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Please print in ink or type

State Claims Commission

JAN 13 2014

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BEFORE THE STATE CLAIMS COMMISSION  
Of the State of Arkansas

RECEIVED

- Mr.
- Mrs.
- Ms.
- Miss

Richard Davis, #089568, Claimant

vs.

State of Arkansas, Respondent  
Dept. of Correction

Do Not Write in These Spaces		
Claim No.	14-0538-CC	
Date Filed	January 13, 2014	
	(Month)	(Day) (Year)
Amount of Claim \$	8100.00	
Fund	DOC	

COMPLAINT Failure to Follow Procedure

Richard Davis, #089568, the above named Claimant, of POB 600, Grady, AR 71644  
(Name) (Street or R.F.D. & No.) (City)

(State) (Zip Code) (Daytime Phone No.) County of \_\_\_\_\_ represented by \_\_\_\_\_  
(Legal Counsel, if any, for Claim)

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

State agency involved: ARKANSAS DEPT OF CORRECTIONS Amount sought: \$8,100.00

Month, day, year and place of incident or service: AUG 2011 TO JUNE 2013 VARNER SUPERMAX

Explanation: CLAIMANT RICHARD DAVIS, AN INMATE INCARCERATED IN THE VARNER SUPERMAX UNIT OF THE ARKANSAS DEPARTMENT OF CORRECTIONS, CHALLENGES THE RESPONDENT'S FAILURE TO FOLLOW IT DOWN PROCEDURES IN CONDUCTING HIS WARDEN'S REVIEW AFTER ONE YEAR IN ADMINISTRATIVE SEPARATION/PUNITIVE ISOLATION. THE CLAIMANT ALSO CHALLENGES TWO (2) MAJOR DISCIPLINARY PROCEDURES WHEREBY HE ALLEGES THAT RESPONDENT MEINZER FILED AN DISCIPLINARY REPORT AGAINST HIM IN RETALIATION AGAINST HIM FOR FILING 42 U.S.C § 1983 COMPLAINT; AND FOR PLACING HIM ON PREA INVESTIGATION AND CHARGING HIM WITH AN DISCIPLINARY REPORT WRITTEN BY RESPONDENT BANKSTON THAT WAS NOT SUPPORT BY CORROBORATING EVIDENCE IN VIOLATION OF DEPARTMENT OF CORRECTIONS CLEARLY ESTABLISHED PROCEDURES. AS A RESULT OF THE RESPONDENT'S FAILURES, THE CLAIMANT SUFFERED A EXTENDED STAY IN ADMINISTRATIVE SEPARATION, AND AS A RESULT OF BEING FOUND GUILTY OF THE TWO MAJOR DISCIPLINARY VIOLATIONS HE WAS SENTENCED TO 600 TIME REDUCTION FROM CLASS 1C TO CLASS IV, 60 DAY PUNITIVE ISOLATION AND 60 DAYS LOSS OF PRIVILEGES.

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? \_\_\_\_\_  
(Yes or No) (Month) (Day) (Year) (Department)

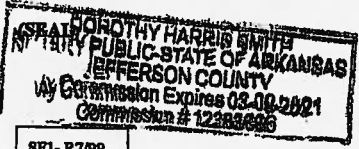
and that \$ \_\_\_\_\_ was paid thereon: (2) Has any third person or corporation an interest in this claim? \_\_\_\_\_; if so, state name and address \_\_\_\_\_

and that the nature thereof is as follows: \_\_\_\_\_ (Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)  
\_\_\_\_\_ 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.

RICHARD DAVIS (Print Claimant/Representative Name) Richard Davis (Signature of Claimant/Representative)

SWORN TO and subscribed before me at GRADY, ARKANSAS 71644 (City) (State)



on this 2nd day of January, 2014 (Date) (Month) (Year)

Windy Whinn (Notary Public) My Commission Expires: 3 (Month) 9 (Day) 21 (Year)

SF1- R7/99

BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS

RICHARD DAVIS  
ADC#089568

CLAIMANT

vs. No. \_\_\_\_\_

STATE OF ARKANSAS,  
DEPARTMENT OF CORRECTIONS

RESPONDENT

COMPLAINT

THIS IS A CIVIL ACTION FILED BY RICHARD DAVIS, ADC#089568, AN STATE INMATE INCARCERATED AT THE VARNER SUPERMAX UNIT OF THE ARKANSAS DEPARTMENT OF CORRECTIONS, FOR DAMAGES UNDER ARKANSAS CODE ANNOTATED §19-10-201 ET. SER., ALLEGING THE DENIAL OF A WARDEN'S REVIEW AFTER ONE YEAR IN ADMINISTRATIVE SEGREGATION / PUNITIVE ISOLATION IN VIOLATION OF ADMINISTRATIVE DIRECTIVE # 11-42 AND THAT DISCIPLINARY CHARGES WERE FILED AGAINST HIM IN RETALIATION FOR FILING 42 U.S.C. §1983 COMPLAINT AND THAT HE WAS WRITTEN

A DISCIPLINARY THAT WAS NOT SUPPORTED BY SOME EVIDENCE OF CORROBORATING INFORMATION IN VIOLATION OF ADMINISTRATIVE DIRECTIVE #13-10.

