmate may have one watch, one ring, and one religious medal or emblem. These items shall not have a value over \$50 each and liability for loss of said item is limited to that amount. (an exception may be made for the wedding band with a signed waiver of liability by the inmate, F-841-4 which must be scanned into eOMIS after completion) any jewelry, which is deemed unauthorized during initial commitment will be disposed of as outlined in V.B.(3) .
3. **Religious medal or emblem:** must suspended from the ID card chain and worn inside the uniform shirt and is not to be any larger than 1 and 1/2 inches in length or width and no thicker than 1/8 of an inch. A committee consisting of the UPCO, a ranking Correctional Officer and the Unit Chaplain must approve any questionable medal or emblem. Any religious medal or emblem will be mailed directly from a commercial source with a copy of the invoice included. Any religious medal or emblem, which is deemed unauthorized during initial commitment, will be disposed of as outlined in V.B. (3).
4. **Personal photographs:** Inmates are limited to five (5) personal photographs. A personal photograph is defined as a photograph intended for individual viewing, as opposed to a commercially produced photograph that is published and sold to the public. Photographs can be no larger than 8 1/2" x 11" in size. Such photographs may contain either single or multiple digital images/pictures on one (1) side of the page only. When digital images/pictures are cut from an 8 1/2" x 11" sheet, it they will no longer be considered as one. Each digital image/picture cut from that sheet will be counted as one of the five authorized photographs. Digital images and photocopies are considered the same. Prohibited photos are photos which contain (1) Nude or sexually suggestive photographs, or (2) contain subject matter that is disruptive in nature or would threaten security or the good order of the institution. Liability for loss of a photograph is limited to \$2.50 per photograph or per 8 1/2" x 11" size pages regardless of number of photos contained on any one page. Inmates are advised not to retain sole copies of important or sentimental family photographs due to the possibility of damage or loss.
5. **Legal Materials – for example, mail, transcripts, research, pleadings:** An inmate may retain legal materials, which provided the quantity of those materials can be stored in his/her assigned property box.
  - (a) The inmate is responsible for the disposal of those materials as outlined in V.B. (3). Inmates may access stored legal materials by utilizing the inmate request system.
  - (b) At the time of transfer, the inmate must notify the UPCO that he or she has legal materials belonging to another inmate and turn those materials or work over to the UPCO. Any inmate transferring with legal materials or work belonging to another inmate is subject to disciplinary action.
  - (c) The inmate is responsible for notifying the UPCO if they possess a trial transcript, or if one is received by the inmate by mail or delivery for addition to his/her personal inventory. The only information required is the date of the deposition, case number, and the name of the person deposed.
6. **Work Craft Materials – work craft or hobby craft materials** are governed by the appropriate administrative directive and all inmates participating in the work craft program must meet the criteria for the unit to which they are assigned. Materials will be transferred with the inmate to

the new unit. If the inmate does not qualify for work craft or hobby craft or the new unit does not have a work craft or hobby craft program, the materials will be disposed of as per the work craft or hobby craft policy. Liability for tools and materials is limited to a cumulative of \$200.00 including all other items of personal property.

#### **H. DISPOSITION OF PERSONAL PROPERTY IN THE EVENT OF INMATE DEATH**

1. Immediately upon the inmate's death, the UPCO will inventory the inmate's property using Form F-841-2, which must be immediately scanned into eOMIS upon completion and place property in a property storage bag. The inmate's funds will be retained in his/her inmate banking account.
2. The individual previously designated by the inmate to receive his/her personal property and/or funds will be notified, and the property given to them. (See form F-841-2).
3. In the event that personal property or funds are not designated, it may only be released to:
  - a. A person possessing a filed stamped Affidavit for Collection of Small Estate,
  - b. A person possessing Letters of Administration or Letters of Testamentary, or
  - c. The Public Administrator.
4. The individual to whom personal property or funds are released will be required to sign a detailed receipt; Form 841-2 then will be placed in the deceased inmate's file.
5. ~~In the event that personal property is not claimed, it will be held for a period of one (1) year from the inmate's death. After such time, it will be destroyed or donated to the state. Destruction must be approved by the Warden, witnessed by the UPCO and one other employee selected by the Warden, and properly documented.~~
6. In the event that funds are not claimed, disposition will be in accordance with procedures issued by the Administrative Services Division.
7. Designated family members will be notified when the personal property of a deceased inmate is received from the medical examiner's office and may be picked up from the inmate's last assigned unit.

#### **I. RELEASE FROM CUSTODY**

All stored property, will be returned to the inmate at the time of release from custody. At time of release all monies on an inmate's account will be processed according to ADC Administrative Regulations. Legal materials left by an inmate up on his or her release from custody will be destroyed.

