

(PAGE ONE)

Please print in ink or type

Arkansas
State Claims Commission

F.04

SEP 08 2022

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

RECEIVED

- ☒ Mr.
☐ Mrs.
☐ Ms.
☐ Miss

Charles Hamner (ADC [REDACTED]), Claimant

VS.

State of Arkansas, Respondent

Arnell Rhinehart, et.al.

Do Not Write in These Spaces

Claim No. _____

Date Filed _____
(Month) (Day) (Year)

Amount of Claim \$ _____

Fund _____

COMPLAINT

Charles Hamner (ADC [REDACTED]), the above named Claimant, of [REDACTED] (City)

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

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

State agency involved: ARK. dept. of CORR. / ARK. COMM. CORR. Amount sought: MAXIMUM Benefits

Month, day, year and place of incident or service: JUNE 30, 2021, ARKANSAS County, Dewitt, AR

Explanation: ON MAY 12, 2021, the claimant signed a unilateral contract agreement with the ARKANSAS COMMUNITY CORRECTIONS division of CORR. provided he waive his Revocation hearing (i.d. at EXHIBIT A) He was eligible to participate in the short term Revocation program and had an acceptable place to live at the expiration of his 90 day sanction in the Arkansas County Jail (i.d. at EXHIBIT B) with no notice of hearing or opportunity to be heard he was removed from the STRP program and sent to serve a sentence in the ARK. dept. of CORR. he agreed was to be suspended on the morning of June 30, 2021, via the ARK. COMM. CORR. He has been forced to serve said illegal sentence since said date and said charges that initiated said parole revocation has since been nolle prossed. said claimant was not sentenced to serve any time in the ARK. dept. of CORR. but has been forced to serve over (14) months now in the state prison system illegally due to a breach of contract. Pursuant to the provisions of clearly established law he can hold the promisor liable for a promise which wasn't fulfilled under ARK. stat. 37-206 and that's his intention

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? N/A ; to whom? N/A (Department)

and that the following action was taken thereon: N/A

and that \$ 0 was paid thereon: (2) Has any third person or corporation an interest in this claim? NONE ; if so, state name and address

(Name) N/A (Street or R.F.D. & No.) (City) (State) (Zip Code)

and that the source of the claim is as follows: NONE ; and was acquired on N/A in the following manner:

N/A

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.

Charles Hamner
(Print Claimant/Representative Name)

Charles Hamner
(Signature of Claimant/Representative)

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

(SEAL) on this 26 day of August 2022 (Date) (Month) (Year)

(Notary Public)

My Commission Expires: 12-15-2026 (Month) (Day) (Year)

(PAGE ONE)

Arkansas
State Claims Commission

SEP 08 2022

RECEIVED

Case: ~~2022-0000000000~~

CHARLES HAMNER / [REDACTED]
[REDACTED]

Dear Commission,

9/6/22

Please be advised I have enclosed (6) copies of my written complaint as well as (6) copies of my exhibits verifying I had a suspended sentence and the respondent's breached said contract. Please file mark a copy and return to me at your earliest convenience. Thank you for your time and help with getting this filed,

Charles Hamner [REDACTED]
[REDACTED]

Reveal said Reason claimant was sent to the Arkansas department of Corrections to serve a sentence the Arkansas Community Corrections promised said claimant was to be suspended for waiving his revocation hearing, i.d. at (Exhibit E). Any time to be served in the ARK. dept. of CORR. was suspended, i.d. at (Exhibit A). Plaintiff was eligible to participate in a short term revocation program in a community correction center, i.d. at (Exhibit B), signed into effect by Arkansas Community Correction Representative ARnell Rhinehart May 12, 2021. What was Allowed to happen to the plaintiff was not only a "breach of contract" on the part of the Arkansas Community Corrections, but was a violation of clearly established law on the behalf of the Arkansas Community Corrections and Arkansas department of Corrections pursuant to the provisions of Arkansas Administrative Rules 159-00-03 AR 1.4 Community Correction Center Criteria and standards (II) Applicability. This policy Applies to offenders being considered for transfer to and residing in community correction centers (CCC), Department of community correction staff, circuit courts, and the post prison transfer Board (PPTB). (III) Policy. It is DCC policy to operate Residential facilities which adhere to established criteria and standards for the effective provision of restoration opportunities for offenders referred to CCC's, and to continuously review Resident progress and recommend early release to the parole Board when program completion criteria is met with primary concern for the safety and welfare of people of the state of Arkansas. Definition. Community Correction Center. A Residential facility encompassing security, services, and programs, designed to promote Rehabilitation of the offender and the deterrence of future criminal behavior and Reduce the need for long-term incarceration. The plaintiff, or claimant in said action, Charles Hamner Adc [REDACTED] met all of

the following (iv) CCC Admission Criteria, and had an acceptable place to live in (90) days once the sanction he was required to serve by the Arkansas Community Corrections was served in the Arkansas County Detention Center, i.d. at (Exhibit B) signed by Arkansas Community Correction Center Representative Arnell Rhinehart MAY 12, 2021. Now pursuant to anything reported to the Post PRISON TRANSFER Board regarding the claimant's failure to maintain good behavior, entitled the claimant to a hearing by the Parole Board to determine non-compliance warranting transfer to the adc prior to removing him from the short term revocation program in ARKANSAS County. However, the plaintiff was never granted a hearing regarding any rule he allegedly violated, nor did he ever waive his right to a hearing concerning anything ever reported about his behavior. Sending him back to serve a suspended sentence in the ARK. dept. of CORR. short of the aforementioned occurring, was a violation of clearly established law, was a breach of contract, and been the sole reason he has served over fifteen months illegally in the ARK. dept. of CORR. AND NO ordinary incident of prison life. The ARK. dept. of CORR. is responsible for accepting the claimant back to serve said illegal sentence, because had they reviewed his paperwork as required during the intake process, i.d. at (Exhibit H) they would have known he had never been granted a hearing as he grieved in (Exhibit W) pgs. 1-2, or given written notice of any rule he allegedly violated at the Arkansas County detention center prior to being removed from the short term revocation program and transferred to the ARK. dept. of CORR. to serve said illegal suspended sentence. Pursuant to the provisions of clearly established law at the time the respondents are found breaching said contract in violation of said law, the provisions of ARK. Admin. Rules 159-00-03 AR 1.4 is found stating (F) Failure To meet Criteria / Violation of Terms. Confinement in a CCC is

conditioned upon meeting the criteria specified in section (IV) above and the residents continued compliance with all applicable rules and regulations established by board policy and agency guidance. A resident who violates such rules and regulations is subject to disciplinary action up to and including submission of a violation report with a revocation recommendation to the parole board or the court as follows: (1) A resident who violates the terms and/or conditions of transfer is entitled to a hearing by the Parole Board to determine non-compliance that warrants transfer to the adc. The resident may waive the right to a hearing. (2) A transferred resident who no longer satisfies CCC criteria and standards will be recommended for administrative transfer to the adc and transferred upon Parole Board approval. The resident will be provided a written notice of ineligibility and supporting reasons for the transfer. Even though this was clearly established law, the respondents denied said claimant these provisions and it's been the cause of him serving over fifteen months illegally in the ARK. dept. of CORR. Reason said claimant is seeking the maximum amount of benefits which he believes to be in the amount of \$15,000 dollars is because of all the time he has been forced to serve in the ARK. dept. of CORR, which is currently on-going due to said unlawful actions of the respondents based upon unlawful procedure or other error of Arkansas law, that caused said knowing breach of contract whenever, the record will reflect the claimant serving said excessive amount of time in the ARK. dept. of CORR. that was previously suspended, whereas he has not since been sentenced to serve any additional time in the ARK. dept. of CORR. for violating the terms of his parole since he signed said contract with the Arkansas Community Correction suspending any time to be served in the ARK. dept. of CORR. for waiving his revocation hearing. The plaintiff asks the claims commission to allow him to enter additional (exhibits X) pg. 2 verifying he received a suspended sentence from an Arkansas trial court for said charges initiating said parole revocation and (exhibit H) verifying the require-

ments of the respondents during the intake process. The claimant is also asking as part of his compensation, that said agencies be ordered to re-instate his parole in the state of Arkansas being as these actions are found to be "arbitrary and capricious". The Arkansas supreme court has held that when parole is revoked, that revocation can be set aside in the courts if it be shown that the Board acted "arbitrarily or capriciously," Webb v. Bishop, 242 ARK. 320, 325, 413 S.W. 2d 862, 865 (ARK. 1967). Being as the claimant was not ever granted a hearing regarding his non-compliance or given written reason as to why he was deemed ineligible to participate in the short term offender program and transferred to the ARK. dept. of CORR. to serve said suspended sentence it can't be said the respondents actions were not "arbitrary and capricious" and in violation of clearly established law forcing the claimant to serve an illegal sentence in the ARK. dept. of CORR. in breach of said contract. This entitles the claimant to have his parole re-instated and to be compensated via said respondents unlawfully breaching said contract. This is what he prays for and ask of the claims commission and any other relief the commission deems just and proper at this time.

Respectfully submitted,

Charles Hamner

(September 6, 2022)

(Exhibit A)

**Arkansas Community Correction
WAIVER OF REVOCATION HEARING**

Offenders Name: Charles Hamner

ADC# [REDACTED]

I understand that I have been charged with violating one or more of the conditions of my release from the Department of Correction. I have been served with written notice of the charge(s) and I understand them. I have also been served with written notice of my right to a hearing in or near the community where the alleged violation(s) occurred. I understand the hearing process as described in the written notice. I admit that I have violated the following condition(s) of release as alleged:

- | | | | |
|--|---|--|--|
| ☐ #1 Reports | ☐ #2 Employment/Education | ☐ #3 Residence & Travel | ☒ #4 Laws |
| ☒ #5 Weapons | ☐ #6 Alcohol/Controlled Substances | ☐ #7 Association | ☐ #8 Supervision Fees |
| ☐ #9 Cooperation | ☐ #10 Search & Seizure | ☐ #11 Waiver of Extradition | |
| ☐ #12 Special Conditions: | | | |

I understand that the Revocation Hearing Judge would determine whether I have violated one or more of the conditions of release at a revocation hearing, and, if so, whether my release should be revoked. I understand that even if I admitted my guilt at the hearing, or if I were found guilty, I would have an opportunity to present reasons that my release should not be revoked. By waiving a hearing, I am giving up that opportunity. I have no excuse for violating the condition(s) of release as alleged. I believe that the violation(s) I have admitted is/are serious enough to justify the revocation of my release.

I do not want a revocation hearing and I hereby waive my right to a hearing. I understand that, upon my signing this waiver, my release will be revoked and I will be placed in the custody of:

- ☐ the Arkansas Department of Correction
- ☒ the Arkansas Department of Correction- Suspended (If eligible and subject to good behavior and an approved parole plan (Reinstatement option at 90 days))
- ☐ Arkansas Community Correction. If I am subsequently determined to be ineligible for Arkansas Community Correction, I will be transferred to the Arkansas Department of Correction.

I will be eligible to be considered for release again in: November /2021 (month/year)

The actual date will be determined, with the next month being counted as the first month; or on my "regular" parole eligibility date, whichever is longer. My current "regular" parole eligibility date as Class I is: Past

I understand that I will not automatically be released at that time and that I may be required to serve the remainder of my sentence in its entirety.

This waiver of a revocation hearing is made voluntarily and intelligently. It is not the result of any threats or promises or any form of coercion. I understand I may file an appeal within thirty (30) days from the date I sign this waiver stating why this waiver should be rescinded. I understand that if this waiver is rescinded and I am granted a hearing, I may face additional penalties.

Charles Hamner
Offender's Printed Name

5/12/21
Date

Charles Hamner
Offender's Signature

Arnell Rhinehart
Parole Officer's Printed Name

5-12-21
Date

Arnell Rhinehart
Parole Officer's Signature

Parole Officer's Supervisor Printed Name

Date

Parole Officer's Supervisor Signature

Revocation Hearing Judge's Name

Date

Revocation Hearing Judge's Signature

(Exhibit B)

Arkansas Community Correction

Short Term Revocation Program Eligibility

Name: Charles Hamner

ADC# [REDACTED]

Prior to a Revocation Hearing, the PPO/Agent is responsible for determining whether an offender is eligible for placement in the Short-Term Revocation Program (STRP) and notifying the Revocation Hearing Judge accordingly.

The parolee is NOT eligible to sign a waiver for placement in the STRP if he/she (check all that apply):

- ☐ has a pending charge involving an Act 1029 offense
- ☐ is under active supervision for an Act 1029 offense
- ☐ is currently under active supervision for a violent crime involving a firearm and is alleged to have violated the conditions of his/her parole by possessing a firearm
- ☐ has been incarcerated in the STRP within the last ninety (90) days

→ Does the parolee have an acceptable place to live at the expiration of 90 days?

☒ Yes

☐ No

→ Failure to have an approved home plan prior to signing a waiver for placement in the 90 day program does not render the parolee ineligible. However, in order to be released at the expiration of the 90 day period, offender must meet all eligibility requirements of the program including maintaining good behavior and obtaining an approved home plan.

Officer/Agent Signature: Amel Ahmed

Date: 5-12-21

(Exhibit E)

Inmate Request Form

This form is to be used by inmates to contact staff with requests on issues they may have. This step should be used before completing and Informal Resolution or Grievance. This is the Ouachita River Unit In-House Form.

Name: <u>Charles Hamner</u>	ADC#: <u>[REDACTED]</u>	BKS: <u>Intake 116</u>	Date: <u>7-10-21</u>
-----------------------------	-------------------------	------------------------	----------------------

Circle the Department you want your request directed to.

Business Office	Visitation / Inmate Phones	Medical	Property
Records	Classification	Mail Room	Law Library
Commissary	Chaplain	Field Office	Laundry
Mental Health	Mental Health	<u>Parole</u>	Warden's Office

Deputy Warden's Office

Other:

Staff Directed to JASON GRAY

Give detailed reason for request: Can you please tell me why my (90) day sanction in Ark. Co. Jail has turned into a (6) month parole violation whenever, I was never served a misconduct report of any type for misbehavior or given a hearing due to so, I never presented any type of bad behavior at any point. what I did do is file a federal lawsuit against the sheriff and here I am

Have you talked to any staff about your request? Yes ☒ Yes ☐ No

If your answer is "yes", who did you talk with about this request and when?

Inmate's Signature: <u>Charles Hamner</u>	Date: <u>7-10-21</u>
Staff Responding:	Date:

I have reviewed your request and here is my finding: Arkansas Co. Detention Facility

provided documentation to the parole board of an incident of failing to maintain good behavior therefore you were removed from the 90 Day STP. you will go before the Parole Board during Nov. 2021

I am referring this request to:

I am considering this issue:

☒ Resolved

☐ Not Resolved

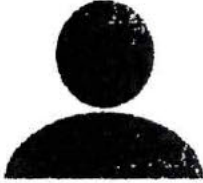
Cyrest 7/12/2021

10/1/21, 3:15 PM

CTC Phone Manager - Search Facility Forms

GRIEVANCE

Profile Photo

**Offender Info**

Inmate: Charles jr. Hamner
 Inmate PIN: [REDACTED]
 Inmate Active/Inactive: I
 Submitted Date: 2021-06-29 15:57:18
 Submitted From Location/Room: B Pod
 Current Location/Room: B Pod
 Facility: [REDACTED]

Form Info

Form: GRIEVANCE
 Form ID: 588

Audit Photo

**Form Info**

Status: Resolved without Appeal By
 Escalation Level: 0
 Offender Can Appeal: No
 Assigned To:
 Assigned Date:

Summary of Form:**DATE:**

6 29 21

TIME:

approximately 4 pm

DATE OF INCIDENT::

6 29 21

TIME OF INCIDENT::

approximately 3pm

IS THIS A GRIEVANCE OR AN APPEAL?:

both arkansas county aint got an appeal process im aware of

WRITTEN EXPLANATION OF THE GRIEVANCE::

sheriff dean manniss is retaliating on me because of my lawsuit

WHAT IS YOUR RESOLUTION OF THIS GRIEVANCE?:

have my parole reinstated so i can go back to work and pay my way

[Exhibit W] (page ONE)

Plaintiff was never given any written notice why he was transferred
 verifies the plaintiff grieving the day
 before he was transferred back to the
 ARK. dept. of CORR. to serve said illegal
 sentence he had not received said report
 of any misconduct (Exhibit U) pg.2 at that
 time, nor had he been found guilty of
 such by an impartial decisionmaker
 see paragraph 2 pg.2 (Exhibit W)
 At any time prior to or after being
 forced to serve said illegal sentence

DATE/TIME	SENDER	TAGGED USER	IS INTERNAL	ESCALATED	MESSAGE
2021-10-01 15:10:28	Alex Matthews (amatthews)		Internal Note		Alex Matthews (amatthews) reviewed form
2021-06-30 08:42:16	Tabetha Inman (tabetha)				Released to ADC 6-30-21
2021-06-29 16:46:53	Charles jr. Hamner				I can easily verify through documentation filed in my civil suit against mr.manniss,tabetha inman,and now acting jail administrator again patricia snyder previously demoted by vindictive sheriff dean manniss,knew my sentence to the adc has been suspended and i was to serve my 90 day sanction here in the arkansas county jail

10/1/21, 3:15 PM

CTC Phone Manager - Search Facility Forms

2021-06-29 16:41:22	Charles jr. Hamner				there is no other reason for the sheriff to move me into the state prison system other than to retaliate on me for my use of the institutional grievance procedure which is my right under federal law
2021-06-29 16:37:12	Charles jr. Hamner				i have not received any disciplinary reports, been locked down due to any disciplinary report, had no institutional hearing because of bad conduct, or signed any form identifying the rules or grievance procedure of the arkansas county jail
2021-06-29 16:34:11	Charles jr. Hamner				billy bevell, [REDACTED], mike midkiff, bobby paul davis, all witnessed this grievance being submitted between 4 and 5 pm 6 29 21 due to a retaliatory sheriff and staff. Tabettha INman recently reported to my parole officer Arnell Rhinehart i good institutional behavior
2021-06-29 16:09:08	Charles jr. Hamner				i was previously told by jailer rickey smith i shouldnt have pissed the sheriff off doing all this grieving about not gettin mental health treatment and them not being certified to pass out medication whenever, i could have just set back and kept my mouth shut for 90 days and accepted whatever they gave me. This is strictly illegal to send me to prison because mr. mannis is retaliating on me for my right guaranteed me under the U.S. constitution to grieve for medical care. This matter will be filed in civil case 2:21-cv-00062-BSM-PSH and i need a copy of this and all the missing pages of my grievances to prove to the court just how malicious and sadistic you people truly are

[Exhibit W] (page two)

plaintiff was never written up for breaking any particular institutional rule or given a hearing by Parole Board about any non-compliance.

Arkansas County does not serve or write major disciplinary reports on state inmates i.d. (Exhibit U) pg. 2, officer report was sent to sheriff Dean Mannis from officer Patricia Snyder. Report was never disclosed to plaintiff, and his guilt was never found by an impartial decisionmaker. This is why the defendants (Arkansas Board of Parole) acted "arbitrary or capricious" because they accepted this report knowing there was never a finding of guilt about what either officer reported before or after forcing the plaintiff to serve a suspended sentence in the Ark. dept. of Corr. This is how they violated his rights to due process, prior to removing the plaintiff from the short term reintegration program they had to determine he was indeed guilty and grant him his right to a hearing, present witnesses, give testimony.

From: [ASCC New Claims](#)
To: [Thomas Burns \(DOC\)](#); [Leslie Browning \(DOC\)](#); [Amber Schubert \(DOC\)](#)
Cc: [Kathryn Irby](#)
Subject: CLAIM: Charles Hamner v. ADC and ACC, Claim No. 230327
Date: Tuesday, September 13, 2022 12:57:00 PM
Attachments: [Charles Hamner ADC and ACC agency ltr.pdf](#)
[Charles Hamner Claim.pdf](#)

Please see attached. Contact Kathryn Irby with any questions.

Thank you,
Caitlin

Caitlin McDaniel

Administrative Specialist II

Arkansas State Claims Commission

101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-1619

ARKANSAS STATE CLAIMS COMMISSION

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



KATHRYN IRBY
DIRECTOR

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

September 13, 2022

Mr. Thomas Burns
Arkansas Division of Correction
6814 Princeton Pike
Pine Bluff, Arkansas 71602

(via email)

Ms. Amber Schubert
Arkansas Community Correction
2 Union National Plaza, Third Floor
Little Rock, AR 72201

(via email)

RE: ***Charles Hamner v. Arkansas Division of Correction and Arkansas Community
Correction
Claim No. 230327***

Dear Mr. Burns and Ms. Schubert,

Enclosed please find a copy of the above-styled claim filed against the Arkansas Division of Correction and the Arkansas Community Correction. Pursuant to the Arkansas Rules of Civil Procedure, as well as Claims Commission Rule 2.2, you have **thirty days from the date of service** in which to file a responsive pleading.

Your responsive pleading should include your agency number, fund code, appropriation code, and activity/section/unit/element that this claim should be charged against, if liability is admitted, or if the Claims Commission approves this claim for payment. This information is necessary even if your agency denies liability.

Sincerely,

Kathryn Irby

ES: cmcdaniel

cc: Charles Hamner (ADC [REDACTED]), *Claimant* (w/ encl.)

Note to Claimant or Claimant's counsel: The Claims Commission copied you on this correspondence to provide you with confirmation that your claim has been processed and served upon the respondent agency.

From: [Leslie Browning \(DOC\)](#)
To: [ASCC Pleadings](#)
Cc: [Thomas Burns \(DOC\)](#)
Subject: Charles Hamner 230327
Date: Tuesday, September 13, 2022 3:05:03 PM
Attachments: [ADC Answer.pdf](#)

Answer

Leslie Browning

Arkansas Division of Correction
Central Office/Legal Division
6814 Princeton Pike
Pine Bluff, AR 71602
Legal Support Specialist
Phone: 870-267-6844
Email: leslie.browning@arkansas.gov

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

CHARLES HAMNER [REDACTED]

CLAIMANT

v.

CLAIM NO. 230327

**ARKANSAS DIVISION OF CORRECTIONS
AND ARKANSAS COMMUNITY CORRECTION**

RESPONDENTS

ANSWER TO COMPLAINT

COMES NOW the Respondent, Arkansas Department of Corrections, 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: HCA 0100 |
| 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,



Thomas Burns (02006)
ADC Legal Division
6814 Princeton Pike
Pine Bluff, AR 71602-9411
(870) 267-6845 telephone
thomas.burns@arkansas.gov

CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been served this 13th day of September 2022 on the Claimant by placing a copy of the same in the U. S. Mail, regular postage, to:

Charles Hamner ([REDACTED]
[REDACTED]

Amber Schubert
Arkansas Community Correction
2 Union National Plaza, 3rd Floor
Little Rock, AR 72201



Thomas Burns

From: [Amber Schubert \(DOC\)](#)
To: [ASCC Pleadings](#)
Subject: Charles Hamner v. Arkansas Division of Community Correction, Claim No. 230327
Date: Thursday, September 22, 2022 2:08:04 PM
Attachments: [Hamner Enclosure Letter.pdf](#)
[Hamner MTD, signed.pdf](#)
[image001.jpg](#)

Please see attached enclosure letter and Motion to Dismiss to be filed in the above-referenced case.

Thank you.



Confidentiality Notice: The information contained in this email message and any attachment(s) is the property of the State of Arkansas and may be protected by state and federal laws governing disclosure of private information. It is intended solely for the use of the entity to whom this email is addressed. If you are not the intended recipient, you are hereby notified that reading, copying or distributing this transmission is STRICTLY PROHIBITED. The sender has not waived any applicable privilege by sending the accompanying transmission. If you have received this transmission in error, please notify the sender by return email and delete the message and attachment(s) from your system.



ARKANSAS DEPARTMENT OF CORRECTIONS
Division of Community Correction

1302 Pike Avenue, Suite B
North Little Rock, Arkansas 72114
Phone: (501) 682-9510 | Fax: (501) 682-9513
DOC.ARKANSAS.GOV

September 22, 2022

Ms. Kathryn Irby, Director
Arkansas State Claims Commission
Via Email to: ASCCPleadings@arkansas.gov

Re: *Charles Hamner v. Arkansas Division of Correction and Arkansas Community
Correction*
Claim No. 230327

Dear Ms. Irby:

Please find enclosed a Motion to Dismiss for filing in the above-referenced claim.

Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Schubert", with a stylized, flowing script.

Amber Schubert
General Counsel

cc: Charles Hamner, Claimant

**BEFORE THE STATE CLAIMS COMMISSION
OF THE STATE OF ARKANSAS**

CHARLES HAMNER ADC [REDACTED]

CLAIMANT

V.

Claim No. 230327

**ARKANSAS DIVISION OF
CORRECTION AND
ARKANSAS DIVISION OF
COMMUNITY CORRECTION**

RESPONDENTS

MOTION TO DISMISS AND INCORPORATED BRIEF IN SUPPORT

Comes now Respondent, Arkansas Department of Correction – Division of Community Correction (ACC), by and through counsel and for its Motion to Dismiss and Incorporated Brief in Support states:

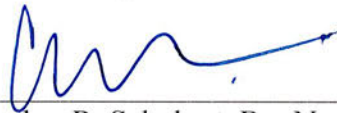
1. Claimant, an inmate in the Arkansas Department of Corrections – Division of Correction, alleges that his parole was revoked in violation of an alleged contract with ACC and without a hearing and states that his current incarceration is an “illegal” sentence.
2. Claimant attached to his Complaint a document titled “Waiver of Revocation Hearing” that he purports to be a contract with ACC. Claimant’s assertion that the document is a “contract” between ACC and him is a mischaracterization of the plain wording of the document. The document is, as explained in the heading, a waiver signed by Claimant admitting that he violated the conditions of his parole and agreeing to a revocation of his parole without a hearing.
3. The Waiver signed by Claimant specifically advises him that although he may be considered for parole after 90 days, that he “will not automatically be released at that time and that [he] may be required to serve the remainder of [his] sentence in its entirety.” Claimant’s Ex. A.

4. Claimant quotes a number of policies applicable to residents sentenced to a term of incarceration at Community Correction Center residents and alleges they have been violated. However, as explained in Claimant's Complaint and exhibits, he was not a resident of a Community Correction Center to which those rules apply; rather, his incarceration is as a result of a revocation of his parole returning him to the custody of the Arkansas Division of Correction.
5. Because Claimant has presented no evidence of a valid contract with ACC, his claim for breach of contract fails as a matter of law.
6. Moreover, Claimant's assertion that he was denied a constitutionally required hearing prior to having his parole revoked is also contradicted by the plain language of the Waiver signed by Claimant. The Waiver states: "I do not want a revocation hearing and I hereby waive my right to a hearing." Claimant's Ex. A.
7. By signing the Waiver, Claimant unequivocally waived any right he may have had to a parole revocation hearing and admitted that he had committed violations of his conditions of parole that were "serious enough to justify the revocation of my release." Claimant's Ex. A.
8. Additionally, the Commission lacks jurisdiction over any claim Claimant may have for a violation of his constitutional rights. Ark. Code Ann. § 19-10-204(b)(2)(A) specifically states that "[t]he commission shall have jurisdiction only over those claims which are barred by the doctrine of sovereign immunity from being litigated in a court of general jurisdiction." Claims of constitutional violations can be brought as federal civil rights action under 42 U.S.C. § 1983.

9. In fact, Claimant did bring these exact claims in an Arkansas Circuit Court. The § 1983 due process claims were removed to federal court where they were dismissed. *See Hamner v. Mannis, et al.*, Case No. 2:22-CV-00028-BSM, E.D. Ark., June 6, 2022. Those claims are also therefore barred by *res judicata*.
10. Claimant's complaint ultimately is that he was not granted parole at the time he was first eligible for consideration. Arkansas law is well-settled that there is no constitutional or legal right to transfer to parole. *Michalek v. Lockhart*, 292 Ark. 301 (1987); *Mason v. Hobbs*, 2015 Ark. 20 ("[T]here is no constitutional right or entitlement to parole that would invoke due-process protection).
11. Moreover, Claimant is currently incarcerated as a result of violation of condition of his parole. Pursuant to A.C.A. § 19-10-204(b)(1)(A)(iii)(b), the Claims Commission lacks jurisdiction over claims against ACC by a person while that person is subject to conditions of parole or probation under Arkansas law.
12. Because Claimant has failed to state a claim for which relief may be granted, his Complaint should be dismissed in its entirety.

WHEREFORE, Respondent respectfully requests that Claimant's Complaint be dismissed and for all other relief to which it may be entitled.

Respectfully submitted,

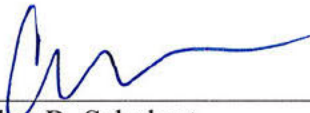
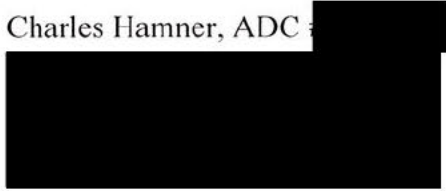


Amber R. Schubert, Bar No. 2009150
General Counsel
Arkansas Department of Correction –
Division of Community Correction
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North Little Rock, AR 72114
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CERTIFICATE OF SERVICE

I, Amber R. Schubert, certify that on September 22, 2022, I forwarded a copy of the foregoing, by U.S. Mail, postage prepaid, addressed to the following:

Charles Hamner, ADC


Amber R. Schubert

SEP 29 2022

Dear Commission,

RECEIVED

9/23/22

Please Be advised At your request the claimant can provide said report submitted to the respondent's from third party contractor Arkansas County used to send Mr. Hamner back to serve said suspended sentence strictly in violation of A.C.A. 12-27-127(3)(A). Mr. Hamner has obtained A copy of the Rules and Regulations of Arkansas County detention Center as well to submit at your request to verify he was "never" written up for breaking ANY rule of the facility. You will clearly reveal in said report Mr. Hamner "never" sited for ANY violation of the (17) Rules and Regulations of Arkansas County or ANY rule of the ARK. dept. of CORR. The claimant will prove how under Arkansas Law ARK. Admin. Rules 004-00-15-002 AR 894 (IV) Procedures how it was strictly illegal for the respondent's (4) To enter into any agreement with any third party to house dept. of CORR. inmates not found in full compliance with the requirements of A.C.A. 12-50-106(e) Contracts awarded under the provisions of this section At a minimum shall comply with the following: (3) impose discipline on inmates only in accordance with applicable rules and procedures, which is the ARK. dept. of CORR. "inmate disciplinary manual" Ad 18-34 pursuant to ARK. Admin. Rules 004-00-15-002 AR 894 (IV) Procedures (b). Under Arkansas Code as well as its regulation Mr. Hamner will prove he was entitled to a hearing concerning his behavior. His guilt could not be presumed, Id Ad 18-34 pg.1 Policy & Procedure, Punishment could not be accessed against Mr. Hamner until After he was found guilty of violating the rules, Anything

(PAGE ONE)

Reported had to be heard within (7) business days of whenever it was reported to the Board. There never was a hearing or finding of guilt regarding what was reported to the Respondent's. Now the law clearly states it's too late for such. It has been revealed to you the Respondent's were notified Mr. Hamner failed to maintain good behavior in ARK. Co. (Exhibit E) However, there is no report of what Rule violation he allegedly broke. There is no evidence of a hearing tape whereas, he was proven guilty of violating Any Rule of said facility. Furthermore, it was required under Arkansas Law for a "Revocation recommendation" be made to the Respondent's through said report which will reveal there never was nor Mr. Hamner given a hearing regarding his reported non-compliance and being informed in writing why he was rendered ineligible to participate in the short term revocation program pursuant to ARK. Admin. Rules 159-00-05 AR 1.4 (V) standards (F) Failure To Meet Criteria/Violation of Terms (1)(2), to no avail. Pursuant to A.C.A. 25-15-207 Rules - Actions For declaratory Judgment (a) the validity of these rules and their applicability can be determined, which entitled Mr. Hamner to the protections of a disciplinary proceeding he never got, this being the very reason, and only reason why Mr. Hamner is currently housed in the ARK. Dept. of CORR. illegally. At this point, Mr. Hamner is willing to make a deal with the Respondent's. He has been very patient and has not notified the media regarding any of this. But now that he has obtained said documents and is aware of what Arkansas Law declares regarding it

(PAGE TWO)

SEP 29 2022

And the illegal way he's continuing to be illegally housed by the respondent's in order to soak up illegal revenue of the Arkansas taxpayer's just to fill bed space, he's determined to get the media involved so an official investigation can be launched by the federal government to verify how many of the states inmates is currently illegally detained as the plaintiff, or has been, and just how much illegal revenue has the state generated through violating there own laws? I know several it's happened to and can prove it. Gary Henson Adc [REDACTED] being one of them. He wasn't found guilty of violating any rules in Cleburne Co, but removed from the STRP program as the claimant, and sent back to prison as the claimant after making bail and serving his full 90 day's. Then as of 12/20/21 Mr. Henson was "flat" on all his criminal convictions and held by the respondent's in custody of the East Ark. Unit for (65) days as record will reflect before being found guilty and sentenced to 240 months by Cleburne County on 2/23/22. The record doesn't lie. I'm giving the state a chance to get off easy. I want to go to the Phoenix house in Springdale on parole immediately something the state can easily arrange and I want to be paid for what was done to me. It's only fair. I will sign a contract and swear to secrecy what I know and the ones affected provided the respondent's don't drag there feet, An easy settlement.

9/23/22

Charles Hamner [REDACTED]

(PAGE THREE)

Before The Arkansas State Claims Commission

Charles Hamner
Adc # [REDACTED]

claimant
Arkansas
State Claims Commission

claim NO. 230327

SEP 29 2022

V,

ARKANSAS DIVISION OF CORRECTIONS
AND ARKANSAS COMMUNITY CORRECTIONS

RECEIVED
respondents

Response And Objection To Respondent's Answer
To The Claimant's Complaint Enjoined By Clearly
Established Provisions Of Arkansas Law.

