

Please Read Instructions on Reverse Side of Yellow copy

Please print in ink or type

ARKANSAS STATE CLAIMS COMMISSION

F6

OCT 22 2012

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

RECEIVED

- Mr. Mrs. Ms. Miss

Kendrick Story, #109934 Claimant

vs.

State of Arkansas, Respondent Dept. of Correction

Do Not Write in These Spaces Claim No. 13-0328-CC Date Filed October 22, 2012 Amount of Claim \$ 15,000.00 Fund DOC

COMPLAINT Personal Injury, Failure to Follow Procedure, Negligence

Kendrick Story, #109934, the above named Claimant, of 7206 W. 7th St, Pine Bluff, AR 71603

County of represented by Kendrick Story (Legal Counsel, if any, for Claimant)

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

State agency involved: ABC Randall L. Williams Unit Amount sought: 15,000

Month, day, year and place of incident or service: On July 9, 2012 at the Randall L. Williams Unit Explanation: Was assaulted with a dough knife while working in the kitchen, I told my supervisor that the other inmate was trying to start an altercation with me and he replied lets leave it alone or go to the barracks. She then walked back into the office and then when the inmate assaulted me he hit me in my face with his fist, then he cut me across my right hand with the dough knife that was not locked onto a cable after MS, Wickers saw the inmate assault me with the weapon she ran out of the kitchen and left me to fight for myself. She could have prevented this assault because I informed her that the inmate was trying to fight me and she failed to protect me. Once she was made aware of the situation she was suppose to have moved him away from me that would have brought the proper procedure but she did not which lead to me getting assaulted and cut with a knife so she failed to protect me as well as had a security because she was told before hand and prior to the assault and she also removed herself from the area while the assault was going on and she was the kitchen supervisor it was her job to protect me at all costs. I also have a witness that saw everything that happened on 7-9-12 his name is Robert Durdie #146152 he is an inmate at the Randall L. Williams Unit 7206 W. 7th Pine Bluff, Ark 71603

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? NO when? to whom? (Department)

and that \$ 0 was paid thereon: (2) Has any third person or corporation an interest in this claim? NO if so, state name and address

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.

Kendrick Story (Print Claimant/Representative Name) Kendrick Story (Signature of Claimant/Representative)

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

(SEAL) on this 18th day of Oct, 2012 (Date) (Month) (Year)

SF1-R799

ANNETTE GOINS NOTARY PUBLIC-STATE OF ARKANSAS JEFFERSON COUNTY My Commission Expires 08-25-2018 Commission # 12367074

(Notary Public) 9 25 2012 (Month) (Day) (Year)

INMATE NAME: Story, Kendrick ADC #: 109934D GRIEVANCE #: RLW12-00265

WARDEN/CENTER SUPERVISOR'S DECISION

In this grievance you have alleged that on July 9, 2012, Ms. E. Waters (Kitchen Supervisor) instructed you to cut tomatoes. You have alleged that there were two knives on cables and there was another knife that was not that inmate Lindsey used to assault you. You have alleged that the knife inmate Lindsey assaulted you with was being used to open up cans of juice. You have alleged that Ms. E. Waters ran out of the kitchen leaving you to fight for your life. The tool in question is a dough knife not a regular knife. Ms. E. Waters states that the dough knife is a Class B tool and did not require being secured down. Ms. E. Waters states she radioed for assistance and removed herself from the area until help arrived. Ms. E. Waters states knives are not used to open cans, there is a can opener in the kitchen. After reviewing documentation from this incident, it was found that inmate W. Lindsey being the "aggressor" your statement was corroborated with the exception of the usage of the dough knife. Verbal and written statements support the fact that inmate W. Lindsey started the physical altercation by striking you in the facial area with a closed fist, not using a dough knife. I find that security staff responded in a reasonable amount of time. Therefore this grievance is without merit. However; if you are not satisfied with the decision of the Disciplinary Hearing Officer, you have the right to appeal it to Mr. Raymond Naylor's office.

Signature of Warden/Supervisor or Designee

Title

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8-14-12

Date

AUG 20 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?

Dough Knife I never made that statement at all, my witness statement from (7-9-12) will prove the fact of course you would say that he wasn't using it to open cans but that's where witnesses come in. And as for Ms. E. Water I told her that the inmate was trying to start a fight with me and her reply was leave it alone or go to the barracks that's not the way to handle a problem once someone has brought it to you, but I have the "evidence" to prove that I was in fact cut with the "Dough Knife" which is failure to protect on Ms. E. Water behalf

that was used on me I have NO reason to live about what I need, it's even in the Discipline it was only spoken on once and never brought up again but this "false statement" about me being cut in the face did because that's something that I didn't say but my witness statement will show all of that as well. In your response you never stated that I was cut with the dough knife across my right hand to, but it's in the disciplinary as well as my (3) three grievances that I wrote about this matter of (Hendrick) which shows that your being (Bias) against me. Because your not answering the whole grievance like your suppose to, how is you going to address part of the grievance and leave the assault out that's being (Bias) against me I'm well over the punishment now I'm concerned about
Hendrick Story 100934 8-15-12

me getting assaulted with this weapon now more than anything I done what I was suppose to have done and that's tell my supervisor about the problem I can't make her do her job, but I could have prevented all of this by moving inmate (W) Hendrick out of my work area instead of saying leave it alone or go to the barracks after I had brought the problem to her. And as soon as she saw me getting "Assaulted" by inmate Hendrick she ran out of the kitchen and left me to fight a my life" there were two other knives over there that he could have gotten a hold to as well I'm thankful that the cut was only across my hand instead of my face and that I wasn't stabbed to death" there was also pictures taken of the cut on my hand that will clear things up a well but the score will not go "away" I am also glad that Ms. E. Water is telling the truth about her running out of the "kitchen" as well. But you did admit that I was in fact assaulted by inmate Hendrick being the "aggressor" you just didn't answer the rest of the grievance but it's okay I've done my part and that was to bring it to your attention.

