

Please Read Instructions on Reverse Side of Yellow copy

Please print in ink or type

ARKANSAS STATE CLAIMS COMMISSION

JAN 31 2013

RECEIVED

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

- Mr. Mrs. Ms. Miss

Jessie Barbee, #107307 Claimant

vs.

State of Arkansas, Respondent Dept. of Corrections

Do Not Write in These Spaces Claim No. 13-0558-CC Date Filed January 31, 2013 Amount of Claim \$ 11,300.00 Fund DOC

COMPLAINT

Failure to Follow Procedure, Pain, & Suffering, Mental Anguish

Jessie Barbee, #107307, the above named Claimant, of POB 180, Brickeys, AR 72320

(Name) (State) (Zip Code) (Daytime Phone No.) County of represented by (Street or R.F.D. & No.) (City) (Legal Counsel, if any, for Claim)

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

State agency involved: ARKANSAS Dep Corrections Amount sought: 11,300 \$

Month, day, year and place of incident or service: (10000 Dollars A Day, For 113 Days)

Explanation: on 6-12-12 I WAS GAVE A PHYSICAL AND MY MEDICAL CLASS - MA - I WAS ASSIGNED A JOB THAT WENT AGAINST MY MEDICAL RESTRICTIONS, THIS JOB LASTED FOR 60 DAYS, THEN ON 8-16-12 I GOT REASSIGNED TO ANOTHER JOB WITCH WENT AGAINST MY MEDICAL RESTRICTIONS AND MY MEDICAL CLASS, THEN ON OCTOBER 18TH 2012 I WAS REASSIGNED TO A BUILDING JOB AND TAKEN OUT OF THE FILE. THIS WAS ALL DONE BY THE CLASSIFICATION COMMITTEE AT E.A.R.U PRISON...

ALSO: I HAVE A MASS IN MY RIGHT KNEE I'VE BEEN TELLING THE A.D.C ABOUT SENCE 6-12-12 AND HAVE X-RAYS ON FILE SHOWING A SMALL FRAGMENT. THE DOCTOR SAID HE CALLED IT A FLOATER AND I CAN'T GET NOTHING DONE ABOUT IT; OR THE PAIN, I WAS ON A PAIN PILL BUT WHEN I COMPLAINED ABOUT IT MAKING ME DEPRESSED, THEY THE A.D.C INFARMARY TOOK ME OFF THE PILL AND

(SEE: CLIFF NOTES) 2# sheets

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 or No) when? (Month) (Day) (Year) to whom? (Department) and that the following action was taken thereon:

and that \$ 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 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.

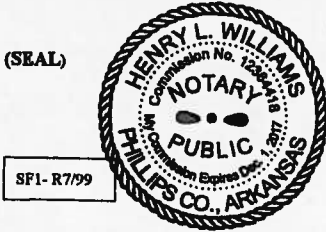
Jessie S. Barbee (Print Claimant/Representative Name) Jessie S Barbee (Signature of Claimant/Representative)

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

on this 6th day of January, 2013 (Date) (Month) (Year)

Henry L Williams (Notary Public)

My Commission Expires: Dec 01 2017 (Month) (Day) (Year)



SFI- R7/99

FEB 11 2013

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

RECEIVED

JESSIE BARBEE (ADC 107307)

CLAIMANT

V.

NO. 13-0558-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

CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been served this 7th day of February, 2012, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Jessie Barbee (ADC 107307)
East Arkansas Regional Unit
PO Box 180
Brickeys, AR 72320-0180

Lisa Mills Wilkins
 LISA MILLS WILKINS Ark. Bar #87190

APR 02 2013

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BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

JESSIE BARBEE (ADC # 107307)

CLAIMANT

V.

NO. 13-0558-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 filed a claim alleging that on June 12, 2012, August 16, 2012, and October 16, 2012, he was assigned to work in violation of his medical restriction and the doctor has failed to treat pain in his knee caused by a floater. He seeks \$11,300.00 in damages. Claimant has failed to state a claim upon which relief can be granted herein under ARCP Rule 12(b)(6).

CLAIM #1 ASSIGNED AGAINST HIS MEDICAL RESTRICTION

2. Claimant was seen by classification with medical personnel present on June 18, 2012 and assigned to field utility. Administrative Directive 02-13 permits assignment to field utility squad for inmates classified as M2 or M3 unless certain restriction apply which did not pertain to Claimant.

3. Claimant did not show up for work on the fence crew on August 16, 2012, and did not have an appointment with classification committee on that date. See Exhibit "B". Respondent is unable to respond to Claimant's allegation with respect to this day and further states he has provided no facts to support a claim arising from this date.

4. Claimant was seen by classification committee on October 15, 2012, and assign to food service. He does not allege that a job working inside as opposed to one working on the fence crew or other outside work violated his medication restriction. However, in the event that it is his contention, Respondent will address the issue. Claimant's restrictions prevented him from prolonged 'ing' activities and required him to wear medical arch supports which were provided on September 18, 2012, and medically prescribed tennis shoes which were provided to him on November 8, 2012.