### PARTIES

1. THE CLAIMANT RICHARD DAVIS WAS INCARCERATED AT THE VARNER SUPERMAX UNIT DURING THE EVENTS DESCRIBED IN THIS COMPLAINT.
2. THE RESPONDENT JAMES BANKS WAS THE WARDEN OF THE VARNER SUPERMAX UNIT AND RESPONSIBLE FOR CONDUCTING WARDEN'S REVIEW OF ALL INMATES ASSIGNED TO ADMINISTRATIVE SEGREGATION DURING THE EVENTS DESCRIBED IN THIS COMPLAINT.
3. THE RESPONDENT CURTIS MEINZER WAS THE DEPUTY WARDEN FOR ADMINISTRATIVE SEGREGATION OF THE VARNER SUPERMAX UNIT AND THE CHAIRMAN OF THE VSM CLASSIFICATION COMMITTEE DURING THE EVENTS DESCRIBED IN THIS COMPLAINT.
4. THE RESPONDENT WILLIE BANKSTON IS A CORRECTIONAL LIEUTENANT AT THE VARNER UNIT AND WAS RESPONSIBLE FOR CONDUCTING A PREA INVESTIGATION AGAINST THE CLAIMANT DURING THE EVENTS DESCRIBED IN THIS COMPLAINT.

## JURISDICTION

5. THE ARKANSAS STATE CLAIMS COMMISSION HAS JURISDICTION OVER THE CLAIMANT'S CLAIM OF VIOLATIONS OF DEPARTMENT OF CORRECTION POLICY UNDER A.C.A. § 19-10-204.

## FACTS

6. ON AUGUST 31, 2011, THE CLAIMANT WAS ASSIGNED TO ADMINISTRATIVE SEGREGATION / PUNITIVE ISOLATION BY THE VSM CLASSIFICATION COMMITTEE.

ON AUGUST 31, 2012, THE CLAIMANT REMAINED IN SEGREGATION FOR ONE YEAR.

7. ON SEPTEMBER 21, 2012, THE CLAIMANT WAS SCHEDULED TO APPEAR BEFORE THE VSM CLASSIFICATION COMMITTEE FOR A WARDEN'S REVIEW.

8. ON OCTOBER 9, 2012, THE UNITED STATES MARSHALS SERVICE PROCESSED A SUMMONS AND COMPLAINT AGAINST RESPONDENT CURTIS MEINZER, IN A 42 U.S.C. § 1983 COMPLAINT FILED BY THE CLAIMANT.

9. ON OCTOBER 9, 2012, THE CLAIMANT APPEARED BEFORE THE VSM CLASSIFICATION COMMITTEE. ALL THE COMMITTEE MEMBERS VOTED FOR THE CLAIMANT TO REMAIN IN SEGREGATION, THE DECISION WAS APPROVED BY THE WARDEN ON 10.9.12,

10. ON OCTOBER 15, 2012, THE CLAIMANT RECEIVED A MAJOR DISCIPLINARY WRITTEN BY RESPONDENT CURTIS MEINZER, ALLEGING THAT ON OCT. 9, 2012, THE CLAIMANT REFUSED HIS DIRECT ORDER TO GO TO GENERAL POPULATION.

11. ON MAY 15, 2013, THE CLAIMANT WAS MOVED FROM GENERAL POPULATION AND PLACED ON PREA INVESTIGATION AND HOUSED AT THE VARNER SUPERMAX UNIT.

12. ON JUNE 11, 2013, THE CLAIMANT RECEIVED A MAJOR DISCIPLINARY WRITTEN BY RESPONDENT WILLIE BANKSTON, ALLEGING THAT ON MAY 15, 2013, THE CLAIMANT WAS EXPOSING HIS PENIS AND MASTURBATING IN FRONT OF ANOTHER INMATE.

13. ON JULY 10, 2013, THE CLAIMANT WAS ASSIGNED TO ADMINISTRATIVE SEGREGATION AS A RESULT OF HIS GUILTY INDECENT EXPOSURE DISCIPLINARY ACTION.

#### DENIAL OF WARDEN'S REVIEW

14. ON AUGUST 31, 2011, THE VSM CLASSIFICATION COMMITTEE ASSIGNED THE CLAIMANT TO ADMINISTRATIVE SEGREGATION / PUNITIVE FOR NOT SHAVING AND GOING TO WORK, AND FOR REFUSING TO FOLLOW ANY DIRECT ORDER GIVEN BY STAFF.

15. PERIODICALLY BETWEEN NOV. 2011 TO AUG. 2012, THE CLAIMANT APPEARED BEFORE THE VSM CLASSIFICATION COMMITTEE APPROXIMATELY EVERY 60 DAYS FOR REVIEW OF HIS STATUS. THE COMMITTEE MEMBERS ALL VOTED FOR HIM TO REMAIN IN SEGREGATION.

16. ON AUGUST 31, 2012, THE CLAIMANT COMPLETED ONE YEAR ASSIGNED IN SEGREGATION/ISOLATION.

17. PURSUANT TO DEPARTMENT OF CORRECTION PROCEDURE, THE CLAIMANT FILED AN FORMAL GRIEVANCE(S), POINTING OUT THAT HE HAS REMAINING IN SEGREGATION FOR ONE YEAR WITHOUT A WARDEN'S REVIEW IN VIOLATION OF ADMINISTRATIVE DIRECTIVE # 11-42, WHICH STATES IN PART: "NO INMATE SHALL REMAIN IN A SEGREGATION CLASSIFICATION FOR MORE THAN ONE YEAR UNLESS HE HAS BEEN PERSONALLY INTERVIEWED BY THE WARDEN AT THE END OF ONE YEAR AND SUCH ACTION IS APPROVED BY HIM." THE DEPUTY DIRECTOR DENIED THE APPEAL(S).