Thank you for your time concerning this matter in any way. Before I close you stated that Ms. E. Water said that "knives" are not used to open cans there is a can opener for that in the kitchen why isn't that a part of her answer to my grievance ??? Because she know that the inmate in question was using the knife to open the juice cans like I said they did it every morning that I was working in there. It don't matter if it's a class A or B tool it was still used as a weapon against me which lead to me getting cut across my right hand I received injuries from it as well.

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AUG 20 2012

INMATE GRIEVANCE SUPERVISOR
ADMINISTRATION BUILDING

INMATE NAME: Story, Kendrick

ADC #: 109934

GRIEVANCE#: RLW12-00265

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

I have received your formal grievance dated 07/18/12 in reference to being assaulted in the kitchen by another inmate with a knife that was not secured to a cable.

After reviewing all the supporting documentation, I have determined that I concur with the Warden's response. It was determined that you were not totally without guilty, disciplinary action was leveraged against you and inmate Lindsey. ~~You were observed instigating inmate Lindsey in a verbal confrontation prior to the actual assault. As for the dough knife it is a class "B" tool and issued accordingly.~~

Therefore, I am unable to find any supporting evidence that staff has failed to follow proper policy and procedures.

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

Appeal denied.

H M J

Director

Date

10.3.12

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

KENDRICK STORY (ADC 109934)

CLAIMANT

V.

NO. 13-0328-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

OCT 29 2012

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CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been served this 25 day of October, 2012, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Kendrick Story (ADC 109934)
Randall L. Williams Unit
7206 W. 7th Ave.
Pine Bluff, AR 71603

Lisa Mills Wilkins
LISA MILLS WILKINS Ark. Bar #87190

DEC 07 2012

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

KENDRICK STORY (ADC#109934)

RECEIVED
CLAIMANT

V.

NO. 13-0328-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

RESPONDENT'S MOTION TO DISMISS

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

1. Claimant alleges that on July 9, 2012, he was assaulted by another inmate while working in the kitchen and seeks \$15,000.00 for failure to follow policy, personal injury and negligence. Claimant has failed to state a cause of action upon which relief can be granted under ARCP 12(B)(6).
2. In the complaint Claimant alleges that Inmate Lindsey threatened him while they were working in the kitchen, that Claimant notified the kitchen supervisor, Ms. Waters but she failed to remove Inmate Lindsey. Lindsey then picked up an unsecured knife and assaulted him with it. Mrs. Waters ran from the room and left him to protect himself.
3. Claimant's own statement taken on July 9, 2012 (see Exhibit "A") contradicts the complaint. In the statement Claimant never stated any threats were made. He stated Lindsey said, 'you got me f---up and I don't want to be around (Story)' to which Claimant responded, 'I haven't said nothing nor have I did anything to him.' The knife Claimant alleges he was cut with was actually a dough cutter. See Exhibit "C". It is classified as a Class B tool which means it is not likely to facilitate an escape or attempted escape.
4. Statement taken from a witness on July 9, 2012 and submitted in camera states Mrs. Waters responded to the words immediately, that Claimant bumped into Lindsey before the words were exchanged, Lindsey swung first and missed, then Claimant swung and hit Lindsey in head, and he never saw a knife used. See Exhibit "B". Another witness statement corroborates Mrs. Waters intervention in the inmate's argument and told them to leave the kitchen if it wasn't over. They stopped arguing. When she left the room momentarily the physical altercation began. See Exhibit "D" submitted in camera.
5. There were no known enemy alerts on these inmates prior to the altercation on July 9, 2012. On July 10, 2012, each inmate was placed on the other's enemy list.
6. Both inmates were seen in the infirmary. Claimant had a small, superficial abrasion to 2nd digit of right hand, alert and oriented x 3 and denied any pain. Claimant never complained of a medical need arising from this incident. Inmate Lindsey had dried blood to the nose, a small superficial laceration at left outer ear, abrasion to right forehead, and redness to upper chest.

7. Both inmates were written a major disciplinary. Claimant was found guilty of creating unnecessary noise, battery - use of force on an inmate, assault and failure to obey order of staff. Claimant did not exhaust his appeals of his conviction by appealing to the Director, Ray Hobbs which indicates that Claimant accepted his culpability in the incident.

8. The incident report known as a 005 filed by Mrs. Waters states that when the fight broke out, she radioed for assistance. Officers are not trained to risk their own lives to break up a fight without assistance and in fact are specifically trained not to attempt to do this alone. Mrs. Waters acted appropriately and within policy under the circumstances.

8. Based on the foregoing statements, has failed to state a claim upon which relief can be granted herein under ARCP Rule 12(b)(6).