5. All of his medical needs have been addressed when assigning him during classification and medical personnel was present at each classification meeting with his medical file to review and this information is contained in the file.

6. A copy of the Administrative Direction 02-13 is attached as Exhibit "A" *in camera* and not to be released to the Claimant.

7. Work on the field utility squad does not require strenuous activity. Attached is the Medical Service Administrator at EARU which states that the restrictions do not prohibit the claimant from working Field Utility. See Exhibit "B"

CLAIM #2: LACK OF MEDICAL CARE

8. Claimant alleges that the doctor is not treating the pain in his knee caused by a floater. He alleges the ADC infirmary took him off the pill

9. This claim is against Corizon, not the ADC. Respondent does not supervise or hire medical or personnel. Claimant fails to state any action that Respondents took any action which prevented him from having the medical treatment. An official who was not involved in treatment decisions made by the unit's medical staff and who lacks medical expertise cannot be held liable for the medical staff's diagnostic decisions. *Keeper v. King*, 130 F.3d 1309, 1314 (8th Cir. 1997). If a claim of deliberate indifference to medical needs is to succeed, it must be brought against the individuals directly responsible for the inmate's medical care. *Keeper v. King*, 130 F.3d 1309, 1314 (8th Cir. 1997) (citing *Kulow v. Nix*, 28 F.3d 855, 858 (8th Cir. 1994)).

10. Respondents are not involved in treatment decisions made by the unit's medical staff. All medical appointments and medical decisions are made by the medical staff.

11. If any claim for medical indifference is to succeed, it must be brought against the individual directly responsible for the inmate's medical care. *Kulow v. Nix*, 28 F.3d 855, 859 (8th Cir. 1994). In addition, a general responsibility for supervising the operations of a prison is insufficient to establish the personal involvement required to support liability. *Keeper v. King*, 130 F.3d 1309, 1314 (8th Cir. 1997). Accordingly, a prison official who was not involved in treatment decisions made by the medical unit's staff and who lacked medical expertise cannot be liable for the medical staff's diagnostic decisions.


12. An official who was not involved in treatment decisions made by the unit's medical staff and who lacks medical expertise cannot be held liable for the medical staff's diagnostic decisions. *Keeper v. King*, 130 F.3d 1309, 1314 (8th Cir. 1997). If a claim of deliberate indifference to medical needs is to succeed, it must be brought against the individuals directly responsible for the inmate's medical care. *Keeper v. King*, 130 F.3d 1309, 1314 (8th Cir. 1997) (citing *Kulow v. Nix*, 28 F.3d 855, 858 (8th Cir. 1994)).

13. Respondent states again, that any claim for inadequate medical care is a federal violation under the 8th amendment and must be brought against the individuals directly responsible for the inmate's medical care. *Keeper v. King*, 130 F.3d 1309, 1314 (8th Cir. 1997) (citing *Kulow v. Nix*, 28 F.3d 855, 858 (8th Cir. 1994)).

14. Respondent has failed to state any claim against the ADC. Based on the foregoing statements, has failed to state a claim upon which relief can be granted herein under ARCP Rule 12(b)(6) and 12(b)(1).

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

Respectfully submitted,
Department of Correction
Office of Counsel

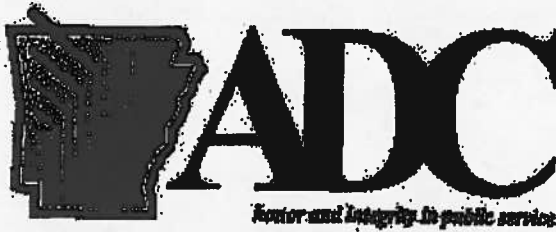

LISA MILLS WILKINS Ark. Bar #87190
Attorney Supervisor
Post Office Box 8707
Pine Bluff, AR 71611
(870)267-6844 Office
(870)267-6373 Facsimile

CERTIFICATE OF SERVICE

I certify that a copy of the above pleading has been served this 1 day of March, 2013, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

JESSIE BARBEE (ADC # 107307)
EARU
P. O. Box 180
Brickeys, AR 72320-0180


LISA MILLS WILKINS Ark. Bar #87190



Arkansas Department of Correction

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

ADMINISTRATIVE DIRECTIVE

SUBJECT: Hoe Squads (male)/Field Squads (female), Garden Squads, and Field Utility Squads

NUMBER: 02-13

SUPERSEDES: AD 96-16

APPLICABILITY: Medical Personnel, Classification Officers and Committees, Field Majors/Field Supervisors and Inmates

REFERENCE: JAR 802 - Classification of Offenders

PAGE 1 of 6

APPROVED: Original signed by Larry Norris

EFFECTIVE DATE: 12/30/02

DO NOT RELEASE TO INMATE

Submitted
in camera

I. POLICY:

To ensure that all assignments to a hoe squad (male)/field squad (female), garden squad, or field utility squad are commensurate with the inmate's medical classification and/or limitations.