Comes now the claimant in said action objecting to the respondent's request to dismiss his claim with prejudice. MR. HAMNER is entitled to monetary damages for the respondent's unlawful actions that has caused him to illegally serve over (15) fifteen months in the ARK. dept. of CORR. based upon the "ARBITRARY and capricious" acts of said respondent's founded upon unlawful procedure and other error of law. MR. HAMNER has previously proven to the commission via (EXHIBIT E) he was sent back to serve a sentence he agreed was to be suspended by the respondent's as of June 30, 2021, because he allegedly failed to maintain good behavior at the Arkansas County detention center. The respondent's denies liability and holds the claimant to strict proof. However, the claimant has provided strict proof of waiving a revocation hearing (EXHIBIT A). This was a "contract agreement" suspending any time to be served in the ARK. dept. of CORR. Claimant had an approved

(PAGE ONE)

place to live after his (90) day sanction was served in ARKANSAS County (Exhibit B). MR. HAMNER was sent back to serve a suspended sentence due to his alleged failure to maintain good behavior (Exhibit E). MR. HAMNER grieved he wasn't given a hearing, or given any written notice of any rule infraction, or reason he was rendered ineligible to participate in the short term revocation program (Exhibit W) pgs. 1-2. Pursuant to the following provisions of ARKANSAS LAW A.C.A. § 12-27-127 - TRANSFER OF AN INMATE BETWEEN DEPARTMENTS (3)(A)

AN INMATE MAY BE ADMINISTRATIVELY TRANSFERRED BACK TO THE DIVISION OF CORRECTION FROM THE DIVISION OF COMMUNITY CORRECTION BY THE PAROLE BOARD "FOLLOWING A HEARING" IN WHICH THE INMATE IS FOUND INELIGIBLE FOR PLACEMENT IN A DIVISION OF COMMUNITY CORRECTION FACILITY AS HE OR SHE FAILS TO MEET THE CRITERIA OR STANDARDS ESTABLISHED BY LAW OR POLICY ADOPTED BY THE BOARD OF CORRECTIONS OR HAS BEEN FOUND GUILTY OF A VIOLATION OF THE RULES OF THE FACILITY. FURTHERMORE, UNDER ARK. ADMIN. RULES 004-00-15-002

AR 894: (I) Authority: The Board of Correction is vested with the authority to promulgate this administrative regulation by ARK. Code ANN. § 12-27-105. The Board of Correction has the authority to "cooperate" and "contract" with third parties to provide and improve correctional operations and to house dept. of CORR. inmates.
ARK. Code ANN. § 12-27-103 (b) (4) (II) Applicability: This administrative regulation applies to the administration of the dept. of CORR. (IV) Procedures: The dept. of CORR. shall explore, as

needed, permissible alternatives for housing dept. of CORR. inmates with the federal government, governmental agencies of ARKANSAS, and other states, political subdivisions of ARKANSAS and other states, "counties," regional correctional facilities, and private contractor's. The following shall be considered: (b) ability to follow department of correction policies including

Administrative directives concerning inmate grievances, inmate classification, "inmate disciplinary manual." IN its investigation INTERNAL affairs has already revealed, OR will reveal, ARKANSAS County NEVER serving the claimant with WRITTEN notice of any rule violation of its facility, NEVER holding a hearing regarding such, because they "do NOT" follow dept. of CORR. policies concerning the inmate disciplinary procedure involving disciplining an inmate. Furthermore, pursuant to the provisions of ARK. Admin. Rules 004.00.15-002 AR 894 (IV) Procedures

(2) The dept. of CORR. shall NOT enter into any agreement with any third party to house dept. of CORR. inmates without the prior review and approval of both the Board of Corrections and the Governor of Arkansas. (3) Any facility owned or leased by any third party for the purpose of housing dept. of CORR. inmates shall comply with all constitutional standards of the United States and the state of Arkansas,

(4) The dept. of CORR. shall NOT enter into any agreement with any third party to house dept. of CORR. inmates "unless" the agreement provides for full compliance with any applicable requirements of the Corrections Cooperative Endeavors and Private Management Act, ARK. Code ANN. § 12-50-101 through 111. Pursuant to the clearly established provisions of

Arkansas Law through all of the aforementioned and that as follows, the claimant was entitled to a hearing and written notice regarding anything Arkansas County reported to the Respondent's about his failure to maintain good behavior prior to ever being removed from the short term revocation program, id at A.C.A. 12-27-127 (3)(A); ARK. Admin. Rules 159-00-05 AR 1.4 (V) Standards (F) Failure To Meet Criteria/Violation

OF TERMS (1)(2). The Respondent's knew through the Arkansas Crime Information Center (ACIC) Criminal history information/disposition/Logging found under ARK. Admin. Rules 183-00-01-001, System Regulation Amendment, the claimant was never written up or found guilty of violating any facility rule in Arkansas County, by Arkansas County, NOR by the Respondent's at any time, prior to, or after, transferring

the claimant to serve over (15) month's illegally in the ARK. dept. of CORR. clearly in violation of all the aforementioned. Pursuant to the provisions of A.C.A. § 25-15-207. Rules - Actions for declaratory judgments (a) The validity or applicability of a rule may be determined in an action for declaratory judgment if it is alleged that the rules, or its threatened application, injures or threatens to injure the plaintiff in his or her person, business, or property. (c) The agency shall be made defendant in that action. (d) A declaratory judgment may be rendered whether or not the plaintiff has requested the agency to pass upon the validity or applicability of the rule in question. If not for the respondent's violating the rules of the state of Arkansas, the claimant would not be illegally housed in custody of the respondent's as we speak and for such an excessive amount of time, which is responsible for the claimant losing his home, job, and freedom and personal possessions. Pursuant to the above mentioned he's entitled to declaratory judgment for the respondent's violating the rules. It's all at the click of a finger. It does not take internal affairs more than a few minutes in there so called investigation to review the electronic record (7); information (10); information processing system (11); record (13); security procedure (14); automated transaction (2); transaction (17); (3) computer program; since they are defined as a (9) governmental agency; or (16) state agency under A.C.A. § 25-32-102 that the claimant entered into an "agreement" with said respondent's defined as A.C.A. § 25-32-102 (1) The bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction; "contract" means the total legal obligation resulting from the parties agreement as affected by this chapter and other applicable law, with the respondent's, id at (Exhibit A).

That "agreement" suspended him serving any time in the ARK. dept. of CORR. "unless" he was found guilty of violating the rules which he NEVER was. There is NO RECORD of it because it never happened. The claimant can provide proof of it at a hearing All documented. The Respondent's have clearly violated the rules of the state of Arkansas in order to house a mentally ill prisoner, whom they segregated and kept confined to a one man cell for over (9) months, (24) hours per day with no out of cell time with minimal human contact. The plaintiff is entitled to monetary damages and to have his parole re-instated immediately because his time in the ARK. dept. of CORR. was suspended for waiving his revocation hearing id at (Exhibit A). The "electronic Record" pursuant to the provisions of A.C.A. 25-32-102 or Section 3 of ARK. Admin. Rules 193-00-01-001 will reveal said criminal charges initiating said illegal sentence being served being Nolle Processed as of August 4, 2022, in the Arkansas County Circuit Court. The claimant receiving a lesser included offense and given a suspended imposition of sentence for first degree criminal mischief. Pursuant to the provisions of A.C.A. § 16-93-1202 "suspended Imposition of sentence" means a procedure whereby a defendant who pleads or is found guilty of an offense is released by the court "without" pronouncement of sentence and "without" supervision. As we speak, the claimant is being illegally detained by said Respondent's clearly in violation of their own rules through all the aforementioned. The record clearly speaks for itself, there was never a hearing or finding of guilt regarding anything Arkansas County ever reported to the Respondent's, via Arkansas County, or the Respondent's. It has caused the claimant to serve over (15) months in custody of said Respondent's who clearly violated state law in

order to illegally detain him, It entitles him to be awarded monetary damages for his injuries, awarded declaratory judgment making said respondents comply with the Rules and Release him on parole. This is what he PRAYS for and Request of the claims commission. Perhaps AN agreement is reached within (30) days regarding the claimant's Request, he is willing to dismiss the matter before it becomes public record and exposes the respondent's wrongdoings and give to them all records and documentation to destroy or dispose of at their convenience concerning anything regarding said claim. This certainly being a bargain being as all the suffering the claimant was forced to endure by the respondent's because of a contract was breached by them and Arkansas County that was clearly established at the time it occurred under A.C.A. 12-50-106 - Contracts For Correctional Facilities (c) Contracts awarded under the provisions of this section at a minimum shall comply with the following:

(3) impose discipline on inmates only in accordance with applicable rules and procedures. Those rules and those procedures were administrative directive 18-34 inmate disciplinary procedure in accordance with AR 831, which entitled the plaintiff to a hearing, written notice of it and a rule infraction, A right to call witnesses, and give testimony at a hearing and the chance to be found guilty before an impartial decisionmaker before any punishment could be accessed against him. This was the law and the respondent's have knowingly violated it.

(September 23, 2022)

Charles Hamner [REDACTED]
[REDACTED]

(PAGE SIX)

From: [Thomas Burns \(DOC\)](#)
To: [ASCC Pleadings](#)
Cc: [Leslie Browning \(DOC\)](#); [Amber Schubert \(DOC\)](#)
Subject: Charles Hamner v ADC 230327
Date: Wednesday, October 5, 2022 9:39:03 AM
Attachments: [0174_001.pdf](#)
[Ex D.pdf](#)
[Ex E.pdf](#)
[Ex F.pdf](#)
[Ex G.pdf](#)
[Ex A.pdf](#)
[Ex B.pdf](#)
[Ex C.pdf](#)

Motion to Dismiss

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Arkansas Department of Corrections
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BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

CHARLES HAMNER (ADC [REDACTED])

CLAIMANT

v

NO. 230327

**ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION and
DIVISION OF COMMUNITY CORRECTION**

RESPONDENT

RESPONDENT'S MOTION TO DISMISS

Comes Now the Respondent, Arkansas Department of Corrections (ADC), for its Motion to Dismiss, states:

1. The inmate's claim should be dismissed pursuant to the Arkansas Rules of Civil Procedure (ARCP) 12(b)(6) as it fails to state facts upon which relief can be granted.
2. On a motion to dismiss pursuant to Rule 12(b)(6) of the Arkansas Rules of Civil Procedure the courts treat the facts alleged in complaints as true and view them in the light most favorable to the plaintiff. *Dockery v Morgan*, 2011 Ark. 94. "However, [Arkansas's] rules require fact pleading, and a complaint must state facts, not mere conclusions, in order to entitle the pleader to relief." *Id.* The Court should "treat only the facts alleged in the complaint as true but not the plaintiff's theories, speculation, or statutory interpretation." *Id.*
3. An "important mechanism for weeding out meritless claims [is a] motion to dismiss for failure to state a claim." *Fifth Third Bancorp v. Dudenhoeffer*, 573 U.S. 409, 425 (2014). Legal conclusions, unsupported conclusions, and unwarranted inferences must be ignored and fail to withstand a Rule 12(b)(6) motion. *See Farm Credit Svcs. v American State bank*, 339 F.3d 764 (8th Cir. 2003). A pleading must contain a "short and plain statement of the claim showing that the pleader is entitled to relief. *Ashcraft v Iqbal* 556 U.S. 662 (2009). Although detailed factual allegations are not required, more than "unadorned, the-defendant-unlawfully-harmed-me-

accusations” are required. *Id.* To survive a motion to dismiss, a complaint must contain sufficient factual matter that, when accepted as true, state a claim to relief that is plausible on its face. *Id.* A claim is facially plausible “when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.*

4. When a trial court is presented with extraneous materials outside of the pleadings and does not exclude those materials, a motion to dismiss for failure to state facts upon which relief can be granted shall be treated as one for summary judgment. *Norris v Davis, 2014 Ark. App. 632 (2014)*

5. The inmate seeks the sum of Maximum Benefits, for alleged breach of contract and illegal sentencing. Although inmate seeks an award of damages, he fails to plead any basis for an award of damages, and he fails to give the Arkansas Claims Commission any rational basis beyond mere speculation of the damages. Damages are an essential element of a tort claim and there must an allegation of sufficient facts to satisfy the damages element or the case is subject to a motion to dismiss. *Wallis v. Ford Motor Company, 362 Ark. 317, 208 S.W. 3d 153 (2008)*. The inmate’s claim, even if true, does not support a claim for monetary relief.

6. Even if the inmate were to plead with more specificity, he would still not be able to prevail. The party claiming damages has the burden of proving those damages beyond speculation. *Minerva Enterprises v. Howlett, 308 Ark. 291, 824 S.W. 2d 377 (1992)*. Even taking the inmate’s allegations true as pleading, and giving him the benefit of every possible inference, his mere inconvenience of alleged wrongdoing can never render a claim that is anything but speculation.

7. Pro Se parties are not given special treatment and are held to the same standard as a licensed attorney. *Pressler v. Ark. Publ. Serv. Comm’n, 2011 Ark. App. 512, at 9, 385 S.W.3d 349, 355 (citing Elder v. Mark Ford & Assocs., 103 Ark. App. 302, 288 S.W.3d 702 (2008))*. The

Claims Commission notes that under Arkansas law, a claimant choosing to represent himself is held to the same standard as an attorney. *Michael Pickens v ADC claim 190793 (ASCC 2019)*.

8. Whether a plaintiff is represented by counsel or is appearing pro se, his complaint must allege specific facts sufficient to state a claim. *See Martin v Sargent, 780 F.2d 1334, 1337 (8th Cir. 1985)*.

9. A complaint must state facts, not mere conclusions, in order to satisfy the requirements of Rule 8 of the Arkansas Rules of Civil Procedure. *Doe v Weiss, 2010 Ark. 150*.

10. In reviewing whether a complaint is subject to dismissal, the Court must accept as true all factual allegations in the complaint, but is “not bound to accept as true a legal conclusion couched as a factual allegation.” *Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007))*. “Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Id.* “Nor does a complaint suffice if it ‘tenders ‘naked assertion[s]’ devoid of ‘further factual enhancement.’” *Id.* (*quoting Twombly, 550 U.S. at 557*). Rather, a complaint must plead “enough facts to state a claim to relief that is plausible on its face.” *Twombly, 550 U.S. at 570*. “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal, 556 U.S. at 678*. “The plausibility standard is not akin to a ‘probability requirement,’ but it asks for more than a sheer possibility that a defendant has acted unlawfully.” *Id.* (*quoting Twombly, 550 U.S. at 556*). A well pleaded complaint may proceed even if it appears that actual proof of those facts is improbable and that recovery is very remote and unlikely. *Twombly, 550 U.S. at 556*. A complaint cannot, however, simply leave open the possibility that a plaintiff might later establish some set of undisclosed facts to support recovery. *Id. at 561*. Rather, the facts set forth in the complaint must be sufficient to nudge the claims across the line from conceivable to plausible.

Id. at 570. “[W]here the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged –but it has not ‘show[n]’ – ‘that the pleader is entitled to relief.’” *Iqbal*, 556 U.S. at 679 (quoting *Fed.R.Civ.P. 8(a)(2)*).

11. The Plausibility standard is not akin to a “probability requirement” but it asks for more than a sheer possibility that a defendant has acted unlawfully. Where a complaint pleads facts that are “merely consistent with” a defendant’s liability, it” stops short of the line between possibility a plausibility of entitlement to relief” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)

12. The inmate is currently housed at [REDACTED] of the ADC. He is serving a 35-year sentence on a conviction of kidnapping and other crimes.

13. This inmate has already filed this claim in two (2) Arkansas Counties and the Federal Court twice, in fact the inmate has filed numerous claims all stemming from one incident.

14. The inmate claims that the ADC has breached a contract. The ADC does not know which contract the inmate refers to as the ADC does not contract with inmates.

15. Rule 10(d) of the Arkansas Rules of Civil Procedure (ARCP) *Required Exhibits*. A copy of any written instrument or document upon which a claim or defense is based shall be attached as an exhibit to the pleading in which such claim or defense is averred unless good cause is shown for its absence in such pleading. The inmate has not attached a copy of any alleged contract.

16. The inmate state in his complaint that he is being illegally held by the ADC.

17. If the inmate believes he is being illegally held then his remedy would be a habeas petition.

18. It is not the function of the Claims Commission to grant a writ of habeas corpus.

19. The inmate filed this claim in Arkansas County on or about September 29, 2021.

See attached Ex A

20. That claim was removed to the United States District Court on or about February 15, 2022. *See attached Ex B*

21. The Case was dismissed on or about June 2, 2022 and remanding portions back to the Arkansas County Circuit Court. *See attached Ex C*

22. The inmate then filed the same claim in the Pulaski County Circuit Court on or about June 28, 2022. *See attached Ex D.*

23. The Pulaski County claim was dismissed on or about July 8, 2022. *See attached Ex E.*

24. The inmate filed the same claim on or about July 28, 2022 in the United States District Court. *See attached Ex F.*

25. The inmate then filed the exact same claim in the Arkansas State Claims Commission on or about September 8, 2022.

26. The Arkansas County case was dismissed on or about October 31, 2022. *See attached Ex G.*

27. The inmate is obviously forum shopping as he has filed this exact claim five (5) times in five (5) different forums.

28. The inmate is making a Constitutional claim and pursuant to the law the Commission is barred from hearing such claims. These claims may be made in a Court of general jurisdiction.

29. The Claims Commission does not have the jurisdiction to hear this claim.

30. Pursuant to the Prison Litigation Reform Act (PLRA), "no actions shall be brought with respect to prison conditions under Section 1983 of this title or any other Federal

law, by a prisoner confined in any jail, or other correctional facility until such administrative remedies as are available are exhausted.” 42 U.S.C § 1997e. In 1997, the Arkansas legislature adopted the PLRA’s exhaustion requirement by enacting Ark. Code Ann. §16-106-202. That statute follows the PLRA by adopting a grievance exhaustion requirement for state actions:

- (a) A civil action **or claim** initiated against...Department of Correction...by an inmate in a penal institution or incarcerated person appearing pro se may be:
 - (1) Dismissed without prejudice by the court on its own motion or on a motion of the defendant, if all administrative remedies available to the inmate have not been exhausted.

31. “A basic rule of administrative procedure requires that an agency be given the opportunity to address a question before a complainant resorts to the courts. Where a party has failed to exhaust his or her administrative remedies, the trial court lacks jurisdiction over the suit” *Ark. HHS v Smith*, 370 Ark. 490. One must exhaust their administrative remedies before they may proceed in Court. *See Johnson v Johnson*, 385 F.3d 503 (2004).

32. The inmate has filed a complaint that he knows is in bad faith and not supported by the facts. The Commission should award the ADC fees and costs for having to respond to this baseless complaint.

33. This same claim, if presented to a court of general jurisdiction would, as a matter of law, be dismissed.

34. “The commission shall make no award for any claim which, as a matter of law, should be dismissed from a court of law or equity for reasons other than sovereign immunity.” Ark. Code Ann. § 19-10-204(3)(A) (West Supp. 2015). “Specifically, if the facts of a given claim would cause the claim to be dismissed as a matter of law from a court of general jurisdiction, then the commission shall make no award on the claim.” Ark. Code Ann. § 19-10-204(3)(B) (West Supp. 2015). The claimant has not been damaged and only makes mere

assertions that he has been damages. Without damages a Court would dismiss the claim in its entirety.

WHEREFORE, the Respondent prays that the motion be granted and the complaint dismissed; for their attorney's fees and costs; and all other just and proper relief to which they may be entitled.

Respectfully submitted,



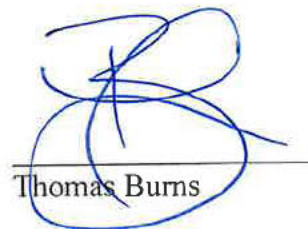
Thomas Burns (02006)
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Division of Correction
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Pine Bluff, AR 71602
(870) 267-6845 Office
(870) 267-6373 Facsimile
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CERTIFICATE OF SERVICE

I certify that a copy of the above pleading has been served this 5th day of October 2022, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Charles Hamner ([REDACTED])
[REDACTED]

Amber Shubert
Amber.Schubert@arkansas.gov



Thomas Burns

IN THE CIRCUIT COURT OF Pulaski COUNTY, ARKANSAS
Sixth DIVISION

Charles Hamner
Adc # [REDACTED]

PETITIONER

VS

No. _____

Arkansas Board of Parole,
STATE OF ARKANSAS
et. al. (members)

RESPONDENT

PETITION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Petitioner Charles Hamner proceeding pro se, requests this Court to grant him leave to file the attached Complaint/Declaratory injunctive relief/Attached exhibits and to proceed in forma pauperis for the following reasons: Said Petitioners due process rights were violated

1. That Petitioner, a resident of the State of Arkansas, has prepared and desires to file with the court a Complaint asking for relief for due process rights being violated.
2. That Petitioner is indigent and unable to pay court costs or fees connected with this proceeding or to give security therefore. (An Affidavit in Support of Request to proceed In Forma Pauperis is attached.)
3. Petitioner believes that he/she is entitled to relief and such petition is not brought for a frivolous or malicious purpose.

WHEREFORE, Petitioner prays that he be permitted to prosecute his Lawful civil Complaint/exhibits in forma pauperis and that he may have the necessary writs and processes without payment of fees or costs for the same.

Charles E. Hamner

Petitioner

ADC No. [REDACTED]

Arkansas Department of Correction
[REDACTED]

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
SIXTH DIVISION

CHARLES HAMNER

PETITIONER

v.
ARKANSAS BOARD
OF PAROLE, *ET. AL.*

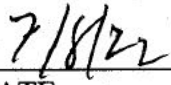
CASE NO. 60CV-22-4134

RESPONDENTS

ORDER

On this day came on for consideration *Petition for Leave to Proceed in Forma Pauperis* filed on June 28, 2022. The court finds that *Petition for Leave to Proceed in Forma Pauperis* should be and is hereby denied for failure to state a colorable cause of action.

IT IS SO ORDERED.


TIMOTHY DAVIS FOX
CIRCUIT COURT JUDGE

DATE

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

JUL 28 2022

FORM TO BE USED BY PRISONERS IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

TAMMY H. DOWNS, CLERK

DEP CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS

Delta DIVISION

CASE NO. 2:22-cv-00137-JM

Jury Trial: ☒ Yes ☐ No
(Check One)

I. Parties

In item A below, place your full name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.

A. Name of plaintiff: Charles Hamner

ADC # [REDACTED]

Address: [REDACTED]

Name of plaintiff: _____

ADC # _____

Address: _____

Name of plaintiff: _____

ADC # _____

Address: _____

This case assigned to District Judge Moody
and to Magistrate Judge Kearney

In item B below, place the full name of the defendant in the first blank, his official position in the second blank, his place of employment in the third blank, and his address in the fourth blank.

B. Name of defendant: John Felts, et al., Arkansas Board of Parole, members,

Position: Arkansas Parole Board (members)

Place of employment: Arkansas Parole Board

Address: 1302 Pike Ave. North Little Rock, AR 72114

Name of defendant: Martha Adams

Position: Institutional Parole Officer

Place of employment: [REDACTED]

Address: [REDACTED]

Name of defendant: Ms. Cobb

Position: Institutional Parole Officer

Place of employment: [REDACTED]

Address: [REDACTED]

Name of defendant: _____

Position: _____

Place of employment: _____

Address: _____

II. Are you suing the defendants in:

- ☐ official capacity only
☐ personal capacity only
☒ both official and personal capacity

III. Previous lawsuits

A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ☒ No ☐

B. If your answer to A is yes, describe the lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

☐ Parties to the previous lawsuit:

Plaintiffs: Charles Hammer Adc # [REDACTED]

Defendants: Arkansas Board of Parole, et al

(III) Previous Lawsuits

I tried filing in the circuit Court of Pulaski County, Arkansas on two separate attempts seeking judicial review of Agency's final Action A.C.A. 25-15-212 within (30) days of the Board's final Action denying me parole. I tried challenging the illegal manner in which they denied me parole under Arkansas statute and the illegal sentence they have had me serving over a year now, because of the boards "arbitrary and capricious" actions whenever, they breached a contract, denied me a hearing, never disclosing any evidence they used against me before removing me from the short term offender program based upon a report provided to them from the Arkansas County detention facility about my alleged failure to maintain good behavior, forcing me to serve a sentence I agreed with them was to be suspended for waiving my revocation hearing. Pulaski County Circuit Judge Timothy Davis Fox denied me judicial review and the right to proceed in forma pauperis on my due process claims. I filed for notice to appeal to the Arkansas Supreme Court and he denied me that right as well. Once the state of Arkansas would not let me proceed and be heard in any of there courts I fell on the mercy of this court for relief and hopefully to be heard.

- ☐ Court (if federal court, name the district; if state court, name the county):

Circuit Court of Pulaski County, Arkansas

- ☐ Docket Number: 60 CV-22-4134 / 60 CV-22-3199

- ☐ Name of judge to whom case was assigned: Timothy Davis Fox

- ☐ Disposition: (for example: Was the case dismissed? Was it appealed? Is it still pending?) he would not hear it, he denied it
TRIED filing twice to no avail

- ☐ Approximate date of filing lawsuit: JUNE 21, 2022 JUNE 28, 2022

- ☐ Approximate date of disposition: JULY 8 & JULY 14, 2022

- IV. Place of present confinement: ARK. dept. of CORR. EAST ARK.
MAXIMUM SECURITY UNIT

- V. At the time of the alleged incident(s), were you:
(check appropriate blank)

_____ in jail and still awaiting trial on pending criminal charges

_____ serving a sentence as a result of a judgment of conviction

☒ in jail for other reasons (e.g., alleged probation violation, etc.)
explain: SERVING illegal sentence in the ARK. dept. of CORR. because
the members of the ARK. Parole Board acted ARBITRARY and
CAPRICIOUS denying the plaintiff hearing about his alleged behavior

- VI. The Prison Litigation Reform Act (PLRA), 42 U.S.C. § 1997e, requires complete exhaustion of administrative remedies of all claims asserted, prior to the filing of a lawsuit. There is a prisoner grievance procedure in the Arkansas Department of Correction, and in several county jails. Failure to complete the exhaustion process provided as to each of the claims asserted in this complaint may result in the dismissal without prejudice of all the claims raised in this complaint.

- A. Did you file a grievance or grievances presenting the facts set forth in this complaint?

Yes _____ No ☒

- B. Did you completely exhaust the grievance(s) by appealing to all levels within the grievance procedure? The grievance procedure in the state of Arkansas

does not allow you to grieve a parole or transfer matter.
Once they denied me parole upon unlawful procedure, error
of law, violation of state law/federal law statute under
final agency action I petitioned the state court to NO avail.

Yes _____ No ✓

If not, why? The state of Arkansas grievance procedure does not allow an inmate to grieve a parole matter.

VII. Statement of claim

State here (as briefly as possible) the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

ON MAY 2, 2021, the plaintiff was arrested in ARKANSAS County ON NEW pending felony criminal charges. At the time, he was out ON parole and had not been in any previous trouble during the (14) fourteen months of his release. ON MAY 12, 2021, his parole officer visited him at the ARKANSAS County Detention facility and told him the ARKANSAS Parole Board was not intending to send him back to prison. He had explained to them the plaintiff had mental health problems and if he waived his revocation hearing any time to be served in the ARK. dept. of CORR. would be suspended and he would be sentenced to serve (90) days in the ARKANSAS County Jail to satisfy any alleged violation he had committed and his parole would be re-instated in ARKANSAS County at the expiration of those (90) days. The plaintiff signed based upon these promises. (see waiver revocation signed by plaintiff and his parole officer Exhibit A) suspending any time to be served in the ARK. dept. of CORR. regarding his parole violation.

(count this as page one and see attached pages 46)

The plaintiff presented his parole officer with an approved acceptable place to live at the expiration of his (90) day sanction and was authorized by the Arkansas Parole Board members to participate in the short term Revocation Program in the Arkansas County Detention Facility signed and dated on May 12, 2021, by the plaintiff's parole officer (see Exhibit B) for waiving his revocation hearing. In mid or late June 2021, the plaintiff's parole officer visited him again at the jail and showed him a report he received from the booking officer at the jail Tabitha Inman about his good institutional behavior and told him to keep up the good work. On the afternoon of June 29, 2021, the plaintiff was transported to Ferguson medical clinic in Dewitt, AR, by Arkansas County transport officer Rickey Smith to take a covid test. Whenever the plaintiff asked Mr. Smith why out of all the other inmates housed at the jail he only brought him and two other inmates to be tested whenever none of them felt sick or were showing signs of any type of illness he advised because yall are going to prison in the morning. The plaintiff advised yall have made a mistake my time was agreed upon to be suspended. Mr. Smith said keep on thinking that. The plaintiff filed a grievance on it once he returned to the jail on the kiosk in "B Pod" stating how he had not been in any trouble, how the Board had not given him a hearing

(PAGE TWO)

OR disclosed any evidence to him concerning any allegation ARKANSAS County had provided them about his alleged failure to maintain good behavior. He grieved how they were depriving him of "due process," because they had not provided him any notice of hearing OR an opportunity to give testimony, call witnesses, in front of a neutral OR detached hearing body before breaching said contract and sending the plaintiff back to serve a sentence they had agreed was to be suspended for waiving his revocation hearing. FOR over a year now, the plaintiff has tried by every means to obtain this good institutional behavior report and grievance he filed from ARKANSAS County and the state of ARKANSAS to no avail. They do not want this documentation to be seen. The court will verify the plaintiff writing the institutional parole office at the ARK. dept. of CORR. Ouachita River Unit asking why his (90) day sanction had turned into a (6) month parole violation, whenever, he had not been in any trouble, given a hearing OR a report regarding such. The plaintiff was advised he was removed from the short term revocation program, because ARKANSAS County Detention Facility had provided the Board with documentation regarding an incident of the plaintiff failing to maintain good behavior (see Exhibit E) The ARK. dept. of CORR. grievance procedure forbids inmates from grieving a parole OR transfer matter.

[PAGE Three]

So, the plaintiff requested the address to the Arkansas Parole Board in order to write commissioner John Felts and the members of the Board a letter about the great injustice he and inmate Gary Henson were caused via the "arbitrary and capricious" actions of the Boards based upon unlawful procedure, violation of statute, and other error of law, to no avail they would not respond. (see Request Exhibit F requested information to write Mr. Felts letter Exhibit D). Pursuant to the inmate handbook and the ARK. dept. of CORR. inmate disciplinary procedure (Exhibit I) pg. 1 (II) Purpose: when inmate behavior requires discipline (B) there is no presumption of guilt; (C) reliable method of determining whether an infraction has in fact occurred. These things are determined through a major disciplinary process, whereas the plaintiff should have received a copy of any report Arkansas County provided the Parole Board concerning his alleged failure to maintain good behavior, granted him notice of hearing for such, allowed him to call witnesses and appear in person to present evidence and give testimony prior to removing him from the short term offender program forcing him to serve a sentence that was suspended and assessing punishment without any finding of guilt (see Exhibit H) Major disciplinary Process 1-5 (a-h) There never was a hearing or any information disclosed granted to the plaintiff at any time regarding any Allegation Arkansas County made to the Arkansas Parole Board about his

[PAGE FOUR]

Alleged failure to maintain good behavior. They just up and allowed the plaintiff to be sent back to the ARK. dept. of CORR. based upon something said by Arkansas County. A report that's never been disclosed to the plaintiff. A report he was never granted a hearing over in which he was never found guilty of by a fair or impartial decisionmaker. A report he was never allowed to dispute, give testimony about, present evidence, or call witnesses to dispute. The plaintiff has provided documentation to this court, whereas the reason he was sent back to serve a suspended sentence in the ARK. dept. of CORR. was because of documentation provided to the Arkansas Parole Board from Arkansas County Alleging he had failed to maintain good behavior (see exhibit E) He was not sent back because of his parole violation. They said he was removed from the short term revocation program because of his failure to maintain good behavior, where is the proof of that? where is the hearing tape? where is the evidence the defendants can provide this court of how they granted the plaintiff "due process" PRIOR to breaching a contract and forcing him to serve a sentence they all agreed was to be suspended? where is said proof of the plaintiff being found guilty of ANY Allegation Arkansas County made to the Board about his failure to maintain good behavior via a fair and impartial decisionmaker or a neutral or detached hearing body? what this court is

going to reveal is there ain't none. It never happened. It can't be said the plaintiff was not denied due process by all of the above named in this case at hand. A constitutionally protected liberty interest is at stake in this case. The members of the Arkansas Parole Board are the executive branch of state government and actors of the Ark. dept. of Corr. where prison authorities, acting under color of state law, deliberately decide to punish an inmate for misconduct by restraining the inmate and inflicting appreciable physical and mental pain, the fourteenth Amendment liberty interests are implicated. It is fundamental that the state cannot hold and physically punish an individual except in accordance with due process of law. The members of the Board implicated procedural safeguards (Exhibits H & I) that were to provide the plaintiff with a notice of hearing, a report containing any allegation made by Arkansas County regarding his failure to maintain good behavior, a right to call witnesses, give testimony, present evidence prior to any punishment being assessed against him to no avail. Due process is required only when a decision of the state implicates an interest within the protection of the fourteenth Amendment and to determine whether due process requirements apply in the first place, this court must look at the interest at stake. Roth, supra, 408 U.S. at 570-571, 92 S.Ct. at 2705. The question for the

[PAGE SIX]

court to decide is was MR. HAMNER denied due process of law? He has been incarcerated in the ARK. dept. of CORR. for over a year now over something he was never found guilty of by a fair and impartial decisionmaker. Something that turned an agreed upon sanction to be served for (90) days in an Arkansas County Jail into a sentence that's ongoing. Is this not illegal being as it has violated state and federal law made the plaintiff lose his job, personal possessions, time with his family and friends and an extended amount of his life confined to a one man cell deprived of any outdoor recreation time for nearly (5) months with minimal human contact. All because of what someone said or wrote that was never proven at a hearing. Is this not cruel and unusual punishment at its best and a violation of the plaintiffs Eighth and Fourteenth Amendment rights? He certainly thinks so. The Law says so, MR. HAMNER had AN Agreement with the defendants AND before they could breach it they had to provide him with a notice of hearing and an opportunity to be heard and found guilty before Assessing ANY punishment that made him serve any time in the ARK. dept. of CORR. they had previously Agreed was to be suspended. Furthermore, the Board has illegally denied him parole under Arkansas statute through an illegal recommendation submitted to

[PAGE SEVEN]

it by Martha Adams and Ms. Cobb solicited from the Pulaski County Prosecuting Attorneys office, (see exhibit Z) pgs. 4-5. Ms. Cobb and Ms. Adams are both institutional parole officers employed at the ARK. dept. of CORR. East Arkansas Regional Maximum Security unit. The hearing the plaintiff previously attended in April 2022 was because he was never convicted on, or found guilty of, the charges that initiated his parole revocation and the defendant's illegally sending him back to serve a sentence they suspended for waiving his revocation hearing. It was clearly established law at the time anything to do with the plaintiffs alleged failure to maintain good behavior could not be presumed (Exhibit I) pg. 1, (II)(B), he had to be informed of what he allegedly done and given a chance to dispute it before any punishment was assessed against him that removed him from serving (90) days in the county jail and having his parole re-instated at that time, to serving a sentence in the ARK. dept. of CORR. that was suspended and is currently on-going over a year now (Exhibit H) (1-5)(a-h) This was a state created liberty interest clearly established at the time the Board acted "Arbitrarily and capricious." Any documentation Arkansas County provided them did not contain proof of any evidence affirming the plaintiffs guilt found by a fair and impartial decisionmaker, no proof of hearing prior to or after forcing the plaintiff to serve an illegal sentence depriving the plaintiff of his life, liberty, and property they have caused him to lose because of their deliberate indifference to law and said

[PAGE Eight]

procedure. The plaintiff is a non-discretionary offender meaning under the parole statutes in which he was sentenced at the time of his convictions he is classified as a non-violent offender and the state of Arkansas, or its actors, (the defendants) have to go by certain statutes and procedure, whenever considering the plaintiff for parole, release from prison back into society. The defendants violated these statutes (see exhibit Z) pgs. 1-2 and the plaintiff advised them of such as the court will reveal to no avail. Their action stood (see exhibit Z) pg. 3. They denied the plaintiff's parole as if he was a violent discretionary offender because they solicited an illegal recommendation as if the plaintiff's kidnapping charge was a violent offense and used a (5) year old institutional disciplinary and whatever documentation Arkansas County provided them to deny the plaintiff's parole (see exhibit Z) pgs. 3-5. This matter was filed for judicial review in accordance with A.C.A. 25-15-212 within (30) days in Pulaski County to no avail, also claiming other "arbitrary and capricious" actions of the defendants dating back to June 30, 2021, the date the defendants sent the plaintiff back to serve said suspended sentence without notice or hearing about an allegation Arkansas County provided them concerning his alleged failure to maintain good behavior to no avail, (see exhibit C) plaintiff's complaint seeking "judicial review" and request for civil action being denied by Pulaski County Circuit Judge Timothy Davis Fox and Court

clerk Terri Hollingsworth, The plaintiff filing notice of appeal to the Arkansas Supreme Court and motion for reconsideration and letter to the judge with enclosed brief all being denied (see exhibit G) The defendants can't argue these actions were not "arbitrary or capricious," made upon unlawful procedure, in violation of statute of law and unconstitutional, depriving the plaintiff of due process of state and federal law regarding revoking the plaintiff's parole turning an agreed upon (90) day sanction to be served in a county jail reinstating his parole at expiration of said time, into a sentence that is on-going in a state prison depriving him of any outdoor recreation time for many months at a maximum security prison, whenever he's a non-violent offender causing him an atypical and significant hardship forcing him to endure cruel and unusual punishment. The defendants are all sued under color of state law. The defendant's are all sued for intentionally and purposely violating the plaintiff's Eighth and Fourteenth amendment rights. The plaintiff has not been convicted or found guilty of any charge that initiated said parole violation therefore, he is suffering a fundamental miscarriage of Justice. The defendants have no right to continue housing the plaintiff in prison, whenever he was never found guilty in a court of law for any charge initiating said parole violation, without said proof of guilt this court should order the defendants to release the plaintiff from serving said illegal sentence.