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 (Signed by permission)

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 _____ day of _____, 2012, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

KENDRICK STORY (ADC#109934)
RLW Unit
7206 West 7th
Pine Bluff, AR 71602

LISA MILLS WILKINS Ark. Bar #87190

ARKANSAS DEPARTMENT OF CORRECTION
STATEMENT OF WITNESS

Name Hendrick Story Rank/Status/Number 101934 Unit B4W

STATEMENT: I was at work in the kitchen my supervisor Mrs. Waters had me cutting tomatoes, inmate Lindsey was over there opening up juice and he told Mrs. Waters that he didn't want to be around me I told Mrs. Waters that I haven't said nothing nor have I did anything to him and she said to leave it alone or go back to the barracks I went back to cutting the tomatoes and inmate Lindsey hit me with a knife that he was using to open the cans of juice with in my face and across my right hand leaving a gash in my right hand and my face bruised, Mrs. Waters could have prevented it and moved him out of my work area but she didn't and it ended with my getting "cut" by another inmate with a weapon and fighting to save my life there was two knives over there along with the knife that he had opening the juice with he swung on me first with the weapon he had striking me in my face and on my right hand. This could have been avoided if she was doing her job and moved me or him after he told her that he didn't want to be around me, and it ended with me getting "cut" with a weapon out of the kitchen. Inmate Purdie, R 146152 was standing over there when it happened he saw inmate Lindsey hit me first.

I make this statement freely, under no duress, and without undue coercion exerted against me by any correctional officer or official of the Arkansas Department of Correction.

Hendrick Story
Signature

7/9/12
6-9-12
Date

[Signature]
Witness/Statement Taken By



Exhibit

A

ARKANSAS DEPARTMENT OF CORRECTION
STATEMENT OF WITNESS

Submitted

Name Robert Purdie Rank/Status/Number 146152 in camera DLW

DO NOT RELEASE TO INMATE

STATEMENT: me and story was going to the cooler talking to get some tomatoes to cut I not sure if story bump in to Libsey by mistake cus I hear Libsey say you got me fuck up that when mis. waters said yo cut that out or I going to send you back to the barracks so me and story went to head to the cooler I grab the box of tomatoes and story follow next I hear Libsey again say you got me fuck up as me and story past by I sat the box down and when I turn Libsey had got in story face while we (story and I) at one work area and swing cut story while miss then talk after swing but story beat him to the punch that when Libsey grab the pan (that I had set down to put the cut tomatoes in) and try to use it but story was hitting him use it cus I believe story was thinking that he was reach for the knife cus the pan was near the knife it was clear to me that story was acting in self defense and that Libsey was the aggressor in dis fight the knife wasn't use that I seen

Submitted

in camera

I make this statement freely, under no duress, and without undue coercion exerted against me by any correctional officer or official of the Arkansas Department of Correction.

DO NOT RELEASE TO INMATE

Robert Purdie
Signature

7-9-12
Date

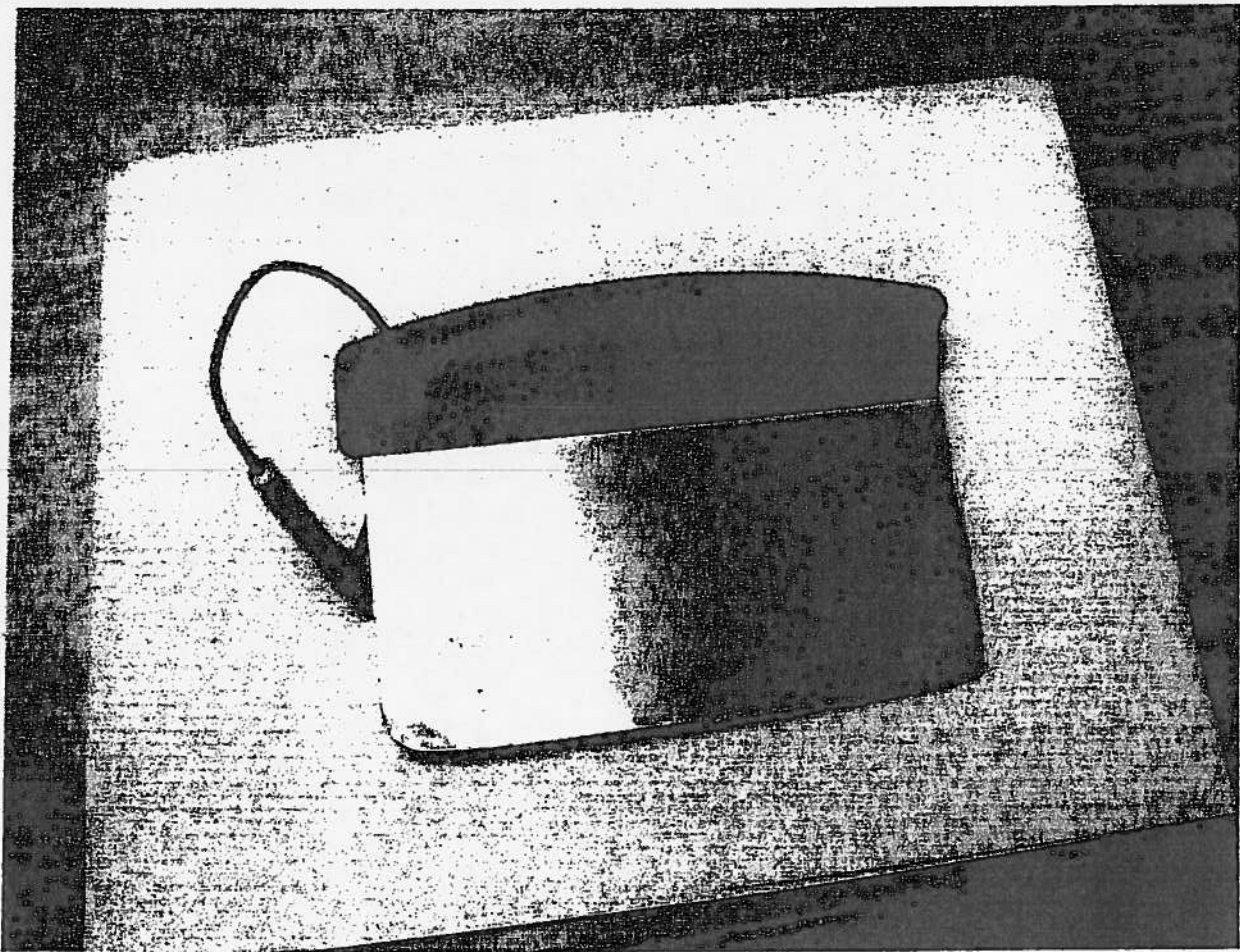
[Signature]