II. PROCEDURES:

A. Assignment/Reassignment

Inmates are assigned to the hoe squads (male)/field squads (female), garden squads, and field utility squads as follows:

1. After being received at the parent unit, each inmate will be placed on an initial job assignment for a minimum of sixty (60) days by unit classification. Physical limitations as determined by licensed medical staff must be accommodated in determining this assignment (see Attachment #1).
2. Inmates found guilty of major disciplinary infractions resulting in their demotion in Class may be reassigned provided their physical limitations can be accommodated. This assignment will be for a minimum of sixty (60) days.

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Exhibit

A

U

- 3. Class II, III, or IV status inmates found guilty of major disciplinary infractions (or administratively reduced to Class II) will be reassigned to a squad commensurate with their medical classification. This assignment will be for a minimum of 60 days.
- 4. Inmates may also be assigned to squads as a matter of institutional need or at the inmate's request if approved by classification.

B. Squad Guidelines

- 1. Hoe squads (male)/field squads (female) - Inmates are eligible for an assignment to the hoe squad (male)/field squad (female) if their medical classification is M-1 or M-2 unless the following limitations apply:

- Limitation #1
- Limitation #2 if it specifies anything less than 8 hours
- Limitation #4 if it specifies anything less than 50 lbs.
- Limitation #7 if it specifies anything less than 8 hours

- 2. Garden Squads - Inmates are eligible for an assignment to the garden squad if their medical classification is M-2 or M-3 unless the following limitations apply:

- Limitation #1
- Limitation #2 if it specifies anything less than 8 hours
- Limitation #4 if it specifies anything less than 20 lbs.
- Limitation #7 if it specifies anything less than 8 hours

- 3. Field Utility Squad - Inmates are eligible for an assignment to the field utility squad if their medical classification is M-2 or M-3 unless the following limitations apply:

- Limitation #2 if it specifies anything less than 8 hours*
- *may work 1/2 day if 4 hours or more but less than 8 hours

- Limitation #4 if it specifies anything less than 20 lbs.

- Limitation #7 if it specifies anything less than 8 hours

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All inmates assigned to field utility squads that have Limitation #1 and the work assignment requires sustained or uninterrupted exertions greater than one (1) hour, the limitation can be accommodated by utilizing a ten (10) minute break within or at the end of the one (1) hour period. The break must allow the inmate to refrain from engaging in activity for which the inmate was restricted, i.e., break from standing, break from stooping, etc.

To determine the expiration of one (1) hour for the purpose of the breaks, it will be understood that the time calculations will commence when the inmate begins to perform physical exertion (work). The field utility squad will be provided water at each break. If weather dictates, water breaks will be more frequent.

4. Inmates may be reassigned at the recommendation of the field supervisor and/or the Unit Classification Officer on a temporary basis until seen by the Unit Classification Committee, for the following reason(s):
 - a. The Field Major/Field Supervisor and/or Classification Officer feels the inmate is performing his work assignment at his maximum performance level but for reasons beyond his control is unable to keep up with the pace.
 - b. The inmate has an enemy alert that needs to be evaluated.

C. Documentation

All inmates assigned to a hoe squad (male)/field squad (female), garden squad, or field utility squad having a medical classification of M-2 or M-3 will have a copy of their MSF-103 (see Attachment #2) forwarded to the Field Major/Field Supervisor by the Unit Classification Officer. It will be the Field Major's/Field Supervisor's responsibility to have the information from the MSF-103 on all inmates assigned to the squads. The information will then be recorded on the respective squad cards (see Attachment #3) along with the inmate's name and ADC number. The Field Major/Field Supervisor will provide each of the officers with a copy of the physical limitation terminology (Attachment #4). Medical Services will provide training as needed. Replacement copies of the physical limitations terminology will be available from the Field Major/Field Supervisor.

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III. REFERENCE:

DOC Inmate Medical Classification, Operational Policy/Procedure No. 322.00.

02-13
021211

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#1

LIMITATIONSCAN THE INMATE BE ASSIGNED?

		HOE (male)/ FIELD (female) SQUAD M-1 & M-2	GARDEN SQUAD M-2 & M-3	FIELD UTILITY SQUAD M-2 & M-3
1.	Restrict assignment requiring prolonged crawling, stooping, running, jumping, walking, or standing.	NO	NO	YES
2.	Restrict assignment requiring strenuous physical activity for periods in excess of 8 hours.*	YES, IF 8 HRS OR MORE	YES, IF 8 HRS OR MORE	YES, IF 8 HRS OR MORE *MAY WORK 1/2 DAY IF 4 HRS OR MORE BUT LESS THAN 8 HRS
3.	Restrict assignment from units which are unable to provide a therapist.	YES TO INMATE	YES	YES
4.	Restrict assignment requiring handling/lifting of heavy materials in excess of _____ lbs or requiring overhead work for a period of _____ hours	YES, IF 50 LBS OR MORE, 0 HRS OR MORE	YES, IF 20 LBS OR MORE, 0 HRS OR MORE	YES, IF 20 LBS OR MORE, 0 HRS OR MORE
5.	Restrict assignment where sudden loss of consciousness would be dangerous to self or others, such as working on scaffolding, driving a vehicle or working near moving machinery.	YES	YES	YES
6.	Restrict assignment requiring continued exposure to loud noises.	YES	YES	YES
7.	Restrict assignment requiring exposure to high environmental temperature for a period in excess of _____ hours.	YES, IF 8 HOURS OR MORE	YES, IF 8 HOURS OR MORE	YES, IF 8 HOURS OR MORE
8.	Restrict assignment which requires the wearing of safety shoes.	YES	YES	YES
9.	Assignment limitations not otherwise described herein will be noted as required by the specific debility.	*	*	*

*WILL HAVE TO BE DETERMINED ON AN INDIVIDUAL BASIS BY THE UNIT CLASSIFICATION OFFICER.