18. ON SEPTEMBER 21, 2012, THE CLAIMANT WAS SCHEDULED FOR A WARDEN'S REVIEW BUT ELECTED TO WAIVE HIS APPEARANCE BEFORE THE VSM CLASSIFICATION COMMITTEE. ALL COMMITTEE MEMBERS VOTED FOR THE CLAIMANT TO REMAIN IN SEGREGATION.

## RETALIATORY DISCIPLINARY

19. ON SEPTEMBER 24, 2012, THE CLAIMANT RICHARD DAVIS, FILED A PRO SE COMPLAINT UNDER 42 U.S.C. § 1983, AGAINST RESPONDENT CURTIS MEINZER AND OTHER PRISON OFFICIALS FOR VIOLATION OF HIS EIGHTH AMENDMENT RIGHTS. SEE: DAVIS v. HOBBS, 2012 WL 4897858 (E.D. ARK.).

20. ON OCTOBER 9, 2012, THE CLAIMANT APPEARED BEFORE THE VSM CLASSIFICATION COMMITTEE. RESPONDENT MEINZER IS THE CHAIRMAN OF THE COMMITTEE. THE COMMITTEE REFUSED TO RELEASE THE CLAIMANT TO GENERAL POPULATION. AFTER A VOTE, ALL THE COMMITTEE MEMBERS VOTED FOR THE CLAIMANT TO REMAIN IN SECREATION.

21. ON OCTOBER 9, 2012, THE UNITED STATES MARSHALS SERVICE PROCESSED THE CLAIMANT'S SUMMONS AND COMPLAINT AGAINST RESPONDENT MEINZER AND OTHER PRISON OFFICIALS.

22. ON OCTOBER 15, 2012, CORRECTIONAL OFFICER SEDRIK FRANKLIN SERVED THE CLAIMANT WITH A MAJOR DISCIPLINARY WRITTEN BY RESPONDENT MEINZER, ALLEGING THAT ON OCT. 9, 2012, THAT THE CLAIMANT REFUSED HIS DIRECT ORDER TO GO TO GENERAL POPULATION.

23. PURSUANT TO THE ARKANSAS DEPARTMENT OF CORRECTIONS EMPLOYEE CONDUCT STANDARDS AND DISCIPLINE UNDER ADMINISTRATIVE DIRECTIVE #12-33, EMPLOYEES ARE PROHIBITED FROM, "RETALIATION AGAINST INMATES WHO HAVE FILED LAWSUITS."

24. ON OCTOBER 17, 2012, THE CLAIMANT RECEIVED A DISCIPLINARY HEARING BEFORE KEITH WADDLE.

25. THE DISCIPLINARY REPORT READS IN PART: "AT THE END OF THE CLASSIFICATION HEARING THE DECISION WAS MADE BY THE COMMITTEE THAT HE WAS GOING TO BE RELEASED TO GENERAL POPULATION AND I GAVE HIM A DIRECT ORDER TO RETURN TO GENERAL POPULATION. HE REFUSED MY DIRECT ORDER TO GO TO GENERAL POPULATION STATING THAT HE WOULD NOT GO." THE CLAIMANT PLEADED NOT GUILTY, AND STATED TO THE COURT: "I DID NOT REFUSE TO GO TO POPULATION. IT WAS VOTED FOR ME TO REMAIN IN SEGREGATION." THE HEARING OFFICER KEITH WADDLE REFUSED TO EXCEPT THE CLAIMANT'S STATEMENT OF WITNESS POINTING OUT THAT ON THE CLAIMANT'S SEGREGATION REVIEW FORM STATED: "I DO THINK I'M GOING TO POPULATION."

26. AFTER THE HEARING, THE CLAIMANT RECEIVED A WRITTEN DISPOSITION SIGNED BY KEITH WADDLE STATING, "GUILTY OF DISOBEYING AN ORDER TO GO TO GENERAL POPULATION." THE CLAIMANT DAVIS WAS REDUCED TO GOOD TIME CLASS III, AND SENTENCED TO SERVE 30 DAYS PUNITIVE ISOLATION.

27. PURSUANT TO ARKANSAS DEPARTMENT OF CORRECTIONS PROCEDURE THE CLAIMANT FILED AN MAJOR DISCIPLINARY APPEAL WITH RESPONDENT BANKS, POINTING OUT THAT THE DISCIPLINARY REPORT WAS FILED IN RETALIATION AGAINST THE CLAIMANT FOR FILING LAWSUIT.

28. ON NOVEMBER 15, 2012, THE RESPONDENT BANKS AFFIRMED THE DECISION OF THE HEARING OFFICER STATING, "I FIND NO REASON TO MODIFY OR REVERSE THE PUNISHMENT."

29. ON JANUARY 4, 2013, THE DISCIPLINARY HEARING ADMINISTRATOR RAYMOND NAYLOR AFFIRMED THE DECISION OF THE MAJOR DISCIPLINARY HEARING OFFICER.

30. ON FEBRUARY 7, 2013, THE DIRECTOR RAY HOBBS DENIED THE CLAIMANT'S APPEAL STATING, "I FIND NO EVIDENCE TO SUPPORT MODIFICATION OR REVERSAL OF THIS DISCIPLINARY."