Furthermore, once this case is allowed to proceed in forma pauperis this court can and will verify how the plaintiff has for many months been deprived a basic human need (outdoor recreation not conducted many months keeping him confined to a '6X8' one man cell (24) hours per day (7) days per week month after month with no relief, only receiving (1) or (2) showers a week many weeks and months due to lazy employee's and staff shortages in a maximum security institution the plaintiff's custody level and custody score forbids him to be housed in, no security employee's on post guarding the control booth or cellblock the plaintiff is housed in for many hours, no security rounds or safety and wellness checks being conducted by any officer leaving the plaintiff locked in a cell unguarded forcing the plaintiff to eat cold food. Review EAR U MAX security camera cellblock (2) on these recent dates alone 7/14/22 from 3 p.m. - 10 p.m.; 7/16/22 from 8 p.m. - midnight; 7/24/22 nearly shift change to shift change p.m. shift no officer in cellblocks 1, 2, 3, 4; 7/19/22 second shift no officer in cellblock 2, 4 control booth; 7/18/22 between 7 p.m. midnight no officer in cellblock 2, 4 or control booth; 7/26/22 for hours second shift one officer on post for (4) cellblocks leaving mine unguarded for hours. I should not be forced to fear for my safety and future health, suffering said atypical and significant hardship because defendants sent me back to serve a suspended sentence based on an allegation I was never proven guilty of [PAGE ELEVEN] denied parole by illegal means.

VIII. Relief

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

ORDER INJUNCTIVE RELIEF and make the defendants release the plaintiff from serving said illegal sentence, wherever they can't prove to this court they granted plaintiff due process and they found him guilty of bad behavior by fair/impartial decisionmaker OR said criminal charges infringing said parole violation and revocation, make them re-instate his parole in the state of Arkansas

I declare under penalty of perjury (18 U.S.C. § 1621) that the foregoing is true and correct.

Executed on this 26 day of July, 20 22.

Charles Hamner Adc# [REDACTED]

Signature(s) of plaintiff(s)

Award said plaintiff with \$1500 dollars per day compensatory and punitive damages for every day the plaintiff was forced to serve a suspended sentence in the Ark. Dept. of Corr. because the plaintiffs deprived him of a hearing proving his guilt of any allegation Arkansas County made to them about the plaintiffs failure to maintain good behavior, prior to forcing him to serve said illegal sentence without notice of hearing, never providing him copy of said report, never allowing him to give testimony, never allowing him to present evidence or call witnesses.

(Exhibit A)

Arkansas Community Correction
WAIVER OF REVOCATION HEARING

Offenders Name: Charles Hamner

ADC# [REDACTED]

I understand that I have been charged with violating one or more of the conditions of my release from the Department of Correction. I have been served with written notice of the charge(s) and I understand them. I have also been served with written notice of my right to a hearing in or near the community where the alleged violation(s) occurred. I understand the hearing process as described in the written notice. I admit that I have violated the following condition(s) of release as alleged:

- ☐ #1 Reports ☐ #2 Employment/Education ☐ #3 Residence & Travel ☒ #4 Laws
☒ #5 Weapons ☐ #6 Alcohol/Controlled Substances ☐ #7 Association ☐ #8 Supervision Fees
☐ #9 Cooperation ☐ #10 Search & Seizure ☐ #11 Waiver of Extradition
☐ #12 Special Conditions:

I understand that the Revocation Hearing Judge would determine whether I have violated one or more of the conditions of release at a revocation hearing, and, if so, whether my release should be revoked. I understand that even if I admitted my guilt at the hearing, or if I were found guilty, I would have an opportunity to present reasons that my release should not be revoked. By waiving a hearing, I am giving up that opportunity. I have no excuse for violating the condition(s) of release as alleged. I believe that the violation(s) I have admitted is/are serious enough to justify the revocation of my release.

I do not want a revocation hearing and I hereby waive my right to a hearing. I understand that, upon my signing this waiver, my release will be revoked and I will be placed in the custody of:

- ☐ the Arkansas Department of Correction
☒ the Arkansas Department of Correction- Suspended (If eligible and subject to good behavior and an approved parole plan (Reinstatement option at 90 days)
☐ Arkansas Community Correction. If I am subsequently determined to be ineligible for Arkansas Community Correction, I will be transferred to the Arkansas Department of Correction.

I will be eligible to be considered for release again in: November /2021 (month/year)

The actual date will be determined, with the next month being counted as the first month; or on my "regular" parole eligibility date, whichever is longer. My current "regular" parole eligibility date as Class I is: Past
I understand that I will not automatically be released at that time and that I may be required to serve the remainder of my sentence in its entirety.

This waiver of a revocation hearing is made voluntarily and intelligently. It is not the result of any threats or promises or any form of coercion. I understand I may file an appeal within thirty (30) days from the date I sign this waiver stating why this waiver should be rescinded. I understand that if this waiver is rescinded and I am granted a hearing, I may face additional penalties.

Charles Hamner
Offender's Printed Name

5/12/21
Date

Charles Hamner
Offender's Signature

Arnold Rhinehart
Parole Officer's Printed Name

5-12-21
Date

Arnold Rhinehart
Parole Officer's Signature

Parole Officer's Supervisor Printed Name

Date

Parole Officer's Supervisor Signature

Revocation Hearing Judge's Name

Date

Revocation Hearing Judge's Signature

CONTRACT agreement with ARK. Parole Board suspending
any time to be served in ARK. dept. of CORR. Regarding
parole violation

(EXHIBIT B) due process

Arkansas Community Correction



Short Term Revocation Program Eligibility

Name: Charles Hamner

ADC# [REDACTED]

Prior to a Revocation Hearing, the PPO/Agent is responsible for determining whether an offender is eligible for placement in the Short-Term Revocation Program (STRP) and notifying the Revocation Hearing Judge accordingly.

The parolee is NOT eligible to sign a waiver for placement in the STRP if he/she (check all that apply):

- ☐ has a pending charge involving an Act 1029 offense
- ☐ is under active supervision for an Act 1029 offense
- ☐ is currently under active supervision for a violent crime involving a firearm and is alleged to have violated the conditions of his/her parole by possessing a firearm
- ☐ has been incarcerated in the STRP within the last ninety (90) days

Does the parolee have an acceptable place to live at the expiration of 90 days?



Yes



No

Failure to have an approved home plan prior to signing a waiver for placement in the 90 day program does not render the parolee ineligible. However, in order to be released at the expiration of the 90 day period, offender must meet all eligibility requirements of the program including maintaining good behavior and obtaining an approved home plan.

Officer/Agent Signature: [Signature]

Date: 5-12-21

(EXHIBIT B)

(Exhibit C)

ELECTRONICALLY FILED
Pulaski County Circuit Court
Terri Hollingsworth, Circuit/County Clerk
2022-Jul-08 13:33:07
60CV-22-4134
C06D06 : 1 Page

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
SIXTH DIVISION

CHARLES HAMNER

PETITIONER

v.
ARKANSAS BOARD
OF PAROLE, *ET. AL.*

CASE NO. 60CV-22-4134

RESPONDENTS

ORDER

On this day came on for consideration *Petition for Leave to Proceed in Forma Pauperis* filed on June 28, 2022. The court finds that *Petition for Leave to Proceed in Forma Pauperis* should be and is hereby denied for failure to state a colorable cause of action.

IT IS SO ORDERED.


TIMOTHY DAVIS FOX
CIRCUIT COURT JUDGE

7/8/22
DATE

(Exhibit C)

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v.
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CASE NO. 60CV-22-4134

RESPONDENTS

ORDER

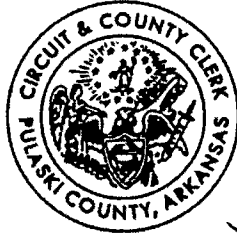
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IT IS SO ORDERED.


TIMOTHY DAVIS FOX
CIRCUIT COURT JUDGE

7/8/22
DATE

TERRI HOLLINGSWORTH
PULASKI CIRCUIT/COUNTY CLERK



401 WEST MARKHAM STREET, SUITE 120
LITTLE ROCK, ARKANSAS 72201
Phone: 501-340-8412
Fax: 501-340-8420

(Exhibit C)

- ☐ Circuit Clerk does not accept temporary checks.
- ☐ Improper Filing Fee
- ☐ Cannot locate as being a Pulaski County Circuit Court Case (our records indicate no such filing)
- ☐ Original document unsigned and/or need original document
- ☐ Check is unsigned or not made out to Pulaski County Circuit Clerk
- ☐ There is no open administration for this decedent
- ☐ There is a Demand for Notice and we can not file the Small Estate until the Demand is cleared
- ☐ Small Estates cannot be filed until the 46th day after death and assets are less than \$100,000.00
- ☐ Missing Civil/Domestic/Probate cover sheet
- ☐ Missing Confidential Information Sheet
- ☐ Missing Notary Seal/Signature or needs to be notarized
- ☐ Cannot be filed in Pulaski County
- ☐ As of March 19, 2013, Electronic Filing will be mandatory for attorneys in Pulaski County Circuit Courts.
- ☒ Other (See Below)

We received your filing on June 28, 2022.

Holding number 60CV-22-4134 was assigned to your filing, but this is not an "active" case until we receive the Order signed by the Honorable Judge Tim Fox, approving your IFP. This is a holding number ONLY.

Any documents submitted prior to this holding case being approved will be received and filed but it will be under the discretion of the Judge to act on.

If the ruling is in your favor, we will then provide you with the required/appropriate copies.

NOTE: Documents do not receive a "file mark" until the Order to proceed via IFP has been approved and we do not send copies back until the case IFP has been approved.

(Exhibit C)

IN The Circuit Court OF Pulaski County, ARKANSAS
Sixth Division

Charles Hamner
Adc [REDACTED]

Petitioner

case NO. _____

V.

ARKANSAS Board OF
Parole, et.al. (members)

Respondents

COMPLAINT seeking Declaratory Relief,
monetary Damages, FOR DENYING Said Petitioner
minimum Requirements OF "due Process" Pursuant
TO THE PROVISIONS OF state AND Federal Law
Beginning June 30, 2021, and ON-going.

Comes now said petitioner, Charles Hamner Adc# 143063, representing himself 'Pro Se' seeking the above requested relief from each member of the ARKANSAS Board OF Parole in there individual AND official capacities beginning ON June 30, 2021, being

[PAGE ONE]

(Exhibit C)

As there actions were "arbitrary and capricious," made upon unlawful procedure, not supported by substantial evidence of record, unconstitutional and upon ERROR of ARKANSAS AND Federal Law statutes AND Constitutional guarantees. That said members knowingly denied said petitioner a right to dispute any allegation the ARKANSAS County Detention facility provided them regarding the petitioners failure to maintain good behavior, before breaching said contract entered into by them AND said petitioner suspending any time to be served in the ARKANSAS Department OF Corrections forcing him to serve said sentence beginning June 30, 2021, through this time which is currently ON-going. That said respondents never at any time since said date have provided said petitioner with written notice of any Allegation ARKANSAS County provided them about his failure to maintain good behavior, never granted him AN opportunity to be heard in person, OR call witnesses, OR present documentary evidence before a neutral and detached hearing body before removing him from the short term Revocation program and making him serve a sentence in the ARK. dept. of CORR. he agreed with them was to be suspended (id contract agreement exhibit A).

[PAGE TWO]

(Exhibit C)

Reveal said Petitioner had AN Approved parole plan and eligible to participate in the short term offender program (id contract agreement Exhibit B). Reveal Reason why said Petitioner was sent back to serve illegal sentence (id at Exhibit E) Reveal said Petitioner Advising John Felts and other members of the Arkansas Board of Parole how he and inmate Gary Hewson were serving illegal sentences due to "ARBITRARY and capricious" actions that devied them the minimum requirements of due process to no avail (id handwritten letter addressed to MR. Felts AND the ARKANSAS Board of Parole Exhibit D). Said respondents ON OR AROUND June 30, 2021, accepted documentation from the ARKANSAS County Detention center, then allowed ARKANSAS County to remove said petitioner from serving a (90) day sanction in the ARKANSAS County Jail and transfer him to serve A suspended sentence in the ARK. dept. of CORR, without granting him the minimum requirements of due process. According to "MORRISSEY" V. BREWER, supra, 408 U.S. at 489, 92 S.Ct. at 2604, whenever ARKANSAS County provided them said documentation regarding petitioners Alleged failure to maintain good behavior, the respondents were required to serve the petitioner written notice of

[PAGE Three]

(Exhibit C)

those allegations and disclose said evidence against him, give him an opportunity to be heard in person and to present witnesses and documentary evidence before a neutral and detached hearing body and provide said petitioner with a written statement from the factfinders of the evidence relied on and their reasons for removing him from the short term offender program and making him serve a sentence they had previously suspended for waiving a revocation hearing (id at Exhibit A) The United States District Court for the Eastern District of Arkansas, Western Division, in Hickman v. Arkansas Bd. of Pardons and Paroles, 361 F. Supp. 864 June 13, 1973, found the Supreme Court ruling in "Morrissey" made it clear that a written statement by the factfinders as to evidence relied on and reasons for "revoking parole" must be made and a copy thereof provided the parolee. Being as the respondents can not prove they ever gave said petitioner the minimum requirements of said "due process" it can't be said that their actions were not "arbitrary and capricious" and made upon unlawful procedure, that ultimately infringed upon and violated said petitioner's constitutional rights to due process of state and Federal Law. It can be verified by this Court that

[PAGE FOUR]

(Exhibit C)

the petitioners parole violation was not what sent him back to serve a sentence he and the respondents agreed was to be suspended for waiving his revocation hearing. The respondents allowed Arkansas County to send the petitioner back to serve an illegal sentence based upon an allegation they provided the respondents regarding his alleged failure to maintain good behavior. The respondents never at any time since June 30, 2021, have provided the petitioner a chance to dispute what Arkansas County alleged and it can't be said their actions were not "arbitrary and capricious." Said petitioner is seeking \$1500 hundred dollars per day in compensatory and punitive damages, as well as lost wages for every day he has been illegally housed in the ARK. dept. of CORR, because said respondents knowingly deprived him his constitutional rights to a hearing and present evidence disputing Arkansas County's allegations. Furthermore, petitioner has recently been denied parole by the said respondents as of May 31, 2022, as Agency's final action and is ripe for judicial review. It was done in violation of Arkansas statute A.C.A. 16-93-615(6)(A)(i) because they solicited an illegal recommendation objecting to the petitioners parole and used said documentation to deny his parole, (id at exhibit Z) pgs. 4-5. Reveal Agency final action (id at exhibit Z) pg. 3.

[PAGE Five]

(Exhibit C)

Said Petitioner has a class B Kidnapping charge defined under Arkansas statute as A non-discretionary non-violent offense, which does not allow the said respondents to solicit recommendations regarding his parole or transfer to the division of Community Corrections from the Pulaski County Prosecutor's Office. This can only legally be done provided the Petitioner was a discretionary offender sentenced under the provisions of A.C.A. 5-4-501(d)(2)(iii) "serious felony involving violence" or "felony involving violence", which the court can reveal he's not, said Petitioner is not sentenced under the provisions of A.C.A. 16-93-615 (b)(1), therefore, he cannot be denied parole as if he's a discretionary offender for "Nature and Seriousness Crime" as the respondents previously done (id at Exhibit Z) pg. 3, because it's illegal pursuant to Arkansas's Parole Statutes. Furthermore, the said respondents used his institutional record (id at Exhibit Z) pg. 3 to deny his parole, which is illegal as well being as a basis for there decision was based upon documentation Arkansas County provided them on or around June 30, 2021, Regarding said petitioners alleged failure to maintain good behavior in which can and will be proven in this court of law

[PAGE SIX]

(Exhibit C)

that said respondents never gave him a chance to dispute which ultimately sent him back to serve a sentence in the ARK. dept. of CORR. he agreed with the respondents was to be suspended for waiving his revocation hearing, It has been over (12) months now since petitioners arrest that initiated him into serving this illegal parole violation and he is incarcerated pursuant to conviction of another offense, pursuant to the provisions of Arkansas Law found under the Arkansas Rules of Criminal Procedure Rules 28.1(b), 28.2(a), the charges that initiated the petitioners arrest and him serving this illegal parole violation must be dismissed with AN absolute Bar To Prosecution. A motion was filed AND sent to Arkansas County Circuit Judge DONNA Galloway and Arkansas County Circuit Clerk Sarah Merchant requesting under the provisions of Arkansas Law that said charges be dismissed with Absolute Bar to Prosecution (id at exhibit C) pgs. 1-2 to NO Avail, as of April 28, 2022, filed on May 2, 2022, in Charles Hamner v. State of Arkansas case NO. 01DCR-21-74. Petitioner has requested respondents correct there error founded upon error of law and unlawful procedure (id at exhibit Z) pgs. 1-2 to NO Avail. For this Court to allow this

[PAGE Seven]

(EXHIBIT C)

great injustice to be ON-going forcing said petitioner to continue serving said illegal sentence would be a fundamental miscarriage of Justice under the PROVISIONS of ARKANSAS AND Federal Law and Equal Protection of the Laws, because its now knowingly depriving him of his rights to life, and liberty, and due process of said Laws. The petitioner has provided "facts" and proof to this court, whereas the respondents "ARBITRARY and capricious" actions made upon unlawful procedure can be found in violation of state AND Federal Law and infringing upon his constitutional rights. The ARKANSAS Supreme Court has previously held that when parole is revoked, that revocation can be set aside in the courts if it be shown that the Board acted "ARBITRARILY OR CAPRICIOUSLY," Webb v. Bishop, 242 ARK. 320, 325, 413 S.W. 2d 862, 865 (ARK. 1967) The respondents can't prove they didn't. Under ARKANSAS Law AN inmate is entitled to "judicial review" when he asserts an infringement upon his constitutional rights, Clinton v. Bonds, 306 ARK. 554, 816 S.W. 2d 169 (1991). For Every Above stated Reason pursuant to the PROVISIONS of state AND Federal Law, said petitioner is entitled to declaratory and injunctive relief enforcing a declaration of his rights, a trial

[PAGE Eight]

(Exhibit C)

by jury, as well as punitive and compensatory damages for all his lost wages, Attorney fees, from the date his constitutional rights were knowingly violated by the respondents who deprived him of due process, This is what he prays for and ask of the Pulaski County Circuit Court and all other relief it deems just and proper, Respectfully submitted this 21st day of June 2022.

Charles Hamner # [REDACTED]
[REDACTED]

Please Also be advised said petitioner is asking the court to order said clerk to prepare summons to serve upon said respondents pursuant to Rule 4 of the Arkansas Rules of Civil Procedure and forward said summons to him at the above listed address, whereas he can serve said complaint and summons with attached exhibits to the aforementioned respondents.

Respectfully,

Charles Hamner # [REDACTED]

[PAGE NINE]

(Page 1) (Exhibit D)

MR. Felts,

(7-23-21)

I pray this letter finds you and all the respectable members of the board at your very best. I'm writing you regarding a few situations concerning the (90) day STAP Program hoping in the future you and the respectable board of parole can change some things whereas, another offender may not have to experience the suffering I myself, Gary L. Henson # [REDACTED] or Charles E. Hanner # [REDACTED] previously did. In my case, I was wrote a disciplinary on (2) separate occasions but, both were dismissed without a finding of guilt. However, the next thing I know is I'm being brought back to prison to serve a (6) month parole violation without a finding of guilt, which is strictly a violation of my rights to due process under state and federal law. PRIOR to a finding of guilt for misconduct the state or county government has no justifiable reason to turn a (90) day sanction to be served in the cleburne county jail, into a six month parole violation to be served in a state prison whereas, (A) my sentence was doubled and imposes a much stricter and harsher punishment that requires me to be granted parole again; (b) places me at a substantial risk of catching the delta variant of covid 19 which could take my life from me wherever, I was never proven guilty of violating a (90) day sanction for any prior misconduct. Now please realize and be reasonable this is strictly illegal because, my Adc time

(page 2) (Exhibit D)

was suspended upon good behavior and an approved (90) day home plan, in which, I met the criteria of both. Even county deputies told me I got screwed and I said, "why can't you tell the parole board that???" On June 23, 2021 my (90) day sanction was up in the cleburne county jail, at which time I posted bond on said pending criminal charges that initiated the (90) day sanction and was told I had an AdC hold for misconduct. However, cleburne county documentation will verify I was indeed wrote up twice but, never plead guilty or was found guilty by its disciplinary court of any alleged offense. Without a finding of guilt, there is no proof of misconduct. Without said bad behavior or a finding of guilt thereof, cleburne county has got the state of Arkansas involved in a situation of falsely imprisoning me Gary Henson # [REDACTED], as a similar matter occurring in Arkansas County to inmate Charles Hamner # [REDACTED] has as well, because both our sentences were doubled whereas, we both have to be approved for parole again by the board in which we could easily be denied until God knows when wherever, we were never found guilty of doing nothing wrong, which is strictly a violation of due process, something that certainly could and needs to be challenged under Arkansas state law and United states federal law, do to being illegal under due process of its very law. In Charles Hamner's case #143063, he filed a lawsuit on Arkansas County sheriff

(page 3) (Exhibit D)

Dear Morris 2:21 CV 00062 and his subordinates denying or delaying him mental health treatment, counseling, and medication for over a period of (30) days that resulted in (2) separate suicide attempts. Once the sheriff was notified by the court of such complaint being filed he up and shipped Mr. Hanver off to prison in a matter of retaliation without, so much as even providing him with a written explanation of said misconduct, or hearing whatsoever which, is strictly illegal on its face as the aforementioned, because it violates state and federal due process of law because, there was never a hearing or finding of guilt of any prior misconduct or wrongdoing by Mr. Hanver before extending his (90) day sanction to be served in Arkansas County jail, to a (6) month parole violation to be served in a state prison, in which he could be denied parole whenever, he done nothing more than piss off a county official for causing him, a mentally ill prisoner, a known hardship denying him his medication for several weeks nearly causing this man to lose his life do to his unlawfulness. Written documentation provided by a county government minus proof of guilt by a bi-partial judge of such said allegation is no proof of misconduct at all and does not justify our sentences being doubled accordingly. There's no court that wouldn't agree with these facts proven by the record. It can be and will be proven in a court of law that the state or county,

(page 4) (Exhibit D)

has no said proof of any hearing being conducted whereas, a prior finding of guilt was found to initiate additional punishment for any misconduct and strictly violates our rights to due process. I do know Mr. Hamner has recently petitioned the court in his civil case 2:21 cv 00062 about this retaliatory sheriff violating his due process rights getting the state involved in a federal matter whereas, the court has been petitioned to transfer Mr. Hamner back into county custody do to its unlawfulness, see document #11-0 pages 1-7 Hamner vs. Mannis, et.al. case 2:21-cv-00062-BSM-PSH, sir, please understand all we and Mr. Hamner is after is our rights to due process, we just want what is due to us at this time, our parole re-instated and dismissed from state custody. It's simple as that, we should not be forced to serve time in the state that was previously suspended prior to a finding of guilt of misconduct. Respectfully, Charles Hamner

Charles Hamner

(Exhibit E)

Inmate Request Form

This form is to be used by inmates to contact staff with requests on issues they may have. This step should be used before completing and Informal Resolution or Grievance. This is the Ouachita River Correction Unit In-House Form.

Name: <u>Charles Hamner</u>	ADCH#: <u>[REDACTED]</u>	BKS: <u>Intake 116</u>	Date: <u>7-10-21</u>
-----------------------------	--------------------------	------------------------	----------------------

Circle the Department you want your request directed to.

Business Office	Visitation / Inmate Phones	Medical	Property
Records	Classification	Mail Room	Law Library
Commissary	Chaplain	Field Office	Laundry
Mental Health	Mental Health	<u>Parole</u>	Warden's Office
Deputy Warden's Office	Other: _____		

Staff Directed to: Mr. JASON GRAY

Give detailed reason for request: Can you please tell me why my (90) day sanction in ARK. Co. Jail has turned into a (6) month parole violation whenever, I was never served a misconduct report of any type for misbehavior or given a hearing due to so. I never presented any type of bad behavior at any point. what I did do is file a federal lawsuit against the sheriff and here I am

Have you talked to any staff about your request? Yes ✓ No

If your answer is "yes", who did you talk with about this request and when? _____

Inmate's Signature: <u>Charles Hamner</u>	Date: <u>7-10-21</u>
Staff Responding:	Date:

I have reviewed your request and here is my finding: Arkansas Co. Detention Facility provided documentation to the parole board of an incident of failing to maintain good behavior therefore you were removed from the 90 Day STRP. You will go before the Parole Board during Nov. 2021

I am referring this request to: _____

I am considering this issue:

✓ Resolved

Not Resolved

quest 7/10/2021

(EXHIBIT F)

Inmate Request Form

This form is to be used by inmates to contact staff with requests on issues they may have. This step should be used before completing an Informal Resolution or Grievance. This is the Ouachita River Correctional Unit In-House Form.

Name: <u>Charles Hammer</u>	ADC #: <u>[REDACTED]</u>	BKS: <u>330</u>	Date: <u>7-25-21</u>
-----------------------------	--------------------------	-----------------	----------------------

Circle the Department you want your request directed to.

Business Office	Visitation / Inmate Phones	Medical	Property
Records	Classification	Mail Room	Law Library
Commissary	Chaplain	Field Office	Laundry
Mental Health	Mental Health	<u>Parole</u>	Warden's Office
Deputy Warden's Office	Other: _____		

Staff Directed to: Any O.R.C.U. I.P.O. officer

Give detailed reason for request: I need John Felts address at the ARKANSAS Parole Board, I've written a complaint I need to get to him that has recently been filed in federal court. Candy West 7/12/2021. Said the board had documentation of an incident of misconduct. Why can't I get a copy of that incident of misconduct report?

Have you talked to any staff about your request? Yes No

If your answer is "yes", who did you talk to about this request and when? _____

Inmate's Signature: <u>Charles Hammer</u>	Date: <u>7-25-21</u>
Staff Responding: _____	Date: _____

I have reviewed your request and here is my finding: 1302 Pike Ave, Ste. D
North Little Rock, AR 72114

Contact the county for that incident report.

I am referring this request to: _____

I am considering this issue: Resolved Not Resolved

Staff Member's Signature & Date

ELECTRONICALLY FILED
Pulaski County Circuit Court
Terri Hollingsworth, Circuit/County Clerk
2022-Jul-15 11:25:38
60CV-22-3199
C06D06 : 13 Pages

(Exhibit G)

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
SIXTH DIVISION

CHARLES HAMNER
ADC #143063

PETITIONER

v.

CASE NO. 60CV-22-3199

ARKANSAS BOARD OF PAROLE, et al.

RESPONDENTS

ORDER

On this day came on for consideration Plaintiff's *Motion for Reconsideration for Judicial Review and a Notice of Appeal to the Arkansas Supreme Court* submitted to chambers on June 21, 2022, and attached as an exhibit hereto. The court finds that the *Motion for Reconsideration for Judicial Review and a Notice of Appeal to the Arkansas Supreme Court* should be and is hereby denied.

IT IS SO ORDERED.


TIMOTHY DAVIS FOX
CIRCUIT COURT JUDGE
7/14/22
DATE

Dear Judge Fox, (Exhibit G) 6/15/22

SIR, I hope all is well with you and all the fine folks in Pulaski County. My name is Charles Hamner Adc # [REDACTED], an ARKANSAS PRISONER who recently filed a Petition For Judicial Review in your respectable court (case No. 60cv-22-3199). I received an order from you on June 13, 2022, denying me leave to proceed in forma pauperis for failure to state a colorable cause of action. Please understand I'm not trying to pull the wool over your eyes and proclaim I'm some saint because I know I'm not. But Judge the law is the law whether we like it or not, and I've been wronged by the ARK. Parole Board, and I did my best to explain it to you in my Petition but obviously I failed because here I sit once again writing it down trying to explain it better for you to see that maybe you previously erred in your findings. Please find enclosed A motion For Reconsideration For Judicial Review And A Notice of Appeal To The ARKANSAS Supreme Court. SIR, what I intend to point out to you are

(Page 1)

(EXHIBIT G)

three basic things: IN my petition you will find I waived a revocation hearing on May 12, 2021 (see exhibit A) You will find this suspended any time to be served in the ARK. dept. of COR. It doesn't say it, but I verbally agreed to serve a (90) day sanction in the ARK. Co. Jail for violating the terms of my parole. On June 30, 2021, I was sent back to serve a sentence the parole board and I had previously agreed was to be suspended for waiving my revocation hearing. The reason I was sent back can be found on the bottom of pg. (Exhibit E) It wasn't for said pending criminal charges, Allegedly ARK. Co. provided documentation to the Parole Board stating I'd failed to maintain good behavior. I had no idea as to why I'd been sent back until I was advised by this state employee and to this day I still haven't seen the documentation they provided to the board. The board has failed to meet the minimum requirements of "due process" found in MORRISSEY V. BREWER, supra, 408 U.S. At 489, 92 S.Ct. at 2604, because once Arkansas County Detention Facility provided them with documentation Alleging my failure to maintain good behavior they denied me any process due to me which has ultimately caused me to serve an illegal

[page Two]

(Exhibit G)

sentence. If you will investigate I waived a revocation hearing ON MAY 12, 2021 (id at Exhibit A) I had an approved parole plan and was eligible to participate in the short term revocation program (id at Exhibit B) case no. 60 CV-22-3199. I never waived any type of hearing in June 2021 regarding any allegation made to the Board concerning my failure to maintain good behavior, the record speaks for itself, I was just up and sent back to prison based upon an allegation I've yet to see and only know about due to the response in (Exhibit E) provided in July 2021. The Board never gave me a chance to call witnesses or give testimony about anything Arkansas County stated about my behavior and have never disclosed to me whatever it was Arkansas County states I did that was allowed for them to remove me from the short term revocation program. The Board was to grant me a hearing before a neutral and detached hearing body, disclose to me the evidence against me, give me the opportunity to be heard in person and present witnesses and documentary evidence, and a written statement by the factfinders as to the evidence relied on and reasons for revoking my parole. I provided you previously with labeled exhibits (H) & (I).

(Page Three)

(EXHIBIT C)
to verify I had a right to a disciplinary process under Arkansas Law (see exhibits H & I) (case no. 60 cv-22-3199) I've claimed it all along and its in my petition For Judicial Review, what the Board done was unconstitutional and there findings were based upon unlawful procedure and was arbitrary and capricious to say the least because it was never based upon any substantial evidence of record and its an error of law ripe for Judicial Review pursuant to the provisions of A.C.A. 25-15-212. Pursuant to Arkansas and Federal Law the Board denied me the minimum requirements of due process because it was all a one sided affair. whatever Ark. Co. provided them I was never granted any opportunity to dispute. Because of it (14) months later I'm still in prison and its unlawful sir. Please also Review Hickman v. Arkansas Board of Pardons and Paroles, 361 F. Supp. 864. The Board has previously denied me Parole (id at Exhibit C) as result of final agency action, I have raised a constitutional question for Judicial Review because of the arbitrary and capricious actions of the board which caused me to serve this illegal sentence which is on-going.

[PAGE FOUR]

(Exhibit G)

The charges which initiated this parole violation must be dismissed with absolute bar to prosecution pursuant to the provisions of Ark. R. Crim. Proc.

28.1 (b), 28.2(a), my date of arrest was May 2, 2021. I'm in prison serving time on a previous sentence from 2015 conviction nothing new. I have filed to have said charges dismissed in Ark. Co. under the provisions of 16-111-104(a) on May 2, 2022 to no avail, and Rules 28.1 (b), 28.2 (a). The court will not respond. Furthermore, I do not have a serious felony involving violence under the provisions of A.C.A. 5-4-501 (c)(2) therefore the parole Board could not deny me parole as it previous done based on seriousness and nature of crime. (id at Exhibit C) It was also unlawful for them to use a report Ark. Co. provided then I could not dispute (id at Exhibit C) denied for institutional record. Sir, I think I've more than stated a colorable cause of action and am asking you based upon this evidence I previously presented to allow my case to be heard in your court or to proceed in forma pauperis. Thank you God Bless! Please respond to me!

Charles Hammer [REDACTED]

(page five)

(Exhibit G)

IN The Circuit Court OF Pulaski County, AR
Sixth Division

Charles Hamner
Adc # [REDACTED]

Petitioner

case NO, 60 CV-22-3199

V.