#### **J. LIABILITY FOR LOST, DAMAGED, OR DESTROYED PERSONAL PROPERTY**

1. Items of personal property, including watch, ring, religious medal or emblem, legal materials, photographs, and work craft tools and materials, for which liability is found against the ADC for lost or damaged property or the ADC determines before litigation that it is liable for such loss to an inmate will be replaced with the same type or similar item up to \$200.00 total.
2. Money shall not be placed on the books of an inmate if it is possible to replace a lost or damaged item with the same type or similar type of item.

3. Inmates who fail to produce a commissary receipt for 'food items' will not be entitled to a replacement or reimbursement. Food items will be replaced (if satisfactorily proven) with a like item or as reasonable a replacement as possible.
4. In the event that personal photographs are lost, damaged, or destroyed, the ADC will be responsible for only five (5) photographs. Liability is limited to \$2.50 each or a maximum of \$12.50.
5. An inmate assumes the risk of loss of food items placed in storage and subsequently destroyed as a result of vermin. It is impossible for the ADC to protect against unforeseeable risk and therefore, ADC assumes no liability for losses of this type.

**V. STANDARDS:**

American Correctional Association - Standards for Adult Correctional Institutions

**VI. ATTACHMENTS:**

F-841-1 Inmate Personal Property Inventory Record

F-841-3 Property Addition Form

~~F-841-4 Value of Liability~~

F-841-5 Disposition of Inmate Property

F-401 Confiscation Form

Attachment # 1 Minimum State Issued Requirements

Attachment # 2 Non-State Issued Property Authorized for Inmate Possession

**VII. REFERENCES:**

AR 841 Inmate Property Control

AR 005 Reporting of Incidents

AR 109 Funds of Offenders

AD Punitive Segregation/Restriction AD Release Process

AD 11-60 Inmate Correspondence

AD 08-06 Searches of Staff and Control of Contraband

AD 11-39 Work Craft Program

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TERRENCE MOORE (ADC 105735)

CLAIMANT

V.

NO. 14-0366-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*  
LISA MILLS WILKINS Ark. Bar #87190  
Attorney Supervisor  
Post Office Box 8707  
Pine Bluff, AR 71611  
(870)267-6844 Office  
(870)267-6373 Facsimile

Arkansas  
State Claims Commission

NOV 15 2013

RECEIVED

CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been served this 14 day of November, 2013, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Terrence Moore (ADC 105735)  
Maximum Security Unit  
2501 State Farm Road  
Tucker, AR 72168

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

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

State Claims Commission

TERRENCE MOORE (ADC #105735)

NOV 27 2013

CLAIMANT

V.

NO. 14-0366-CC

ARKANSAS DEPARTMENT OF CORRECTION

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RESPONDENT

**RESPONDENT'S MOTION TO DISMISS**

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

1. Claimant alleges a loss of property and a failure to follow policy arising from a confiscation of his property on February 20, 2013. He seeks damages of \$5,000.00.
2. Claimant has failed to state a cause of action under ARCP 12(b)(6) on the claim should be dismissed.
3. On February 20, 2013, Claimant's 21 excess photos and gold-tone teeth grill were confiscated from him at the Varner Unit. The photos were excess property and could have been disposed of by mailing out or sending home on visitation. The teeth grill is contraband and is to be destroyed. It is not an allowed item.
4. As evidenced by the attachment to his complaint, Claimant did not indicate any method of disposition of the excess photos as required by policy AD 13-09 IV(E).
5. Claimant states that the property was not sent with him so that he could mail them out. Inmates do not effect the mailing of contraband for security reasons. Once the inmate authorizes the mailing and removal of money from his inmate account books for postage, the physical work to completed is done by the mailroom staff and recorded.
6. Claimant states that policy was violated because the confiscated property was not shipped with him. Confiscated property is *never* shipped with an inmate. See AD 13-09 IV(A)(13) the duty of the property officer is 'to retain confiscated property at the sending unit where it was confiscated.' This was not a policy violation, but clearly was following ADC policy.
7. If Claimant failed to designate where to send his photos within thirty (30 days from the date of confiscation and to issue a postage authorization form, the pictures could have and should have been destroyed according to policy.
8. Respondent submits that no policy has been violated and the claim should be dismissed. The policy and evidence supplied by the Claimant supports this assertion.

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



Respectfully submitted,

Department of Correction  
Office of Counsel

*Lisa Mills Wilkins*

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 24 day of November, 2013, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

TERRENCE MOORE (ADC #105735)

VARNER UNIT

P. O. Box 600

GRADY, AR 71644-0600

*Lisa Mills Wilkins*

LISA MILLS WILKINS Ark. Bar #87190

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TERRENCE MOORE - ADC #105735

CLAIMANT

V.