31. ON MAY 15, 2013, THE CLAIMANT DAVIS WAS TRANSFERRED TO THE VARNER SUPERMAX UNIT, AND PLACED ON ADMINISTRATIVE SEGREGATION PENDING A PREA INVESTIGATION, FOR THE FOLLOWING REASON: "THREAT TO THE SECURITY AND GOOD ORDER OF THE INSTITUTION."

32. ON JUNE 11, 2013, INMATE DAVID LYNN McEVEN ADC# 86464, SUBMITTED A STATEMENT OF WITNESS TO RESPONDENT BANKSTON, ALLEGING THAT ON MAY 15, 2013, THAT THE CLAIMANT EXPOSED HIS PENIS WHILE MASTURBATING ON TOP OF HIS RACK.

33. ON JUNE 11, 2013, THE CLAIMANT WAS WRITTEN A MAJOR DISCIPLINARY BY RESPONDENT WILLIE BANKSTON CHARGING THE CLAIMANT WITH, MAKING SEXUAL PROPOSALS TO ANOTHER PERSON, MASTURBATING IN THE PRESENCE OF ANOTHER INMATE, INDECENT EXPOSURE, MAKING SEXUAL THREATS TO ANOTHER PERSON, FAILURE TO OBEY VERBAL AND/OR WRITTEN ORDERS OF STAFF, AND ANY ACT OR ACTS DEFINED AS FELONIES OR MISDEMEANOR BY THE STATE OF ARKANSAS.

34. ON JUNE 26, 2013, THE CLAIMANT DAVIS APPEARED BEFORE THE HEARING OFFICER KEETH WADDLE. THE CLAIMANT PLEADED NOT GUILTY

TO ALL CHARGES, AND WHEN ASKED IF HE HAD A STATEMENT, THE CLAIMANT READ FROM A PREPARED INMATE'S STATEMENT, POINTING OUT THAT THE DISCIPLINARY DID NOT CONTAIN ANY EVIDENCE THAT HE COMMITTED THE CHARGED VIOLATIONS, AND THAT THE ONLY EVIDENCE AVAILABLE WERE THE UNCORROBORATED STATEMENT OF INMATE DAVID LYNN McEVEN, # 86464.

35. AFTER THE HEARING, THE CLAIMANT RECEIVED A WRITTEN DISPOSITION SIGNED BY KEITHA WADDLE STATING, "GUILTY OF MASTURBATING IN THE PRESENCE OF ANOTHER INMATE, INDECENT EXPOSURE, FAILURE TO OBEY VERBAL AND / OR WRITTEN ORDERS OF STAFF, AND ANY ACT OR ACTS DEFINED AS FELONIES OR MISDEMEANOR BY THE STATE OF ARKANSAS." THE CLAIMANT WAS REDUCED FROM GOOD TIME CLASS 1C TO GOOD TIME CLASS IV, 60 DAYS RESTRICTION OF COMMISSARY, PHONE, AND VISITATION, AND SENTENCED TO 30 DAYS PUNITIVE ISOLATION.

36. PURSUANT TO DEPARTMENT OF CORRECTIONS PROCEDURE, "IF THE CHARGING PERSON DOES NOT HAVE FIRSTHAND KNOWLEDGE OF THE EVENT, THE CHARGE MAY BE BROUGHT BASED UPON AN INFORMANT(S); HOWEVER, NO DISCIPLINARY SHALL

BE BASED SOLELY UPON INFORMATION RECEIVED FROM A CONFIDENTIAL INFORMANT(S). THERE MUST BE CORROBORATING EVIDENCE THAT SUPPORTS THE INFORMATION RECEIVED FROM THE CONFIDENTIAL INFORMANT(S) FOR THE DISCIPLINARY TO PROCEED."

37. ON THE DISCIPLINARY HEARING ACTION FORM UNDER "EVIDENCE RELIED UPON", THE OFFICER STATED: "F1 STATES ON THE PM OF 6-11-13, DAVIS DISOBEYED AN ORDER AND BROKE STATE LAW BY EXPOSING HIS PENIS TO ANOTHER INMATE AND MASTURBATING IN FRONT OF ANOTHER INMATE. WITNESS STATEMENT."

38. ON JULY 10, 2013, THE VSM CLASSIFICATION COMMITTEE ASSIGNED THE CLAIMANT TO ADMINISTRATIVE SEGREGATION FOR THE FOLLOWING REASON: "THREAT TO THE SECURITY AND GOOD ORDER OF THE INSTITUTION." UNDER FACTUAL BASIS OF DECISION THE COMMITTEE STATED: "INMATE ASSIGNED TO ADISEG DUE TO GUILTY INDECENT EXPOSURE DISCIPLINARY ACTION."

39. ON JULY 10, 2013, THE CLAIMANT FILED A MAJOR DISCIPLINARY APPEAL REGARDING THE DISCIPLINARY HE RECEIVED ON 6.11.13, BY LT. WILLIE BANKSTON, POINTING OUT THAT THE

DISCIPLINARY REPORT WAS NOT SUPPORTED BY SOME EVIDENCE, AND THAT INMATE MC EUGEN'S WITNESS STATEMENT WAS NOT SUPPORTED BY CORROBORATING EVIDENCE OR TESTIMONY.