Witness/Statement Taken By



Exhibit

B



SF

Photo taken of gray and brown in color dough knife # R.L.W. /F.S. 6-3 allegations made by Inmate Story, K #109934 that Inmate Lindsey, William #093497 assaulted him with on July 9, 2012 at approximately 12:50am during a physical altercation in the back of the kitchen.

Dough cutter

class B

ADC
Arkansas Department of Corrections
Exhibit
C

ARKANSAS DEPARTMENT OF CORRECTION STATEMENT OF WITNESS

Name JOHN MAY Rank/Status/Number 152385 Unit RLW

STATEMENT: On the morning kitchen shift from the Bakery
I saw inmate LINZEY + STORY ARGUING.
Mrs. Waters intervened + told them to leave kitchen
if it wasn't over. Both Parties resumed work
for a moment. When Mrs. Water was out of Room, cdt
got physical until officers broke it up.

**Submitted
in camera
DO NOT RELEASE TO INMATE**

**Submitted
in camera
DO NOT RELEASE TO INMATE**

I make this statement freely, under no duress, and without undue coercion exerted against me by any correctional officer or official of the Arkansas Department of Correction.

John May
Signature

6-9-12
Date

AHC ak
Witness/Statement Taken By

ADC
Arkansas Department of Correction
Exhibit
D

Before The Arkansas State Claims Commission

Hendrick Story #109934

Claimant

V.

NO. 13-0328-cc

Arkansas Department of Correction

Respondent

Motion To Deny Respondent
Motion To Dismiss

ARKANSAS STATE
CLAIMS COMMISSION

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Comes now the Claimant and his motion to deny
the respondent motion to dismiss state as follows:

(1) The respondent alleges that my statement contradicts my complaint which is "False". I was assaulted by inmate Hindsey and I was also cut with the Dough Knife by inmate Hindsey. Whether it's a Class A or B tool it was still used as a weapon against me which caused me injuries.

(2) The respondent is saying that the witness statement that was taken from Robert Purdie # 146152 was saying that I wasn't cut with a knife, he was talking about the two knives that we was using to cut the tomatoes with but he did a sworn statement for me saying that I was cut with the Dough Cutter which is the (AOC Exhibit C) and their also calling it a Dough Cutter instead of a knife on their Exhibit as well! and I never bumped into inmate Hindsey MS. E. Waters admitted it on her OOS that she talked to me and inmate Hindsey about a mis understanding that we was suppose to have been having so she admitted to knowing about the altercation before it turned is

into a physical altercation and she failed to protect me. I told her what was going on and she said leave it alone or go to the barracks.

- 3) The respondent is alleging that I never complained of pain which is "False" because I did, I filled out several sick calls along with several grievances which never made it to the places that they needed to I was locked up in the "Hole" there's only so much I could do but my hand was hurting then and I am still having problems out of it right now as well. the (ANC Exhibit #4) clearly shows the injuries that I suffered from and still suffering from it this day I was given (IBUPROFEN) for my pain.
- 4) The respondent is alleging that I didn't exhaust my appeal of my conviction by appealing to the Director Ray Hobbs, which is also "False" I did write Mr. Hobbs concerning this matter but I never heard anything back from him concerning this matter of urgency but I was found guilty of the charges even though the disciplinary didn't match the charges that was written on me I have my response from the warden and the disciplinary hearing officer Mr. Dalory if their needed. (Enclosed see Claimant Exhibit 1-3) Letter sent to Mr. Ray Hobbs about my appeal.
- 5) Ms. Waters used to be a officer working on the doors before she become the Kitchen Supervisor so she knows how to handle situation like this, once I made her aware of the situation she should have moved him away from me but she didn't which lead to me getting assaulted with a weapon Ms. Waters did not act appropriately and she did not follow the policy when she failed to handle the situation it turned me into the victim which lead to me getting assaulted with a Dough knife - (Dough Cutter.)
- 6) Based on the foregoing statements, the respondent motion to dismiss my complaint should be denied, they have produced evidence that proves my claim.