Arkansas Board of Paeole, et.al. Respondents

Motion with Enclosed Letter To The Respectable
Pulaski County Circuit Judge MR. Timothy Davis
Fox Asking him to Reconsider His Previous
Order Denying The Petitioner His Leave To
Proceed in Forma Pauperis for failure to state
A colorable cause of action, OR Deny said
Motion and Allow Petitioner To Appeal said
Decision To The Arkansas Supreme Court,

[PAGE ONE]

(Exhibit G)
BRIEF

ON MAY 12, 2021, said petitioner entered into a contract agreement with the Arkansas Parole Board that suspended any time to be served in the ARK. dept. of CORR. (id at Exhibit A) for waiving a Revocation hearing. On June 30, 2021, said petitioner was sent back to the ARK. dept. of CORR. based on an Allegation ARK. Co. detention facility allegedly provided the ARK. Parole Board. At no time, did the Arkansas Parole Board grant said petitioner the minimum requirements of due process under Arkansas or Federal Law. Said Petitioner was sent back to prison based on his failure to maintain good behavior in ARK. Co. where he was serving a 90 day parole sanction to satisfy violating said terms of his parole. (id at Exhibit E) said Petitioner was never granted a hearing, granted in writing any evidence to be used against him regarding any allegation ARK. County provided them regarding his failure to maintain good behavior, wasn't allowed to be heard in person or present witnesses or documentary evidence before a neutral or detached hearing body that was to provide a written statement as to the evidence relied on and reasons for then revoking Petitioner's Parole, ultimately leading

[PAGE TWO]

(EXHIBIT G)

him to serve an illegal sentence in the Ark. dept. of CORR. for nearly (14) months now. It has previously been filed in the Pulaski County Circuit Court and denied to leave to proceed in forma pauperis based on failure to state a colorable cause of action. Said petitioner will be found stating the provisions pursuant to state and Federal Law as to why the matter must be allowed to proceed in a court of law as stated below. It is clear from Morrissey that a parolee is entitled to a preliminary and a final revocation hearing. Before the preliminary hearing the parolee is entitled to notice of the alleged violations and of the purpose of the hearing. At the hearing the parolee should be given the chance to speak on his own behalf and to introduce relevant evidence. He is entitled also to a conditional right to question adverse witnesses, an independent decisionmaker, and a written statement covering the evidence and reasons for the action taken. Minimum requirements of due process require that the final hearing include: (a) written notice of the claimed violations of parole; (b) disclosure to the parolee of evidence against him; (c) opportunity to be heard in person and to present

[PAGE THREE]

(EXHIBIT G)

witnesses and documentary evidence; (d) the right to confront and cross-examine adverse witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation); (e) a 'neutral and detached' hearing body such as a traditional parole board, members of which need not be judicial officers or lawyers; and (f) a written statement by the factfinders as to the evidence relied on and reasons for revoking parole, *Morrissey v. Brewer*, *supra*, 408 U.S. at 489, 92 S.Ct. at 2604. Due to the "arbitrary and capricious" actions of the Arkansas Parole Board based upon unlawful procedure of Arkansas Law supported by no other substantial evidence of record is ^{UN}constitutional and has ultimately deprived said petitioner of any process due to him under the minimum requirements of said due process of Arkansas and Federal law. Also, see *Hickman v. Arkansas Bd. of Pardons and Paroles*, 361 F. Supp. 864. It is a colorable cause of action and should be allowed to proceed in forma pauperis. Being as the Arkansas Parole Board has recently denied the petitioner parole being as they are illegally housing him in the first place and he has submitted

[PAGE Four]

(EXHIBIT G)

a petition for Judicial Review in this court in a timely manner filed May 19, 2022, after Agency's final action and it is proven how the Arkansas Parole Board infringed upon his constitutional rights approximately (14) months ago to a hearing regarding his behavior before making him serve a sentence they previously agreed was to be suspended based upon an allegation provided to them by ARK. Co. This is what said petitioner prays for and ask of you Pulaski County Circuit Court Judge Mr. Timothy DAVIS Fox. Please and thank you for setting the matter to be heard within 45 days from the filing of this motion or deny said motion and allow said petitioner appeal said ruling to Arkansas Supreme Court.

Respectfully submitted,

Charles Hamner [REDACTED]
[REDACTED]

Please Respond Judge Fox! THANK YOU SIR!

[PAGE Five]

Charles Haines # [REDACTED]
[REDACTED]

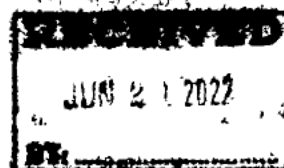
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06/16/2022

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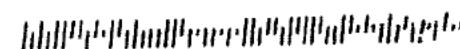
ZIP 72320
041M1128458



MR. Timothy Davis Fox
Circuit Judge
401 W. Markham, Suite 210
Little Rock, AR 72201

(Exhibit G)

(Legal mail)



6/15/2

SEP 2. 1106
CO-H-22

(Exhibit H)

13

Telephone Use

During set hours, you are allowed to make collect calls to people on your pre-approved telephone list. *Three-way calling and call forwarding is not allowed. All calls except those to an attorney or a known outside rape counseling service, will be recorded and may be monitored.*

Emergency Messages

The Chaplain or mental health office will notify you about family emergencies.

Personal Clothing

The ADC provides uniforms, undergarments, a pair of shoes, soap, toothbrush, toothpaste, safety razor with blade, bath towels and feminine hygiene items. Seasonal items *may* also be provided such as a toboggan cap, jacket or coat and thermal underwear.

Jewelry

Personal jewelry allowed includes one wristwatch, one plain metal ring or wedding band and one religious medal or emblem worn on your ID chain. The religious medal/emblem must be approved by the chaplain. The value of each item cannot exceed \$50. A wedding band can have a higher value, but you must sign a waiver of liability.

Photographs

You may have up to five personal photographs that are not nude or sexually suggestive. Photographs cannot contain subject matter that is disruptive in nature or would threaten security or the good order of the institution. Digital pictures or images generated by a computer and xerox copies are considered to be photographs. Photographs may not be any larger than 8 1/2 X 11 inches. Such photographs may contain either single or multiple digital images/pictures. However, when digital images/pictures are cut from an 8 1/2 X 11-inch sheet, it will no longer be considered as one. Each image cut from the sheet will be counted as one of the inmate's five authorized photographs.

Major Disciplinary Process

The major disciplinary form will be used in filing major disciplinary reports against you. This form will inform you in writing of the details of the rule infractions.

1. You will receive a copy of the major disciplinary report at least 24 hours prior to the major disciplinary court hearing.
2. At the time you are served the disciplinary report, if you want to call witnesses, this is the time to do it by giving the notifying officer the names of the individuals you wish to call. There may be a limit on

14

how many witnesses you can call. The Chief Security Officer at the unit determines this limit. You will not be allowed to submit witness statements that you have gathered to the hearing officer.

3. Unless your disciplinary is extended, it will expire after seven (7) business days (excluding weekends and holidays) from the date of the incident, the discovery of the incident (in cases where the incident was concealed from the staff), or the date the investigation has concluded. If your disciplinary is extended, you will be provided a copy of the extension form.
4. You will be allowed to be present at your hearing, but you will not be forced to attend. You may waive your appearance by signing a waiver form or failing to attend when disciplinary court is called. You cannot appeal if you waive your hearing.
5. The hearing will be conducted as follows:
 - a. When the hearing officer is ready to hear your case, you will be called into the room, and the hearing officer will identify any people present at the hearing for the record.
 - b. You will be informed of the specific charges against you and the possible consequences of a finding of guilt.
 - c. The hearing officer will read the disciplinary report to you and ask for your plea to each charge. There are only two acceptable pleas, "guilty" or "not guilty." Any plea other than these, or refusing to enter a plea, will be considered as a plea of not guilty.
 - d. You will be given an opportunity to make a statement on your behalf and present documentary evidence (other than witness statements).
 - e. You will then be required to leave the room while the hearing officer reads any confidential statements into the record, and considers the evidence.
 - f. After the hearing officer has reached a verdict, you will be called back into the hearing room and informed of his/her findings and the reason for them.
 - g. You will be advised of your right to appeal any or all guilty decisions of the hearing officer.
 - h. At this point, your hearing will end, and if you were found guilty, this will mark the beginning of any punishment assessed.

(Exhibit I)



Arkansas Department of Correction

PO Box 8707
Pine Bluff, AR 71611-8707
Phone: 870-267-6299
Fax: 870-267-6244
www.adc.arkansas.gov

ADMINISTRATIVE DIRECTIVE

SUBJECT: Inmate Disciplinary Manual

NUMBER: 18-34

SUPERSEDES: 18-12

APPLICABILITY: Inmates and Staff

**REFERENCE: AR-831 – Disciplinary Rules
and Regulations**

PAGE: 1 of 39

APPROVED: Original Signed by Wendy Kelley

EFFECTIVE DATE: 7/12/18

I. POLICY: To ensure that Institutional Rules and Regulations are enforced through an unbiased and prudent fact finder and to provide appropriate due process throughout the disciplinary process. The behavior of offenders committed to the custody of the Department shall be controlled in an impartial and consistent manner.

II. PURPOSE: The Department shall establish and designate Major and Minor Disciplinary Hearing Officers who shall hear and adjudicate all reports of infractions of institutional rules and regulations that are referred to them. These authorities shall be designated as the Major or Minor Disciplinary Hearing Officers, respectively. When inmate behavior requires discipline, these procedures shall be followed to ensure that no unnecessary disciplinaries are written and that:

A. there is no bias in favor of the charging officer;

B. there is no presumption of guilt;

C. there is a reliable method of determining whether an infraction has in fact occurred;

D. blatant forms of partiality which can result from prior knowledge, involvement, bias, or personal interest in a particular case are minimized; and

(Exhibit Z) (Pg. 1)

Ms. Adams, ([REDACTED] Institutional Parole Services) (6/1/22)

Please do not think I'm trying to be a butthole or a smart mouth know it all. I'm just trying to get out of PRISON pursuant to ARKANSAS Law. Please be advised I have a "Class B" Felony Kidnapping offense. Not a "Class Y," serious felony involving violence or felony involving violence under A.C.A. 5-4-501(d)(2)(iii). My "Class B" Kidnapping is A NON-discretionary offense, I know you and the parole board violated ARKANSAS Law concerning the parole statutes and this is how I know it to be true, although I do not think you done so intentionally, I know you can correct it and I'm giving you the chance to do so. ON October 7, 2021, you sent Pulaski County Prosecuting Attorney Larry Jegley a written recommendation regarding my parole in order to submit to the ARKANSAS Parole Board. His office responded (Exhibit Z) pgs. 4-5, "we OBJECT," I was not sentenced under the provisions of A.C.A. 16-93-615 (b)(1) a felony involving violence. The recommendation you submitted to the ARKANSAS Board of parole was illegal due to this, see A.C.A. 16-93-615 (6)(A)(i). You, NOR the Board, were lawfully allowed to solicit his recommendation regarding my parole. It's unlawful. I was denied parole, given a one year denial based upon the "seriousness and nature of my crime," as if I were a discretionary offender. If you will look in the file you prepared you will see under my listed "current convictions," it does not specify I have a "Class B" Kidnapping offense, which is NON-violent and NON-discretionary. Furthermore,

(PAGE ONE)

(Exhibit Z) (Pg. 2)

You will reveal I was denied parole based on my institutional record regarding the disciplinary you used from 2017, and a report Arkansas County Detention Center provided the board in June 2021, I never received a disciplinary for. Please be advised I made parole in March 2020 and was out (14) months, so the 2017 disciplinary does not apply. I would appreciate you contacting the parole board and fixing this mistake, being as it was made by the Institutional Parole services at the ARK. dept. of Corr. Ouachita River Unit as well in February 2020, denying me parole as well until the matter was investigated and reconsidered. I have filed the matter in the Pulaski County Circuit Court for "Judicial Review", because of this and asking for you and the board to correct it. A copy of this request is being forwarded to the Pulaski County Circuit Court, the Arkansas Attorney General's office, Arkansas Parole Board, as well as a copy of the written recommendation (Exhibit Z) pgs. 4-5 stamped received October 12, 2021, Institutional Parole services Location: [REDACTED] Unit Report No. PCAR552P. Thank you for correcting the mistake you made that denied me parole. Respectfully submitted,

Charles Hamner # [REDACTED]
[REDACTED]

(PAGE TWO)

A-2-37

PCAR515

Parole Board
Record of Release Consideration

Date: 05/31/2022

Time: 09:25 AM

ADC: [REDACTED] NAME: Hamner, Charles

UNIT: [REDACTED]

HEARING DATE: 05/16/2022 HEARING TYPE: Reconsideration Screening

The action of the board and the most significant reasons for that action are recorded below. For a more complete explanation, contact the Institutional Parole Officer. After due deliberation, the Board ordered the following action:

ACTION:

Prior(Hearing)Action Stands

Denied 1 Year

Reconsideration denied. The Post Prison Transfer Board reviewed you request concerning its previous decision on your conditional release. After due deliberation, the Board concluded that its prior decision was appropriate and correct. The prior action stands.

REASONS FOR ACTION:

Nature & Seriousness Crime

Institutional Record

Previous Release History

Prior Criminal History

PRE RELEASE CONDITIONS:

None

CONDITIONS OF RELEASE:

None

BOARD IMPOSED DATE:**COMMENTS:**

None

(Exhibit Z) pg. 3

All releases are subject to approval of suitable plan.
Recorded for the Arkansas Parole Board.

INMATE COPY

STATE COPY

INSTITUTIONAL PAROLE SERVICES COPY

(Exhibit Z) (pg. 4)

REPORT NO. PCAR552P

ARKANSAS PAROLE BOARD
TRANSFER ELIGIBILITY

DATE: 08/25/2021

TIME: 08:55 AM

To: Prosecuting Attorney Larry Jegley
224 S Spring Street
Little Rock, Arkansas 72201

RECEIVED

OCT 12 2021

INSTITUTIONAL
PAROLE

Re: Charles Hamner

ADC#

Location:

Board Hearing: 11/17/2021

TE Date: 03/02/2020

The Arkansas Board of Parole requests your recommendation on the above-named inmate/offender who is scheduled to be considered for: Transfer Eligibility.

Current Convictions:

COUNTY	DOCKET	CRIME	COUNTS	SENTENCE DATE
Monroe	2008-124	Residential Burglary	1	10/21/2008
Arkansas	2008-218	Forgery	1	12/17/2008
Arkansas	2007-36	Breaking And Entering	1	12/17/2008
		Probation Revocation		
Arkansas	2008-59	Criminal Mischief-1st Deg	1	12/17/2008
Lonoke	2012-314	Fleeing	1	08/14/2012
Lonoke	2012-314	Aggravated Assault	1	08/14/2012
Lonoke	2012-314	Theft by Receiving > \$1,000 <= \$5,000	1	08/14/2012
Pulaski	2012-2699	Theft By Receiving > \$5,000 < \$25,000	1	03/11/2013
		Habitual Offender		
Pulaski	2013-1780	Kidnapping	1	01/20/2015
		Habitual Offender		
Arkansas	2008-218	Forgery	1	01/22/2015
		Probation Revocation		
Arkansas	2012-88	Residential Burglary	1	01/22/2015
Arkansas	2012-88	Theft of Property >= \$1,000 < \$5,000	1	01/22/2015

Incident Date	Court Date Charged By	Rule	Description	Verdict	Disposition
12/20/2017	01/03/2018 Straughn, Herbert (Randy)	04-8 05-3 05-5 12-3	Battery - Use of Force on an Inmate Assault - verbal or written threat Provoking Or Agitating A Fight Failure To Obey Order Of Staff	Guilty Guilty Guilty Not Guilty	Commissary Restrictions for 60 days Phone Restrictions for 60 days Visitation Restrictions for 60 days Serve Isolation for 30 days Good Time Class Reduced to IV Time Forfeited - 59 days

This individual is scheduled to appear before the board for consideration of Transfer Eligibility in the near future. The Parole Board is requesting your comments which will be placed in the inmate/offender's file and considered when reviewing for action/recommendation. If the Parole Board action on this case is deferred, an additional recommendation will be requested at a future date.

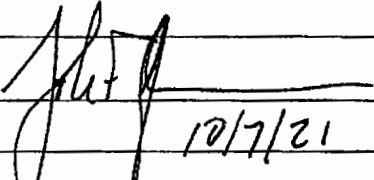
Reply to: acc.legal.notices@arkansas.gov

OR

Institutional Release Services
2801 South Olive Street Suite 6-D
Pine Bluff, AR 71603
Phone: 1-870-543-1035
Fax: 1-870-879-6725

Response:

We object

(Signed) 

Date: 10/7/21

Dear Clerk,

7/26/22

RECEIVED
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
2022 JUL 28 A 9 16
TAMMIE HENRY
Could you please file the enclosed complaint
and attached exhibits and return to me a
file-marked copy of such at your earliest
convenience Please and Thank You!

Charles Hanner # [REDACTED]
[REDACTED]

(Please Review Exhibits)

(Exhibit A) 1 page

(Exhibit B) 1 page

(Exhibit C) 2 pages

(Exhibit D) 4 pages

(Exhibit E) 1 page

(Exhibit Z) page (3)

(Exhibit Z) page (4)

(Exhibit Z) page (5)

(Exhibit Z) pages (1-2)

[PAGE Ten]

Charles Hamner

NEOPOST

07/26/2022

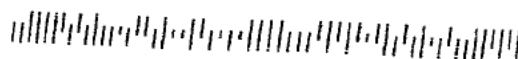
USIPOSTAGE \$003.60⁰⁰



ZIP 72320
041111284582

United States District Court
Clerk's office
600 West Capitol Avenue
Suite A-149
Little Rock, AR 72201-3325

(Legal Mail)



100

FILED
K.S.
AUG 31 2022
TIME: 10:50
SARAH MERCHANT, CIRCUIT CLERK
ARKANSAS COUNTY, ARKANSAS

IN THE CIRCUIT COURT ARKANSAS COUNTY OF ARKANSAS
FIRST DIVISION

CHARLES HAMNER, ADC # [REDACTED]

PETITIONER

v.

CASE NO. 01DCV-21-60-1

DEAN MANNIS, and
ARNELL RHINEHART

RESPONDENTS

ORDER OF DISMISSAL WITH PREJUDICE

On the 10th day of August 2022, this matter came on for hearing by Zoom videoconference on Respondent Arnell Rhinehart's Motion to Dismiss. Petitioner appeared *pro se*. Respondent Rhinehart appeared by and through Assistant Attorney, General Sammie P. Strange, Jr. The Court, having considered the pleadings, arguments of Petitioner and Respondent, and all other matters before the Court, hereby finds and orders:

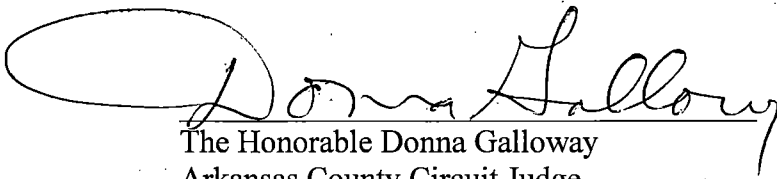
1. On September 29, 2021, Petitioner Charles Hamner ("Hamner") filed his Petition for Declaratory Judgment and Injunctive Relief via Writ of Mandamus ("Petition") in the Arkansas County Circuit Court against Dean Mannis ("Mannis") and Arnell Rhinehart ("Rhinehart").
2. Separate Respondent Mannis removed this case to federal district court on February 15, 2022.
3. Federal district court Judge Brian Miller dismissed Hamner's 42 U.S.C. § 1983 claims against Respondents Mannis and Rhinehart and remanded the state law breach-of-contract claim against Respondent Rhinehart to this Court on June 7, 2022.

4. The Court finds that Petitioner's remaining breach of contract against Respondent Rhinehart is barred by sovereign immunity.

5. The Court further finds that Petitioner's remaining breach of contract claim against Respondent Rhinehart fails to state a claim upon which relief can be granted.

6. The Court hereby dismisses the remaining breach of contract claim against Respondent Rhinehart in Petitioner's Petition for Declaratory Judgment and Injunctive Relief via Writ of Mandamus with prejudice.

IT IS SO ORDERED this 30th day of August 2022.


The Honorable Donna Galloway
Arkansas County Circuit Judge

/s/ Sammie P. Strange, Jr.
Prepared By:
Sammie P. Strange, Jr.
Assistant Attorney General
Arkansas Attorney General's Office

IN THE ARKANSAS COUNTY CIRCUIT COURT,
CIVIL DIVISION

Charles E. Hamner

FILED

(Petitioner)

Adc # [REDACTED]

CR
SEP 29 2021

VS.

TIME: 8:02
SARAH MERCHANT, CIRCUIT CLERK
ARKANSAS COUNTY, ARKANSAS

Case NO. 01CV-21-60

Dean Mannis - (Arkansas County Sheriff) (Respondants)

Arnell Rhinehart - (Arkansas Community Corrections)

Petition For Declaratory Judgement
And Injunctive Relief Via Writ of Mandamus

Comes now the Petitioner, Charles E. Hamner, Adc # [REDACTED], and proceeding in his own behalf pursuant to Arkansas Code annotated section 16-111-103 et. seq. is now seeking to settle a controversy between Arkansas Resident and Citizen, and state officials.

Appropriate Remedy

Arkansas Code Annotated, section 16-111-104 outlines who may seek a Declaratory Judgement as: "any person, whose rights, status, or other legal relation are affected by a statute, ordinance, contract, or franchise and obtain a Declaration of Rights, status, or an order of law, and any other legal relation thereunder."

Section 16-111-104(2) provides a “Declaratory Judgment”, to be particularly appropriate to settle controversies between private citizens and public officials about the meaning of Acts or Statutes. Jones vs. Clark 278 Ark. 119, 644 S.W. 2d 257 (1983).

WRIT OF MANDAMUS

The petition or request for Writ of Mandamus is not to establish a right, *Loren D. Buttolph Trust vs. Jarnagan*, 302 Ark. 393, 789 S.W. 2d 466 (1990), establishing a right should be pursued through a Declaratory Judgment, however once a right is established and a Circuit Court establishes jurisdiction to declare such rights, it may also issue injunctive relief through a Writ of Mandamus to order correction, compliance, or other relief. *Daley vs. Digby*, 272 Ark. 267, 613 S.W. 2d 599 (1981).

VENUE

A petition for Writ of Mandamus and a petition for Declaratory Judgment, which seeks to enforce a contract (See “EXHIBIT A” waiver of revocation hearing suspending time in Ark. Dept. of Corr. (if eligible and subject to good behavior and on approved parole plan (reinstatement option at 90 days) “EXHIBIT B” (a contract which stands on its own declaring the petitioner had an acceptable place to live at the expiration of serving out his said (90) day sanction in the Arkansas County Jail approved by his parole officer Arnell Rhinehart on May 12, 2021 who can be contacted at 870-673-8410) signed into effect by the aforementioned on said date representing the State of Arkansas, Office of the Arkansas Community Correction. It was made a binding contract and an order of law 5-12-21. Now this binding contract is breached, whereas, (2) or more parties enter into a contract and the contract is breached, the laws of damages seek to protect three interest of the party not in default. Arkansas has breached the

contract and now it is in default, this is civil in nature, and is properly filed in the county in which the Director of the Division of Corrections is located. A.C.A. section 16-60-116(a) Wiggins vs. State, 299 Ark. 180, 771 S.W. 2d 759 (1989).

PARTIES

Dexter Payne named Respondent Director of the Arkansas Division of Corrections now has custody of Petitioner Charles E. Hamner, ADC [REDACTED] because of the Breach of Contract, this illegal destination by the State of Arkansas as custodian of Petitioner Charles E. Hamner, having control over the Petitioner's Residential Assignments is illegal. The order of the Arkansas Community Correction is clear (See Exhibits A and B). Petitioner has a specific order from the Arkansas Community Correction, the contract ("Exhibit A" waiver of revocation hearing suspended a (6) month parole violation that would expire in November 2021 to be served in the Ark. Dept. of Corr. Provided "Exhibit B" the Petitioner had an acceptable place to live at the expiration of (90) days to be served in the Arkansas County Jail for a parole sanction upon good behavior) the contracts stand on their own as an Order of the Arkansas Community Corrections Arkansas County Parole Office, a binding contract, and an order of law. This order and how that sentence "shall" be served are in breach and default because of a violation of the Petitioner's Due Process Rights prior to being sent off to prison to serve an extended, much harsher sentence requiring him to be granted parole again by the Arkansas Parole Board, which was part of the initial original contract because, the Arkansas County Sheriff's Office never wrote the Petitioner a disciplinary, or gave him a hearing for the aforementioned proving his guilt prior to increasing his sentence and enforcing punishment that could deny his parole. The aforementioned has adopted the rules of the Ark. Dept. of Corr. Within its facility, therefore agreeing to such said standard of compliance pursuant and in accordance with its elected due process. Roy Agee,

Keeper of Records, for the Arkansas Division of Corrections has also been named as Respondent, as well as John felts, Commissioner of the Arkansas Parole Board, as any of the aforementioned can be ordered to correct such said illegal sentence imposed on the Petitioner or provide the court with proof of due process requirements being met, ensuring a fair finding of guilt was indeed found by Arkansas County Jail officials disciplinary committee whereas, his appeal was denied prior to transferring custody over to the Ark. Dept. of Corr., or provide relief requested herein by the petitioner. The Jefferson County Court has subject matter jurisdiction over the parties because of their physical location while fulfilling their official capacities, especially that of Respondents Payne and Agee.

JURISDICTION

According to Arkansas Code Annotated Section 16-111-103, as set forth in Bryant vs. Picardo, 338 Ark. 227, 996 S.W. 2d 17 (1999). Only the Circuit Court may declare an Act unconstitutional under the Declaratory Judgment Act. Subject Matter Jurisdiction can only exist where physical jurisdiction over the party, who can be ordered to enforce the ruling and Orders of the Court hearing the Petition for Declaratory Judgment. Usual Jurisdiction would be in the county in which the Prisoner seeking release is housed, however, in this case, an order from one jurisdiction to issue enforceable orders inside of their respective jurisdictions, petitioner has a contract (See Exhibit A and B). This order of the Arkansas Community Correction states (if eligible and subject to good behavior and an approved parole plan reinstatement option of parole at (90) days) is law, a binding contract. There was never a finding of guilt, report written on the petitioner, served on the petitioner, prior to a hearing being held declaring his guilt prior to the petitioner being sent off to prison having his rights to due process violated and sentence and punishment increased prior to the aforementioned occurring. Now this order has been breached

by the Arkansas County Sheriff's Office, Arkansas Dept. of Corr., Arkansas Parole Board and is currently in default and must be corrected by the action or court order to the Respondents. The action and the court order of the Jefferson County Court "must" uphold the validity of the original agreement and order of the Arkansas Community Corrections, with the action ordered by the Jefferson County Court being that validity.

RIGHT OF WRIT AND DECLARATORY JUDGMENT

Article 2, Section 13 – Remedies the Arkansas Constitution provides that every person is entitled to a certain remedy in the laws for all injuries or wrongs he may receive in his person, property, or character; he ought to obtain justice freely, and without undue ignorance of the law by unknowing parties, (FACTS) the Arkansas County Sheriff's Office Respondent Dean Mannis, NOR any of his subordinates charged the petitioner with a Rule Infraction served petitioner with such said written explanation of said charge(s), or held a hearing for the petitioner finding him guilty of any allegation made by staff prior to transferring custody of the petitioner over into the hands of the Respondents of the Ark. Dept. of Corr.

1) The kiosk at the Ark. County Jail located in Dewitt, AR at 1000 Ricebelt Ave. will verify on the afternoon of June 29, 2021, the petitioner filing an administrative grievance while in custody of Arkansas County Sheriff Dean Mannis, advising the Respondent of his personal unlawfulness violating the petitioner's due process rights prior to transferring custody to the respondents of the Ark. Dept. of Corr. on the morning of June 30, 2021.

2) ("Exhibits C, D, E, F") will all verify every Respondent named herein was either personally advised or should have known through the state actor's that were that the petitioner's due process rights had knowingly been violated prior to his custody being transferred. An

incident report written by any state or county actor is merely an allegation until: (a) it is served upon the petitioner in a timely manner prior to, (b) the petitioner allotted said time to prepare a defense for, (c) a hearing conducted by a bi-partial hearing officer that, (d) finds the petitioner guilty of such said accusation advising the petitioner of his Right to Appeal the verdict before, (e) transferring the petitioner to another institution whereas, his sentence had been suspended prior to the aforementioned happening. This illegal act was carried out in ignorance to the law or vice versus. (See all Exhibits (A-F) and dates filed). As evidence will verify, the respondents were "forewarned" of their unlawfulness, has taken no previous action as you can see to correct this illegal act that was carried out by the aforementioned which violated the Petitioner's due process rights an order of the Arkansas Community Correction. Prior to a finding of "guilt" for bad behavior or misconduct, the order of the Arkansas Community Correction (Exhibit A) will verify Petitioner's sentence in the Ark. Dept. of Corr. was suspended and was to be served in the form of incarceration of (90) days in the Arkansas County Jail (See Exhibit B) before transferring custody. Petitioner would not have entered into any such agreement therefore not declaring such. If this illegal act and action, a deviation from the contract agreement between the Arkansas Community Corrections continues then, the Respondents would be in breach of the agreement that said Petitioner entered into and provided it's not corrected then, it's blatantly obvious that the State of Arkansas has defaulted and has deliberately breached our contract. This breach and default is knowingly being done without obtaining justice, or conforming to the order of laws. McCammon vs. Boyer, 285 Ark. 288, 688 S.W. 421 (1985).

A Declaratory Judgment Petition to establish a right to correct the illegal act and action, the deviation from the contract agreement and order is a partial remedy to the claim herein. Once this respectable court agrees that the Petitioner's right to due process existed prior to being

transferred to serve a suspended sentence and that this court has jurisdiction over the Parties to issue Injunctive orders that can be enforced, and then a Writ of Mandamus can be ordered so Petitioner established right to the aforementioned can be upheld. (See Exhibits A-B).

Arkansas Code Annotated Section 16-56-105(i), provides the right to address actions founded only upon actions founded upon any contract. The Statute of Limitations concerning Fraud and Deceit is (3) years, this is established in Ark. Stats. Section 37-201 and 37-206 and affirmed by the Arkansas Supreme Court in Bishop vs. Tice, 622 F. 2d 349 (1980). A promise of a state official that is not fulfilled can be prosecuted under Ark. Stats. Section 37-206. The contracted agreement's and orders is a promise from a state official (See Exhibits A-B), that's what the terms of said contract was agreed upon and are between the Petitioner and Arkansas Community Corrections Parole Officer Arnell Rhinehart signed into effect May 12, 2021. Fraud suspends the running of Statute of Limitations, but in this particular case, the Petitioner has discovered Fraud in short order and therefore addressing it now.

STATEMENT OF THE CASE

On May 2, 2021, the Petitioner was arrested in Arkansas County pending new felony criminal charges and transported to the Ark. County Jail. On May 12, 2021 Arkansas Community Correction Parole Officer of said Petitioner signed into effect a (90) day sanction to be served in the Arkansas County Jail whereas, the Petitioner was on parole. At which time, Mr. Rhinehart declared the petitioner needed mental help "not" incarceration, and such said sanction would "not" be served in its totality in the Arkansas County Jail, but at a state treatment facility for the mentally impaired (See Exhibits A-B). Contact Arnell Rhinehart at [REDACTED] However, while incarcerated at the Arkansas County Detention Center in June 2021 the

Petitioner received a good institutional behavior report from booking officer Tabitha Inman, seen by the petitioner, issued to Arnell Rhinehart shown to Petitioner by Mr. Rhinehart at the Arkansas County Jail. During said time the Petitioner was incarcerated serving his (90) day sanction he continuously grieved about county official's not giving him his prescription medication to treat his serious medical need [REDACTED], purposely denying or delaying him Mental Healthcare under the 8th Amendment of the U.S. Constitution that lead to the Petitioner attempting suicide twice while in county custody. (See Hamner vs. Mannis, et. Al. 2:21-CV-00062-BSM-PSH online filed in the U.S. District Court, Eastern District of Arkansas). Once the Respondent Sheriff Dean Mannis was notified of a 42 U.S.C. 1983 Action being filed accordingly due to his alleged unlawfulness by the petitioner, he up and had the petitioner transported to the Ark. Dept. of Corr. on the early morning hours of June 30, 2021, never giving said Petitioner a reason as to why, or a hearing with a finding of guilt prior to changing custody, extending the petitioners contract with the Arkansas Community corrections from an agreed upon (90) day sanction to be served in the Arkansas County Jail, to serving an illegal (6) month suspended sentence in the Ark. Dept. of corr. The Petitioner had no idea of what had even occurred until he received a response (See Exhibit E) from institutional parole officer Candy West. To this day, Petitioner still does not know why his due process rights were violated under the 5th and 14th Amendments of the U.S. constitution and also Articles 2, 8, of the Arkansas Constitution ...citing Mauppin vs. State, 309 Ark. 235, 831 S.W. 2d 104 (1992). Now with the understanding of these issues, Petitioner Charles E. Hamner, ADC# 143063, entered into a contract agreement with state official Arnell Rhinehart representing Arkansas Community Corrections ordered effective as of May 12, 2021 (See Exhibits A-B) that is currently being breached, in "Good Faith" the contract was made binding by order of law on the aforementioned

date, by the aforementioned state official. It was signed by Petitioner and Mr. Rhinehart and is an order that is to be adhered to by all jurisdictions. There are the “facts” that is the statement of the case.

(90) DAY SANCTION AS CONTRACT

The Black’s Law Dictionary, 4th Edition, Page 322, provides that: (1) a contract is an agreement between (2) or more persons which creates an obligation to do or not to do a particular thing; (2) it is also a legal relationship consisting of rights and duties of the contracting parties; (3) or a contract may be classified as, the writing which contains the agreement of parties, with the terms and conditions which serves as proof of obligation; (4) it can also be an express contract where terms are openly uttered or declared at the time of the making of it, being stated in distinct and explicit language, either orally (parole), or in writing. Petitioner’s contract offers petitioner liberty to be exchanged for a definite sentence (See Exhibits A-B) that definite sentence is clear, (90) days to be served in the Arkansas County Jail, not a (6) month parole violation to be served in the Ark. Dept. of Corr. This binding contract, an order of the Arkansas Community Corrections Arkansas County office is now law. When a dispute arises over an agreement, the court “will” discern the intent of the parties, “as expressed in the plain language of the agreement viewed as a whole”. See Miles vs. State, 350 Ark. 243, 85 S.W. 3d 907 (2002). Also, see Green vs. State, 2009 Ark. 113, 313 S.W. 3d 521.

BREACH OF CONTRACT

Where (2) or more parties enter into a contract and the contract is breached, the laws of damages seek to protect three interest of the party that not in default. The restitution interest of the now defaulting party in the benefit conferred on the defaulter this pursuant to the contract and

order prior to its breach (See Exhibit A-B). If money or property was transferred to the party now in default, the value of that money or property may be the basis of restitution recovery. This would be so even if performance of the contract might have resulted in a loss to the non-restitutionary recovery, I would submit that in cases for wrongful incarceration there exist precedents. (A) Had Petitioner been lawfully granted his rights to due process, his (90) day sanction would now be history and he would currently be back at his place of employment as a plumber's helper for Adam's Heat and Air and Plumbing earning \$15 per hour for his employer Mr. Shelby Adams [REDACTED] Awaiting trial scheduled for February 2022. Petitioner Charles E. Hamner would not be serving any additional time as he currently is had the Petitioner been granted party in the expenditures made or the property transferred or consumed in reliance on such contract. Based on the contract and order of the Arkansas Community Corrections Arkansas County office representative Arnell Rhinehart (See Exhibits A-B), the Petitioner has complied with everything required of him. I, Charles E. Hamner, have kept my end of the contract in "Good Faith", and although the original Agent Arnell Rhinehart has not himself caused the breach, his designated Executor's of the said contract have breached the contract in his stead. The breach contract would violate Federal and State Constitutional guarantees of due process of the law under the Fifth and Fourteenth Amendments of the United States Constitution and also Articles 2 §8 of the Arkansas Constitution ...citing Mauppin vs. State, 309 Ark. 235, 831 S.W. 2d 104 (1992). The third interest concerning a Breach of Contract is the expectation that the contract be placed back into the same position or standing as before the Contract was Breached and/or Defaulted. In the petitioner's case if the correction was made and petitioner was ordered back to the custody of Arkansas County, and/or released because Arkansas County refused, declined to take custody, then that would somewhat recover partial restitutionary

recovery. This would be in line with the order of law (Exhibits A-B) ordered by the Arkansas Community Corrections. This order is law. The said Agreement and order stands on its own, "A Binding Contract."