40. ON JULY 23, 2013, THE UNIT WARDEN RANDY WATSON AFFIRMED THE DISCIPLINARY HEARING OFFICER'S DECISION STATING: "I FIND NO REASON TO MODIFY OR REVERSE THE PUNISHMENT."

41. ON OCTOBER 7, 2013, THE DISCIPLINARY HEARING ADMINISTRATOR RAYMOND NAYLOR, AFFIRMED THE DECISION OF THE DISCIPLINARY HEARING OFFICER AND THE UNIT WARDEN.

42. ON NOVEMBER 7, 2013, THE DIRECTOR RAY HOBBS DENIED THE APPEAL STATING: "YOU EXPOSED YOURSELF TO ANOTHER INMATE. THEREFORE, I FIND NO EVIDENCE TO SUPPORT MODIFICATION OR REVERSAL OF THIS DISCIPLINARY."

#### CLAIMS FOR RELIEF / CAUSE OF ACTION

43. THE ACTIONS OF RESPONDENT JAMES BANKS IN DENYING THE CLAIMANT DAVIS A WARDEN'S REVIEW AFTER ONE YEAR ASSIGNED TO ADMINISTRATIVE SEGREGATION / PUNITIVE ISOLATION VIOLATED THE DEPARTMENT OF CORRECTIONS ADMINISTRATIVE DIRECTIVE # 11-42.

44. THE ACTIONS OF RESPONDENT CURTIS MEINZER IN FILING A RETALIATORY MAJOR DISCIPLINARY REPORT AGAINST THE CLAIMANT DAVIS WAS DONE IN VIOLATION OF THE ARKANSAS DEPT OF CORRECTIONS ADMINISTRATIVE DIRECTIVE # 12-33.

45. THE ACTIONS OF RESPONDENT WILLIE BANKSTON IN FILING MAJOR DISCIPLINARY REPORT AGAINST THE CLAIMANT DAVIS, THAT WAS NOT SUPPORTED BY CORROBORATING EVIDENCE WAS DONE IN VIOLATION OF THE DEPARTMENT OF CORRECTIONS ADMINISTRATIVE DIRECTIVE # 13-10.

### RELIEF REQUESTED

WHEREFORE, THE CLAIMANT REQUESTS THAT THE CLAIMS COMMISSION GRANT THE FOLLOWING RELIEF:

A. ISSUE A JUDGMENT STATING THAT:

1. RESPONDENT BANKS ACTION IN NOT CONDUCTING THE CLAIMANT'S WARDEN REVIEW AFTER ONE YEAR IS SEGREGATION VIOLATED DEPARTMENT OF CORRECTION POLICY AND PROCEDURE.
2. RESPONDENT CURTIS MEINZER'S ACTION IN RETALIATING AGAINST THE CLAIMANT FOR FILING S1983 LAWSUIT VIOLATED DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE.

3. RESPONDENT WILLIE BANKSTON'S ACTION IN FILING DISCIPLINARY REPORT THAT WAS NOT SUPPORTED BY CORROBORATING EVIDENCE VIOLATED DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE.

B. ISSUE AN ORDER TO:

1. EXPUNGE THE DISCIPLINARY CONVICTION(S) DESCRIBED IN THIS COMPLAINT FROM THE CLAIMANT'S INSTITUTIONAL RECORD.

C. AWARD DAMAGES IN THE FOLLOWING AMOUNTS:

1. \$2,100.00 AGAINST RESPONDENT BANKS.

2. \$3,000.00 AGAINST RESPONDENT MEINZER.

3. \$3,000.00 AGAINST RESPONDENT BANKSTON.

D. GRANT SUCH OTHER RELIEF AS IT MAY APPEAR THAT CLAIMANT IS ENTITLED.

DECEMBER 31, 2013

DATE

RESPECTFULLY SUBMITTED,  
Richard Alan Davis  
RICHARD ALAN DAVIS  
ADL # D89568  
VARNER SUPERMAX UNIT  
P.O. BOX 6000  
GRADY, ARKANSAS  
71644-0000

STATE OF ARKANSAS

COUNTY OF LINCOLN

SUBSCRIBED AND SWORN TO BEFORE ME, A  
NOTARY PUBLIC, ON THIS 2<sup>ND</sup> DAY OF  
January, 2014.

[Signature]  
NOTARY PUBLIC

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY THAT ON THIS 8<sup>TH</sup>  
DAY OF JANUARY, 2014, A COPY OF THE  
FOREGOING COMPLAINT WAS MAILED TO:  
STATE CLAIMS COMMISSION  
101 EAST CAPITOL AVE., SUITE 410  
LITTLE ROCK, ARKANSAS  
72201-3823

[Signature]  
CLAIMANT



Arkansas  
State Claims Commission  
JAN 21 2014

RECEIVED  
CLAIMANT

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

RICHARD DAVIS (ADC 089568)

V. NO. 14-0538-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 17 day of January, 2014, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Richard Davis (ADC 089568)  
Varner Super Max  
PO Box 400  
Grady, AR 71644-0400

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

STATE CLAIMS COMMISSION DOCKET  
OPINION

Amount of Claim \$ 8,100.00

Claim No. 14-0538-CC

Richard Davis #089568 Claimant

Attorneys  
Pro se

Claimant

vs.

AR Department of Corrections  
State of Arkansas Respondent

Lisa Wilkins, Attorney  
Respondent

Date Filed January 13, 2013

Type of Claim Failure to follow procedure

FINDING OF FACTS

This claim was filed for failure to follow procedure in the amount of \$8,100.00 against Arkansas Department of Corrections.