WHEREFORE, the claimant prays that the respondent motion to dismiss will be denied.

Respectfully submitted,
Kendrick Story #10923

(1)

TO: Mr. Ray Hobbs
Director of ADC
P.O. Box 8707
Pine Bluff, Ar
71611

Date: 8-7-12

From: Kendrick Story # 109934
Randall L. Williams unit
7206 W. 7th
Pine Bluff, Ar
71603

ARKANSAS STATE
CLAIMS COMMISSION
DEC 11 2012
RECEIVED

RE: I did file my "appeal" with the Warden I just never got it back the appeal was done 7-18-12

Dear Mr. Hobbs,

I've done my appeal regarding my disciplinary from (7-9-12) where I was the victim, I was cut with a knife and punched in the face and they took my class and gave me thirty days in the "Hole" the disciplinary clearly says the same thing.

But I did file my appeal MS. L. Skinner brought my appeal to me on (7-18-12) a day after I was found guilty on the charges, I filled it out and turned it in the same day. next week will be a "month" since I've done my "appeal" to the "Warden" as well as me completing my (30) thirty days in the "Hole" I still haven't gotten a response from the warden about my "Appeal" I marked the "X" on the form like it said to do.

Exhibit
1-8

This is a (Due Process) violation because their denying me my right to appeal the disciplinary, I've been in the "Hole" since July 9, 2012 I filed my appeal on (7-18-12) and today's date is (8-7-12) well over the (10) ten days that the warden was suppose to respond and I still haven't heard from him concerning my appeal I can't go to step two and three if one want come back done.

This should be grounds to have my disciplinary overturned due to the warden not complying with the disciplinary procedure, it said mark an (X) if in punitive that was done and the (Seq) log sheet will also show that I sent the appeal out on (7-18-12) from out of the "Hole" I believe that I am being punished for filing my grievance's because I am the only one who haven't gotten a response on time from the warden about my disciplinary like I said next week will be a month since I've sent the warden my appeal and it will also be (30) thirty days in the "Hole" I've done the punishment already so this should get overturned due to the 14th Amendment for "Due process!"

I couldn't even get the warden or the Deputy warden to talk to me about the assault that was done to me with a "knife" but I have filed grievance's about it and it took me (12) twelve days after the assault to get one of the three grievance's I filed answered I received a Acknowledgment Of Unit level Grievance from a Ms. Tonya B. Collins

(7-30-12) ADC inmate grievance coord. grievance NO: BHW 12-00265 but the other two grievance's that was done before this (7-9-12 given to Sgt. Carroll) and (7-12-12 and given to Sgt. Lucas) still haven't been returned til this day I just wanted to give you a picture of what I've been dealing with I can only file it I can't make them respond that's why I am turning to you for your help concerning this matter of "Urgency" I should be seen my class IC back.

But I have filed the appeal I just never gotten it back and the (30) days is almost over next week it will be, it will also be (30) days since the (Warren) has had my "Appeal" as well like I was saying I've done all I can do but by him not complying with the rules pertaining to the disciplinary appeal I should be given my class back because it is a violation of my 14th Amendment for (Due Process).

Respectfully submitted,

(P.S.) I was also trying to inform Mr. Hibbs of the assault with a weapon that was done to me, I was "cut" with a "knife" while working in the kitchen at the Kendall Williams Unit!

Kendrick Story # 109934
 Kendall L. Williams Unit
 7806 W. 7th
 Pine Bluff, Ar
 71603

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DEPUTY WARDEN'S OFFICE AR 831-4

JUL 19 2012

RANDALL L. WILLIAMS
CORRECTIONAL FACILITY

ARKANSAS DEPARTMENT OF CORRECTION
Barclay L. Williams Unit
MAJOR DISCIPLINARY APPEAL FORM

AR 831

~~PUNITIVE
ISOLATION
MARK AN "X"~~

Inmate Kendrick Story ADC # 109934 Date 7-18-12
Concerning Disciplinary Given on (date) 7-9-12 by (officer) Lt. C. Akins

APPEAL TO WARDEN: (to be completed by inmate)

State reasons why conviction or punishment should be reversed or modified: The reason why the conviction and punishment should be (reversed) is because I was the victim I was the one hit in the face I was the one cut with the knife" by another inmate and the disciplinary clearly stated that I was in danger MS water had an inmate with a knife that wasn't on a safety cable and I used it to stab open the juke cars so it will cut through a steel can you know it will cut through flesh I have a cut to prove that when she saw the inmate assault me she ran out of the kitchen Lt. Akins excused me with the knife either I said he had it in his hand when he hit me but he did cut me with it across my right hand.
Inmate's Signature: Kendrick Story # 109934

This is also a violation of my rights I was the victim why am I being punished? "Risk to Security" which led to me getting cut!!