Submitted
in camera

DO NOT RELEASE TO INMATE

10

PHYSICAL LIMITATION TERMINOLOGY

1. Restrict assignment requiring prolonged crawling, stooping, running, jumping, walking, or standing.
2. Restrict assignment requiring strenuous physical activity for periods in excess of _____ hours.
3. Restrict assignment from units which are unable to provide a therapeutic diet.
4. Restrict assignment requiring handling/ lifting of heavy materials in excess of _____ lbs. or requiring overhead work for a period in excess of _____ hours.
5. Restrict assignment where sudden loss of consciousness would be dangerous to self or others, such as working on scaffolding, driving a vehicle, or working near moving machinery.
6. Restrict assignment requiring continued exposure to loud noises.
7. Restrict assignment requiring exposure to high environmental temperature for periods in excess of _____ hours.
8. Restrict assignment which requires the wearing of safety shoes.
9. Assignment limitations not otherwise described herein will be noted as required by the specific debility.

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02-13
021211

**Submitted
in camera
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APR 22 2013

RECEIVED

JESSIE Barbee # 107307

V.

CASE# 13-0558-CC

ARKANSAS Dept Corrections

Comes now "Jessie Barbee" and states The Following
Concerning Respondent's motion To Dismiss;
and The Reason These motion should Be moot. & Denied!

1. on 6-11-2012 I was Brought To The Lee county Jail
For in-take purposes, And held There For 5 Days. Durring
Those 5 Day's I WAS GAVE A Physical, and my Medical
Class WAS MADE M-2, For Job purposes "I WAS Assinged
a. - To Field utility For 60 Day's. and The ^{ADIC} State should not
Be held Liable For These 60 Day's Because I WAS
Assinged To A Proper Job concerning My Medical Class.
- B. The MEDICAL STAFF should Be Held Accountable For Those
60 Day's, and I HAVE Filed AGAINST The INFARMARY
With The Proper Formes! Even Tho They Go HAND IN HAND!"

2. on "or" about 8-16-2012 I Did Go in Front of The
Arkansas Dep correction's "Brickys" unit Classification
Committee, And They, with medical staff Present
Assinged me To "Fence crew" a M-1 Job, Durring
This Time, I WAS Assinged To This Job which
Caused Sevear pain & SUFFERING & Worsing conditions
AGAINST my MEDICAL proplems,

- a. See Grievences in Claim CLIFF notes!
see Request "To & From", INFARMARY Personal,
- c. I Toud To Get help To show my Race But nothing clicked

See Request To \$ From Infirmery Dated 8-16-2012." 8-29-2012
10-31-2012.

D. See Grievance # 202 EA-12-01349. "\$ Warden/center's Decision,
concerning Grievance EA-12-01349 He Found my complaint
with merit. But" Resolved.

What About The Classification commity Putting
me on "Fence crew" "For whatever Reason".
it Caused sever pain & suffering and worsening
Conditions To make my MEDICAL condition worse.
now I suffer with Pain That Took years To
Get under control, That is The classification commity's
Fault. And Done on Purpose." with corizon present.

3. SEE "Time Computation Card" it shows The
Date As of 8-16-2012 when I went in Front of
The Classification Commity and Got Assinged my
Class status For Living Class 1C, & ALSO I Got
Assinged A Job That Day Fence crew M-1. Job.
which is The Day They Denie on These "ALTERED"
EXHIBIT B,

4. I was assinged To Food service on 10-18-2012
and have worked in The Kitchen on a Flat Floor,
I still suffer sever Pain Because of my Job
Assingment From 8-16-2012 ← Through → 10-18-2012
Those "64 Days" The Brickyeyes unit Classification
Commity of The ARKANSAS Dep't of corrections should
Be hold liable To have To pay For Their Actions

at \$100.00 Dollars a day, For 64 Days", which should also include, a Permanent Flat Floor script, "no stairs" and "No Field Duty" To Inmate Jessie Barbee #107307

- a. There is a huge Difference in Climbing in & out of Ditches, mud sticking your Feet To The Ground, WALKING in weeds waste high, getting side-ways in a Hoe Squad Line, "ETC", up & Down Hills;
- b. Verses - WALKING on a Flat Dry Concrete Floor.