DOCTRINE OF SUPERIOR KNOWLEDGE

The "Doctrine of Superior Knowledge", on part of the Arkansas Dept. of Corr., Arkansas Parole Board, Arkansas County Detention Center, Arkansas Community Correction, would become applicable. This plea was entered into by Petitioner, Charles E. Hamner, 5-12-2021, in "Good Faith". It was filed by Arnell Rhinehart on the aforementioned date. Pursuant to Arkansas Rules of Criminal Procedure Rule 25.2, the State of Arkansas can be held accountable and bound to investigate fact and law that now applies to the illegal sentence the Petitioner is currently serving due to his due process rights being violated by a retaliatory Sheriff in its Jurisdiction abusing his power of Authority, extending the Petitioners sentence. The Superior Knowledge that the aforementioned is deemed to have, would lead to the presumption how they knew beyond reasonable doubt that there were only (2) determinates to the contractual agreement and order entered into by the Arkansas Community Corrections and the Petitioner (1) Petitioner would serve (90) day sanction in the Arkansas County Jail and granted the option to be released when that time expired, (2) provided the Petitioner was granted due process of law under Federal and State Constitution and found guilty of bad behavior he would be returned to serve a (6) month parole violation in the Ark. Dept. of Corr. (See Exhibits A-B). This agreement was law to be followed by all jurisdictions. Yet, fraudulent actions of the contract agreement by Respondent have put that very contract into Breach and Default. The contract is superior knowledge, it stands on its own, an order of the Arkansas Community Corrections. The material facts which are the inducement or procedure cause for the contract hold true and are just, it serves Justice and Law.

CONCLUSION

As you can see, now the agreement and order stands on its own, ordered by the Arkansas Community Corrections. The terms of the contract are clear. There is no other determination. The Petitioner could do right by producing good behavior and go home in (90) days from the Arkansas County Jail, or be proven guilty or found thereof and be transferred back to the Ark. Dept. of Corr. to serve a (6) month parole violation. If the correction is not made to the contract that petitioner Charles E. Hamner agreed to before the Breach, these mistakes that have been knowingly made will justify the petitioner to entitled instruction deliberate misinterpretation of the contract and order of the Honorable Arnell Rhinehart with the Arkansas Community Corrections, as the order reads only ONE way, the order stands on its own as order of law. Any other interpretation is Fraud. A defrauded party is entitled to the "benefit of the bargain". This rule compels the party guilty of fraud to make good its representations. Restitutionary Recovery and punitive damages can be included as remedies for fraud. Smith vs. Bennett Ford, Inc., 314 Ark. 591, 864 S.W. 2d 817 (1993). Or in alternative: the requirement for this contract agreement and order to stand on its own alone is actual, the contract is an order of law. FACT: state official Arnell Rhinehart from the Arkansas Community Corrections promised and ordered it on 5-12-2021 (See Exhibit A-B). Filed on the same date, it is a valid contract, it stands alone and legal. A Binding Contract.

Wherefore, having shown just cause and sound reason, the Petitioner prays this Honorable Judge, within His respectable Arkansas Court, grants the relief deemed just and proper to resolve the aforementioned controversy presented herein above. Such authority to issue an order for Injunctive Relief in the form of a Writ of Mandamus is clearly jurisdiction vested with this court. Such relief is humbly requested. Because of the complexity and precedent this

action presents, a "Motion for Appointment of Counsel" is being composed for submission so the best ends of Justice can be reached and clarity presented, as I am not an attorney and my inexperience may cause a delay in continuity if this matter requires a Trial by Jury for the merits to be reached.

Respectfully Submitted,

Signed Under Penalty of Perjury

Charles E. Hamner, ADC# [REDACTED]

Charles E. Hamner [REDACTED]

Date: September 9, 2021

Arkansas Community Correction
WAIVER OF REVOCATION HEARING

Offenders Name: Charles Hamner

ADC# [REDACTED]

I understand that I have been charged with violating one or more of the conditions of my release from the Department of Correction. I have been served with written notice of the charge(s) and I understand them. I have also been served with written notice of my right to a hearing in or near the community where the alleged violation(s) occurred. I understand the hearing process as described in the written notice. I admit that I have violated the following condition(s) of release as alleged:

- ☐ #1 Reports ☐ #2 Employment/Education ☐ #3 Residence & Travel ☒ #4 Laws
☒ #5 Weapons ☐ #6 Alcohol/Controlled Substances ☐ #7 Association ☐ #8 Supervision Fees
☐ #9 Cooperation ☐ #10 Search & Seizure ☐ #11 Waiver of Extradition
☐ #12 Special Conditions:

I understand that the Revocation Hearing Judge would determine whether I have violated one or more of the conditions of release at a revocation hearing, and, if so, whether my release should be revoked. I understand that even if I admitted my guilt at the hearing, or if I were found guilty, I would have an opportunity to present reasons that my release should not be revoked. By waiving a hearing, I am giving up that opportunity. I have no excuse for violating the condition(s) of release as alleged. I believe that the violation(s) I have admitted is/are serious enough to justify the revocation of my release.

I do not want a revocation hearing and I hereby waive my right to a hearing. I understand that, upon my signing this waiver, my release will be revoked and I will be placed in the custody of:

- ☐ the Arkansas Department of Correction
→ ☒ the Arkansas Department of Correction- Suspended (If eligible and subject to good behavior and an approved parole plan (Reinstatement option at 90 days)
☐ Arkansas Community Correction. If I am subsequently determined to be ineligible for Arkansas Community Correction, I will be transferred to the Arkansas Department of Correction.

I will be eligible to be considered for release again in: November /2021 (month/year)

The actual date will be determined, with the next month being counted as the first month; or on my "regular" parole eligibility date, whichever is longer. My current "regular" parole eligibility date as Class I is: Past
I understand that I will not automatically be released at that time and that I may be required to serve the remainder of my sentence in its entirety.

This waiver of a revocation hearing is made voluntarily and intelligently. It is not the result of any threats or promises or any form of coercion. I understand I may file an appeal within thirty (30) days from the date I sign this waiver stating why this waiver should be rescinded. I understand that if this waiver is rescinded and I am granted a hearing, I may face additional penalties.

Charles Hamner
Offender's Printed Name

5/12/21
Date

Charles Hamner
Offender's Signature

Arnold Rhinehart
Parole Officer's Printed Name

5-12-21
Date

Arnold Rhinehart
Parole Officer's Signature

Parole Officer's Supervisor Printed Name

Date

Parole Officer's Supervisor Signature

Revocation Hearing Judge's Name

Date

Revocation Hearing Judge's Signature

(exhibit) due process
B

Arkansas Community Correction



Short Term Revocation Program Eligibility

Name: Charles HamnerADC# [REDACTED]

Prior to a Revocation Hearing, the PPO/Agent is responsible for determining whether an offender is eligible for placement in the Short-Term Revocation Program (STRP) and notifying the Revocation Hearing Judge accordingly.

The parolee is NOT eligible to sign a waiver for placement in the STRP if he/she (check all that apply):

- ☐ has a pending charge involving an Act 1029 offense
- ☐ is under active supervision for an Act 1029 offense
- ☐ is currently under active supervision for a violent crime involving a firearm and is alleged to have violated the conditions of his/her parole by possessing a firearm
- ☐ has been incarcerated in the STRP within the last ninety (90) days

Does the parolee have an acceptable place to live at the expiration of 90 days?

☒ Yes☐ No

Failure to have an approved home plan prior to signing a waiver for placement in the 90 day program does not render the parolee ineligible. However, in order to be released at the expiration of the 90 day period, offender must meet all eligibility requirements of the program including maintaining good behavior and obtaining an approved home plan.

Officer/Agent Signature: Amell Ph...Date: 5-12-21

UNIT LEVEL GRIEVANCE FORM (Attachment I) (Exhibit C)

FOR OFFICE USE ONLY

Unit/Center A.R.C.U.

GRV. # _____

Name Charles Hamner

Date Received: _____

ADC# [REDACTED] Brks # Intake Job Assignment Intake

GRV. Code #: _____

7-12-21 (Date) STEP ONE: Informal Resolution7-15-21 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)If the issue was not resolved during Step One, state why: Problem solver sat.RAY NEVER BROUGHT ME A RESPONSE TO STEP 1 WITHIN 72 HOURS.

(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 serious nature). If you marked yes, give this completed form to the designated problem-solving staff, who will sign the attached emergency receipt. In an Emergency, state why: _____

Is this Grievance concerning Medical or Mental Health Services? _____ If yes, circle one: medical or mental

BRIEFLY state your one complaint/concern and be specific as to the complaint, date, place, name of personnel involved and how you were affected. (Please Print): ON 7/12/21 at Approximately 1:30 p.m. deputy Wardens Ball and Calclager and major Jimmy Coleman came into intake 1 at which time they moved an inmate outta 102 to do some measuring. At this particular time I ask Captain Sheila Johnson to sign my grievance in 718 cell and she took my whole grievance. All (4) pages. She signed inmate Curtis Pippens and gave him his copies but not mine. My grievance is very important to me because it contained information concerning my (90) day sanction to be served in Arkansas County Jail with ADC time suspended upon good behavior. My Parole officer Arnell Rhinehart 870-673-8410 just received a good institutional report on me in June 2021 from booking officer Tabea Inman. I see it with my own eyes whenever I gave him my 90 day home plan because he showed it to me. I never got in any type of trouble since that time, never received any type of hearing or written explanation concerning my misconduct at any time. Under federal and state law its strictly unlawful and unconstitutional to extend my sentence into (6) months from an agreed upon (90) day sanction prior to the aforementioned happening. Its illegal. Sheriff Dean Mannis or the Ark. dept. of Corr. has no proof of my misbehavior, any write up, or hearing for such. I was merely retaliated on by this man for filing a federal lawsuit on his unlawfulness, now he has got the state involved in it.

Inmate Signature Charles HamnerDate 7-12-21

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

THIS SECTION TO BE FILLED OUT BY STAFF ONLYThis form was received on 7-13-21 (date), and determined to be Step One and/or an Emergency GrievanceYes (Yes or No). This form was forwarded to medical or mental health? Yes (Yes or No). If yes, name

of the person in that department receiving this form: _____

Date 7-13-21PRINT STAFF NAME (PROBLEM SOLVER) 90250 ID Number CCP 75 Staff Signature _____ Date Received _____

Describe action taken to resolve complaint, including dates: _____

Staff Signature & Date Returned _____

Inmate Signature & Date Received _____

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

Staff Who Received Step Two Grievance: _____ Date: _____

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

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

DISTRIBUTION: YELLOW & PINK - Inmate Receipts; BLUE - Grievance Officer; ORIGINAL - Given back to Inmate after Completion of Step One and Step Two.

(Page 1) (Exhibit D)

MR. Felts,

(7-23-21)

I PRAY this letter finds you and all the respectable members of the board at your very best. I'm writing you regarding a few situations concerning the (90) day STRP Program hoping in the future you and the respectable board of parole can change some things whereas, another offender may not have to experience the suffering I myself, Gary L. Henson # [REDACTED] or Charles E. Hanner # [REDACTED] previously did. IN my case, I was wrote a disciplinary on (2) separate occasions but, both were dismissed without a finding of guilt. However, the next thing I know is I'm being brought back to prison to serve a (6) month parole violation without a finding of guilt, which is strictly a violation of my rights to due process under state and federal law. PRIOR to a finding of guilt for misconduct the state or county government has no justifiable reason to turn a (90) day sanction to be served in the cleburne county jail, into a six month parole violation to be served in a state prison whereas, (A) my sentence was doubled and imposes a much stricter and harsher punishment that requires me to be granted parole again; (b) places me at a substantial risk of catching the delta variant of covid 19 which could take my life from me wherever, I was never proven guilty of violating a (90) day sanction for any prior misconduct. May please realize and be reasonable this is strictly illegal because, my Adc time

(page 2) (Exhibit D)

was suspended upon good behavior and an approved (90) day home plan, in which, I met the criteria of both. Even county deputies told me I got screwed and I said, "why can't you tell the parole board that???" On June 23, 2021 my (90) day sanction was up in the cleburne county jail, at which time I posted bond on said pending criminal charges that initiated the (90) day sanction and was told I had an AdC hold for misconduct. However, cleburne county documentation will verify I was indeed wrote up twice but, never plead guilty or was found guilty by its disciplinary court of any alleged offense. Without a finding of guilt, there's no proof of misconduct. Without said bad behavior or a finding of guilt thereof, cleburne county has got the state of Arkansas involved in a situation of falsely imprisoning me Gary Herson # [REDACTED] as a similar matter occurring in Arkansas County to inmate Charles Hamner # [REDACTED] has as well, because both our sentences were doubled whereas, we both have to be approved for parole again by the board in which we could easily be denied until God knows when wherever, we were never found guilty of doing nothing wrong, which is strictly a violation of due process, something that certainly could and needs to be challenged under Arkansas state law and United states federal law, do to being illegal under due process of its very law. In Charles Hamner's case # [REDACTED], he filed a lawsuit on Arkansas County sheriff

(page 3) (Exhibit D)

Dean Mannis 2:21 cv 00062 and his subordinates denying or delaying him mental health treatment, counseling, and medication for over a period of (30) days that resulted in (2) separate suicide attempts. Once the sheriff was notified by the court of such complaint being filed he up and shipped Mr. Hamner off to prison in a matter of retaliation without, so much as even providing him with a written explanation of said misconduct, or hearing whatsoever which, is strictly illegal on its face as the aforementioned, because it violates state and federal due process of law because, there was never a hearing or finding of guilt of any prior misconduct or wrongdoing by Mr. Hamner before extending his (90) day sanction to be served in Arkansas County jail, to a (6) month parole violation to be served in a state prison, in which he could be denied parole whenever, he done nothing more than piss off a county official for causing him, a mentally ill prisoner, a known hardship denying him his medication for several weeks nearly causing this man to lose his life do to his unlawfulness. Written documentation provided by a county government minus proof of guilt by a bi-partial judge of such said allegation is no proof of misconduct at all and does not justify our sentences being doubled accordingly. There's no court that wouldn't agree with these facts proven by the record. It can be and will be proven in a court of law that the state or county

(page 4) (Exhibit D)

has no said proof of any hearing being conducted whereas, a prior finding of guilt was found to initiate additional punishment for any misconduct and strictly violates our rights to due process. I do know Mr. Hamner has recently petitioned the court in his civil case 2:21 cv 00062 about this retaliatory sheriff violating his due process rights getting the state involved in a federal matter whereas, the court has been petitioned to transfer Mr. Hamner back into county custody do to its unlawfulness, see document #11-0 pages 1-7 Hamner vs. Mannis, et.al. case 2:21-cv-00062-BSM-PSH. Sir, please understand all me and Mr. Hamner is after is our rights to due process. We just want what is due to us at this time, our parole re-instated and dismissed from state custody. It's simple as that. We should not be forced to serve time in the state that was previously suspended prior to a finding of guilt of misconduct. Respectfully, Charles Hamner

Charles Hamner

(Exhibit E)

Inmate Request Form

This form is to be used by inmates to contact staff with requests on issues they may have. This step should be used before completing and Informal Resolution or Grievance. This is the Ouachita River Correction Unit In-House Form.

Name: <u>Charles Hamner</u>	ADC#: <u>[REDACTED]</u>	BKS: <u>Intake 116</u>	Date: <u>7-10-21</u>
-----------------------------	-------------------------	------------------------	----------------------

Circle the Department you want your request directed to.

Business Office	Visitation / Inmate Phones	Medical	Property
Records	Classification	Mail Room	Law Library
Commissary	Chaplain	Field Office	Laundry
Mental Health	Mental Health	<u>Parole</u>	Warden's Office

Deputy Warden's Office

Other: _____

Staff Directed to: Jason Gray

Give detailed reason for request: Can you please tell me why my (90) day sanction in Ark. Co. Jail has turned into a (6) month parole violation whenever, I was never served a misconduct report of any type for misbehavior OR given a hearing due to so. I never presented any type of bad behavior at any point what I did do is file a federal lawsuit against the sheriff and here I have

Have you talked to any staff about your request?

Yes

No

If your answer is "yes", who did you talk with about this request and when? _____

Inmate's Signature: <u>Charles Hamner</u>	Date: <u>7-10-21</u>
Staff Responding: _____	Date: _____

I have reviewed your request and here is my finding: Arkansas Co. Detention Facility

provided documentation to the parole board of an incident of failing to maintain good behavior therefore you were removed from the 90 Day STEP. You will go before the Parole Board during Nov. 2021.

I am referring this request to: _____

I am considering this issue:

✓

Resolved

Not Resolved

Cywest 7/23/2021

(Exhibit F)

Inmate Request Form

This form is to be used by inmates to contact staff with requests on issues they may have. This step should be used before completing an Informal Resolution or Grievance. This is the Ouachita River Correctional Unit In-House Form.

Name: <u>Charles Hammer</u>	ADC #: <u>[REDACTED]</u>	BKS: <u>330</u>	Date: <u>7-25-21</u>
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Circle the Department you want your request directed to.

Business Office	Visitation / Inmate Phones	Medical	Property
Records	Classification	Mail Room	Law Library
Commissary	Chaplain	Field Office	Laundry
Mental Health	Mental Health	<u>Parole</u>	Warden's Office
Deputy Warden's Office	Other: _____		

Staff Directed to: Any O.R.C.U. I.P.O. officer

Give detailed reason for request: I need John Felts address at the Arkansas Parole Board, I've written a complaint I need to get to him that has recently been filed in federal court. Candy West 7/12/2021, said the board had documentation of an incident of misconduct, why can't I get a copy of that incident of misconduct report?

Have you talked to any staff about your request?

Yes

No

If your answer is "yes", who did you talk to about this request and when?

Inmate's Signature: <u>Charles Hammer</u>	Date: <u>7-25-21</u>
Staff Responding:	Date:

I have reviewed your request and here is my finding: 1302 Pike Ave, Ste. D
North Little Rock, AR 72114

Contact the county for that incident report.

I am referring this request to: _____

I am considering this issue: _____ Resolved _____ Not Resolved

Staff Member's Signature & Date

CERTIFICATE OF SERVICE

I, Charles E. Hamner, petitioner herein, do certify that a copy of this petition has been served this 9th day of September, 2021, to Tim Blair Arkansas County Prosecuting Attorney, Arkansas County, AR 72160, by placing same in the U.S. Mail with sufficient postage affixed to ensure delivery.

Charles E. Hamner
ADC # [REDACTED], pro se

In The ARKANSAS County Circuit Court,
CIVIL Division

Charles E. Hamner

FILED

(Petitioner)

Adc # [REDACTED]

SEP 29 2021

TIME: 8:02

Case No. 01CV-21-60

VS.

SARAH MERCHANT, CIRCUIT CLERK
ARKANSAS COUNTY, ARKANSAS

Dean Mannis - (Arkansas County Sheriff) (Respondants)
Arnell Rhinehart - (Arkansas Community Corrections)

Petition For Declaratory Judgement
And Injunctive Relief Via Writ of Mandamus

Comes now the Petitioner, Charles E. Hamner, Adc # [REDACTED] and proceeding in his own behalf pursuant to Arkansas Code annotated section 16-111-103 et. seq. is now seeking to settle a controversy between Arkansas Resident and Citizen, and state officials.

Appropriate Remedy

Arkansas Code Annotated, section 16-111-104 outlines who may seek a Declaratory Judgement as: "any person, whose rights, status, or other legal relation are affected by a statute, ordinance, contract, or franchise and obtain a Declaration of Rights, status, or an order of law, and any other legal relation thereunder."

Section 16-111-104(2) provides a “Declaratory Judgment”, to be particularly appropriate to settle controversies between private citizens and public officials about the meaning of Acts or Statutes. Jones vs. Clark 278 Ark. 119, 644 S.W. 2d 257 (1983).

WRIT OF MANDAMUS

The petition or request for Writ of Mandamus is not to establish a right, Loren D. Buttolph Trust vs. Jarnagan, 302 Ark. 393, 789 S.W. 2d 466 (1990), establishing a right should be pursued through a Declaratory Judgment, however once a right is established and a Circuit Court establishes jurisdiction to declare such rights, it may also issue injunctive relief through a Writ of Mandamus to order correction, compliance, or other relief. Daley vs. Digby, 272 Ark. 267, 613 S.W. 2d 599 (1981).

VENUE

A petition for Writ of Mandamus and a petition for Declaratory Judgment, which seeks to enforce a contract (See “EXHIBIT A” waiver of revocation hearing suspending time in Ark. Dept. of Corr. (if eligible and subject to good behavior and on approved parole plan (reinstatement option at 90 days) “EXHIBIT B” (a contract which stands on its own declaring the petitioner had an acceptable place to live at the expiration of serving out his said (90) day sanction in the Arkansas County Jail approved by his parole officer Arnell Rhinehart on May 12, 2021 who can be contacted at [REDACTED] signed into effect by the aforementioned on said date representing the State of Arkansas, Office of the Arkansas Community Correction. It was made a binding contract and an order of law 5-12-21. Now this binding contract is breached, whereas, (2) or more parties enter into a contract and the contract is breached, the laws of damages seek to protect three interest of the party not in default. Arkansas has breached the

contract and now it is in default, this is civil in nature, and is properly filed in the county in which the Director of the Division of Corrections is located. A.C.A. section 16-60-116(a) Wiggins vs. State, 299 Ark. 180, 771 S.W. 2d 759 (1989).

PARTIES

Dexter Payne named Respondent Director of the Arkansas Division of Corrections now has custody of Petitioner Charles E. Hamner, ADC# [REDACTED], because of the Breach of Contract, this illegal destination by the State of Arkansas as custodian of Petitioner Charles E. Hamner, having control over the Petitioner's Residential Assignments is illegal. The order of the Arkansas Community Correction is clear (See Exhibits A and B). Petitioner has a specific order from the Arkansas Community Correction, the contract ("Exhibit A" waiver of revocation hearing suspended a (6) month parole violation that would expire in November 2021 to be served in the Ark. Dept. of Corr. Provided "Exhibit B" the Petitioner had an acceptable place to live at the expiration of (90) days to be served in the Arkansas County Jail for a parole sanction upon good behavior) the contracts stand on their own as an Order of the Arkansas Community Corrections Arkansas County Parole Office, a binding contract, and an order of law. This order and how that sentence "shall" be served are in breach and default because of a violation of the Petitioner's Due Process Rights prior to being sent off to prison to serve an extended, much harsher sentence requiring him to be granted parole again by the Arkansas Parole Board, which was part of the initial original contract because, the Arkansas County Sheriff's Office never wrote the Petitioner a disciplinary, or gave him a hearing for the aforementioned proving his guilt prior to increasing his sentence and enforcing punishment that could deny his parole. The aforementioned has adopted the rules of the Ark. Dept. of Corr. Within its facility, therefore agreeing to such said standard of compliance pursuant and in accordance with its elected due process. Roy Agee,

Keeper of Records, for the Arkansas Division of Corrections has also been named as Respondent, as well as John felts, Commissioner of the Arkansas Parole Board, as any of the aforementioned can be ordered to correct such said illegal sentence imposed on the Petitioner or provide the court with proof of due process requirements being met, ensuring a fair finding of guilt was indeed found by Arkansas County Jail officials disciplinary committee whereas, his appeal was denied prior to transferring custody over to the Ark. Dept. of Corr., or provide relief requested herein by the petitioner. The Jefferson County Court has subject matter jurisdiction over the parties because of their physical location while fulfilling their official capacities, especially that of Respondents Payne and Agee.

JURISDICTION

According to Arkansas Code Annotated Section 16-111-103, as set forth in Bryant vs. Picardo, 338 Ark. 227, 996 S.W. 2d 17 (1999). Only the Circuit Court may declare an Act unconstitutional under the Declaratory Judgment Act. Subject Matter Jurisdiction can only exist where physical jurisdiction over the party, who can be ordered to enforce the ruling and Orders of the Court hearing the Petition for Declaratory Judgment. Usual Jurisdiction would be in the county in which the Prisoner seeking release is housed, however, in this case, an order from one jurisdiction to issue enforceable orders inside of their respective jurisdictions, petitioner has a contract (See Exhibit A and B). This order of the Arkansas Community Correction states (if eligible and subject to good behavior and an approved parole plan reinstatement option of parole at (90) days) is law, a binding contract. There was never a finding of guilt, report written on the petitioner, served on the petitioner, prior to a hearing being held declaring his guilt prior to the petitioner being sent off to prison having his rights to due process violated and sentence and punishment increased prior to the aforementioned occurring. Now this order has been breached

by the Arkansas County Sheriff's Office, Arkansas Dept. of Corr., Arkansas Parole Board and is currently in default and must be corrected by the action or court order to the Respondents. The action and the court order of the Jefferson County Court "must" uphold the validity of the original agreement and order of the Arkansas Community Corrections, with the action ordered by the Jefferson County Court being that validity.

RIGHT OT WRIT AND DELARATORY JUDGMENT

Article 2, Section 13 – Remedies the Arkansas Constitution provides that every person is entitled to a certain remedy in the laws for all injuries or wrongs he may receive in his person, property, or character; he ought to obtain justice freely, and without undue ignorance of the law by unknowing parties, (FACTS) the Arkansas County Sheriff's Office Respondent Dean Mannis, NOR any of his subordinates charged the petitioner with a Rule Infraction served petitioner with such said written explanation of said charge(s), or held a hearing for the petitioner finding him guilty of any allegation made by staff prior to transferring custody of the petitioner over into the hands of the Respondents of the Ark. Dept. of Corr.

1) The kiosk at the Ark. County Jail located in Dewitt, AR at 1000 Ricebelt Ave. will verify on the afternoon of June 29, 2021, the petitioner filing an administrative grievance while in custody of Arkansas County Sheriff Dean Mannis, advising the Respondent of his personal unlawfulness violating the petitioner's due process rights prior to transferring custody to the respondents of the Ark. Dept. of Corr. on the morning of June 30, 2021.

2) ("Exhibits C, D, E, F") will all verify every Respondent named herein was either personally advised or should have known through the state actor's that were that the petitioner's due process rights had knowingly been violated prior to his custody being transferred. An

incident report written by any state or county actor is merely an allegation until: (a) it is served upon the petitioner in a timely manner prior to, (b) the petitioner allotted said time to prepare a defense for, (c) a hearing conducted by a bi-partial hearing officer that, (d) finds the petitioner guilty of such said accusation advising the petitioner of his Right to Appeal the verdict before, (e) transferring the petitioner to another institution whereas, his sentence had been suspended prior to the aforementioned happening. This illegal act was carried out in ignorance to the law or vice versus. (See all Exhibits (A-F) and dates filed). As evidence will verify, the respondents were “forewarned” of their unlawfulness, has taken no previous action as you can see to correct this illegal act that was carried out by the aforementioned which violated the Petitioner’s due process rights an order of the Arkansas Community Correction. Prior to a finding of “guilt” for bad behavior or misconduct, the order of the Arkansas Community Correction (Exhibit A) will verify Petitioner’s sentence in the Ark. Dept. of Corr. was suspended and was to be served in the form of incarceration of (90) days in the Arkansas County Jail (See Exhibit B) before transferring custody. Petitioner would not have entered into any such agreement therefore not declaring such. If this illegal act and action, a deviation from the contract agreement between the Arkansas Community Corrections continues then, the Respondents would be in breach of the agreement that said Petitioner entered into and provided it’s not corrected then, it’s blatantly obvious that the State of Arkansas has defaulted and has deliberately breached our contract. This breach and default is knowingly being done without obtaining justice, or conforming to the order of laws. McCammon vs. Boyer, 285 Ark. 288, 688 S.W. 421 (1985).

A Declaratory Judgment Petition to establish a right to correct the illegal act and action, the deviation from the contract agreement and order is a partial remedy to the claim herein. Once this respectable court agrees that the Petitioner’s right to due process existed prior to being

transferred to serve a suspended sentence and that this court has jurisdiction over the Parties to issue Injunctive orders that can be enforced, and then a Writ of Mandamus can be ordered so Petitioner established right to the aforementioned can be upheld. (See Exhibits A-B).

Arkansas Code Annotated Section 16-56-105(i), provides the right to address actions founded only upon actions founded upon any contract. The Statute of Limitations concerning Fraud and Deceit is (3) years, this is established in Ark. Stats. Section 37-201 and 37-206 and affirmed by the Arkansas Supreme Court in Bishop vs. Tice, 622 F. 2d 349 (1980). A promise of a state official that is not fulfilled can be prosecuted under Ark. Stats. Section 37-206. The contracted agreement's and orders is a promise from a state official (See Exhibits A-B), that's what the terms of said contract was agreed upon and are between the Petitioner and Arkansas Community Corrections Parole Officer Arnell Rhinehart signed into effect May 12, 2021. Fraud suspends the running of Statute of Limitations, but in this particular case, the Petitioner has discovered Fraud in short order and therefore addressing it now.

STATEMENT OF THE CASE

On May 2, 2021, the Petitioner was arrested in Arkansas County pending new felony criminal charges and transported to the Ark. County Jail. On May 12, 2021 Arkansas Community Correction Parole Officer of said Petitioner signed into effect a (90) day sanction to be served in the Arkansas County Jail whereas, the Petitioner was on parole. At which time, Mr. Rhinehart declared the petitioner needed mental help "not" incarceration, and such said sanction would "not" be served in its totality in the Arkansas County Jail, but at a state treatment facility for the mentally impaired (See Exhibits A-B). Contact Arnell Rhinehart at [REDACTED]. However, while incarcerated at the Arkansas County Detention Center in June 2021 the

Petitioner received a good institutional behavior report from booking officer Tabitha Inman, seen by the petitioner, issued to Arnell Rhinehart shown to Petitioner by Mr. Rhinehart at the Arkansas County Jail. During said time the Petitioner was incarcerated serving his (90) day sanction he continuously grieved about county official's not giving him his prescription medication to treat his serious medical need [REDACTED] purposely denying or delaying him Mental Healthcare under the 8th Amendment of the U.S. Constitution that lead to the Petitioner attempting suicide twice while in county custody. (See Hamner vs. Mannis, et. Al. 2:21-CV-00062-BSM-PSH online filed in the U.S. District Court, Eastern District of Arkansas). Once the Respondent Sheriff Dean Mannis was notified of a 42 U.S.C. 1983 Action being filed accordingly due to his alleged unlawfulness by the petitioner, he up and had the petitioner transported to the Ark. Dept. of Corr. on the early morning hours of June 30, 2021, never giving said Petitioner a reason as to why, or a hearing with a finding of guilt prior to changing custody, extending the petitioners contract with the Arkansas Community corrections from an agreed upon (90) day sanction to be served in the Arkansas County Jail, to serving an illegal (6) month suspended sentence in the Ark. Dept. of corr. The Petitioner had no idea of what had even occurred until he received a response (See Exhibit E) from institutional parole officer Candy West. To this day, Petitioner still does not know why his due process rights were violated under the 5th and 14th Amendments of the U.S. constitution and also Articles 2, 8, of the Arkansas Constitution ...citing Mauppin vs. State, 309 Ark. 235, 831 S.W. 2d 104 (1992). Now with the understanding of these issues, Petitioner Charles E. Hamner, ADC# 143063, entered into a contract agreement with state official Arnell Rhinehart representing Arkansas Community Corrections ordered effective as of May 12, 2021 (See Exhibits A-B) that is currently being breached, in "Good Faith" the contract was made binding by order of law on the aforementioned

date, by the aforementioned state official. It was signed by Petitioner and Mr. Rhinehart and is an order that is to be adhered to by all jurisdictions. There are the “facts” that is the statement of the case.

(90) DAY SANCTION AS CONTRACT

The Black’s Law Dictionary, 4th Edition, Page 322, provides that: (1) a contract is an agreement between (2) or more persons which creates an obligation to do or not to do a particular thing; (2) it is also a legal relationship consisting of rights and duties of the contracting parties; (3) or a contract may be classified as, the writing which contains the agreement of parties, with the terms and conditions which serves as proof of obligation; (4) it can also be an express contract where terms are openly uttered or declared at the time of the making of it, being stated in distinct and explicit language, either orally (parole), or in writing. Petitioner’s contract offers petitioner liberty to be exchanged for a definite sentence (See Exhibits A-B) that definite sentence is clear, (90) days to be served in the Arkansas County Jail, not a (6) month parole violation to be served in the Ark. Dept. of Corr. This binding contract, an order of the Arkansas Community Corrections Arkansas County office is now law. When a dispute arises over an agreement, the court “will” discern the intent of the parties, “as expressed in the plain language of the agreement viewed as a whole”. See Miles vs. State, 350 Ark. 243, 85 S.W. 3d 907 (2002). Also, see Green vs. State, 2009 Ark. 113, 313 S.W. 3d 521.

BREACH OF CONTRACT

Where (2) or more parties enter into a contract and the contract is breached, the laws of damages seek to protect three interest of the party that not in default. The restitution interest of the now defaulting party in the benefit conferred on the defaulter this pursuant to the contract and

order prior to its breach (See Exhibit A-B). If money or property was transferred to the party now in default, the value of that money or property may be the basis of restitution recovery. This would be so even if performance of the contract might have resulted in a loss to the non-restitutionary recovery, I would submit that in cases for wrongful incarceration there exist precedents. (A) Had Petitioner been lawfully granted his rights to due process, his (90) day sanction would now be history and he would currently be back at his place of employment as a plumber's helper for Adam's Heat and Air and Plumbing earning \$15 per hour for his employer Mr. Shelby Adams [REDACTED]. Awaiting trial scheduled for February 2022. Petitioner Charles E. Hamner would not be serving any additional time as he currently is had the Petitioner been granted party in the expenditures made or the property transferred or consumed in reliance on such contract. Based on the contract and order of the Arkansas Community Corrections Arkansas County office representative Arnell Rhinehart (See Exhibits A-B), the Petitioner has complied with everything required of him. I, Charles E. Hamner, have kept my end of the contract in "Good Faith", and although the original Agent Arnell Rhinehart has not himself caused the breach, his designated Executor's of the said contract have breached the contract in his stead. The breach contract would violate Federal and State Constitutional guarantees of due process of the law under the Fifth and Fourteenth Amendments of the United States Constitution and also Articles 2 §8 of the Arkansas Constitution ...citing Mauppin vs. State, 309 Ark. 235, 831 S.W. 2d 104 (1992). The third interest concerning a Breach of Contract is the expectation that the contract be placed back into the same position or standing as before the Contract was Breached and/or Defaulted. In the petitioner's case if the correction was made and petitioner was ordered back to the custody of Arkansas County, and/or released because Arkansas County refused, declined to take custody, then that would somewhat recover partial restitutionary

recovery. This would be in line with the order of law (Exhibits A-B) ordered by the Arkansas Community Corrections. This order is law. The said Agreement and order stands on its own, “A Binding Contract.”

DOCTRINE OF SUPERIOR KNOWLEDGE

The “Doctrine of Superior Knowledge”, on part of the Arkansas Dept. of Corr., Arkansas Parole Board, Arkansas County Detention Center, Arkansas Community Correction, would become applicable. This plea was entered into by Petitioner, Charles E. Hamner, 5-12-2021, in “Good Faith”. It was filed by Arnell Rhinehart on the aforementioned date. Pursuant to Arkansas Rules of Criminal Procedure Rule 25.2, the State of Arkansas can be held accountable and bound to investigate fact and law that now applies to the illegal sentence the Petitioner is currently serving due to his due process rights being violated by a retaliatory Sheriff in its Jurisdiction abusing his power of Authority, extending the Petitioners sentence. The Superior Knowledge that the aforementioned is deemed to have, would lead to the presumption how they knew beyond reasonable doubt that there were only (2) determinates to the contractual agreement and order entered into by the Arkansas Community Corrections and the Petitioner (1) Petitioner would serve (90) day sanction in the Arkansas County Jail and granted the option to be released when that time expired, (2) provided the Petitioner was granted due process of law under Federal and State Constitution and found guilty of bad behavior he would be returned to serve a (6) month parole violation in the Ark. Dept. of Corr. (See Exhibits A-B). This agreement was law to be followed by all jurisdictions. Yet, fraudulent actions of the contract agreement by Respondent have put that very contract into Breach and Default. The contract is superior knowledge, it stands on its own, an order of the Arkansas Community Corrections. The material facts which are the inducement or procedure cause for the contract hold true and are just, it serves Justice and Law.