RESPONSE FROM WARDEN: (due within ten (10) calendar days of receipt of appeal if punitive)
Affirm: _____ Reverse: _____ Modify: _____

Reasons Action Taken: _____

DATE & TIME: 07/09/12 @ 12:50 PM

OFFICER: Lt. Akins

RULES: 2-17, 4-8, 4-9, 5-3, 12-1

Your appeal requests relief from punishment because of what the other party in the fight did. You were not punished for what someone else did, nit for the rule violations you were found to have committed. I find no reason to alter the decision of the Disciplinary Hearing Officer in this matter. If you do not agree with my response, you may appeal to the Disciplinary Hearing Administrator, Mr. Naylor, at Central Office.

Signature: [Signature] Date 7/19/12

NOTICE TO INMATE: If you do not agree with the warden's response, you may appeal it to the Hearing Officer Administrator. If you do not agree with the Hearing Officer Administrator's response, then you may appeal it to the Director. If you decide to appeal, then write a letter repeating your reasons why your conviction or punishment should be reversed or modified.

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Exhibit 2



Arkansas Department of Correction

Internal
Affairs
Division
P.O. Box 8707
Pine Bluff, Arkansas 71611-8707
Phone: (870) 267-6218
Fax: (870) 267-6226

MEMORANDUM

TO: K. Story, #109934, RLW Unit
FROM: *R Naylor*
Raymond Naylor, Disciplinary Hearing Administrator
RE: Major Disciplinary Appeal
DATE: 08/31/12

Please be advised I am in receipt of your disciplinary appeal dated 08/19/12, regarding the major disciplinary you received on 07/09/12, at 12:50pm, by CO C. Akins.

After a thorough review of all the documents pertaining to this matter, I find that I must affirm the decision of the major disciplinary hearing office.

If you so desire, you may appeal further to the Director of the Department of Correction.

RN(x)

cc: Warden
File

ARKANSAS STATE
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Exhibit 3

STATE OF ARKANSAS)
) §
COUNTY OF Jefferson)

AFFIDAVIT

I, Robert Purdie, after first being duly sworn, do hereby swear, depose and state that: In the morning, that Story got into a fight it was self-defence Mr. Walters fell to protect Story she knew that Lidzey was being mean and using bad words at Story before he hit him with the dagger cutter then after that happen she ran away

I further swear that the statements matters and things contained herein are true and accurate to the best of my knowledge, information and belief

8-21-12
DATE

Robert Purdie #141615A
AFFIANT

SOCIAL SECURITY #

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, on this 21st day of August, 2012.

Robert C. McConnell
NOTARY PUBLIC

My Commission Expires: 9-25-18

ROBERT C. MCCONNELL
NOTARY PUBLIC-STATE OF ARKANSAS
LINCOLN COUNTY
My Commission Expires 09-25-2018
Commission # 12367989

Exhibit 4

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

KENDRICK STORY (ADC#109934)

CLAIMANT

V.

NO. 13-0328-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

REPLY TO MOTION TO DENY RESPONDENT'S MOTION TO DISMISS

COMES NOW the Respondent, Arkansas Department of Correction, and for its REPLY TO MOTION TO DENY RESPONDENT'S MOTION TO DISMISS, responds as follows:

The pleadings speak for themselves. Claimant does contradict himself in many instances. A comparative reading of the statement Claimant made on the date of this incident, which is reasonably believed to be the most accurate due to time and proximity to the occurrence, and the complaint, which months after the incident has been written for litigation purposes, will show that Claimant's embellishment of both facts and injuries to justify the claim. A reading of the statements taken on the date of the incident by the Claimant, the two witnesses, and the incident report by Mrs. Waters will show that no policy was violated, Claimant did not alert Ms. Waters to an altercation, Claimant bumped into Lindsey prior to the incident, Claimant and Lindsey were given an opportunity to resolve the issue or leave the kitchen, Claimant had a superficial abrasion (not even a cut) on his hand, Claimant submitted no sick calls thereafter for this scrape, and Mrs. Waters responded appropriately to the fight by waiting for other officers to arrive.

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

ARKANSAS STATE
CLAIMS COMMISSION

DEC 17 2012

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CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been served this 13 day of December, 2012, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

KENDRICK STORY (ADC#109934)

RLW Unit

7206 West 7th

Pine Bluff, AR 71602



LISA MILLS WILKINS Ark. Bar #87190

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 15,000.00

Claim No. 13-0328-CC

<u>Kendrick Story, #109934</u>	Claimant	<u>Attorneys</u>	<u>Pro se</u>	Claimant
vs.				
<u>Department of Correction</u>	Respondent	<u>Lisa Wilkins, Attorney</u>		Respondent
<u>State of Arkansas</u>				
<u>Date Filed</u> <u>October 22, 2012</u>		<u>Type of Claim</u>	<u>Personal Injury/Failure to Follow Procedure & Negligence</u>	

FINDING OF FACTS

The Claims Commission hereby unanimously denies and dismisses the Respondent's "Motion to Dismiss." Therefore, this claim will be set for hearing and all parties notified accordingly.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

The Claims Commission hereby unanimously denies and dismisses the Respondent's "Motion to Dismiss." Therefore, this claim will be set for hearing and all parties notified accordingly.

Date of Hearing December 13, 2012

Date of Disposition December 13, 2012

[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.

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 15,000.00

Claim No. 13-0328-CC

Kendrick Story #109934 Claimant

Attorneys
Pro se Claimant

vs.

AR Department of Corrections Respondent

Lisa Wilkins, Attorney Respondent

State of Arkansas

Date Filed October 22, 2012

Type of Claim Personal injury, Negligence

FINDING OF FACTS

This claim was filed for personal injury and negligence in the amount of \$15,000.00 against Arkansas Department of Corrections.