5. I Had To Do everything in my Power To Get a pair OF Insoul's and The Tennis shoes are Because The Tendent is "was" Cut on The Top OF my Left Foot, Nothing To Do with my Right Knee. "SEE MEDICAL File" "SEE Grievances" see Date's;

Respondents are not supposed To Be involved in Treatment decisions, But The medical made The decision and Diagnose me A "M-2" And prescribed me Restrictions; That The Respondents Took upon Themselves on 8-16-2012 To Excor, and These- For interfere with The medical Treatment, "Placing ME on A M-1 Job Pushing A Lawn mower, ETC", For 8 hours A Day. "Causing severe pain and suffering and worsening my medical conditions, For 64 Days That Followed; I Then Dealt with, & still am Dealing with The Damage,

I FEEL Like I need an Attorney To Assist me, Because I am only A Inmate and Do-not understand ¹⁵ A lot OF legal Terms & cases etc. "THANK YOU. Jessie Barbee #107307

AR DOC
REPORT NO. OTCR118

ARKANSAS DEPARTMENT OF CORRECTION
TIME COMPUTATION CARD

PAGE: 1 of 4
PROCESSED: 10/22/2012 08:26 AM
REQUESTOR: Lucy Yarbrough

INMATE NAME: Barbee, Jesse S ADC #: 107307D
LOCATION: East AR Region. Unit HOUSING: BK08054U CLASS: I-C OF: 08/16/2012

You have been committed to the ADC to serve the following sentences. The release dates listed below are only a projection and include all good time which can be earned based on your current class. If all projected good time is not earned, these release dates will change.

CMT.	OFFENSE	FEL CLS	DOCKET NUMBER	COUNTY NAME	TOTAL SENTENCE YY/MM/DD		PE/TE	JAIL TIME
AD-001	Man.Delv.Poss Cont Subs Probation Revocation	C	CR-2002-26	Logan	0y 120m 0d	IN	1/3*	199
AD-002	Poss. Firearm Certain Pers Probation Revocation	D	CR-2002-26	Logan	0y 36m 0d	CC	1/3*	199
AD-003	Theft Of Property Probation Revocation	C	CR-2004-99	Logan	0y 36m 0d	CS	1/3*	0
AD-004	Theft By Receiving	C	CR-2008-01	Logan	0y 120m 0d	CC	1/3*	0
AD-005	Theft Of Property	C	CR-2006-05	Logan	0y 120m 0d	CC	1/3*	199
AD-006	Forgery	C	CR-2007-90	Logan	0y 120m 0d	CC	1/3*	199
AD-007	Theft Of Property	C	CR-2007-86	Logan	0y 120m 0d	CC	1/3*	199
AD-008	Theft Of Property	C	CR-2008-22	Logan	0y 120m 0d	CC	1/3*	199

TOTAL SENTENCE LENGTH 13y 0m 0d

RELEASE DATES: TRANSFER ELIGIBILITY DATE: 09/13/2010
DISCHARGE DATE: 02/25/2021

SEE DATE 8.16.2012 I went in front of the Classification committee and was assigned from class 2 to class 1, and a job from filed utility M-2 job to fence crew M-1 job,

which went against my medical restrictions
This happen on 8-16-2012 for 7 * = amount of days

INFARMARY

INMATE: REQUEST INFORMATION

DATE 8/16/2012

800-4

STATE OF ARKANSAS

COUNTY OF LEE

) "INMATE"
)#

#107307

JESSIE BARBEE

~~AFFIDAVIT~~

I, Jessie BARBEE, after first being duly sworn, do hereby swear, depose

#1

and state that: I would like to know what my MEDICAL CLASS is(?)

#2

I would like to know my MEDICAL Restrictions ARE(?)

"THANK YOU", Respectively Jessie Barbree #107307
8-16-2012

I further swear that the statements, matters and things contained herein are true and accurate to

the best of my knowledge, information and belief.

8/17/12

DATE: Your medical grade IS M2
AFFIANT

EARU	AUG 17 2012
DATE/TIME REC'D:	
DATE/TIME TRIGED:	
PRIORITY: #1	#2 #3 #4
NAME/TITLE:	

SOCIAL SECURITY #

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, on this _____ day of _____

Your restrictions are avoid long @ restrict assignments requiring prolonged crawling, stopping, running, jumping, walking or standing. This restriction started 6/12/12 with no end date.

NOTARY PUBLIC

My Commission Expires: _____

This information is in your jacket.

Ford

Grievance # 2

UNIT LEVEL GRIEVANCE FORM (Attachment I) GRIEVANCE/RECEIVED

FOR OFFICE USE ONLY
GRV. # <u>EA-12-01349</u>
Date Received: <u>8-27-12</u>
GRV. Code #: <u>202</u>

Unit/Center E.A.R.U

AUG 27 2012

Name Jessie Barbee

EAST AR REGIONAL UNIT

ADC# 107307 Brks # 8-29 Job Assignment Fence Crew

(Date) STEP ONE: Informal Resolution

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

If the issue was not resolved during Step One, state why: NO Reply From my Informal Resolution, "Im still forced To work", Fence crew?