CONCLUSION

As you can see, now the agreement and order stands on its own, ordered by the Arkansas Community Corrections. The terms of the contract are clear. There is no other determination. The Petitioner could do right by producing good behavior and go home in (90) days from the Arkansas County Jail, or be proven guilty or found thereof and be transferred back to the Ark. Dept. of Corr. to serve a (6) month parole violation. If the correction is not made to the contract that petitioner Charles E. Hamner agreed to before the Breach, these mistakes that have been knowingly made will justify the petitioner to entitled instruction deliberate misinterpretation of the contract and order of the Honorable Arnell Rhinehart with the Arkansas Community Corrections, as the order reads only ONE way, the order stands on its own as order of law. Any other interpretation is Fraud. A defrauded party is entitled to the “benefit of the bargain”. This rule compels the party guilty of fraud to make good its representations. Restitutionary Recovery and punitive damages can be included as remedies for fraud. Smith vs. Bennett Ford, Inc., 314 Ark. 591, 864 S.W. 2d 817 (1993). Or in alternative: the requirement for this contract agreement and order to stand on its own alone is actual, the contract is an order of law. FACT: state official Arnell Rhinehart from the Arkansas Community Corrections promised and ordered it on 5-12-2021 (See Exhibit A-B). Filed on the same date, it is a valid contract, it stands alone and legal. A Binding Contract.

Wherefore, having shown just cause and sound reason, the Petitioner prays this Honorable Judge, within His respectable Arkansas Court, grants the relief deemed just and proper to resolve the aforementioned controversy presented herein above. Such authority to issue an order for Injunctive Relief in the form of a Writ of Mandamus is clearly jurisdiction vested with this court. Such relief is humbly requested. Because of the complexity and precedent this

action presents, a "Motion for Appointment of Counsel" is being composed for submission so the best ends of Justice can be reached and clarity presented, as I am not an attorney and my inexperience may cause a delay in continuity if this matter requires a Trial by Jury for the merits to be reached.

Respectfully Submitted,

Signed Under Penalty of Perjury

Charles E. Hamner, ADC# [REDACTED]

Charles E. Hamner [REDACTED]

Date: September 9, 2021

**Arkansas Community Correction
 WAIVER OF REVOCATION HEARING**

Offenders Name: Charles Hamner

ADC# [REDACTED]

I understand that I have been charged with violating one or more of the conditions of my release from the Department of Correction. I have been served with written notice of the charge(s) and I understand them. I have also been served with written notice of my right to a hearing in or near the community where the alleged violation(s) occurred. I understand the hearing process as described in the written notice. I admit that I have violated the following condition(s) of release as alleged:

- ☐ #1 Reports ☐ #2 Employment/Education ☐ #3 Residence & Travel ☒ #4 Laws
☒ #5 Weapons ☐ #6 Alcohol/Controlled Substances ☐ #7 Association ☐ #8 Supervision Fees
☐ #9 Cooperation ☐ #10 Search & Seizure ☐ #11 Waiver of Extradition
☐ #12 Special Conditions:

I understand that the Revocation Hearing Judge would determine whether I have violated one or more of the conditions of release at a revocation hearing, and, if so, whether my release should be revoked. I understand that even if I admitted my guilt at the hearing, or if I were found guilty, I would have an opportunity to present reasons that my release should not be revoked. By waiving a hearing, I am giving up that opportunity. I have no excuse for violating the condition(s) of release as alleged. I believe that the violation(s) I have admitted is/are serious enough to justify the revocation of my release.

I do not want a revocation hearing and I hereby waive my right to a hearing. I understand that, upon my signing this waiver, my release will be revoked and I will be placed in the custody of:

- ☐ the Arkansas Department of Correction
☒ the Arkansas Department of Correction- Suspended (If eligible and subject to good behavior and an approved parole plan (Reinstatement option at 90 days)
☐ Arkansas Community Correction. If I am subsequently determined to be ineligible for Arkansas Community Correction, I will be transferred to the Arkansas Department of Correction.

I will be eligible to be considered for release again in: November /2021 (month/year)

The actual date will be determined, with the next month being counted as the first month; or on my "regular" parole eligibility date, whichever is longer. My current "regular" parole eligibility date as Class I is: Past
 I understand that I will not automatically be released at that time and that I may be required to serve the remainder of my sentence in its entirety.

This waiver of a revocation hearing is made voluntarily and intelligently. It is not the result of any threats or promises or any form of coercion. I understand I may file an appeal within thirty (30) days from the date I sign this waiver stating why this waiver should be rescinded. I understand that if this waiver is rescinded and I am granted a hearing, I may face additional penalties.

Charles Hamner
 Offender's Printed Name

5/12/21
 Date

Charles Hamner
 Offender's Signature

Arnold Rhineland
 Parole Officer's Printed Name

5-12-21
 Date

Arnold Rhineland
 Parole Officer's Signature

 Parole Officer's Supervisor Printed Name

 Date

 Parole Officer's Supervisor Signature

 Revocation Hearing Judge's Name

 Date

 Revocation Hearing Judge's Signature

(Exhibit) due process
B

Arkansas Community Correction



Short Term Revocation Program Eligibility

Name: Charles Hamner

ADC# [REDACTED]

Prior to a Revocation Hearing, the PPO/Agent is responsible for determining whether an offender is eligible for placement in the Short-Term Revocation Program (STRP) and notifying the Revocation Hearing Judge accordingly.

The parolee is NOT eligible to sign a waiver for placement in the STRP if he/she (check all that apply):

- ☐ has a pending charge involving an Act 1029 offense
- ☐ is under active supervision for an Act 1029 offense
- ☐ is currently under active supervision for a violent crime involving a firearm and is alleged to have violated the conditions of his/her parole by possessing a firearm
- ☐ has been incarcerated in the STRP within the last ninety (90) days

Does the parolee have an acceptable place to live at the expiration of 90 days?



Yes



No

Failure to have an approved home plan prior to signing a waiver for placement in the 90 day program does not render the parolee ineligible. However, in order to be released at the expiration of the 90 day period, offender must meet all eligibility requirements of the program including maintaining good behavior and obtaining an approved home plan.

Officer/Agent Signature: [Signature]

Date: 5-12-21

UNIT LEVEL GRIEVANCE FORM (Attachment I)

Unit/Center A.R.C.U.

Name Charles Hamner

ADC# [REDACTED] Brks # Intake Job Assignment Intake

FOR OFFICE USE ONLY

GRV. # _____

Date Received: _____

GRV. Code #: _____

7-13-21 (Date) STEP ONE: Informal Resolution

7-16-21 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)

If the issue was not resolved during Step One, state why: Problem solver sat.

RAY NEVER BROUGHT ME A RESPONSE TO STEP 1 WITHIN 72 HOURS.

(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 serious nature). If you marked yes, give this completed form to the designated problem-solving staff, who will sign the attached emergency receipt. In an Emergency, state why: _____

Is this Grievance concerning Medical or Mental Health Services? _____ If yes, circle one: medical or mental

BRIEFLY state your one complaint/concern and be specific as to the complaint, date, place, name of personnel involved and how you were affected. (Please Print): ON 7/12/21 at approximately 1:30 p.m. deputy Wardens Ball and Culclager and major Jimmy Coleman came into intake 1 at which time they moved an inmate outta 102 to do some measuring. At this particular time I ask Captain Sheila Johnson to sign my grievance in 718 cell and she took my whole grievance. All (4) pages. she signed inmate Curtis Pippens and gave him his copies but not mine. My grievance is very important to me because it contained information concerning my (90) day sanction to be served in Arkansas County Jail with ADC time. suspended upon good behavior. My parole officer Arnell Rhinehart 870-673-8410 just received a good institutional report on me in June 2021 from booking officer Tabea Inman. I seen it with my own eyes whenever I gave him my 90 day home plan because he showed it to me. I never got in any type of trouble since that time, never received any type of hearing or written explanation concerning my misconduct at any time. Under federal and state law its strictly unlawful and unconstitutional to extend my sentence into (6) months from an agreed upon (90) day sanction prior to the aforementioned happening. Its illegal. Sheriff Dean Mannis or the Ark. dept. of Corr. has no proof of my misbehavior, any write up, or hearing for such. I was merely retaliated on by this man for filing a federal lawsuit on his unlawfulness, now he has got the state involved in it.

Inmate Signature Charles Hamner

Date 7-13-21

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

THIS SECTION TO BE FILLED OUT BY STAFF ONLY

This form was received on 7-13-21 (date), and determined to be Step One and/or an Emergency Grievance

for (Yes or No). This form was forwarded to medical or mental health? Yes (Yes or No) If yes, name

of the person in that department receiving this form: _____

Date

90220 [Signature]

7-13-21

PRINT STAFF NAME (PROBLEM SOLVER)

ID Number

Staff Signature

Date Received

Describe action taken to resolve complaint, including dates: _____

Staff Signature & Date Returned

Inmate Signature & Date Received

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

Staff Who Received Step Two Grievance: _____

Date: _____

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

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

Date: _____

DISTRIBUTION: YELLOW & PINK - Inmate Receipts; BLUE - Grievance Officer; ORIGINAL - Given back to Inmate after Completion of Step One and Step Two.

(Page 1) (Exhibit D)

MR. Felts,

(7-23-21)

I PRAY this letter finds you and all the respectable members of the board our very best. I'm writing you regarding a few situations concerning the (90) day STRP Program hoping in the future you and the respectable board of parole can change some things whereas, another offender may not have to experience the suffering I myself, Gary L. Henson # [REDACTED] OR Charles E. Hanner [REDACTED] previously did. In my case, I was wrote a disciplinary on (2) separate occasions but, both were dismissed without a finding of guilt. However, the next thing I know is I'm being brought back to prison to serve a (6) month parole violation without a finding of guilt, which is strictly a violation of my rights to due process under state and federal law. PRIOR to a finding of guilt for misconduct the state or county government has no justifiable reason to turn a (90) day sanction to be served in the cleburne county jail, into a six month parole violation to be served in a state prison whereas, (A) my sentence was doubled and imposes a much stricter and harsher punishment that requires me to be granted parole again; (b) places me at a substantial risk of catching the delta variant of covid 19 which could take my life from me wherever, I was never proven guilty of violating a (90) day sanction for any prior misconduct. Now please realize and be reasonable this is strictly illegal because, my Adc time

(page 2) (Exhibit D)

was suspended upon good behavior and an approved (90) day home plan, in which, I met the criteria of both. Even county deputies told me I got screwed and I said, "why can't you tell the parole board that???" On June 23, 2021 my (90) day sanction was up in the cleburne county jail, at which time I posted bond on said pending criminal charges that initiated the (90) day sanction and was told I had an Adc hold for misconduct. However, cleburne county documentation will verify I was indeed wrote up twice but, never plead guilty or was found guilty by its disciplinary court of any alleged offense. Without a finding of guilt, there's no proof of misconduct. Without said bad behavior or a finding of guilt thereof, cleburne county has got the state of Arkansas involved in a situation of falsely imprisoning me Gary Henson #91650, as a similar matter occurring in Arkansas County to inmate Charles Hamner # [REDACTED] has as well, because both our sentences were doubled whereas, we both have to be approved for parole again by the board in which we could easily be denied until God knows when wherever, we were never found guilty of doing nothing wrong, which is strictly a violation of due process, something that certainly could and needs to be challenged under Arkansas state law and United states federal law, do to being illegal under due process of its very law. In Charles Hamner's case #143063, he filed a lawsuit on Arkansas County sheriff

(page 3) (Exhibit D)

Dear Marvin 2:21 cv 00062 and his subordinates denying or delaying him mental health treatment, counseling, and medication for over a period of (30) days that resulted in (2) separate suicide attempts. Once the sheriff was notified by the court of such complaint being filed he up and shipped Mr. Hamner off to prison in a matter of retaliation without, so much as even providing him with a written explanation of said misconduct, or hearing whatsoever which, is strictly illegal on its face as the aforementioned, because it violates state and federal due process of law because, there was never a hearing or finding of guilt of any prior misconduct or wrongdoing by Mr. Hamner before extending his (90) day sanction to be served in Arkansas County jail, to a (6) month parole violation to be served in a state prison, in which he could be denied parole whenever, he done nothing more than piss off a county official for causing him, a mentally ill prisoner, a known hardship denying him his medication for several weeks nearly causing this man to lose his life do to his unlawfulness. Written documentation provided by a court, nment minus proof of guilt by a bi-partial judge of such said allegation is no proof of misconduct at all and does not justify our sentences being doubled accordingly. There's no court that wouldn't agree with these facts proven by the record. It can be and will be proven in a court of law that the state or county,

(page 4) (Exhibit D)

has no said proof of any hearing being conducted whereas, a prior finding of guilt was found to initiate additional punishment for any misconduct and strictly violates our rights to due process. I do know Mr. Hamner has recently petitioned the court in his civil case 2:21 cv 00062 about this retaliatory sheriff violating his due process rights getting the state involved in a federal matter whereas, the court has been petitioned to transfer Mr. Hamner back into county custody do to its unlawfulness. see document #11-0 pages 1-7 Hamner vs. Mann's, et.al. case 2:21-cv-00062-BSM-PSH. Sir, please understand all we and Mr. Hamner is after is our rights to due process. We just want what is due to us at this time, our parole re-instated and dismissed from state custody. It's simple as that. We should not be forced to serve time in the state that was previously suspended prior to a finding of guilt of misconduct. Respectfully, Charles Hamner

Charles Hamner

(Exhibit E)

Inmate Request Form

This form is to be used by inmates to contact staff with requests on issues they may have. This step should be used before completing and Informal Resolution or Grievance. This is the Ouachita River Correction Unit In-House Form.

Name: <u>Charles Hamner</u>	ADC#: <u>[REDACTED]</u>	BKS: <u>Intake 116</u>	Date: <u>7-10-21</u>
-----------------------------	-------------------------	------------------------	----------------------

Circle the Department you want your request directed to.

Business Office	Visitation / Inmate Phones	Medical	Property
Records	Classification	Mail Room	Law Library
Commissary	Chaplain	Field Office	Laundry
Mental Health	Mental Health	<u>Parole</u>	Warden's Office

Deputy Warden's Office

Other: _____

Staff Directed to Jason Gray

Give detailed reason for request: Can you please tell me why my (90) day sanction in Ark. Co. Jail has turned into a (6) month parole violation whenever, I was never served a misconduct report of any type for misbehavior OR given a hearing due to so, I never presented any time of bad behavior at any point what I did do is file a federal lawsuit against the sheriff and here I

Have you talked to any staff about your request? Yes ✓ No

If your answer is "yes", who did you talk with about this request and when? _____

Inmate's Signature: <u>Charles Hamner</u>	Date: <u>7-10-21</u>
Staff Responding: _____	Date: _____

I have reviewed your request and here is my finding:

Arkansas Co. Detention Facility
provided documentation to the parole board of
an incident of failing to maintain good behavior
therefore you were removed from the 90 Day STRP.
You will go before the Parole Board during Nov. 2021

I am referring this request to: _____

I am considering this issue:

✓ Resolved

Not Resolved

Cyruet 7/14/2021

(Exhibit F)

Inmate Request Form

This form is to be used by inmates to contact staff with requests on issues they may have. This step should be used before completing an Informal Resolution or Grievance. This is the Ouachita River Correctional Unit In-House Form.

Name: <u>Charles Hanner</u>	ADC #: <u>[REDACTED]</u>	BKS: <u>330</u>	Date: <u>7-25-21</u>
-----------------------------	--------------------------	-----------------	----------------------

Circle the Department you want your request directed to.

Business Office	Visitation / Inmate Phones	Medical	Property
Records	Classification	Mail Room	Law Library
Commissary	Chaplain	Field Office	Laundry
Mental Health	Mental Health	<u>Parole</u>	Warden's Office
Deputy Warden's Office	Other: _____		

Staff Directed to: Any O.R.C.U. I.P.O. officer

Give detailed reason for request: I need John Felts address at the Arkansas Parole Board, I've written a complaint I need to get to him that has recently been filed in federal court, Candy West 7/12/2021, said the board had documentation of an incident of misconduct, why can't I get a copy of that incident of misconduct report?

Have you talked to any staff about your request? Yes ☒ No ☐

If your answer is "yes", who did you talk to about this request and when? _____

Inmate's Signature: <u>Charles Hanner</u>	Date: <u>7-25-21</u>
Staff Responding: _____	Date: _____

I have reviewed your request and here is my finding: 1302 Pike Ave, Ste. D
North Little Rock, AR 72114

Contact the county for that incident report.

I am referring this request to: _____

I am considering this issue: _____ Resolved _____ Not Resolved

Staff Member's Signature & Date

CERTIFICATE OF SERVICE

I, Charles E. Hamner, petitioner herein, do certify that a copy of this petition has been served this 9th day of September, 2021, to Tim Blair Arkansas County Prosecuting Attorney, Arkansas County, AR 72160, by placing same in the U.S. Mail with sufficient postage affixed to ensure delivery.

Charles E. Hamner
ADC # [REDACTED], pro se

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
DELTA DIVISION**

CHARLES E HAMNER
[REDACTED]

PLAINTIFF

v.

CASE NO. 2:22-CV-00028-BSM

DEAN MANNIS, *et al.*

DEFENDANTS

ORDER

Having reviewed the entire record *de novo*, Magistrate Judge Patricia S. Harris's proposed findings and recommendations [Doc. No. 28] are adopted. Rhinehart and Mannis' motions to dismiss [Doc. Nos. 11 and 24] are granted with respect to Hamner's section 1983 due process claims. Mannis's motion to stay [Doc. No. 9] is denied as moot. Hamner's motion to remand [Doc. No. 18] be granted in part, and Hamner's remaining claims are remanded to the Circuit Court of Ashley County, Arkansas.

IT IS SO ORDERED this 2nd day of June, 2022.


UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
DELTA DIVISION**

CHARLES E HAMNER
ADC [REDACTED]

PLAINTIFF

v.

CASE NO. 2:22-CV-00028-BSM

DEAN MANNIS, *et al.*

DEFENDANTS

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IT IS SO ORDERED this 2nd day of June, 2022.


UNITED STATES DISTRICT JUDGE

OCT 19 2022

10/16/22

Ms. IRby,

I hope all is well with you na'am! Please find enclosed (6) Copies of First set of Interrogatories To Be answered and First Set of Admissions To Be answered By said Respondent's Pursuant To The clearly established Provisions of ARKANSAS Rules of Civil Procedure 36 and Rule 33. Please also find enclosed (6) Copies of First set of Inspection of documentation and other tangible things Pursuant To The Provisions of ARKANSAS Rules of Civil Procedure Rule 34. Will you please make sure the Respondent's get a copy of these requested motions and are instructed to answer in a timely manner pursuant to the time requirements clearly established under the Arkansas Rules of Civil Procedure Rules 33, 34, 36 and to forward said responses to the claimant at the below listed address. Also, please file-mark a copy for the claimant and return to him at your earliest convenience for his personal records please and thank you very much. God bless you na'am! Charles Hamner # [REDACTED]

Before The Arkansas State Claims Commission

Charles Hamner

Adc # [REDACTED]

claimant

V.

NO. 230327

Arkansas
State Claims Commission

OCT 19 2022

Arkansas Department of Corrections
Division of Correction and
Division of Community Correction

RECEIVED

Respondent's

FIRST SET OF INTERROGATORIES TO BE ANSWERED AND FIRST
SET OF ADMISSIONS TO BE ANSWERED BY SAID RESPONDENT'S
PURSUANT TO THE CLEARLY ESTABLISHED PROVISIONS OF
ARKANSAS RULES OF CIVIL PROCEDURE 36 AND RULE 33

- (1) Do you contract housing department of correction and department of community correction inmates with the Arkansas County Detention Center under the provisions of ARK. Admin. Rules 004.00.15-002 AR 894 AND A.C.A. §§ 12-50-101 through 111?
- (2) Did the claimant have a right to a disciplinary hearing regarding what was reported to the respondent's about his failure to maintain good behavior under the laws and procedures of said respondent's and state of Arkansas?
- (3) Is it not Arkansas Law, for a third party contractor to be in full compliance with any applicable requirements of A.C.A. §§ 12-50-101 through 111? While housing department of correction or community correction inmates?

(PAGE ONE)

(4) Does not A.C.A. § 12-27-103 (b)(14)(V)(1) give the department of Correction authority to contract housing its inmates in Arkansas County detention facility? Does it not require them to follow department of Correction policies regarding the inmate disciplinary manual?

(5) Was the claimant ever given a disciplinary hearing regarding what Arkansas County reported to the respondent's concerning his failure to maintain good behavior?

(6) Was the claimant written up for and found guilty of violating any rule of the Arkansas County detention facility? Was the report served on the claimant? Was he given a hearing?

(7) Why or was not the claimant sent back to serve a suspended sentence in the Ark. dept. of Corr. for his failure to maintain good behavior in the Arkansas County detention facility?

(8) Was the claimant found guilty of violating any rule of the Arkansas County detention facility by any hearing officer or fair and impartial decision-maker?

(9) Did the respondent's ever investigate what Arkansas County reported to them about the claimant's alleged failure to maintain good behavior while housed at there facility? Prior to or after he was transferred into there custody

- (10) Did the respondent's ever give the claimant a disciplinary hearing regarding what was reported to them via Arkansas County? OR prove he was indeed guilty of what was reported to them?
- (11) Do the respondent's have proof the claimant ever misbehaved in Arkansas County detention center found by an impartial decision-maker or hearing officer?
- (12) Is it not true the respondent's are responsible for illegally detaining the claimant since June 30, 2021, because it was never proven he misbehaved or broke any rule of the Arkansas County detention center?
- (13) Under Arkansas Law, was not the claimant entitled to a disciplinary hearing, a right to call witnesses, give testimony, and be found guilty by an impartial hearing officer before being punished and made to serve a suspended sentence?
- (14) Admit the claimant was entitled to a disciplinary hearing he never got regarding what Arkansas County detention center reported to the respondent's about his failure to maintain good behavior.

(October 16, 2022)

Charles Hamner

(PAGE THREE)

Before The ARKANSAS State Claims Commission

Charles Hamner

Adc # [REDACTED]

claimant

NO. 230327

V,

ARKANSAS Department OF Corrections

DIVISION OF CORRECTION and

DIVISION OF COMMUNITY CORRECTION

Respondent's

[First set of Request For Production pursuant to Rule 34
Please provide for inspection the following documentation,
video footage, hearing tapes, to the claimant and the Arkansas
State Claims Commission for inspection in furtherance of
proving the merits of the above referenced claim
pursuant to the provisions of A.R.C.P. Rule 34]

(1) Zoom video taped footage from (AR Court.com) in the
Southern District of Arkansas County Dewitt, AR on the A.M.
of August 10, 2022, to verify Asst. Attorney General Sammie
Strange admitting the proper avenue to challenge the res-
pondent's on the breach of contract claim would be through
the claims commission.

Any documentation pertaining to any internal affairs investigation on said matter,
(2) Produce ANY/ALL hearing tapes, written documentation, video
footage, reports, regarding why the claimant was removed
from the short term sanction program in the Arkansas
County detention center and forced to serve a suspended sentence
in the ARK. dept. of CORR, including but not limited to any
finding of guilt between June 25th - June 30, 2021.

Charles Hamner # [REDACTED]

(October 16, 2022) (Page One)

OCT 22 2022

Ms. Irby,

I hope all is well with you ma'am. ~~Received~~ find enclosed (6) copies that contain a written (8) page response and objection To Respondent's Motion To Dismiss with enclosed exhibits (BB), (H) pgs. 1-3, (U) pgs. 1-2, (V) pgs. 1-4, (X) pgs. 1-3, (S), (Y), in state claim No. 230327 to support "facts" enjoined via clearly established law why the claims commission can't just dismiss said claimant's claim as the Respondent's have requested. Please be advised the claimant is willing to negotiate the award of monetary damages based upon his parole being re-instituted. Please file mark a copy and send it back to the claimant at your earliest convenience. Please and thank you very much.

Thank You ma'am!

Charles Hamner

Re: Charles Hamner
Adc # [REDACTED]

No. 230327

V.

Arkansas Department of Corrections
Division of Correction and
Division of Community Correction

Before The ARKANSAS State Claims Commission

Charles Hamner
Adc # [REDACTED]

claimant
Arkansas
State Claims Commission

No. 230327

OCT 22 2022

V.

ARKANSAS Department of Corrections
DIVISION OF CORRECTION and
DIVISION OF COMMUNITY CORRECTION

RECEIVED

Respondent's

Response To Respondent's Motion To Dismiss

Pages 1-7 submitted via MR. Thomas Burns as of
October 5, 2022 Through U.S. Postage Paid MAIL

Received at The [REDACTED] Oct. 11, 2022

MR. BURNS has filed a motion asking the claims commission to dismiss said claimant's claim based on the grounds the claimant's claim fails to state facts upon which relief can be granted pursuant to ARKANSAS Rules of Civil Procedure 12(b)(6). MR. Hamner has submitted facts to the commission relief can be granted on and argues it as follows: MR. Hamner submitted (Exhibit E) to the claims commission verifying the reason he was sent to serve a sentence in the ARK. dept. of CORR. he had agreed was to be suspended with the division of COMM. CORR. was because of documentation Arkansas County detention center submitted to the Arkansas Parole Board alleging he had failed to maintain

good behavior while in there custody. However, the record will identify Mr. Hamner never being cited for breaking any rule of the Arkansas County detention facility, never receiving said report for over a year after it was submitted to said respondent's, never receiving any hearing via said respondent's prior to or after said documentation was submitted forcing him to serve said sentence he agreed with said respondent's was to be suspended for waiving a revocation hearing on May 12, 2021. See said report at (Exhibit U) page two, id report not being obtained until July 18, 2022, through another matter against ACDC (Exhibit U) page one, Id ACDC facility rules and regulations (Exhibit S) page one. Id Mr. Hamner was not cited for violating any rules of its facility in said report (Exhibit U) page two. Id Mr. Hamner being reported via officer Snyder after he had submitted information requesting why he was being sent back to serve a suspended sentence in the ADC because he would not have an illicit affair with her or sale her contraband in the facility the division of Correction and community correction had him housed in to serve a 90 day sanction under contract as a third party, id at (Exhibit V) pgs. 1-4. Since said false material statement was filed this particular officer has been criminally charged as a felon in ACDC and fired from her position. Pursuant to the provisions of Arkansas Law officer Snyder can be charged for providing said false material witness statement and should be as it's resulted in the claimant serving said illegal sentence in the ARK. dept. of Corr. for going

ON (2) two year's now, id definition of "false material statement" and what ARKANSAS law states regarding it at A.C.A. § 5-53-101. Id MR. HAMNER had what is defined as an "agreement" or "contract" with a "Governmental Agency" (Respondent's) at A.C.A. § 25-32-102 through waiving his revocation hearing (EXHIBIT E), said "agreement" or "contract" both declared in writing his parole would be re-instated within (90) days ON (3) three conditions: (1) He had to have an approved parole plan at the expiration of (90) days; (2) He must be eligible to participate in the short term revocation program; (3) upon good behavior, Id MR. HAMNER had an approved place to live at the expiration of (90) day's (EXHIBIT BB) (EXHIBIT Y) signed by said Respondent's and eligible to participate in the short term revocation program IN ARKANSAS County whereas, he was housed via a third party CONTRACTOR for said Respondent's until June 30, 2021, Id claimant grieving he had not received any disciplinary report or institutional hearing for bad conduct or violating any rule of its facility before being sent to serve a suspended sentence as of June 29, 2021 via the Respondent's (EXHIBIT W) pages 1-2, Pursuant to the provisions of A.C.A. § 19-5-1045 (3) MR. HAMNER was housed in a county jail for the Respondent's because of a sanction imposed in response to a violation of a supervised condition of his release plan, Pursuant to the provisions of A.C.A. § 12-27-127 (3)(A) MR. HAMNER could be administratively transferred from the division of community correction program where he was a resident of the ACDC by the Parole Board following a

(DARC THROO)

hearing in which he was found ineligible for placement in the facility as he failed to meet its criteria or its standards established by law or policy adopted by the Board of Corrections or was found guilty of a violation of the Rules of the facility which the record clearly reflects he never was pursuant to the provisions of A.C.A. § 25-32-102 (6)(3)(7)(11) and section 2 of ARK. Admin. Rules 183.00.01-001 (a)(b)(c)(g). Furthermore, under the clearly established provisions of Arkansas Law the claims commission can and should hold said respondent's responsible for producing the aforementioned to verify the claimant was never given a hearing as he was entitled under Arkansas law prior to or after being forced to serve said illegal suspended sentence concerning the false material statement said respondents relied upon submitted via Arkansas County which has been said cause of it all. Pursuant to the provisions of ARK. Admin. Rules 004.00.15-002 AR 894 (IV) Procedures (4) The dept. of CORR. shall not enter into any agreement with any third party to house dept. of CORR. inmates "unless" the agreement provides for full compliance with any applicable requirements of the Corrections Cooperative Endeavors and private management Act, A.C.A. §§ 12-50-101 through 111. Pursuant to the provisions of A.C.A. § 12-27-103 (b)(14) (IV) Procedures the respondent's could house the claimant in Arkansas County detention facility so long as (b) They followed dept. of CORR. policies including the "inmate disciplinary manual," This was a requirement. Pursuant to the provisions of A.C.A. § 12-50-106 - Contracts for Correctional facilities (e) contracts awarded under the provisions of this section at a "minimum" shall comply with the following: (3) impose discipline on inmates only in accordance with the following:

(DACS FILE)

dance with applicable rules and procedures, the rules and procedures regarding disciplining an inmate as the claimant can be found in the ARK. dept. of CORR, inmate disciplinary manual Ad 18-34 OR the inmate handbook at (Exhibit H) pgs. 13-14 "Major Disciplinary Process" 1-5 (a)-(h), MR. Hamner was returned because of his alleged failure to maintain good behavior in violation of clearly established law because he was entitled to a hearing the respondent's never gave him whom agreed under contract MR. Hamner could not be administratively transferred back to the division of correction short of Arkansas County fully complying with its rules and procedures regarding disciplining an inmate, and finding him guilty of a violation of a rule of its facility prior to said transfer, These facts clearly established and enjoined pursuant to the provisions and requirements of Arkansas Law entitle the plaintiff to monetary damages and to have his parole re-instated on said grounds. This claim was dismissed in state and federal court because it was barred by sovereign immunity by the eleventh amendment, Arkansas Assistant Attorney General can be found quoting on an Arkansas County Circuit Court Zoom video at AR Court.com the proper avenue to challenge said respondent's was by and through the claims commission, id on video August 10, 2022, Assistant Attorney General Sammie P. Strange JR. southern district of Arkansas County stating the proper avenue for challenging said respondent's for breaching said third party contract that deprived him of said requirements of Arkansas law that entitled him to a disciplinary proceeding was through the Arkansas claims commission. It can also be found MR. Hamner's breach of contract claims being barred by sovereign

(PAGE FIVE)

immunity and dismissed on said grounds Charles Hamner
Adc #143063 v. Dean Mannis and Arvell Rhinehart in
the Arkansas County Circuit Court First Division case
No. 01DCV-21-60-1 (3)(4)(5)(6) in its order of dismissal
on pages 1-2 Filed August 31, 2022 at 10:50 a.m. via
Arkansas County Circuit Clerk Sarah Merchant, The
proper avenue to be released is not through habeas corpus,
regarding parole revocation in Arkansas. The trial court has
no jurisdiction over the invalid commitment of the claimant
because a third party contractor failed to comply with or be in
full compliance with contractual requirements regarding disciplining
an Adc inmate pursuant to A.C.A. § 12-50-106 (e)(3) or A.C.A.
§ 12-27-103 (b)(4)(iv) Procedures (b) Blevins v. Norris, 291 Ark.
70, 722 S.W. 2d 573 (1987); Fields v. Hobbs, 2013 Ark. 416, at 2
2013 WL 5775566. Furthermore, the Arkansas Supreme Court
has held when parole is revoked, that revocation can be set
aside in the courts if it be shown that the board acted
"arbitrarily or capriciously," Webb v. Bishop, 242 Ark. 320, 325,
413 S.W. 2d 862, 865 (Ark. 1967). It can't be said they did not,
id report submitted to them via Arkansas County (Exhibit U)
pg. 2; the rules and regulations of the facility the claimant
was not cited for breaking in said report (Exhibit S) page
one; and the reason the board allowed the plaintiff to be
sent back to serve said agreed upon suspended sentence (Exhibit E)
being because of (Exhibit U), which the claimant was never
entitled a hearing to or found guilty of, strictly in violation
of Arkansas law and breach of contract regarding what he
was deprived of by a third party contractor the respondents
failed to hold responsible for failing to be in full compliance
of the minimum requirements of disciplining one of its inmates
(...)

PRIOR to allowing Him to be illegally transferred into their custody breaching said contract and violating clearly established Arkansas law. Pursuant to the provisions of A.C.A. § 19-11-246 contains the resolution of contract and breach of contract controversies this issue should be resolved by and A.C.A. § 12-41-605 (6) shows the grounds in which Arkansas County was contracted with via said respondents, Mr. Hamner is being illegally detained by said respondents, was illegally detained through unlawful procedure and other error of Arkansas law in order to generate illegal revenue. In order to falsely imprison him through said illegal channels is unlawful as it's been clearly established through all of the aforementioned. On August 4, 2022, Mr. Hamner was found not guilty on all the charges that initiated said illegal revocation, found guilty of a lesser included offense he plead guilty to, and was sentenced to 144 months suspended imposition of sentence in the Arkansas County Circuit Court, id at (Exhibit X) page two (a)(b)(c)(d). Pursuant to the provisions of A.C.A. § 16-93-1202 suspended imposition of sentence means a procedure whereby a defendant who pleads or is found guilty of an offense is released by the court without pronouncement of sentence and without supervision. On said date Mr. Hamner was entitled to be released because he was not found guilty of what he was accused and because the respondents had clearly breached a contract that deprived Mr. Hamner of being disciplined according to clearly established law as of June 30, 2021. For all of the aforementioned reasons, Mr. Hamner ask to be awarded the damages he has requested on said grounds and to have his parole re-instated and

to be moved over into transitional housing via said respondent's at one of its approved facilities in the Springdale, Arkansas area, that of the Phoenix House. Furthermore, on September 13, 2022, it can be found on file at the Arkansas state claims commission, Ms. Kathryn Irby emailing Ms. Amber Schubert a copy of said claim ordering her to file a responsive pleading pursuant to the Arkansas Rules of Civil Procedure, as well as claims commission rule 2.2, and giving her (30) days from said date of service stating in particular her pleading should include her agency number, fund code, and activity/section/unit/element this claim should be charged against for payment, this information was necessary even if your agency denies liability signed Kathryn Irby. It will be revealed Ms. Schubert responding in her motion to dismiss and incorporated Brief as of September 22, 2022, failing to comply as instructed because her responsive pleading did not contain any of the aforementioned. Since said order of the commission the (30) days has expired and rendered her filing inadequate, and unlawful, because they violated Arkansas Rules of Civil Procedure, Rule 2.2 of the claims commission, and rendered her agency responsible for said damages the claimant has previously requested. For all of the above listed reasons, the claimant prays the commission entitle him to the relief he's requested because the respondent's violated clearly established Arkansas law that resulted in him serving an extensive illegal sentence that caused him a significant and atypical hardship that was no ordinary incident of prison life. Charles Hamner [REDACTED]

(October 19, 2022)

(PAGE Eight)

Arkansas Community Correction



Short Term Revocation Program Eligibility

Name: Charles Hamner

ADC# [REDACTED]

Prior to a Revocation Hearing, the PPO/Agent is responsible for determining whether an offender is eligible for placement in the Short-Term Revocation Program (STRP) and notifying the Revocation Hearing Judge accordingly.