Present at a hearing March 8, 2013 was the Claimant, pro se, and the Respondent, represented by Lisa Wilkins, Attorney.

The Claims Commission hereby unanimously denies and dismisses this claim for Claimant's failure to prove by a preponderance of the evidence any negligence on the part of the Respondent.

Therefore, this claim is hereby unanimously dismissed.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

Upon consideration of all the facts, as stated above, the Claims Commission unanimously denied and dismissed this claim for Claimant's failure to prove by a preponderance of the evidence any negligence on the part of the Respondent.

Date of Hearing March 8, 2013

Date of Disposition March 8, 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.

Before The Arkansas State Claims Commission

Arkansas Claims Commission

MAR 20 2013

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Hendrick Story # 109934

Claimant

Vs.

Claim No. 13-0328-CC

Department Of Correction

Respondents

Motion For Reconsideration

According to A.C.A. § 19-10-211 & Act # 33

Comes now the claimant and his motion for reconsideration on the State Claim Commission Decision States as follows:

On October 22, 2012 the claimant filed a complaint against the (ADC) for personal injury, Failure to Follow procedure and Negligence and on December 13, 2012 the claims commission held a hearing on my claim and unanimously denied and dismissed the Respondent's Motion to dismiss and set this claim for a hearing. On February 22, 2013 the Claims Commission set a date for the claimant to be at the Claims Commission's Hearing Room, located at 101 East Capitol Avenue, Suite 410 at this time the claimant case was heard by the Claims Commission.

(1)

The respondents admitted to giving the inmate the Dough Knife that was used to assault me with, they even admitted that the Dough Knife was not secured down, they also admitted that the inmate was using the Dough Knife to stab open the juice cans they even admitted that the Dough Knife was changed to a class A tool after the assault on me in the Kitchen. She also admitted to removing herself from the area while the assault was taken place.

Which clearly shows a violation of Negligence as well as Failure to Follow Procedure's it was Negligence because she gave the inmate the "Dough Knife" that was used to assault me and she wasn't their watching the inmate while he had a weapon that was not secured down it was also Negligence on her part because she admitted to removing her-self from the area while the assault was going on. They also failed to follow procedures because she did not "Assist Me" while I was being assaulted after I told her that the inmate was trying to start a altercation with me this was a clear violation of AR 225 § 10-19, 10-32 which states that An employee shall come to the assistance of another employee and or person in any situation, including but not limited to Aiding someone who is being assaulted.

which I stated at my hearing on March 8, 2013, they failed to follow procedures when she admitted to giving a inmate a "Dough Knife" to stab open cans of juice that was not secured down or being watched by the Kitchen supervisor which he used on me and caused me injuries to my right hand which I produced to the claims Commission at the hearing also along with the investigating officer "005" from Lt. Atkins states that I was cut with the Dough Knife and in self defense I tried to defend myself. I was also denied my "Due process right" to cross-examine the respondent Deputy Warden "John Lowe" he also failed to follow procedures as well he clearly violated the AR 407 Safety and Sanitation because he is assigned to supervise these areas:

Sanitation of living quarters, Segregation units, isolation and Food Service and by him not implementing and enforcing the safety and well-being of the inmates in his or her area of responsibility is grounds for disciplinary action because he should have made sure that his Kitchen supervisor was not giving inmate Dough Knives to stab open juice cans and once a inmate told her about a altercation she was suppose to follow the proper procedure and move the inmates away from each other which she did not do which lead to me getting assaulted with a weapon that was not secured down on March 8, 2013 the state claims commission did not give me a fair hearing on my claims and I was also denied my "Due process Right" and I was ruled unanimously against and my claims was dismissed but the claims commission only addressed the Claims of "Personal Injury", "Negligence" they never addressed the claim of "Failure to Follow procedure".

On the state claims Commission Docket opinion dated 12/13/12 the type of claims clearly states personal injury, Failure to follow procedure and Negligence but on the state Claims Commission Docket Opinion dated 3/8/13 the type of Claims clearly states personal injury, Negligence my claim for Failure to follow procedure was not added as part of my claim but the Claims Commission has dismissed my claim. By me not being able to cross-examine the respondent Deputy Warden John Lowe, and by the Claims Commission disregarding my Failure to follow procedure claim dose violate my "Due Process Right" because I was not giving a fair hearing nor was I giving a fair judgment on my claims. For the reasons stated I the Claimant prays that the state Claims Commission will reconsider their decision that was made on March 8, 2013 before it's turned over to the "Arkansas General Assembly" this motion is written in good faith and it's not for any delay purpose,

Respectfully submitted,
Hendrick Story #109934
Randall L. Williams Unit
7206 W. 7th
Pine Bluff, AR
71603

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 15,000.00

Claim No. 13-0328-CC

Kendrick Story, #109934 Claimant
vs.

Attorneys
Pro se Claimant

Department of Correction Respondent
State of Arkansas

Lisa Wilkins, Attorney Respondent

Date Filed October 22, 2012

Type of Claim Personal Injury, Failure to Follow
Procedure, Pain & Negligence

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 March 7, 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 March 7, 2013, order remains in effect.