Present at a hearing March 5, 2014 was the Claimant, pro se, and the Respondent, represented by Lisa Wilkins, Attorney.

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

Therefore, this claim is hereby unanimously dismissed.

IT IS SO ORDERED.

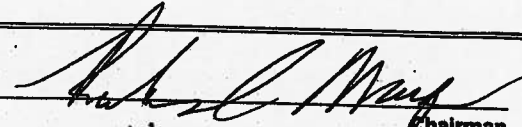
(See Back of Opinion Form)

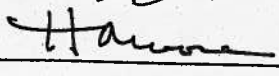
CONCLUSION

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 5, 2014

Date of Disposition March 5, 2014

  
Chairman

  
Commissioner

  
Commissioner

\*\*Appeal of any final Claims Commission decision is only to the Arkansas General Court.

BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS

Arkansas Claims Commission

RICHARD DAVIS,

APR 02 2014

RECEIVED

CLAIMANT

vs.

No. 14-0538-CC

DEPARTMENT OF CORRECTION,

RESPONDENT

PRO SE MOTION FOR RE-HEARING  
AND/OR RECONSIDERATION

NOTICE IS HEREBY GIVEN THAT CLAIMANT RICHARD DAVIS, IS PETITIONING THE COMMISSION FOR A REVIEW OF SAID OPINION DECISION RENDERED ON MARCH 5, 2014, DISMISSING CLAIMANT'S CLAIM.

THAT YOUR CLAIMANT'S APPLICATION FOR RELIEF IS BROUGHT WITHIN FORTY (40) DAYS FROM THE DATE OF THE DISPOSITION,

## GROUND FOR REVIEW

THE COMMISSION DID NOT ALLOW CLAIMANTS WITNESSES TO TESTIFY AT THE HEARING.

PURSUANT TO THE ARKANSAS STATE CLAIMS COMMISSION RULES AND REGULATIONS THAT ARE ADOPTED IN ACCORDANCE WITH ACT 462 OF 1949 AS AMENDED AND ARKANSAS STATUTES ANNOTATED §19-7D-201 ET SEQ., REQUIRES THAT: "NO WITNESS WILL BE ALLOWED TO TESTIFY UNLESS A LIST OF THE NAMES OF ANY AND ALL WITNESSES IS FURNISHED TO THE CLAIMS COMMISSION OFFICE AND THE OPPOSING PARTY OR PARTIES SEVEN (7) DAYS PRIOR TO THE SCHEDULED HEARING OF A CLAIM, WITHOUT LEAVE OF THE COMMISSION AND UPON SHOWING OF GOOD CAUSE."

ON FEBRUARY 19, 2014, PURSUANT TO ESTABLISHED PROCEDURE, THE CLAIMANT FILED WITH THE DIRECTOR OF THE ARKANSAS STATE CLAIMS COMMISSION A LIST OF HIS WITNESSES,

ON FEBRUARY 19, 2014, THE DIRECTOR MAILED THE CLAIMANT A COPY OF A LETTER ADDRESSED TO RESPONDENT'S ATTORNEY, REQUESTING THAT

MS. FLORIA WASHINGTON, LT. WILLIE BANKSTON JR., MAJOR K. BOLDEN, JIM SMITH, AND KEITH L. WADDLE BE AVAILABLE AS WITNESSES FOR THE SCHEDULED HEARING ON WEDNESDAY, MARCH 5, 2014. (SEE ATTACHED EXHIBIT A).

ON FEBRUARY 26, 2014, THE CLAIMANT FILED WITH THE DIRECTOR OF THE ARKANSAS STATE CLAIMS COMMISSION A SECOND WITNESS LIST ADDING RESPONDENTS JAMES BANKS AND CURTIS MEINZER.

ON FEBRUARY 26, 2014, THE DIRECTOR MAILED THE CLAIMANT A COPY OF A LETTER ADDRESSED TO THE RESPONDENTS' ATTORNEY, REQUESTING THAT MR. JAMES BANKS AND MR. CURTIS MEINZER IS TO BE AVAILABLE AS WITNESSES FOR THE SCHEDULED HEARING ON WEDNESDAY, MARCH 5, 2014. (SEE ATTACHED EXHIBIT B).

THE CLAIMANT CONTENDS THAT THE DIRECTOR AND/OR MEMBERS OF THE ARKANSAS STATE CLAIM COMMISSION VIOLATED STATE LAWS BY FAILING TO ISSUE SUBPOENAS REQUIRING THE REQUESTED WITNESSES BE PRESENT BEFORE THE

COMMISSION TO GIVE TESTIMONY.

THE CLAIMANT'S WITNESSES WASHINGTON, BANKS, MEINZER, BOLDEN, AND BANKSTON WERE NOT PRESENT AT THE SCHEDULED HEARING BEFORE THE COMMISSION OF WEDNESDAY, MARCH 5, 2014.

THE CLAIMANT CONTENDS THAT THIS OMISSION HINDERED HIS ABILITY TO PROVE HIS CLAIM BY THE PREPONDERANCE OF THE EVIDENCE AND TO PROVE NEGLIGENCE ON THE PART OF THE RESPONDENTS DUE IN LARGE PART THAT HE WAS NOT PERMITTED TO EXAMINE THE WITNESSES ON DIRECT EXAMINATION WHILE UNDER OATH.