The parolee is NOT eligible to sign a waiver for placement in the STRP if he/she (check all that apply):

- ☐ has a pending charge involving an Act 1029 offense
- ☐ is under active supervision for an Act 1029 offense
- ☐ is currently under active supervision for a violent crime involving a firearm and is alleged to have violated the conditions of his/her parole by possessing a firearm
- ☐ has been incarcerated in the STRP within the last ninety (90) days

Does the parolee have an acceptable place to live at the expiration of 90 days?



☒ Yes

☐ No

Failure to have an approved home plan prior to signing a waiver for placement in the 90 day program does not render the parolee ineligible. However, in order to be released at the expiration of the 90 day period, offender must meet all eligibility requirements of the program including maintaining good behavior and obtaining an approved home plan.

Officer/Agent Signature: Ronald [Signature]

Date: 5-12-21

(EXHIBIT B)

2020

(Exhibit H)

(FRONT AND BACK)

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DIVISION OF
CORRECTION**Inmate Handbook**

Division of Correction

**Inmate
Handbook**

1st Printing, December 1971 (Revised)
 2nd Printing, July 1972 (Revised)
 3rd Printing, November 1972 (Revised)
 4th Printing, January 1975 (Revised)
 5th Printing, July 1978 (Revised)
 6th Printing, May 1981 (Revised)
 7th Printing, August 1981 (Revised)
 8th Printing, October 1983 (Revised and Recalled)
 9th Printing, September 1986 (Revised)
 10th Printing, February 1991 (Revised)
 11th Printing, February 1994 (Revised)
 12th Printing, December 2001 (Revised)
 13th Printing, May 2006 (Revised)
 14th Printing, January 2007 (Revised)
 15th October 2010 (Revised)
 16th October 2011 (Revised)
 17th October 2012 (Revised)
 18th Printing, July 2013 (Updated)
 19th Printing, August 2013 (Updated)
 20th Printing, June 2015 (Revised)
 21st Printing, November 2017 (Revised)
 22nd Printing, March 2020 (Revised)

Printed by Arkansas Correctional Industries

Prepared by:
The Research and Planning Division
Tiffany Coppins, Research & Planning Administrator
Darrell McHenry, Research Analyst

Edited by:
Dina Tyler, Director of Communications

March 2020

(Exhibit H)

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4

Mission Statement

The mission of the Arkansas Division of Correction is to provide public safety by carrying out the mandates of the courts; provide a safe humane environment for staff and inmates; strengthen the work ethic through teaching of good habits; and provide opportunities for staff and inmates to improve spiritually, mentally, and physically.

Vision Statement

The vision of the Arkansas Division of Correction is to be an honorable and professional organization through ethical and innovative leadership at all levels, providing cost efficient, superior correctional services that return productive people to the community.

Introduction

The inmate handbook provides basic information about the ADC's policies and procedures. You are expected to follow all policies and rules. You are encouraged to seek clarification when you have questions or are unclear about something.

*The information in this handbook does not cover every possible situation, and it may not reflect recent changes in policy or procedure.

ADC policies are available to you in your unit's law library. You should always refer to the most recent policy as policies are reviewed annually for potential updates. You should focus on re-entry from the day you arrive, as your actions will impact how you serve your time and whether you are better prepared upon your release.

Intake

New inmates go through a diagnostic process called intake. During intake, inmates are given medical, mental health and academic examinations; court papers are reviewed; counselors gather information through interviews; program recommendations are made; a risk score is calculated; and a general orientation takes place. When possible, programming will begin during the intake period.

Intake generally takes about 3 to 5 days, but it can last longer. It is during intake that inmates can set up an account to purchase items from the unit commissary. Inmates cannot have visitors during intake, but you will have access to a portable phone for the PREA

(Exhibit A)⁹

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Telephone Use

During set hours, you are allowed to make collect calls to people on your pre-approved telephone list. *Three-way calling and call forwarding is not allowed. All calls except those to an attorney or a known outside rape counseling service, will be recorded and may be monitored.*

Emergency Messages

The Chaplain or mental health office will notify you about family emergencies.

Personal Clothing

The ADC provides uniforms, undergarments, a pair of shoes, soap, toothbrush, toothpaste, safety razor with blade, bath towels and feminine-hygiene items. Seasonal items may also be provided such as a toboggan cap, jacket or coat and thermal underwear.

Jewelry

Personal jewelry allowed includes one wristwatch, one plain metal ring or wedding band and one religious medal or emblem worn on your ID chain. The religious medal/emblem must be approved by the chaplain. The value of each item cannot exceed \$50. A wedding band can have a higher value, but you must sign a waiver of liability.

Photographs

You may have up to five personal photographs that are not nude or sexually suggestive. Photographs cannot contain subject matter that is disruptive in nature or would threaten security or the good order of the institution. Digital pictures or images generated by a computer and xerox copies are considered to be photographs. Photographs may not be any larger than 8 1/2 X 11 inches. Such photographs may contain either single or multiple digital images/pictures. However, when digital images/pictures are cut from an 8 1/2 X 11-inch sheet, it will no longer be considered as one. Each image cut from the sheet will be counted as one of the inmate's five authorized photographs.

Major Disciplinary Process

The major disciplinary form will be used in filing major disciplinary reports against you. This form will inform you in writing of the details of the rule infractions.

1. You will receive a copy of the major disciplinary report at least 24 hours prior to the major disciplinary court hearing.
2. At the time you are served the disciplinary report, if you want to call witnesses, this is the time to do it by giving the notifying officer the names of the individuals you wish to call. There may be a limit on

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how many witnesses you can call. The Chief Security Officer at the unit determines this limit. You will not be allowed to submit witness statements that you have gathered to the hearing officer.

3. Unless your disciplinary is extended, it will expire after seven (7) business days (excluding weekends and holidays) from the date of the incident, the discovery of the incident (in cases where the incident was concealed from the staff), or the date the investigation has concluded. If your disciplinary is extended, you will be provided a copy of the extension form.
4. You will be allowed to be present at your hearing, but you will not be forced to attend. You may waive your appearance by signing a waiver form or failing to attend when disciplinary court is called. You cannot appeal if you waive your hearing.
5. The hearing will be conducted as follows:
 - a. When the hearing officer is ready to hear your case, you will be called into the room, and the hearing officer will identify any people present at the hearing for the record.
 - b. You will be informed of the specific charges against you and the possible consequences of a finding of guilt.
 - c. The hearing officer will read the disciplinary report to you and ask for your plea to each charge. There are only two acceptable pleas, "guilty" or "not guilty." Any plea other than those, or refusing to enter a plea, will be considered as a plea of not guilty.
 - d. You will be given an opportunity to make a statement on your behalf and present documentary evidence (other than witness statements).
 - e. You will then be required to leave the room while the hearing officer reads any confidential statements into the record, and considers the evidence.
 - f. After the hearing officer has reached a verdict, you will be called back into the hearing room and informed of his/her findings and the reason for them.
 - g. You will be advised of your right to appeal any or all guilty decisions of the hearing officer.
 - h. At this point, your hearing will end, and if you were found guilty, this will mark the beginning of any punishment assessed.



Colin C. Heaton
colin@heatonfirm.com

211 Hobson Avenue, Suite A
P.O. Box 0111
Hot Springs, AR 71902-0111
Phone: (501) 321-2597
Fax: (501) 732-7025

William T. Harris IV
will@heatonfirm.com

July 18, 2022

Charles Hamner, ADC [REDACTED]

Re: Hamner v. Smith, et al.
USDC Case No. 2:21-CV-00062-BSM-PSM
Part II of Jail File

Mr. Hamner:

Due to the volume of records, enclosed is the second party of copies of your inmate jail file from your incarceration in the Arkansas County Detention Center.

Sincerely,


Colin C. Heaton

CCH/kc
Enclosures

[EXHIBIT U] (page one)

The discovery in this case is what lead to the plaintiff obtaining (Exhibits T, U, V, W, X, Y), in order to prove to this court how the defendant's knew said plaintiff was sanctioned to serve (90) days in the ARKANSAS County jail, how they acted "arbitrary and capricious" by using said report [Exhibit U] pg. 2 in order to force the plaintiff to serve a suspended sentence (Exhibit A) in the ARK. Dept. of Corr. [REDACTED]

guilt found by an impartial decision-maker remaining repressed.

[Exhibit U] (page two)

Arkansas County Detention Center

TO: Administration / Sheriff
FROM: Officer Patricia Snyder
DATE: 06/25/2021
TIME: Approx. 5:30 A.M.
RE: Inmate Charles Hamner

[see Argument below]

On June 25, 2021, at approx. 5:30 A.M., while passing out medication and trays, myself Officer Patricia Snyder and Officer Chris Pollard, went to the tanks to feed and pass medication to Inmate Charles Hamner. After opening the Drunk tank door I Officer Snyder asked Inmate Hamner if he was ready to go back to his pod. He stated "no, I'm not going back Officer Ricky made me look like a punk in front of the whole pod yesterday." I asked him what happened he stated "he (Officer Ricky) came in there to deal with Mayson and himself (Inmate Hamner) and Mayson had a few words and Officer Ricky pulled the taser on him. He also stated that since Officer Ricky wanted to make him look like a punk he would take care of him." I told Inmate Hamner that he needed to calm down because if done something to Officer Smith that would be another charge on him and didn't want an assaulting an officer charge. He said, "I don't care when I see him again I will roll him and we will see who the bitch is then. He wanted to make me look like a punk ass bitch, I'll show him." Officer Pollard and I shut the door and finished serving and doing medication.

At approx.. 6:00 A.M., Officer Pollard went to pick up Inmate Hamners tray. Officer Pollard tried to talk to him about Officer Smith. Inmate Hamner stated again "I'm going to roll him the first time I see him."

Pat Snyder
Officer Patricia Snyder

Chris Pollard
Officer Chris Pollard

CC: Sheriff Dean Mannis
Chief Deputy Johnny Cheek
CID Jeremiah Richards
Asst. Jail Admin. Peggy Pitts

At Jury trial officer Rickey Smith told me and my lawyer 8/3/22 he knew nothing of this report.
As the court will verify above this report was never disclosed to the plaintiff, there was never a hearing regarding this report. There was never a finding of guilt by an impartial decision-maker regarding this report. The plaintiff was never charged with violating any rule of the Ark. Co. Jail or found guilty of it. Reveal through above documentation and that found in (Exhibit E) this being the reason the defendants allowed plaintiff to be sent back to serve illegal sentence he is currently serving in Ark. dept. of Corr.

REQUEST

Profile Photo



Audit Photo



Offender Info

Inmate: Charles Jr. Hamner
 Inmate PIN: [REDACTED]
 Submitted Date: 2021-05-22 22:11:53
 Submitted From Location/Room: F Pod
 Current Location/Room: F Pod
 Facility: Arkansas County AR (8709461)

Form Info

Form: REQUEST
 Form ID: 589

Form Info

Status: Resolved without Appeal By
 Escalation Level: 0
 Offender Can Appeal: No
 Assigned To:
 Assigned Date:

Summary of Form:

WHAT IS YOUR REQUEST?:

how can the state or county send me back to adc whenever its been suspended

DATE/TIME	SENDER	TAGGED USER	IS INTERNAL	ESCALATED	MESSAGE
2021-05-25 09:33:52	Tabetha Inman (tabetha)		Internal Note		Tabetha Inman (tabetha) reviewed form
2021-05-24 12:36:08	Tabetha Inman (tabetha)				See other request about this matter
2021-05-24 12:35:48	Tabetha Inman (tabetha)		Internal Note		Tabetha Inman (tabetha) reviewed form

[Exhibit V] (page One)

verifies plaintiff was serving (90) days in Ark. Co. Jail
 see (Exhibit V) page four. Attached is (Exhibit V)
 page four. Time in Ark. dept. of Corr. suspended
 Reveal (Exhibit A) to no avail.

REQUEST

Profile Photo



Offender Info

Inmate: Charles Jr. Hamner
Inmate PIN: [REDACTED]
Submitted Date: 2021-05-21 19:16:43
Submitted From Location/Room: F Pod
Current Location/Room: F Pod
Facility: Arkansas County AR (8709461)

Form Info

Form: REQUEST
Form ID: 589

Form Info

Status: Resolved without Appeal By
Escalation Level: 0
Offender Can Appeal: No
Assigned To:
Assigned Date:

Audit Photo



Summary of Form:

WHAT IS YOUR REQUEST?:

patricia dont I only have a 90 day sanction to serve according to my recent parole violation

DATE/TIME	SENDER	TAGGED USER	IS INTERNAL	ESCALATED	MESSAGE
2021-05-25 09:34:13	Tabetha Inman (tabetha)		Internal Note		Tabetha Inman (tabetha) reviewed form
2021-05-24 12:20:25	Tabetha Inman (tabetha)				See other request
2021-05-24 12:20:02	Tabetha Inman (tabetha)		Internal Note		Tabetha Inman (tabetha) reviewed form

This was filed after officer P. Snyder told me she would make sure I got sent back to prison after I told her I did not want to sale no contraband for her or communicate with her on my cell phone at the jail

Exhibit V (page two)

verifies plaintiff was serving (90) days in ARK. Co. Jail see (Exhibit V) page four. Attached is (Exhibit V) page four. Time in ARK. dept. of Corr. suspended Reveal (Exhibit A) to no avail.

REQUEST

Profile Photo



Offender Info

Inmate: Charles Jr. Hamner
 Inmate PIN: [REDACTED]
 Submitted Date: 2021-05-21 19:14:21
 Submitted From Location/Room: F Pod
 Current Location/Room: F Pod
 Facility: Arkansas County AR (8709461)

Form Info

Form: REQUEST
 Form ID: 589

Audit Photo



Form Info

Status: Resolved without Appeal By
 Escalation Level: 0
 Offender Can Appeal: No
 Assigned To:
 Assigned Date:

Summary of Form:

WHAT IS YOUR REQUEST?:

I havent been in any trouble so how r yall sendingme back to adc to do my 90 day sanction

DATE/TIME	SENDER	TAGGED USER	IS INTERNAL	ESCALATED	MESSAGE
2021-05-25 09:34:18	Tabetha Inman (tabetha)		Internal Note		Tabetha Inman (tabetha) reviewed form
2021-05-24 12:19:07	Tabetha Inman (tabetha)				See other request
2021-05-24 12:18:05	Tabetha Inman (tabetha)		Internal Note		Tabetha Inman (tabetha) reviewed form

I wanted to raise suspicion to the administration without switching officer Snyder was threatening me/retaliating on me for refusing to participate in unlawful conduct to no avail.

[Exhibit V] (page three)

Verifies plaintiff was serving (90) days in ARK. Co. Jail see (Exhibit V) page four. Attached is (Exhibit V) page four. Time in ARK. dept. of CORR. suspended Reveal (Exhibit A) to no avail.

REQUEST

Profile Photo



Offender Info

Inmate: Charles Jr. Hamner
Inmate PIN: [REDACTED]
Submitted Date: 2021-05-21 19:12:30
Submitted From Location/Room: F Pod
Current Location/Room: F Pod
Facility: Arkansas County AR (8709461)

Audit Photo



Form Info

Form: REQUEST
Form ID: 589

Form Info

Status: Resolved without Appeal By
Escalation Level: 0
Offender Can Appeal: No
Assigned To:
Assigned Date:

Summary of Form:

WHAT IS YOUR REQUEST?:

how am i gettin sent back to adc when my paperwork states that time is suspended

DATE/TIME	SENDER	TAGGED USER	IS INTERNAL	ESCALATED	MESSAGE
2021-05-25 09:34:22	Tabetha Inman (tabetha)		Internal Note		Tabetha Inman (tabetha) reviewed form
2021-05-24 12:17:48	Tabetha Inman (tabetha)				you are doing 90 days here unless Serena finds you a medical bed is my understanding.
2021-05-24 12:14:53	Tabetha Inman (tabetha)		Internal Note		Tabetha Inman (tabetha) reviewed form

Filed after officer P. Snyder told me she would make sure I got sent back to prison for refusing to participate/communicate with her unlawful conduct

[Exhibit V] (page four)

IN Relation to time in ARK. dept. of CORR. suspended (Exhibit A)
The Above question and answer reveals ARKANSAS County knew it was the decision of the defendants to make the plaintiff serve (90) days in the ARKANSAS County Jail for the sanction he received for violating the terms and conditions of his parole and was to release him within (90) days of May 3, 2021 to no avail. 174/45

IN THE CIRCUIT COURT OF ARKANSAS COUNTY, ARKANSAS
NORTHERN ~~AND SOUTHERN~~ DISTRICT
CRIMINAL DIVISION

STATE OF ARKANSAS

PLAINTIFF

VS.

NO. 01DCR-21-74

Charles Hammer

DEFENDANT

GUILTY PLEA STATEMENT

The Defendant represents and states to the Court:

1. My correct name is Charles Hammer, and my address is
[REDACTED]
2. [REDACTED]
3. I completed the 11 grade in school, and I read, write and understand the English language.
4. I am represented in this proceeding by a lawyer, whose name is
Martina Furrer
5. I am satisfied with the legal services rendered by my attorney, and I have no complaints to make about my lawyer in this case.
6. I have received a copy of the information against me and understand that I am charged with the following offenses:

OFFENSE / CLASSIFICATION / MIN-MAX PUNISHMENT / ENHANCEMENT

- (a) CHARGE: Criminal Mischief 1st Degree
FELONY / MISDEMEANOR CLASS: Y / A / B / C / D / U HABITUAL: YES / NO
PUNISHMENT: 0 - 15 YEARS ADC / COUNTY JAIL FINE: UP TO \$ 10,000
- (b) CHARGE: _____
FELONY / MISDEMEANOR CLASS: Y / A / B / C / D / U HABITUAL: YES / NO
PUNISHMENT: _____ YEARS ADC / COUNTY JAIL FINE: UP TO \$ _____
- (c) CHARGE: _____
FELONY / MISDEMEANOR CLASS: Y / A / B / C / D / U HABITUAL: YES / NO
PUNISHMENT: _____ YEARS ADC / COUNTY JAIL FINE: UP TO \$ _____
- (d) CHARGE: _____
FELONY / MISDEMEANOR CLASS: Y / A / B / C / D / U HABITUAL: YES / NO
PUNISHMENT: _____ YEARS ADC / COUNTY JAIL FINE: UP TO \$ _____
- (e) CHARGE: _____
FELONY / MISDEMEANOR CLASS: Y / A / B / C / D / U HABITUAL: YES / NO
PUNISHMENT: _____ YEARS ADC / COUNTY JAIL FINE: UP TO \$ _____
- (f) CHARGE: _____
FELONY / MISDEMEANOR CLASS: Y / A / B / C / D / U HABITUAL: YES / NO
PUNISHMENT: _____ YEARS ADC / COUNTY JAIL FINE: UP TO \$ _____

[EXHIBIT X] page ONE

Signed by me in the presence of my lawyer on this 4 day of August 2022
Charles Hammer, DEFENDANT

Signed in my presence on this 4 day of August 2022
M. James, DEFENSE ATTORNEY

SENTENCE RECOMMENDATION

In accordance with the Plea Agreement between the Prosecuting Attorney and the defendant's attorney, the defendant agrees to plead guilty to the charges now pending against (him) (her) in this case.

Upon a plea of "Guilty" by the defendant to these charges, the Prosecuting Attorney agrees to recommend to the Court:

a. OFFENSE Criminal Mischief First Degree CLASS F/M REDUCED NOL PROS
0 months / days confinement in Arkansas Department of Corrections / Regional Correctional Facility / county jail
0 months Suspended Imposition of Sentence
0 months Supervised / Unsupervised Probation with 0 days in county jail to be suspended / served
Concurrent / Consecutive with: _____

b. OFFENSE Dom Btry 2d CLASS F/M REDUCED NOL PROS
0 months / days confinement in Arkansas Department of Corrections / Regional Correctional Facility / county jail
0 months Suspended Imposition of Sentence
0 months Supervised / Unsupervised Probation with 0 days in county jail to be suspended / served
Concurrent / Consecutive with: _____

c. OFFENSE Agg Assault CLASS F/M REDUCED NOL PROS
0 months / days confinement in Arkansas Department of Corrections / Regional Correctional Facility / county jail
0 months Suspended Imposition of Sentence
0 months Supervised / Unsupervised Probation with 0 days in county jail to be suspended / served
Concurrent / Consecutive with: _____

d. OFFENSE For Theft 1st CLASS F/M REDUCED NOL PROS
0 months / days confinement in Arkansas Department of Corrections / Regional Correctional Facility / county jail
0 months Suspended Imposition of Sentence
0 months Supervised / Unsupervised Probation with 0 days in county jail to be suspended / served
Concurrent / Consecutive with: _____

e. OFFENSE _____ CLASS F/M REDUCED NOL PROS
0 months / days confinement in Arkansas Department of Corrections / Regional Correctional Facility / county jail
0 months Suspended Imposition of Sentence
0 months Supervised / Unsupervised Probation with 0 days in county jail to be suspended / served
Concurrent / Consecutive with: _____

f. OFFENSE _____ CLASS F/M REDUCED NOL PROS
0 months / days confinement in Arkansas Department of Corrections / Regional Correctional Facility / county jail
0 months Suspended Imposition of Sentence
0 months Supervised / Unsupervised Probation with 0 days in county jail to be suspended / served
Concurrent / Consecutive with: _____

[Exhibit X] page two

EXHIBIT X page three

SPECIAL CONDITIONS:

- a.) _____ Serve _____ days in a Regional Correctional Facility
- b.) _____ Serve one day in the Arkansas Department of Correction to observe operation of the facility pursuant to A.C.A. Sec. 05-4-320.
- c.) _____ Perform _____ hours of Community Service under the direction of Adult Probation Officer, to be completed within _____ months.
- d.) _____ Enroll and complete (alcohol/drug rehabilitation), (psychiatric), (batterers class), (anger management classes), at defendant expense and pursuant to arrangements made by your probation officer.
- e.) _____ Transfer to Drug Court
- f.) _____ Required to complete Sex Offender Registration.
- g.) _____ ~~Defendants who successfully complete probation or suspension without violation of any conditions~~ are eligible to apply to the Court to have their record sealed, or to be discharged and charges dismissed without an adjudication of guilt, depending on which statute they are eligible or entitled.
_____ Act 346
_____ Act 531
- h.) Other: Permanent No Contact Order w/ Barbara Hamner

FEES:

RESTITUTION: \$ _____ Payable to: _____
RESTITUTION: \$ _____ Payable to: _____
RESTITUTION: \$ _____ Payable to: _____
RESTITUTION: \$ _____ Payable to: _____
FINE: \$ 15.00 / N/A COURT COSTS: \$ 165.00 / \$ _____
SERVICE: \$ 30.00 / \$ _____ BOOKING: \$ 40.00 / \$ _____
PUBLIC DEFENDER: \$ 200.00 / N/A
DNA: \$ 250.00 (unless previously assessed and collected) / N/A
DRUG CRIME FEE: \$ 125.00 / N/A
SEX OFFENDER REGISTRATION FEE: \$ 250.00 / N/A
DOMESTIC VIOLENCE FEE: \$ 25.00 / N/A
PROSECUTOR COLLECTION FEES (FORGERY/HOTCHECKS): \$ _____ / N/A

TOTAL: \$ 605.00 PAYABLE AS FOLLOWS: \$ 50 PER MONTH,
COMMENCING 30 DAYS FROM PLEA RELEASE.

MAKE PAYMENTS TO: PROSECUTING ATTORNEY
ATTN: KERRIE BRONSON
P.O. BOX 845
305 S. COLLEGE
STUTTGART, AR 72160
870-673-3048

CASH, MONEY ORDER, CASHIER'S CHECKS, CREDIT/DEBIT CARD ACCEPTED.

ADDITIONAL MONTHLY FEES: \$5.00 PARTIAL PAYMENT FEE
\$5.00 COLLECTION FEE

I have read and understand the above restitution, fine, and court cost amounts and understand that failure to pay these amounts as ordered can result in my detention in the Arkansas County Detention Center.

T. Blair
DATE: 8-4-22

TIM BLAIR, PROSECUTING ATTORNEY

Charles Hamner
Defendant Signature

(Exhibit 5) (page ONE)

Arkansas County Detention Center

Inmate Rules And Regulations

- 1 Inmate will not be given a mattress or blanket.
- 2 Inmate will not receive phone calls for six (6) hours.
- 3 Inmate will not deface walls, ceiling, floor or any County property.
- 4 Inmate will not destroy or damage bedding or jail clothing.
- 5 Inmate will not be loud, boisterous, or use profane language or cause any disturbances.
- 6 Inmate will not waste water or obstruct drains.
- 7 Inmate will shower regularly and will keep cell areas clean.
- 8 Inmate will share cleaning of cell areas.
- 9 Inmate will not solicit business for any lawyer or bondsman.
- 10 Inmate will not make, fashion, or convert any item into a weapon.
- 11 All incoming and outgoing mail will be checked for contraband.
- 12 Inmate will not cover air vents or light fixtures and will not hang blankets from sleeping cell door.
- 13 Inmate are subject to being searched at any time.
- 14 Inmate will not possess or cause to be delivered any contraband items.
- 15 When a Detention Officer approaches the cell, all inmates in the cell are to move to the rear of the cell and remain there until otherwise instructed.
- 16 Visitation is a privilege, and can be revoked at any time.
- 17 Failure to adhere to any of these rules will result in prompt disciplinary action consisting, but not limited to the following: loss of television, telephone privileges, additional charges being filed, restriction of visitation, isolation, other punishment as the Director or Jail Administrator may deem appropriate.

→ I have read and understand the rules and regulations which are set forth by the Arkansas County Detention Center. I further understand the violation of these rules could lead to further prosecution, forfeiture of inmate status, and possible restitution for any damaged property. Failure to sign and acknowledge this form may cause a delay in prisoner release.

X *[Signature]*
Inmate Signature
Date:

[Signature]
Officer Signature
Date:

* "There is NO report from Rickey Smith of any incident, or disturbance you supposedly caused. There is NO proof you violated any of the above listed rules. You were not found guilty of any of the above rule violations at any time by a fair or impartial decisionmaker!"

Exhibit Y



DIVISION OF COMMUNITY CORRECTION
Area 11 - Stuttgart Office

112 South Main Street | Stuttgart, Arkansas 72162

Phone: (870) 673-8410 | Fax: (870) 673-2068

DOC.ARKANSAS.GOV

This Exhibit Relates to Exhibit B and A
Verifying plaintiff was to be home in (90) days from
May 3, 2021, the day he received said sanction

90 Day Home Plan

Name: Charles Hanner DOB: [REDACTED] ADC#: [REDACTED]

Please provide a Parole Release Plan in the event you are sentenced to 90 days' revocation.

Name: Barbara Hanner Relationship: son mother

Address: [REDACTED]

Contact number: [REDACTED]

Name: _____ Relationship: _____

Address: _____

Contact number: _____

Name: _____ Relationship: _____

Address: _____

Contact number: _____

Please be advised if your parole plan does not check out, you will be 90 days' revocation will convert to a 6 months' parole revocation to the Arkansas Department of Corrections.

Offender: Charles Hanner Date: 5/12/21

Officer/Agent: _____ Date: _____

Ms. IRby,

This letter is in regards to
claim No: 230327

12/1/22

I hope all is well with you and the five members of the commission and that all of you and your families had a wonderful Thanksgiving holiday AND God is blessing each of you in a very special way. I am writing you regarding (2) issues. If you will look at the record on October 19, 2022, I filed my First set of Request for Production pursuant to Rule 34, First set of Interrogatories and First set of Admissions pursuant to Ark. Civ. R. PROC. 36 and 33. The defendants both had 30 days to respond. It was filed or received in your office for them to respond to on October 19, 2022. It has now been over (42) days now and neither responder has filed a response strictly in violation of the Arkansas and Federal Rules of Civil Procedure. Also, I need to advise you as of 11/30/22 my address has changed and need to advise you and both respondents of the change: Charles Hamner # [REDACTED]

Arkansas
State Claims Commission

DEC 06 2022

RECEIVED

Please forward all future pleadings and responses to me at this address, being as I'm no longer housed at the EAST ARKANSAS Unit. Please write me back and let me know you received this letter please and thank you very much. God bless you ma'am!!!

respectfully submitted,

[Re: claim No. 230327]

Charles Hamner # [REDACTED]

re [REDACTED] Arkansas
C [REDACTED] on its own, "A
D [REDACTED]
[REDACTED]
[REDACTED] Morr., Arkansas
B [REDACTED], would
be 5-12-2021, in
" [REDACTED] Arkansas
I [REDACTED] able and bound
t [REDACTED] currently
e [REDACTED] jurisdiction
e' [REDACTED] knowledge that
f [REDACTED] now beyond
r [REDACTED] at and order
e [REDACTED] her would.
e [REDACTED] leased when
f [REDACTED] Federal and
f [REDACTED] a (6) month
f [REDACTED] law to be
f [REDACTED] Respondent
l [REDACTED] ledge, it stands
c [REDACTED] hich are the
l [REDACTED] ice and Law.

ARKANSAS STATE CLAIMS COMMISSION

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



KATHRYN IRBY
DIRECTOR

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

December 13, 2022

Mr. Charles Hamner (ADC [REDACTED])
[REDACTED]
[REDACTED]

RE: *Charles Hamner v. Arkansas Division of Correction*
Claim No. 230327

Dear Mr. Hamner,

This office has received your correspondence dated December 1, 2022, and your address change has been updated. If you have any questions, please do not hesitate to contact my office.

Sincerely,

Mika Tucker

ES: msscott

cc: Thomas Burns, *counsel for Respondent* (via email)

From: [Thomas Burns \(DOC\)](#)
To: [ASCC Pleadings](#)
Cc: [Leslie Browning \(DOC\)](#); [Amber Schubert \(DOC\)](#)
Subject: Charles Hamner v ADC (DOC and DCC) 230327
Date: Wednesday, December 14, 2022 12:06:57 PM
Attachments: [1480_001.pdf](#)

Motion for Sanctions

Thomas Burns
General Counsel
Arkansas Department of Corrections
Division of Correction
6814 Princeton Pike
Pine Bluff Arkansas 71602
Phone: (870) 267-6845
Fax: (870) 267-6373
Cell: (870) 515-0918
thomas.burns@arkansas.gov

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BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

CHARLES HAMNER (ADC# [REDACTED])

CLAIMANT

v.

NO. 230327

**ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION and
DIVISION OF COMMUNITY CORRECTION**

RESPONDENT

MOTION FOR SANCTIONS

Comes now the Respondent, Division of Correction (ADC), by and through their attorney, Thomas Burns, and for their Motion, states:

1. On or about December 13, 2022 the Commission sent a letter to the Inmate and copied to the ADC. *See attached Ex A.*
2. In the letter it references that the inmate sent a letter to the Commission on December 1, 2022. *Id.*
3. This is the first time the ADC has been made aware that the inmate contacted the Commission on December 1, 2022.
4. The inmate is unduly prejudicing the ADC by engaging in ex parte communications.
5. Due to the failure of the Inmate to follow the proper rules of civil procedure (ARCP) the ADC is being prejudiced by not being allowed to respond and refute the Inmates averments and documents.
6. The ADC would request that the Commission strike the Inmates claim and dismiss the matter for failure to follow the ARCP. The Inmate is deliberately misleading the Commission and made it so the ADC could not respond to get his desired result.

7. Rule 11 provides that the Court can impose sanctions if the pleading, motion, or other paper is not interposed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; which we clearly have here.

WHEREFORE, the ADC prays for sanctions against Carl Jackson; for his complaint to be dismissed; for attorney's fees and costs; and for all other just and proper relief to which he may be entitled.

Respectfully submitted,



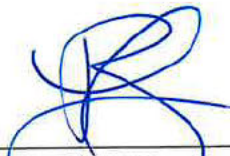
Thomas Burns (02006)
ADC Legal Division
6814 Princeton Pike
Pine Bluff, AR 71602-9411
(870) 267-6845 Office
(870) 267-6373 Facsimile
thomas.burns@arkansas.gov

CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been served this 14th day of December 2022 on the Claimant by placing a copy of the same in the U. S. Mail, regular postage, to:

Charles Hamner (ADC# [REDACTED])
[REDACTED]

Amber Shubert *via email*



Thomas Burns

ARKANSAS STATE CLAIMS COMMISSION

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



KATHRYN IRBY
DIRECTOR

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

December 13, 2022

Mr. Charles Hamner (ADC [REDACTED])
[REDACTED]

RE: *Charles Hamner v. Arkansas Division of Correction*
Claim No. 230327

Dear Mr. Hamner,

This office has received your correspondence dated December 1, 2022, and your address change has been updated. If you have any questions, please do not hesitate to contact my office.

Sincerely,

Mika Tucker

ES: msscott

cc: Thomas Burns, *counsel for Respondent* (via email)

Before The Arkansas State Claims Commission

Charles Hamner
Adc # [REDACTED]

Claimant
Arkansas
State Claims Commission

V.

NO. 230327

JAN 05 2023

Arkansas Department OF Corrections
Division OF Correction AND Division
OF Community Correction

RECEIVED

Respondent's

[Response To Motion For Sanctions / why Motion
should Be Denied AND Sanctions Be Imposed ON said
Respondent's By The Commission NOT ON Claimant]

Comes now the claimant representing himself "pro se",
Charles Hamner Adc # [REDACTED], and for his motion states:

The claimant agrees on or about December 13, 2022,
he received a letter from the Commission also sent to
the Respondent's from the Commission concerning an
updated address change as of December 1, 2022, also
asking the Commission why the said Respondent's have
timely failed to respond to his discovery request's filed
on or about October 19, 2022, on the Respondent's and
the Commission, i.d. stamped / file marked copy received

(PAGE ONE)

Arkansas State Claims Commission October 19, 2022,
(First set of Request For Production Pursuant To Rule 34,
Please provide for inspection the following documentation,
video footage, hearing tapes, to the claimant and the
Arkansas state claims Commission for inspection in
furtherance of proving the merits of the above referenced
claim pursuant to the provisions of A.R.C.P. Rule 34,
First set of Interrogatories To Be Answered and First
set of Admissions To Be Answered By said Respondent's
pursuant to the clearly established provisions of Arkansas
Rules of Civil Procedure 36 and Rule 33), all to no avail.