NO. 14-0366-CC

RECEIVED

Arkansas  
State Claims Commission  
DEC 04 2013

Arkansas Dept. of Correction

RESPONDENT

CLAIMANT'S REPLY TO RESPONDENT'S MOTION TO DISMISS

Comes now the claimant, TERRENCE MOORE #105735  
and for his reply to respondent's motion to dismiss,  
states and responds as follows:

1. Claimant has stated a claim/cause of action under ARCP 12 Cb) (6) and his claim should proceed to a hearing on the matter.
2. The oral cosmetic palate, referred to by the respondent as a teeth grill could not have been considered as contraband because the claimant re-entered the respondent's custody with it - the same as if an inmate enters the ADC with a partial or braces.

3 CLAIMANT MADE A STRONG INSISTANCE IN HIS INFORMAL ~~AND~~ RESOLUTION AND INMATE GRIEVANCE THAT HE DID IN FACT SUBMIT TO THE AUTHORITIES AT EAST ARKANSAS REGIONAL UNIT THAT HE SHOULD HAVE HIS PROPERTIES SENT TO A THIRD-PARTY.

4 THE OFFICIALS AT E.A.R.U. DID IN FACT CONTACT THE OFFICIALS AT THE VARNER/VARNER SUPERMAX UNIT IN ORDER TO GET THE INVALID RESPONSE TO THE INMATE GRIEVANCE WHICH IS ATTACHED TO THE CLAIMANT'S INITIAL COMPLAINT IN THIS MATTER.

5. IN ANY EVENT THE RESPONDENT FAILED TO ALLOW THE CLAIMANT THE OPPORTUNITY TO SELL HIS PROPERTIES TO A THIRD-PARTY WHICH RESULTED IN A LOSS OF SAME PROPERTIES.

WHEREFORE FOR THE AFOREMENTIONED REASONS AND THE DISPARITIES ILLUSTRATED IN THE RESPONDENT'S MOTION TO DISMISS - THE SAME MOTION SHOULD THEREFORE BE DENIED.

*Claimant*

The ~~petitioner~~ swears under the penalty of perjury that all of the facts and facts of law as iterated in his instant petition is true, accurate, correct, and not misleading, to the very best of his knowledge, understanding, and belief.

**CERTIFICATE OF SERVICE**

*Claimant*

The ~~Petitioner~~ hereby certifies that a copy of his instant <sup>reply</sup> ~~petition~~ has been forward to the *office of* counsel of the Arkansas DEPT. OF CORRECTIONS, Respondent, ~~Arkansas Attorney General, 225 Center Street, Suite #200, Little Rock, AR 72201,~~

on this 03 day of December, <sup>2013</sup> ~~2012~~, via United States postal service, in which same had sufficient postage affixed thereto.

Respectfully Submitted,

*Terrence Moore #105735*  
Terrence Moore  
Terrence Moore  
AOC#105735  
2501 State Farm Road  
Tucker, AR 72168

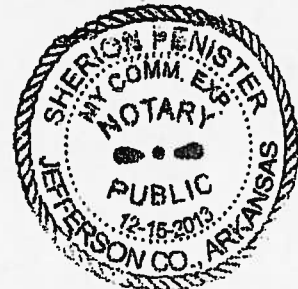
State of Arkansas

County of Jefferson

SUBSCRIBED TO and SWORN TO before me, a Notary Public, on this 3rd day of December, <sup>2013</sup> ~~2012~~

My Commission Expires: 12-15-2013

*Sherron Penister*  
Sherron Penister  
Notary Public



3

20

STATE CLAIMS COMMISSION DOCKET  
OPINION

Amount of Claim \$ 5,000.00 Claim No. 14-0366-CC

Terrence Moore, #105735 Claimant Attorneys Pro se Claimant  
vs. Department of Correction Respondent Lisa Wilkins, Attorney Respondent  
State of Arkansas Respondent

Date Filed October 30, 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" for reasons set forth in paragraphs 1 and 3-8 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 1 and 3-8 contained in the motion. Therefore, this claim is hereby unanimously denied and dismissed.

Date of Hearing December 13, 2013

Date of Disposition December 13+, 2013

Pat Moore Chairman  
H. Moore Commissioner  
Jim B. Baker Commissioner

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TERRENCE MOORE  
ADC # 105735

Arkansas  
State Claims Commission  
JAN 14 2014

CLAIMANT

V.