ARKANSAS CODE ANNOTATED § 19-10-207(A), AUTHORIZES THE DIRECTOR OF THE ARKANSAS STATE CLAIMS COMMISSION OR ANY MEMBER OF THE ARKANSAS STATE CLAIMS COMMISSION TO SUBPOENA WITNESSES RELEVANT TO ANY PROCEEDING BEFORE THE COMMISSION.

THE CLAIMANT REQUESTS THAT THE COMMISSION ISSUE SUBPOENAS PURSUANT TO § 19-10-207(A), TO ENSURE THAT CLAIMANT'S WITNESSES BE PRESENT BEFORE THE COMMISSION TO GIVE

TESTIMONY UNDER OATH.

THE CLAIMANT CONTENDS THAT HIS HEARING WAS NOT CONDUCTED IN ACCORDANCE WITH A.C.A. §19-10-210 (b)(1). UNDER STATE LAWS, THE COMMISSION IS TO CONDUCT (ALL) HEARING IN A FAIR AND IMPARTIAL MANNER, GIVING THE PARTIES FULL OPPORTUNITY FOR PRESENTATION OF EVIDENCE, CROSS-EXAMINATION OF WITNESSES, AND ARGUMENT.

THE CLAIMANT CONTENDS THAT HIS HEARING WAS NOT FAIR AND IMPARTIAL, AND THAT HE WAS DEPRIVED OF THE RIGHT OF CROSS-EXAMINATION OF WITNESSES IN VIOLATION OF THE ABOVE MENTIONED STATUTE.

PURSUANT TO A.C.A. §19-10-211 (B)(2), THE CLAIMANT REQUESTS THAT THE COMMISSION RECONSIDER THE DECISION RENDERED, AND TO GRANT HIS MOTION,

RESPECTFULLY SUBMITTED,  
Richard Alan Davis  
P.O. Box 600  
GRADY, AR 71644-0600

## CERTIFICATE OF SERVICE

I CERTIFY THAT A COPY OF THE MOTION FOR RE-HEARING AND/OR RECONSIDERATION HAS BEEN SERVED THIS 31 DAY OF MARCH, 2014, TO THE DIRECTOR OF THE ARKANSAS STATE CLAIMS COMMISSION BY PLACING A COPY OF THE SAME IN THE U.S. MAIL, REGULAR POSTAGE TO:  
CLAIMS COMMISSION  
ATTN: NORMAN HODGES, JR.  
101 EAST CAPITOL AVENUE, SUITE 410  
LITTLE ROCK, AR 72201-3823

Richard Davis #89568  
CLAIMANT

CC: LISA MILLS WILKINS  
ATTORNEY SUPERVISOR  
P.O. BOX 8707  
PINE BLUFF, AR 71601

# ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619  
FAX (501) 682-2823



NORMAN L. HODGES, JR.  
DIRECTOR

101 EAST CAPITOL AVENUE  
SUITE 410  
LITTLE ROCK, AR 72201-3823

VIA FAX

February 19, 2014

Ms. Lisa Wilkins, Attorney  
Department of Correction  
P. O. Box 8707  
Pine Bluff, AR 71611

Re: Richard Davis  
Claim #14-0538-CC  
Vs.  
Dept. of Correction

Dear Ms. Wilkins:

Please make available the witnesses listed on the attached correspondence received today from Mr. Richard Davis regarding the above-styled claim for the hearing scheduled, Wednesday, March 5, 2014.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "N. L. Hodges, Jr.", written in a cursive style.

Norman L. Hodges, Jr.  
Director

NLH/es

cc: Mr. Richard Davis, Claimant  
Mr. Ray Hobbs Director, DOC

EXHIBIT A

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BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS

RICHARD DAVIS,

CLAIMANT

VS.

No. 14-0538-CC

DEPT OF CORRECTION,  
STATE OF ARKANSAS

RESPONDENT'S

Arkansas Claims Commission

FEB 19 2014

RECEIVED

CLAIMANT'S WITNESS LIST

THE CLAIMANT RICHARD DAVIS, REQUESTS THAT THE FOLLOWING NAMED INDIVIDUALS APPEAR BEFORE THE COMMISSION AS WITNESSES IN HIS CLAIM.

1. Ms. FLORIA WASHINGTON, VSM CLASSIFICATION OFFICER, P.O. BOX 600, GRADY, AR 71644-0600.
2. LT. WILLIE C. BANKSTON, JR, VARNER UNIT, P.O. BOX 600, GRADY, AR 71644-0600
3. MAJOR K. BOLDEN, CHIEF SECURITY OFFICER, VARNER UNIT, P.O. BOX 600, GRADY, AR 71644-0600.
4. ADC COMPLIANCE OFFICER, P.O. BOX 20550, PINE BLUFF, AR 71612. ATTN: JIM SMITH.

5. KEITH L. WADDLE, DISCIPLINARY HEARING OFFICER, P.O. BOX 8707, PINE BLUFF, AR 71601.

FEB. 10, 2014

DATE

Richard Davis  
RICHARD DAVES, #89568  
P.O. BOX 600  
GRADY, AR 71644-0600

CC: LISA MILLS WILKENS  
ADC ATTORNEY SUPERVISOR  
P.O. BOX 8707  
PINE BLUFF, AR 71601

FILE

CERTIFICATE OF SERVICE

I CERTIFY THAT A COPY OF THE CLAIMANT'S WITNESS LIST HAS BEEN SERVED THIS 13TH DAY OF FEB. 2014, ON THE BELOW RESPONDENT BY PLACING A COPY OF THE SAME IN THE INSTITUTIONAL TRUCK MAIL.