8-24-12 (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: my Job is Causing me Physical Harm & Severe Pain

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): In Regards of The Issue is do To me Being Assigned To a Job Assignment That is in conflict with my medical Restrictions which Are, NO Prolonged Crawling, Stooping, Running, Jumping, Walking or Standing on 8-16-12 The Classification Community Assigned me To "Fence Crew" "Lawn mowing crew" This Job Go's Against All The Restrictions I've Stated Above, The Classification Community Knows of my Restrictions And Knew I WAS Not Suppost To Be Placed on This Job. Do To Being Forced To work This Job. I Have Suffered Physical Harm To my Knees, Feet, & Legs, BACK, Head ACKES, And Breathing Problems with my ASMA

RECEIVED

SEP 21 2012

Jessie Barbee # 107307
Inmate Signature

8-24-12
Date

INMATE GRIEVANCE SUPERVISOR

If you are harmed/threatened because of your use of the grievance process, report it immediately to the Warden/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 _____

W. Robinson 56216 Sgt. W. Robinson 8/24/12
PRINT STAFF NAME (PROBLEM SOLVER) ID Number Staff Signature Date Received

Describe action taken to resolve complaint, including dates: Sent a request to the Classification Community that you could be re-classified.

Sgt. W. Robinson 8/24/12
Staff Signature & Date Returned

Jessie Barbee # 107307
Inmate Signature & Date Received

This form was received on 8/24/12 (date), pursuant to Step Two. Is it an Emergency? _____ (Yes or No).

Staff Who Received Step Two Grievance: Sgt. Robinson Date: 8/24/12

Action Taken: _____ (Forwarded to Grievance Officer/Warden/Other) Date: 8/24/12

If forwarded, provide name of person receiving this form: _____ Date: _____

INFARMARY

REQUEST FORM

FROM: Jessie BARBEE,

TO: MRS. STRICKLAND" OFFICE: INFARMARY Admin"

Reason I need a Copy OF my medical Restrictions, I Come To The INFARMARY And Reviewed my Jackit and The Lady who watched over me Told me To write you For The Copy OF my Restrictions To have on Person.

Thank you
"Respectively"
Jessie Barbee

asked you
to come
give it

Unit:
Date/Time Rec'd: 8-31-16
Date/Time Triaged:
1=Emergent 2=Urgent 3=Routine
Name/Title: [Signature]

Medical
person

You can sign a
Authorized
have family and
anyone
request

BK 08/029L

Attachment II

IGTT400

3GR

ACKNOWLEDGMENT OR REJECTION OF UNIT LEVEL GRIEVANCE

TO: Inmate Barbee, Jesse S.

ADC #: 107307D

FROM: Mills, Debra A

TITLE: Administrative Specialist II

DATE: 08/27/2012

GRIEVANCE #: EA-12-01349

Please be advised, I have received your Grievance dated 08/24/2012 on 08/27/2012.

You should receive communication regarding the Grievance by 09/25/2012

Debra Mills

Signature of Administrative Specialist II

CHECK ONE OF THE FOLLOWING

- This Grievance will be addressed by the Warden/Center Supervisor or designee.
- This Grievance is of a medical nature and has been forwarded to the Health Services Administrator who will respond.
- This Grievance involves a mental health issue and has been forwarded to the Mental Health Supervisor who will respond.
- This Grievance has been determined to be an emergency situation, as you so indicated.

This Grievance has been determined to not be an emergency situation because you would not be subject to a substantial risk of personal injury or other serious irreparable harm. Your Grievance will be processed as a Non-Emergency.

This Grievance was REJECTED because it was either non-grievable (), untimely, was a duplicate of , or was frivolous or vexatious.

INMATE'S APPEAL

If you disagree with a rejection, you may appeal this decision within five working days by filling in the information requested below and mailing it to the appropriate Chief Deputy/Deputy/Assistant Director. Keep in mind that you are appealing the decision to reject the original complaint. Address only the rejection; do not list additional issues, which were not a part of your original grievance as they will not be addressed. Your appeal statement is limited to what you write in the space provided below.

Jessie Barbee
Inmate Signature

107307
ADC #

Date

20

BK08/054U
Attachment III

IGTT410
3GS

INMATE NAME: Barbee, Jesse S. ADC #: 107307D GRIEVANCE #: EA-12-01349

WARDEN/CENTER SUPERVISOR'S DECISION

Inmate Barber, you grieve you were assigned to the fence crew but this conflicts with your medical restrictions. Your complaint is noted. Documentation reveals you are currently of the field utility staff which is in compliance with your medical restrictions. I find your complaint with merit but resolved.

JUB

Wm...

9/18/12

Signature of Warden/Supervisor or Designee

Title

RECEIVED Date

SEP 21 2012

INMATE GRIEVANCE SUPERVISOR
ADMINISTRATION BUILDING

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?