Date of Hearing April 11, 2013

Date of Disposition April 11, 2013

Richard J. Marx
Chairman

[Signature]
Commissioner

Bill Lantz
Commissioner

**Appeal of any final Claims Commission decision is only to the Arkansas General Assembly as provided by Act #33 of 1997 and as found in Arkansas Code Annotated §19-10-211.

Before the Arkansas State Claims Commission

Hendrick Story #109934

Claim NO 13-0328-CC

Claimant

Vs.

Arkansas Department of Correction

Respondent

Notice Of Appeal of The Decision
To The General Assembly

ARKANSAS STATE
CLAIMS COMMISSION
APR 16 2013
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Comes now, the claimant and his (Notice of Appeal)
States as follows:

On October 22, 2012 the claimant filed a complaint against the (ADC) for personal Injury, Failure to follow procedure and Negligence, the commission proceeded with the claimant complaint and set it for a hearing March 8, 2013 at the commission hearing from at this time the claimant produced pictures of the injuries that he received from the assault with a weapon that happened in the kitchen of the Randall L. Williams Unit. The Kitchen Supervisor Emma Wader's even admitted that she gave the other inmate a (dough knife), to stab open cans of juice which is (Failure to follow procedure) because dough knife should not be used to stab open cans of juice I am sure there is a can opener for that.

(1)

The respondent Emma Waters also admitted to knowing about this so called misunderstanding prior to the assault, her reply was to leave it alone or go to the barracks which was a clear sign of Negligence because she should have moved the inmate out of my work area but she did not which lead to me getting cut across my right hand with the dough knife. Ms. Waters knew the inmate had the dough knife because she is the one who gave it to him to stab cans of juice with so if it will cut through a steel can it will cut through flesh as well. Ms. Emma Waters walked into the office and that's when the inmate attacked me, he hit me in my face then swung at me with dough knife cutting me across my right hand leaving a gash in it and my right hand was also swollen do to being assaulted and when she saw me getting assaulted she removed her-self from the area which she also admitted to at the hearing as well and she also admitted to it on my response from the warden on my grievance. The warden even admitted to me being assaulted by the other inmate but still found my grievance without merit which is also Negligence and failure to follow procedure. I tried to cross examine Deputy Warden John Lowe first and was denied and I never got the chance to show how Deputy Warden John Lowe failed to follow procedure (AR 407) clearly show that he was the one to ensure that safety and sanitation policies and procedures are implemented and enforced in his/her area of responsibility is grounds for disciplinary action. (AR 407) puts the deputy warden John Lowe over these areas: Sanitation of living quarters, Segregation Units, Isolation and Food Service Ms. Emma Waters also violated (AR 225 § 10-19; 10-32) which states An Employee shall come to the assistance of another employee and or (person) in any situation, including but not limited to aiding someone who is being assaulted she admitted several times removing her-self from the area knowing that a weapon was being used she also did not act professionally which also violates (AR 225 § 10-19; 10-32) when she admitted to giving the inmate a (dough knife) to stab open cans.

On the State Claims Commission docket opinion dated December 2012 the type of claims that the claimant had was personal injury, failure to follow procedure and Negligence. On the State Claims Commission docket opinion dated March 8, 2013 the type of claims was personal injury Negligence, my failure to follow procedure claim was not addressed and the commission dismissed my complaint which was a Due process violation and I done a motion for reconsideration and showed the commission that the failure to follow procedure claim was not addressed and the commission denied my motion for reconsideration for the claimant's failure to offer evidence that was not previously available which was not true. I did not know that my failure to follow procedure claim was not addressed until I got the order back from the commission on March 14, 2013. The commission then sent me another State Claims Commission docket opinion dated April 11, 2013 and the claimant failure to follow procedure claim was added back on but still was not being addressed they even added a claim that was not a part of my complaint at the beginning which was (pain) and they did not address that one either. I've showed a clear sign of Negligence on the respondents behalf and I've also showed how the respondents failed to follow procedure, I produced the Claims Commission copies of the injuries that I received proving my personal injury claim as well I sent the commission copies of the "OOB's" from Ms. Water and the investigating officer Lt. C. Atkins who also stated that I was assaulted with the dough knife his statement also states that the other inmate had been verbally assaulting me before it turned into a physical altercation and nothing was being done (Failure to Act) is Negligence Ms. Emma Water's was fully aware of what was going on but she still disregarded it which lead to me getting cut with a knife that she admitted to giving the inmate to stab open cans of juice. She also admitted at the hearing on March 8, 2013 that the dough knife was a class B tool, but after the assault on me in the kitchen on (7-9-12) the class was changed to a class A tool which means that it will cause serious harm if you get assaulted with it.

For the reasons set forth I the claimant prays that the General Assembly will please bless me with the relief that I need, Emma White has admitted to everything in my complaint on paper and at the hearing as well and I pray that the General Assembly will bless me with the relief that you deemed just fair and proper for the commission not addressing the claimant failure to follow procedure claim before they dismissed my complaint the records will show that I am telling the truth about it. On the state claims commission docket opinion dated April 11, 2013 the claims commission stated that their order from March 7, 2013 remains in effect how is that possible I did not go to court until March 8, 2013.

Respectfully submitted,
Kendrick Story #109934
Randall L. Williams Unit
7206 W. 7th
Pine Bluff, Ar
71603