Richard Davis  
RICHARD DAVES

# ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619  
FAX (501) 682-2823



NORMAN L. HODGES, JR.  
DIRECTOR

101 EAST CAPITOL AVENUE  
SUITE 410  
LITTLE ROCK, AR 72201-3823

VIA FAX

February 26, 2014

Ms. Lisa Wilkins, Attorney  
Department of Correction  
P. O. Box 8707  
Pine Bluff, AR 71611

Re: Richard Davis  
Claim #14-0538-CC  
Vs.  
Dept. of Correction

Dear Ms. Wilkins:

Please make available the witnesses listed on the attached correspondence received today from Mr. Richard Davis regarding the above-styled claim for the hearing scheduled, Wednesday, March 5, 2014.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "N. L. Hodges, Jr.", written over a horizontal line.

Norman L. Hodges, Jr.  
Director

NLH/es

cc: Mr. Richard Davis, Claimant  
Mr. Ray Hobbs Director, DOC

EXHIBIT B

28

BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS

RICHARD DAVIS,

CLAIMANT

VS.

NO. 14-0538-CC

ARKANSAS DEPT' CORRECTION,

RESPONDENT

CLAIMANT'S WITNESS LIST

THE CLAIMANT RICHARD DAVIS, REQUESTS THAT THE BELOW LISTED NAMED INDIVIDUALS APPEAR BEFORE THE CLAIMS COMMISSION ON WEDNESDAY, MARCH 5, 2014, AS WITNESSES IN HIS CLAIM.

1. RESPONDENT JAMES BANKS, AN EMPLOYEE OF THE ARKANSAS DEPT' CORRECTION WHOSE CURRENT PLACE OF EMPLOYMENT IS PRESENTLY UNKNOWN TO CLAIMANT.
2. RESPONDENT CURTIS MELTZER, AN EMPLOYEE OF THE ARKANSAS DEPT' OF CORRECTION WHOSE CURRENT PLACE OF EMPLOYMENT IS PRESENTLY UNKNOWN TO CLAIMANT.

Arkansas  
State Claims Commission

FEB 26 2014

RECEIVED

29

FEB. 22, 2014  
DATE

Richard Davis  
RICHARD DAVIS, #89568  
P.O. Box 600  
GRADY, AR 71644-0600

CERTIFICATE OF SERVICE

I CERTIFY THAT A COPY OF THIS PLEADING  
HAS BEEN SERVED THIS 22 DAY OF FEBRUARY,  
2014, ON THE RESPONDENT BY PLACING A COPY  
OF THE SAME IN THE INSTITUTIONAL TRUCK  
MAIL TO:

LISA MUELS WILKINS, ARK. BAR # 87190  
ATTORNEY SUPERVISOR  
P.O. BOX 8707  
PINE BLUFF, AR 71611

Richard Davis  
RICHARD DAVIS, #89568

Arkansas Claims Commission

APR 02 2014

RECEIVED

STATE CLAIMS COMMISSION DOCKET  
OPINION

Amount of Claim \$ 8,100.00

Claim No. 14-0538-CC

<u>Richard Davis, #089568</u>	Claimant	<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>January 13, 2014</u>	<u>Type of Claim</u>	<u>Failure to Follow Procedure</u>

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 5, 2014, 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 5, 2014, order remains in effect.

Date of Hearing April 10, 2014

Date of Disposition April 10, 2014

H. Moore  
Chairman

Carlman  
Commissioner

Bill James  
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 STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS

RICHARD DAVIS,

CLAIMANT

Arkansas Claims Commission

vs.

No. 14-0538-CC

APR 22 2014

RECEIVED

STATE OF ARKANSAS,

RESPONDENTS

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT RICHARD DAVIS, ADC #089568, APPEALS TO THE GENERAL ASSEMBLY FROM THE FINAL ORDER OF THE STATE CLAIMS COMMISSION, ENTERED ON APRIL 10, 2014.

APPELLANT JURISDICTION

THE APPELLANT JURISDICTION OF THE GENERAL ASSEMBLY IS INVOKED PURSUANT TO ARKANSAS CODE ANNOTATED § 19-10-211.

## DESIGNATION OF RECORD

CLAIMANT/APPELLANT HEREBY DESIGNATES THE ENTIRE RECORD, AND ALL PROCEEDINGS, EXHIBITS, EVIDENCE, AND DOCUMENTS INTRODUCED IN EVIDENCE TO BE CONTAINED IN THE RECORD ON APPEAL.

## CERTIFICATE OF ORDER OR TRANSCRIPT

CLAIMANT/APPELLANT STATES, THAT FOR GOOD CAUSE SHOWN, HE HAS REQUESTED THE CLAIMS COMMISSION TO CAUSE THE TRANSCRIPT OF THE DESIGNATED RECORD OF APPEAL, DEEMED ESSENTIAL, TO BE ORDERED, CERTIFIED, TRANSMITTED TO THE GENERAL ASSEMBLY FOR FILING AND DOCKING.

APRIL 18, 2014

DATE

Richard Davis

CLAIMANT / APPELLANT

RICHARD DAVIS, #89568

P.O. BOX 600

GRADY, AR 71644-0600