Since my Assignment To The Field Squads, & The Fence Crew's and now Reassignment To The Field Squads, I Have Been Having Severe Pain in my Knees & Ankels my Right Knee Tries To Lock up. And Im Forced To WALK Long Distances with my Knee Locked up. "Walking on my Toes" and Being in a Line Hope Squaring, Climbing Ditches in Severe Pain, In Regards To These Issues I'm Still Doing Job Assignments which Conflict with my medical Restrictions Causing Physical Harm To my Knees & Ankels I am Trying To Do what Im Told. But my Conditions Are Getting worse my Lower Back is starting To have Severe pain From The Discombabulated Ankels Im having To Carry my Body Weight.

Jessie Barbee #
Inmate Signature

107307
ADC#

9-19-2012
Date

Sir, I Have Requested in-soles, Boots, Shoes, Braces, Medical orthopedic appliances, And am slowly Getting some Attion. But my X-RAYS Do Show I Have Serious physical problems And need Help
Respectively *Jessie Barbee # 107307*

21

IGTT405
3GT

Attachment V

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

TO: Inmate Barbee, Jesse S. ADC #: 107307D
FROM: May, Larry D TITLE: Chief Deputy Director
RE: Receipt of Grievance EA-12-01349 DATE: 09/21/2012

Please be advised, the appeal of your grievance dated
08/24/2012
was received in my office on this date 09/21/2012

You will receive communication from this office regarding this Grievance by 11/02/2012

- The time allowed for appeal has expired
- The matter is non-grievable and does not involve retaliation:
 - (a) Parole and/or Release matter
 - (b) Transfer
 - (c) Job Assignment unrelated to medical restriction
 - (d) Disciplinary matter
 - (e) Matter beyond the Department's control and/or matter of State/Federal law
 - (f) Involves an anticipated event
- You did not send all the proper Attachments:
 - (a) Unit Level Grievance Form (Attachment 1)
 - (b) Warden's/Center Supervisor's Decision (Attachment III); or Health Services Response Attached (Attachment IV for Health Issues Only)
 - (c) Did not give reason for disagreement in space provided for appeal
 - (d) Did not complete Attachment III or IV with your name, ADC#, and/or date
 - (e) Unsanitary form(s) or documents received
 - (f) This Appeal was REJECTED because it was a duplicate of , or was frivolous or vexatious

22

IGTT430
3GD

Attachment VI

INMATE NAME: Barbee, Jesse S.

ADC #: 107307

GRIEVANCE#:EA-12-01349

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

I have received your formal grievance in reference to not being appropriately assigned to a job based on your medical restrictions.

After reviewing all supporting documentation, I have determined that on 09/10/12, you were reassigned to Field Utility and then on 10/15/12 you were reassigned to the Kitchen. Both of these jobs were within your medical restrictions. This should resolve your complaint.

Based on the above stated information, I find no merit in your complaint.

Appeal denied.

17M7

Director

Date

10.31.12

ACTION

I've Done Put in sick calls & seen Doctors,
Now I need some Assistance,

Inmate Request Form

This form is to be used by inmates to contact staff with request on issues they may have. You should allow five working days to receive a response to your request. This is the East Arkansas Regional Unit in house form.

Name: <u>J. BARBER</u>	ADC Number: <u>107307</u>	Barracks: <u>8-54</u>	Date: <u>10-31-2012</u>
------------------------	---------------------------	-----------------------	-------------------------

Staff Directed to: <u>INFARMARY Administrator,</u>	Office: <u>"Administrator's OFF:ce"</u>
--	---

My request is directed to the following area: (check one)

- | | | | |
|--|---|--------------------------------------|--|
| Chaplain <input type="checkbox"/> | Classification <input type="checkbox"/> | Commissary <input type="checkbox"/> | Assistant/Deputy Warden <input type="checkbox"/> |
| Issuance <input type="checkbox"/> | Food Service <input type="checkbox"/> | Hobby Craft <input type="checkbox"/> | General Library <input type="checkbox"/> |
| Law Library <input type="checkbox"/> | Laundry <input type="checkbox"/> | Mail Room <input type="checkbox"/> | Medical <input checked="" type="checkbox"/> <u>Administrator</u> |
| Mental Health <input type="checkbox"/> | Parole <input type="checkbox"/> | Property <input type="checkbox"/> | Records <input type="checkbox"/> |
| Security <input type="checkbox"/> | Visitation <input type="checkbox"/> | Warden <input type="checkbox"/> | Other (Assisten) <input type="checkbox"/> |

Give a detailed reason for your request: I Have Been Having Problems With MY Knees & ANKLES, "Since I've Been Here", I've Been Gave insoles Knee Braces, Had X-RAYS "showing Broken Bone's", in my Right Knee. I need some shoes & Boots, I work in The Kitchen and I have To HAVE A script To HAVE state Boots." so Im Refured To The INFARMARY, To Get A script, To Get state Boots, I need This Bad! Because The Blue Shoes HAVE NO support And Are extremly PAINful on my Feet, "For 8'ers, I need This Form BACK with A Answer on what to Do. ((THANK YOU))
 Have you talked to any staff about your request? Yes No
 If yes, to whom did you speak with and when? CAPTIAN JAIN Doe, "Respectively"

Jessie Barber 10-31-2012
Inmate Signature/ Date

Staff Responding:	Date:
-------------------	-------

Response: Per Dr. Anderson - you do not have broken bones in your right knee. You have small calcifications in your right knee (calcium deposits)
The infarmacy Dept Not issue state boots. See clalley now

I am referring this to: _____
 Cc: _____

Anderson 11/8/12
Staff Signature Date

STAT. CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 11,300.00 Claim No. 13-0558-CC

Jessie Barbee, #107307 Claimant Attorneys Pro se Claimant
vs.