NO. 14-0366-CC  
RECEIVED

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDANT

MOTION FOR NOTICE OF APPEAL

Comes now the Claimant, Terrence Moore, in the submission of the aforementioned motion, doth hereby depose and state that:

1. On October 30th, 2013, the Claimant filed this instant claim against the Respondant for Loss of Property and Failure to Follow Procedure.
2. The Respondant thereafter filed a Motion to Dismiss in which the Claimant filed a Reply to same.
3. On December 13th, 2013, this Commission unanimously granted the Respondant's Motion to Dismiss, based on reasons set forth in paragraphs one, and three through eight, in same Motion to Dismiss.
4. The Claimant's reasons for Appeal of the Commission's Ruling are practically based upon the same reasons outlined in his Statement of Facts and his Reply to Respondant's Motion to Dismiss, and a reiteration is necessary so that the Arkansas' Legislative Council's Claims Review Subcommittee can have the clearest illustration of both factual background and the procedural facts of the incident in question.

5. On 2-20-13, while housed at the Varner facility of the Arkansas Dept. of Correction, a shakedown of my personal property was conducted by several security staff in which, thereafter, I was transferred to another facility. During the shakedown of my personal property, security staff Sgt. Malcom Crumpton confiscated twenty-one (21) of my personal photographs and one (1) cosmetic gold removable palate that I had when I entered the ADC upon initial intake. See: exhibit one of complaint.

After I was transferred to another facility, my confiscated property was not shipped along with me. I timely submitted a unit-level grievance concerning the matter, indicating that I wanted to send my personal property to a third party. See: exhibit two of complaint. According to the Varner Unit Head Warden's decision, my personal property wasn't shipped along with me because "some of the items were contraband." It was also indicated that the Varner Unit Property Room Officer had custody of my property. After timely appealing the Warden's decision to the ADC Director, the decision was affirmed. See: exhibit two of Complaint. The affirmation is dated 5-31-13, well after the effective date of Administrative Directive #13:09, which offered me the opportunity to send my property to a third party. See exhibit three of Complaint, page 5 of 15. There was a disciplinary written against me for ~~my~~ contraband, and the ADC is liable for the loss / destruction of my personal property.

6. In its Motion to Dismiss, the Respondant asserted that the Claimant did not state a claim/cause of Action under Ark. R. Civ. Pro. 12(b)(6) and that all of the property in question was contraband under ADC policy. Also, the Respondant falsely asserted that Claimant made no effort whatsoever to have his personal property forwarded to a third party. — All of which simply wasn't true.

7. Claimant had stated a claim/cause of Action under ARCP 12(b)(6) and his claim should've proceeded to a hearing on the matter before the Commission.

The oral cosmetic palate, referred to by the Respondant as a "teeth grill", could not have been considered as contraband because the Claimant re-entered into the Respondant's custody with it, the same as if an inmate enters the ADC a partial or braces.

8. Claimant made a strong insistence in his Informal Resolution and Inmate Grievance, that he did in fact submit to the Authorities at East Arkansas Regional Unit, that he should have his property sent to a third party.

9. The officials at E.A.R.U. did in fact contact the officials at the Varner/Varner Supermax Unit in order to get the invalid response to the Claimant's initial Complaint in this matter.

10. In any event, the Respondant failed to allow the Claimant the opportunity to send his property to a third party, which resulted in the loss of some property.



Wherefore, for the aforementioned reasons and the disparities illustrated in the Respondent's Motion to Dismiss - the same Motion should've therefore been denied, and this matter is ripe for a full fact-finding tribunal. The Commission's decision should be reversed so that the ADC doesn't get the notion that it's okay to destroy inmates' personal property (including photographs) after receiving formal notice that the inmate seeks to have personal property forwarded to a third party per ADC policy. If this sub-committee allows this ruling to stand, it will certainly open the door for the Respondent to abuse the duties invested in them to care for the inmates in their custody in an arbitrary manner.

The Claimant swears under the penalty of perjury that all of the facts and facts of law as iterated in his instant Motion for Notice of Appeal is true, accurate, correct, and not misleading, to the very best of his knowledge, understanding, and belief.

CERTIFICATE OF SERVICE

The Claimant hereby certifies that a copy of his instant Motion for Notice of Appeal has been forwarded to the office of counsel of the Arkansas Dept. of Correction, Respondent, on this \_\_\_\_\_ day of January 2014, via United States Postal Service, in which same had sufficient postage affixed thereto.

Respectfully Submitted,

Terrence Moore  
ADC# 105735  
2501 State Farm Rd.  
Tucker, AR 72168

State of Arkansas

County of Jefferson

SUBSCRIBED TO and SWORN TO before me, a Notary public, on this 11 day of January 2014.

Keith C. Crockett

Notary Public

my commission expires: 01/05/2017