Department of Correction Respondent Lisa Wilkins, Attorney Respondent

State of Arkansas
Date Filed January 31, 2013 Type of Claim Failure to Follow Procedure, Pain & Suffering & Mental Anguish

FINDING OF FACTS

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss" for reasons set forth in paragraphs 2-7 on Claim #1 and 8-13 on Claim #2 contained in the motion. 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" for reasons set forth in paragraphs 2-7 on Claim #1 and 8-13 on Claim #2 contained in the motion. Therefore, this claim is hereby unanimously denied and dismissed.

Date of Hearing May 16, 2013

Date of Disposition May 16, 2013

[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.

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Arkansas State Claim Commission

Dear MR. Hodges:

Jessie Barbee A.D.C # 107307 Claimant

VS. CASE # 13-0558-CC

Arkansas Department Corrections Respondent

((CLAIMANT))
((SEEKING))

"Appeal" which is Found
in Arkansas Code § 19-10-211, "And A
Re-Hearing, "or", & A Reconsideration Per Rule 7.1

To Amend my Complaint...

Shomo V. City OF New York, 579 F.3d 176 (2d Cir. 2009)

"For THE Following Reasons"

Claim # 1 Negligence

Being Assigned To work A M-1 Job, "Fence crew".
which went Against my medical Class M-2, and
my Medical Restrictions! In so Doing The Classification
Committee Breach Their Duty OF Care.

Jones V. united states. 91 F.3d 623 (3d Cir 1996)

Plummer V. united states. 580 F.2d 72 (3d Cir 1978)

Because OF This Breach OF Duty I have
SUFFERED Physical and mental Anguish, I
only have one Claim and have only stated
one claim, "and alot OF "CLIFF note's" (or) Filed
Documents; SEE: original Complaint

VANCE V. Peters. 97 F.3d 987 7th Cir 1996

Against The Classification Committee "Supervisors",
"Persons who Assigned me To "Fence crew". 8-16-2012

ARKANSAS STATE
CLAIMS COMMISSION
MAY 30 2013

RECEIVED

Respondent # 1 "WARDEN" Dexter Payne.

Respondent # 2 "Filed Madar" Kelly.

Jones V. Weigand, 134 App. Div. 644, 645, (2d Dep't 1909)

Claimant "is NOT" Claiming That "Filed utility" went against his Restrictions, (only Fence crew) which is a M-1 Job.

Claimant stated Medical staff was Present in The Committee, "But had nothing To Do with Assigning me The Job on Fence crew.

Cline V. United States Department of Justice 525, F. Supp. 825 (D.S.D 1981)

Rule 4.7 Evidence" Exhibits";

Documents introduced may Be Returned To The interested parties upon Request (IF)..... Deemed By Commission";

Claimant; ask For All Documents, Cliff notes" Etc"; That he has sent; To Be Returned To him, (or) "Copy's";

Pursuant To Rule 34 OF The Federal Rules OF Civil Procedure,

and in Acting Rule 8.1 Application OF Rules OF Civil Procedure? For Additional discovery materials,

ALSO SEE Rule Federal Rule OF Civil procedure Rule 26(b)(1)

I Have a Right To Anything which is in any way Relevant; To Be Returned.... 27

Claimant also move For an order pursuant To Rule 37(a)(4) OF The Federal Rules OF Civil Procedure, "Requesting That The Respondent's Pay The Claimant The sum OF \$2,500.00"

Come's now The Claimant, "Jessie Barbee #107307" a "pro se" prisoner SEEKing The Answers and information in The motion now Before you.

if my Request are answered, I would SEEK a Continuance pursuant To Rule 5.1 and a Chance To Review The Returned Documents, "and make The necessary changes To Amend....."

Please Return "Any" and all; Documentation; motion's; note's; Copy's "or" original.

"THANK YOU"

Jessie Barbee #107307

P.O. Box 180

Brickys, Ark. 72320

DATE:

5-25-2013

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 11,300.00

Claim No. 13-0558-CC

Jessie Barbee, #107307 Claimant
vs.

Attorneys
Pro se Claimant

Department of Correction Respondent
State of Arkansas

Lisa Wilkins, Attorney Respondent

Date Filed January 31, 2013

Type of Claim Failure to Follow Procedure, Pain & Suffering & 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 was not previously available. Therefore, the Commission's May 16, 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 May 16, 2013, order remains in effect.

Date of Hearing June 13, 2013

Date of Disposition June 13, 2013

[Signature] Chairman
[Signature] Commissioner
[Signature] Commissioner

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