It has now been over two month's with no response to
said discovery requests in which said Respondent's have
knowingly failed to make discovery and should be sanctioned
by the Commission pursuant to the provisions of (ARCP)
Rule 37 and Rule 11 for said untimely, unnecessary delay.
MR. Hamner denies it was the first time the adc was
made aware he contacted the commission on December 1, 2022.
MR. Hamner denies he has ever unduly prejudiced the adc
by engaging in ex parte communications or allowing them
to not respond to or refute his averments or documents.
MR. Hamner is diagnosed with a serious mental illness pur-
suant to the provisions of A.C.A. § 12-1-103(e) post
traumatic stress disorder, in which he takes daily prescribed
psychotropic medication to help treat his seriously mentally
ill condition, in which the Respondent's have been illegally
allowed to exacerbate over the course of many month's

(PAGE TWO)

by keeping him locked down in a cell with no out of cell recreation time for over six consecutive month's (24) hours per day in extended restrictive housing even though it was strictly prohibited by and through the Respondent's very own Administrative Directive 2019-28 Restrictive Housing procedure pg. 4 (B)(8)(C). Mr. Hamner has clearly provided proof whereas the Respondent's foul play and unlawfulness has knowingly breached a contract as of June 30, 2021, because discipline was not imposed on him in accordance with the Respondent's applicable Rules and procedures pursuant to the provisions of A.C.A. § 12-50-106 (e)(3) which has been the cause of him serving said lengthy illegal sentence that is currently on-going. In the contract awarded to the Arkansas County Sheriff's office by the Respondent's, to house the claimant under the provisions of this section required them at a minimum to comply with the provisions of A.C.A. § 12-50-106 (e)(3) and there's no denying it. Furthermore, it can be found under the Respondent's contract how Arkansas County was to provide the claimant proper food, clothing, housing, and medical care while housing its inmates, see A.C.A. § 12-50-106 (e)(4) something they clearly did not do which is clearly established in (Hamner v. Mannis, et.al. 2:21-cv-00062 BSM-PSH) because the claimant nearly lost his life to suicide due to the Respondent's knowingly allowing Arkansas County under contract to breach said contract and deny him medical care over the course of many weeks denying him treatment for his serious mental illness, i.d. at document #42-0 pages 1-93 Hamner v. Mannis, et.al. 2:21-cv-00062 -BSM, which was

strictly prohibited under Arkansas Law and said clearly established contracting Authority A.C.A. § 12-50-106 (e)(3)(4). Pursuant to the provisions of A.C.A. § 12-50-106 (2)(B) Arkansas County was to provide an indemnification plan to protect the state and its political subdivisions from its losses incurred as a result of the respondent's and there contract for housing said claimant in a manner that breached said contract. The commission will find through an in depth investigation it is not the claimant who has deliberately mislead the commission and who should be struck for such, in order to get there desired result, but the respondent's whom have knowingly abused there authority and violated Arkansas statute in order to breach a contract and illegally incarcerate a seriously mentally ill individual whom should have been released from custody many months ago and awarded all the damages he is currently seeking because he is entitled to them pursuant to Arkansas Law and its Corrections Endeavors Act A.C.A. § 12-50-106-111. Furthermore, the Adc and there legal representative Thomas Burns has prayed for sanctions against Carl Jackson, for Mr. Jackson's complaint to be dismissed, and any and all relief Mr. Jackson is entitled too and not the claimant, i.d. (#7) Mr. Burns motion for sanctions. For all the above reasons, the respondent's should be sanctioned and made to award damages to the claimant and the relief he has requested as well as attorney fees, and any and all other relief the commission

(PAGE FOUR)

have been allowed to abuse there authority and violate Arkansas Law over the course of many month's, which breached a contract in order to geverate illegal revenue from Arkansas taxpayer's to house a seriously mentally ill prisoner that they were allowed to house in a prohibited manner, which has only worsened a seriously pre-existing condition, How much longer must the claimant be illegally punished and denied said relief he's entitled too???

(December 26, 2022)

Charles Hanner # [REDACTED]
[REDACTED]

(PAGE Five)

Before The ARKANSAS State Claims Commission

Charles Hanner

Adc # [REDACTED]

Arkansas
State Claims Commission

NO. 230327

JAN 07 2023

V.

Arkansas Department OF Corrections
Division OF Correction AND Division
OF Community Correction

RECEIVED

Respondent's

[Motion FOR Order Compelling Discovery/ OR Default
Judgment Be ORDERED AS SANCTION FOR Denying Discovery]

Comes now the claimant, Charles Hanner Adc # [REDACTED]
Representing himself "PRO SE," and for his motion states :

Pursuant to the provisions of ARKANSAS Rules of Civil
Procedure (ARCP), Rule 37, Failure To Make Discovery ;
Sanctions (a) Motion FOR Order Compelling Discovery, A party,
upon reasonable notice to all parties and all persons affected
thereby, may Apply for an order compelling discovery as follows
(1) Appropriate Court. An Application for AN order to a party may
be made to the court in which the action is pending. (2) Motion
IF a deponent fails to answer a question propounded OR
submitted under rules 30 OR 31, OR a corporation OR other
entity fails to make a designation under Rule 30 (b) (6) OR 31 (c)
OR a party fails to answer an interrogatory submitted under
Rule 33, OR if a party, in response to a request for inspection
submitted under Rule 34, fails to respond that inspection

(PAGE One)

be permitted as requested, OR fails to permit inspection as requested, OR if a party, in response to a request under Rule 35 (C), fails to provide an appropriate medical authorization, the discovering party may move for an order compelling an answer, OR a designation, OR an order compelling inspection in accordance with the request. The motion shall include a statement that the movant has in good faith conferred OR attempted to confer with the person OR party failing to make the discovery in an effort to secure the information OR material without court action.

(3) Evasive OR Incomplete Answer OR Response. For purposes of this subdivision, an evasive OR incomplete answer OR response is to be treated as a failure to answer OR respond.

(4) Expenses AND Sanctions. (A) If the motion is granted OR if the requested discovery is provided after the motion was filed, the court shall, after affording an opportunity to be heard, require the party OR deponent whose conduct necessitated the motion OR the party OR attorney advising such conduct OR both of them, to pay to the moving party the reasonable expenses incurred in making the motion, including attorneys' fees, unless the court finds that the motion was filed without the movant's first making a good faith effort to obtain the discovery without court action, OR that the opposing party's response OR objection was substantially justified OR that other circumstances make an award of expenses unjust. (C) If the motion is granted in part and denied in part, the court may enter any protective order authorized under Rule 26 (C) and may, after affording an

opportunity to be heard, apportion the reasonable expenses incurred in relation to the motion among the parties and person's in a just manner. (b) Failure To Comply with Order
(2) Sanctions by court in which action is pending. If a party or an officer, director or managing agent of a party or a person designated under Rule 30(b)(6) or 31(a) to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under subdivision (a) of this rule or Rule 35, the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following: (A) An order that the matters regarding which the orders were made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order; (B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence; (C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party.

The commission will verify on or about October 19, 2021 it and said respondent's receiving first set of Request For Production Pursuant to Rule 34. Please provide for inspection the following documentation, video footage, hearing tapes, to the claimant and the Arkansas State Claims Commission for inspection in furtherance of proving the merits of the above referenced

claim pursuant to the provisions of A.R.C.P. Rule 34. Also, receiving on said date October 19, 2022, First Set of Interrogatories To Be Answered By said Respondent's Pursuant to the clearly established provisions of Arkansas Rules of Civil Procedure 36 and Rule 33. The Respondent's have knowingly failed to respond to said discovery requests of the claimant in a timely manner pursuant to the strict provisions and mandatory language of Arkansas Rules of Civil Procedure Rules 33, 34, 36. Furthermore, it can be found in a motion responded to by the claimant received by the Respondent's and the commission as of October 22, 2022, "Response To Respondent's Motion To Dismiss pages 1-7 submitted via Mr. Thomas Burns as of October 5, 2022, Through U.S. Postage Paid mail received at the East Arkansas MAX Unit October 11, 2022," on page four the claimant requesting under the clearly established provisions of Arkansas Law for the claims commission to hold said Respondent's responsible for producing the aforementioned to verify the claimant was never given a hearing as he was entitled under Arkansas Law prior to or after being forced to serve said illegal suspended sentence concerning the false material statement said Respondent's relied upon submitted via Arkansas County which has been said cause of it all. However, it will be found on record the Respondent's not responding to said motion or discovery requests, nor have they argued or disputed any portion thereof regarding the claimant's response to said motion. The record clearly defines how the Respondent's have caused unnecessary delay and litigation costs by not making said

(PAGE FOUR)

discovery requests AND knowingly violated the Arkansas Rules of Civil Procedure in so doing AND pursuant to the clearly established provisions of Arkansas Law and its Rules of Civil Procedure should be sanctioned by the commission. Those sanctions can result in default Judgment being entered against the respondents for deliberately failing to make discovery request, see Rule 37 A.R.C.P. (b)(2)(C). Furthermore, pursuant to the provisions of Rule 33(a) A.R.C.P. Any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party; (b)(3) The party upon whom the interrogatories have been served shall serve a copy of the answers, or objections within 30 day after service of the interrogatories; (5) The party submitting the interrogatories may move for AN ORDER under Rule 37(a) with respect to any objection to or other failure to answer AN interrogatory. The time has clearly expired for the respondents to answer said discovery requests of the claimant. For all the above named reasons, the claimant ask the commission to GRANT his motion to compel discovery and order the respondent to answer to said discovery requests OR sanction them for knowingly failing to do so and enter default judgment against them for such AND ANY AND all other relief it deems just and proper. This is what the claimant PRAYS for and request of the commission. God bless You. Respectfully submitted, Charles Hamner

(December 31, 2022)
(PAGE Five)

Before The ARKawsas state claims Commission

Charles Hamner
Adc # [REDACTED]

Arkansas
State Claims Commission

v.

No. 230327

JAN 07 2023

ARKawsas Department OF CORRECTIONS
DIVISION OF CORRECTION AND DIVISION
OF COMMUNITY CORRECTION

RECEIVED

Respondent's

(Motion To Verify case was Barred By Sovereign
Immunity in state Court / Remanded To state Court
BY Federal Court For Breach OF Contract Claim
Requesting Permission To Add Exhibit XXX)

Comes now the claimant, Charles Hamner Adc # [REDACTED]
representing himself "PRO se," and for his motion states:

The claimant is requesting through said motion for
the commissions permission to add (Exhibit XXX) pgs. 1-3
in an attempt to verify claimants state breach of contract
claim against the respondent's was remanded back to
state court by Federal District Court Judge Brian Scott
Miller whereas, it was dismissed/barred by "sovereign
immunity," i.d. page (2), (#3), (#4) Exhibit XXX. This is
what he prays for and ask of the commission and any
other relief it deems just and proper.

(January 3, 2023)

Charles Hamner # [REDACTED]

(Exhibit xxx)

Pg. 1

FILED

K.S.

AUG 31 2022

TIME: 10:50

SARAH MERCHANT, CIRCUIT CLERK
ARKANSAS COUNTY, ARKANSAS

IN THE CIRCUIT COURT ARKANSAS COUNTY OF ARKANSAS
FIRST DIVISION

CHARLES HAMNER, ADC # [REDACTED]

PETITIONER

v.

CASE NO. 01DCV-21-60-1

DEAN MANNIS, and
ARNELL RHINEHART

RESPONDENTS

ORDER OF DISMISSAL WITH PREJUDICE

On the 10th day of August 2022, this matter came on for hearing by Zoom videoconference on Respondent Arnell Rhinehart's Motion to Dismiss. Petitioner appeared *pro se*. Respondent Rhinehart appeared by and through Assistant Attorney, General Sammie P. Strange, Jr. The Court, having considered the pleadings, arguments of Petitioner and Respondent, and all other matters before the Court, hereby finds and orders:

1. On September 29, 2021, Petitioner Charles Hamner ("Hamner") filed his Petition for Declaratory Judgment and Injunctive Relief via Writ of Mandamus ("Petition") in the Arkansas County Circuit Court against Dean Mannis ("Mannis") and Arnell Rhinehart ("Rhinehart").

2. Separate Respondent Mannis removed this case to federal district court on February 15, 2022.

3. Federal district court Judge Brian Miller dismissed Hamner's 42 U.S.C. § 1983 claims against Respondents Mannis and Rhinehart and remanded the state law breach-of-contract claim against Respondent Rhinehart to this Court on June 7, 2022.

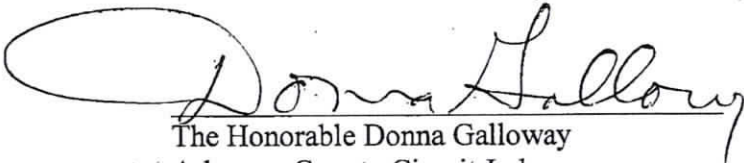
(Exhibit XXX) pg. 2

4. The Court finds that Petitioner's remaining breach of contract against Respondent Rhinehart is barred by sovereign immunity.

5. The Court further finds that Petitioner's remaining breach of contract claim against Respondent Rhinehart fails to state a claim upon which relief can be granted.

6. The Court hereby dismisses the remaining breach of contract claim against Respondent Rhinehart in Petitioner's Petition for Declaratory Judgment and Injunctive Relief via Writ of Mandamus with prejudice.

IT IS SO ORDERED this 30th day of August 2022.


The Honorable Donna Galloway
Arkansas County Circuit Judge

/s/ Sammie P. Strange, Jr.
Prepared By:
Sammie P. Strange, Jr.
Assistant Attorney General
Arkansas Attorney General's Office

Ms. Merchant,

(Exhibit XXX) pg. 3

12/2/22

I hope all is well with you and all the fine members of the court and that God is blessing all of you in a very special way. I wanted to ask you if I could get the final order of the court in my civil case. I know judgment was entered but I never received it. Could you please see that I do please and thank you very much? In regards to Charles Hamner # [REDACTED]

Case No. 01DCV-21-60-1

v.
Dean Mannis and
Arnell Rhinehart

Please mail it to me at my new address which is: Charles Hamner [REDACTED]

Thank you so much and God bless you all and Merry Christmas na'am ☺

Happy New Year !!!

Respectfully,
Charles Hamner # [REDACTED]

JAN 17 2023

1/11/23

MS. IRBY,

I hope all is well ^{RECEIVED} with you ma'am. I hate to bother you but I feel as if it's a have to case, because it concerns very important legal issues regarding my claim 230327. ON the morning of January 5, 2023, at breakfast me and inmate Rodney Minchue [REDACTED] both had legal mail signed and sealed and sent to you personally via Captain LATISHA Davis of the ARK. dept. of Corr, Tucker Unit Administration, in regards to his and my state claims. This particular individual witnessed me addressing and personally sending to you (6) copies of a motion compelling discovery in my claim as well as a written response as to why the respondent's request to have me sanctioned must fail because I'm not Carl Jackson whom the respondent's requested to be sanctioned. However, I specifically ask that you return to me a file-marked copy please and thank you to no avail I never received such. However, on the other hand you've responded to Mr. Minchue's request but not to mine, I ask him to mention it to you because I feel as if some funny business is taking place since it's not like you to not respond to my request. If you would like evidence to verify what I sent we can subpoena surveillance footage as well as sworn witness statements attesting to my allegations. I in no way, form, or fashion

(PAGE ONE)

am trying to mislead you OR the commission, I'm only attempting to recover litigation and discovery to further solidify the merits of my claim against the respondent's. Ma'am, please understand I'm the one who's a victim of the state of Arkansas and only want what I rightfully have coming for all the months I've done illegally incarcerated because the state and their agency's do not adhere to their own written policies, laws, and procedures regarding third party contractor's housing their prisoners. THANK you for responding to my request and please be advised it is on camera footage 9:18 p.m. 1/11/23 in 4B Tucker Unit Ark. dept. of CORR. me writing and sending you this particular letter. God Bless you ma'am.

Charles Hanver # [REDACTED]

Re; Charles Hanver Adc # [REDACTED]
v.

Ark. dept. of CORR.

claim no. 230327

(Page Two)

JAN 24 2023

Ms. Irby,

I PRAY all is well with you and ^{RECEIVED} the five member's of the commission. Just a few things. Lately, I've noticed in our correspondence there has not been a letter from you advising me of the dates you have received and file-marked my legal documentation as was the case before. I was just wondering if there was any particular reason why you no longer enclose such a letter, signed, and dated proclaiming it has been electronically forwarded to the Respondent's ??? Also, please find a letter minus the legal documentation I recently forwarded for the "second time" to MR. BURNS. Will you please file-mark me a copy and return to me for my personal records at your earliest convenience please and THANK you very much ma'am? God Bless You!

(January 19, 2023)

Charles Hamner

Re: Charles Hamner

Adc #

V.

NO. 230327

ARK. dept. of CORR.

Division of Correction And

Division of Community Correction

JAN 24 2023

MR. BURNS,

1/18/23

RECEIVED

Please be Advised for the "second time"

I'm requesting discovery and enclosing you my discovery requests originally dated and sent from my old address. I would also like for you to find enclosed my motion to compel discovery because I've made a good faith effort in the past trying to recover my discovery requests from you and the Respondent's. Please Also find enclosed for the "second time" my response to your motion for sanctions and why sanctions should be imposed on you and the Respondent's instead, as well as for the "second time" enclosed a motion to verify this claim was barred by sovereign immunity and a motion requesting exhibit XXX to verify it. Would you please comply and be in compliance with the A.R.C.P. 33, 34, 36 regarding my discovery requests for the "second time" Please and THANK you very much sir?
God Bless You!

Charles Hamner # [REDACTED]

(January 18, 2023)

Re: Charles Hamner

Adc # [REDACTED]

V.

NO. 230327

ARK. dept. of Corr.

Division of Correction and

Division of Community Correction

From: [Leslie Browning \(DOC\)](#)
To: [ASCC Pleadings](#)
Cc: [Thomas Burns \(DOC\)](#)
Subject: Charles Hamner 230327
Date: Wednesday, January 25, 2023 8:56:09 AM
Attachments: [ADC Motion Stay Discovery.pdf](#)

ADC Motion Stay Discovery

Leslie Browning

Arkansas Division of Correction
Central Office/Legal Division
6814 Princeton Pike
Pine Bluff, AR 71602
Legal Support Specialist
Phone: 870-267-6844
Email: leslie.browning@arkansas.gov

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

CHARLES HAMNER (ADC 143063)

CLAIMANT

v

NO. 230327

**ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION**

RESPONDENT

MOTION TO STAY DISCOVERY

Respondent, Arkansas Department of Correction (ADC), for its Motion to Stay Discovery, states:

1. Pursuant to Rule 26(c) of the Arkansas Rules of Civil Procedure (ARCP), Respondent hereby moves for the entry a protective order staying all discovery requests until the resolution of Respondent's Motion to Dismiss.

2. Respondent has filed, and there is pending, a Motion to Dismiss Claimant's claim(s) alleging, among other issues, that Claimant has failed to state a claim upon which relief can be granted. ARCP 12(b)(6).

3. In determining whether to dismiss a complaint for the failure to state a claim upon which relief can be granted, it is improper for the trial court to look beyond the complaint. *Thomas v. Pierce*, 184 S.W. 3d 489, 87 Ark. App. 26 (2004). Because the Respondent here has filed a Motion to Dismiss for failure to state a claim upon which relief can be granted, the claimant's claim will, in the first instance, perish or survive based solely upon the allegations set out therein and the Respondent's challenge to the sufficiency of such allegations. That matter should be resolved prior to the parties engaging in discovery.

4. A court (and by extension, this Commission), has broad authority in matters pertaining to discovery and broad discretion to enter protective orders under ARCP Rule 26. *Parker v. Southern Farm Bureau*, 326 Ark. 1073, 935 S.W. 2d194 (1996). For a number of reasons, it

would be appropriate for the Commission to exercise that discretion here and stay all discovery, by both parties, pending the resolution of Respondent's Motion to Dismiss.

5. Whatever information the Claimant may garner in response to his discovery, it will not be considered by the Commission in the Commission's review of the Motion to Dismiss. A party cannot use a deficient complaint to justify discovery in the hopes of rehabilitating his pleadings. *Treat v. Kreutzer*, 290 Ark. 532, 720 S.W. 2d 716 (1986).

6. Respondent's Motion to Dismiss will be decided upon existing pleadings, and will not, and can not, take into consideration discovery responses. Thus, the discovery requests will not aid the Commission in the resolution of the pending Motion to Dismiss.

7. Claimant will not be prejudiced by a Stay of Discovery; claimant will have the opportunity to pursue discovery if the Motion to Dismiss is denied.

8. Staying discovery until after the resolution of Respondent's Motion to Dismiss will protect the Respondent against the needless expenditure of time, money, and state resources.

WHEREFORE, Respondent prays that this Motion to Stay Discovery be granted; for their attorney's fees and costs; and all other just and proper relief to which they may be entitled.

Respectfully submitted,



Thomas Burns (02006)
Legal Department
6814 Princeton Pike
Pine Bluff, AR 71602
(870)267-6845 Office
(870)267-6373 Facsimile
thomas.burns@arkansas.gov

CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been served this 25th day of January 2023, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Charles Hamner ([REDACTED]
[REDACTED]



Thomas Burns

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

CHARLES HAMNER (ADC [REDACTED])

CLAIMANT

V.

CLAIM NO. 230327

**ARKANSAS DIVISION OF
COMMUNITY CORRECTION AND
ARKANSAS DIVISION OF CORRECTION**

RESPONDENTS

ORDER

Now before the Arkansas State Claims Commission (the “Claims Commission”) are motions filed by the Arkansas Division of Correction (ADC) and by Arkansas Department of Correction – Division of Community Correction (“ACC”) (collectively the “Respondents”) to dismiss the claim of Charles Hamner (the “Claimant”). Based upon a review of the motions, the arguments made therein, and the law of Arkansas, the Claims Commission hereby finds as follows:

1. Claimant filed his claim against ADC and ACC on September 8, 2022, seeking “maximum benefits.” Claimant alleges that he was forced to serve over fourteen months “in the state prison system illegally due to breach of contract.” He states that he had no notice of hearing or opportunity to be heard and was removed from the STRP program.

2. ACC filed a motion to dismiss, arguing, *inter alia*, that Claimant’s claim should be dismissed because it fails to state facts upon which relief can be granted. ACC argues that because there is no evidence of a contract, Claimant’s breach of contract claim fails as a matter of law. ACC also argues that the Claims Commission lacks jurisdiction over violations of constitutional rights and that Claimant has no legal right to parole.

3. ADC filed a motion to dismiss, arguing, *inter alia*, that Claimant’s claim should be dismissed pursuant to Ark. R. Civ. Pro. 12(b)(6) as it fails to state facts upon which relief can be granted. ADC also argues that Claimant does not have a contract with ADC and that Claimant is

making a constitutional claim and, therefore, the Claims Commission lacks jurisdiction. ADC also argues that the Claims Commission cannot provide the habeas corpus relief sought by Claimant.

4. Claimant responded to ADC's motion to dismiss, arguing, *inter alia*, that dismissal was not proper.

5. In reviewing Respondent's motion to dismiss, the Claims Commission must treat the facts alleged in the complaint as true and view them in a light most favorable to the Claimant. *See Hodges v. Lamora*, 337 Ark. 470, 989 S.W.2d 530 (1999). All reasonable inferences must be resolved in favor of the Claimant, and the complaint must be liberally construed. *See id.* However, the Claimant must allege facts, not mere conclusions. *Dockery v. Morgan*, 2011 Ark. 94 at *6, 380 S.W.3d 377, 382. The facts alleged in the complaint will be treated as true, but not "a plaintiff's theories, speculation, or statutory interpretation." *See id.* (citing *Hodges*, 337 Ark. 470, 989 S.W.2d 530 (1999)).

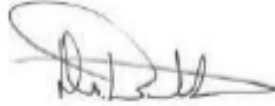
6. The Claims Commission agrees with Respondent that dismissal of Claimant's claim is proper under *Hodges*. Even liberally construing the complaint, Claimant has not stated facts to support a breach of contract claim against Respondent.

7. Additionally, the Claims Commission finds that dismissal is proper for Claimant's claim related to constitutional violations. Because such claims can be brought a court of general jurisdiction, the Claims Commission does not have jurisdiction to hear them. *See Ark. Code Ann. § 19-10-204*. Moreover, the Claims Commission is not the proper venue for a claim related to denial of parole. *Id.* Finally, to the extent Claimant is seeking injunctive relief, the Claims Commission notes that it does not have authority to grant injunctive relief.

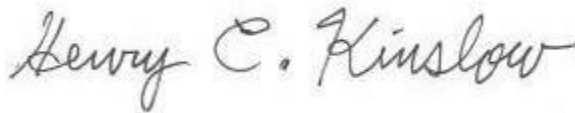
8. As such, the Claims Commission GRANTS Respondents' motions to dismiss and DISMISSES Claimant's claim.

9. Any other pending motions are hereby rendered moot.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Dexter Booth



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair

DATE: February 9, 2023

Notice(s) which may apply to your claim

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

From: [Misty Scott](#) on behalf of [ASCC Pleadings](#)
To: [Thomas Burns \(DOC\)](#); [Amber Schubert \(DOC\)](#)
Cc: [Leslie Browning \(DOC\)](#); [ASCC Pleadings](#); [Mika Tucker](#)
Subject: ORDER: Charles Hamner v. ADC and ACC, Claim No. 230327
Date: Friday, February 10, 2023 3:45:00 PM
Attachments: [Charles Hamner v. ADC and ACC .pdf](#)
[Charles Hamner-order.pdf](#)

Mr. Burns and Ms. Schubert:

Please see attached. Contact Mika Tucker with any questions.

Thank you,

Misty

Misty Scott
Arkansas State Claims Commission

ARKANSAS STATE CLAIMS COMMISSION

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



KATHRYN IRBY
DIRECTOR

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

February 10, 2023

Mr. Charles Hamner ([REDACTED])

Mr. Thomas Burns
Arkansas Division of Correction
6814 Princeton Pike
Pine Bluff, Arkansas 71602-9411

(via email)

Ms. Amber R. Schubert
Arkansas Division of Community Correction
1302 Pike Avenue, Suite B
North Little Rock, Arkansas 72114

(via email)

Re: *Charles Hamner v. Arkansas Division of Correction and Arkansas Division of
Community Correction*
Claim No. 230327

Dear Mr. Hamner, Mr. Burns, and Ms. Schubert:

Enclosed please find an Order entered on February 9, 2023, by the Arkansas State Claims Commission. If you have any questions, please do not hesitate to contact my office.

Sincerely,

Mika Tucker

ES: msscott

FEB 21 2023

2/15/23Ms. Irby,

RECEIVED

please find enclosed (6) copies of the claimant's Motion For Reconsideration and Appeal objecting to motion To dismiss and stay discovery filed adequately According to the provisions and Rules Applying to such. Will you please file-mark a copy for the claimant and return to him at your earliest convenience please and thank you very much.

Charles Hawner # [REDACTED]
[REDACTED][IN RE:

claim NO. 230327]

Before The ARKANSAS state Claims Commission

Charles Hamner
Adc # [REDACTED]

NO. 230327

claimant
Arkansas
State Claims Commission

FEB 21 2023

V.

RECEIVED

ARKANSAS department of Corrections
Division of Correction

respondent

Motion FOR Reconsideration AND Appeal

[Motion Objecting To Motion To Dismiss AND Motion
Objecting To stay discovery in Above referenced Action]

ON February 8, 2023, the claimant received a letter dated January 24, 2023, from the Respondents attorney MR. Thomas BURNS as well as a motion to stay discovery, although, it was postmarked January 24-25, 2023, it was not received until February 8, 2023, as unit documentation will reflect witnessed by surveillance footage at mainline as well as security personnel building major A.J. Johnson. As is revealed in said letter (Exhibit One) MR. BURNS has not denied this being the second time he has received discovery requests from the claimant, which is verified on record through a letter sent to MR. BURNS and director KATHRYN IRBY stamped received ARKANSAS state claims Commission JAN. 24, 2023. However, for the second time he is denying the claimant his discovery requests. stating his Admissions and Interrogatories are not correctly formatted, NOR correctly stated in compliance with the Rules of civil procedure. However, As the commission will discover, MR.

(PAGE ONE)

BURNS has not stated why he refuses the claimants request for discovery for production pursuant to ARK. R. Civ. PROC. Rule 34 which ask that he provide for inspection The following documentation:

(1) video footage (zoom video taped footage from (AR Court. com) whereas it can be heard and revealed by the ARKANSAS ATTORNEY GENERALS office the claimant had a sufficient breach of contract claim however, it had to be heard through the claims commission; (2) Any documentation pertaining to any internal affairs investigation on said matter. Produce any/all hearing tapes, written documentation, video footage reports, regarding why the claimant was removed from the short term sanction program in the ARKANSAS County detention center and forced to serve a suspended sentence in the ARK. dept. of CORR. including but not limited to any finding of guilt between June 25th and June 30, 2021, whenever the claimant was illegally transferred between the division of community corrections and department of corrections. MR. BURNS is trying to mislead the commission in an attempt to avoid discovery because the claimant has brought to his attention what ARKANSAS law clearly established at the time he was illegally transferred between divisions causing him to be falsely imprisoned and wrongfully incarcerated nearly (2) years now. As the commission would clearly see through discovery MR. BURNS is trying to avoid since October 19, 2022, when it was first filed in the commission, is MR. Hanner was never found guilty of violating ANY rule of the facility therefor, his transfer was illegal. It was never proven he failed to maintain good behavior. It was a "must" pursuant to the provisions of A.C.A. 12-27-127 (3)(A) before the transfer could ever take place. The claimant was being held under contract for (90) days in the ARKANSAS County

(PAGE TWO)

detection center for the ARK. dept. of CORR. division of community corrections. He has already proven to the commission through (Exhibit E) why his transfer occurred, however, there's no proof whereas, he was ever taken to a hearing and found guilty of violating ANY rule of the facility because he never did and never was strictly in violation of Arkansas statute A.C.A. 12-27-127(3)(A), which clearly stated An inmate may be administratively transferred back to the division of correction from the division of Community Correction by the parole Board following a hearing whereas the claimant was found guilty of a violation of the rules of the facility. (Exhibit A) clearly suggests Mr. Hanner's parole was to be re-instated within (90) days of May 12, 2021, because his guilt was never found for violating ANY rule of the facility. (Exhibit B) clearly shows he was authorized by the division of community corrections to be housed in one of its contracted facilities pursuant to the provisions of A.C.A. 19-5-1045 to serve a sanction for violating the terms of his parole. (Exhibit Y) shows he had an approved (90) day home plan, with the division of community correction. (Exhibit S) shows the rules and regulations of the facility and (Exhibit U) cites no violation or charge for violating any of those rules or regulations in (Exhibit S) AND once again where's the proof of guilt found following a hearing by the Post PRISON Transfer Board? There is none. However, this argument can go on and on citing Arkansas Administrative Code 004.03.1-1301 (2)(B)(1) The department of Correction or the department of Community Punishment shall provide designated representatives of the Post PRISON Transfer Board information regarding AN inmates disciplinary record (2) Every inmate while on Transfer status shall remain in the legal custody of the department of Correction,

(PAGE THREE)

under the supervision of the department of community punishment, and subject to the orders of the post prison TRANSFER Board. (3) The appropriate Administrative directives AND/OR operating manuals shall include specific eligibility criteria for transfer review. (C) Revocation of Transfer; IN the event AN inmate violates terms OR conditions of the transfer, revocation procedures shall follow all "legal requirements" applicable to parole and shall be subject to any additional policies, rules, AND rules set by the Post PRISON TRANSFER Board. According To ARKANSAS Code ANnotated 12-50-106 CONTRACTING Authority (a) The division of correction, any regional corrections commission, and any political subdivision are authorized to enter into contracts with each other and with prison contractor's for the financing, acquiring, constructing, and operating of facilities. (b) Any contract for the financing, acquiring, constructing, OR operating of facilities between the division and a prison contractor shall be approved by the Board of Corrections, subject to the advice and consent of the Legislative Council. (c) Contracts entered into under the terms of this chapter shall be negotiated with the firm found most qualified. However, no contract for correctional services may be entered into unless the private contractor demonstrates that it has: (4) The Ability to comply with applicable court orders AND correctional standards. (e) Contracts awarded under the provisions of this section at a "minimum" shall comply with the following:

(3) Impose discipline on inmates only in accordance with applicable rules AND procedures. Pursuant to the clearly established provisions of ARKANSAS Administrative Code 004.03.1 - 894, Third Party Agreements To House Adc Inmates (1) Authority; The Board of Correction is vested with the authority to promulgate this

Administrative Rule by ARK. Code ANN. 12-27-105. The Board of Correction has the authority to cooperate and contract with third parties to provide and improve correctional operations and to house department of correction inmates. ARK. Code ANN. 12-27-103 (b) (14). (II) Purpose: This administrative rule establishes the policy by which the Arkansas department of correction may recommend to the Board of Corrections an agreement to cooperate with and contract with a third party for the provision of correctional operations, including inmate housing. (III) Applicability: This Administrative Rule applies to the administration of the department of correction. (IV) Policy: In order to address prison overcrowding in Arkansas, it is the policy of the Board of Corrections to investigate and consider every permissible housing alternative until prison population becomes manageable. (V) [FNI] Procedures: (1) The department of correction shall explore, as needed, permissible alternatives for housing department of correction inmates with the federal government, governmental agencies of Arkansas and other states, political subdivisions of Arkansas and other states, counties, regional correctional facilities, and private contractors. The following shall be considered: (b) Ability to follow department of correction policies including administrative directives concerning inmate grievances, inmate classification, inmate disciplinary manual, religious services manual, healthcare policies, and to provide hygiene and other necessary items. (d)(2) The department of correction shall not enter into any agreement with any third party to house department of correction inmates without the prior review and approval of both the Board of Corrections and the Governor of Arkansas. (3) Any facility owned or leased by any third party for the purpose of housing department of correction inmates shall comply with all constitutional standards of the United States and the state of Arkansas. (4) The department of correction shall not enter into any

Agreement with any third party to house department of correction inmates unless the agreement provides for full compliance with any applicable requirements of the Corrections Cooperative Endeavors and Private Management Act, Ark. Code ANN. 12-50-101 through 111, which, is found at A.C.A. 12-50-106 (e)(3) Contracts Awarded under the provisions of this section at a "minimum" shall comply with the following: Impose discipline on inmates "only" in accordance with applicable rules and procedures. Those applicable rules and procedures can be found in Administrative directive 18-34 "Inmate disciplinary manual" And Arkansas division of Correction "Inmate Handbook" pages (17-26) disciplinary process. Even though its "mandatory language" found, declares the obligation of the respondent's to grant said particular process in order to establish guilt prior to any administrative transfer between divisions can be authorized by the Post Prison Transfer Board A.C.A. 12-27-127 (3)(A), the evidence and record of said respondent's will only reflect it never occurring and them never affording said petitioner any process or protections guaranteed him through all the aforementioned clearly established Arkansas Law, and because of said respondent's knowingly violating these particular laws in order to illegally detain said petitioner for longer than said (90) day Agreement is "breach of contract" and violation of Arkansas statute, and imposition of an illegal sentence this court has the authority to revoke and order said respondent's to re-instate his parole. The respondent's had an obligation under Arkansas Law that still applies they knowingly deprived said petitioner of that's been said cause of him serving nearly (2) years illegally as a prisoner of the respondent's. That said petitioner has shown sufficient evidence to this court whereas, the named respondent's have recklessly disregarded what the law demands and done so in an act of "malice." According to Arkansas Code Annotated 19-10-305(a) (Repl. 2016) officers and employees of the state of Arkansas are immune from liability and from suit

except to the extent that they may be covered by liability insurance, for damages for acts or omissions, other than malicious acts or omissions, occurring within the course and scope of their employment. IN defining [521 S.W. 3d 464] "malice" as used in section 19-10-305(a) this court has stated, "It is true that in law "malice" is not necessarily personal hate. It is rather an intent and disposition to do a wrongful act greatly injurious to another, Stine v. Sanders, 66 Ark. App. 49, 987 S.W. 2d 289 (1999). "Malice" is also defined as an intentional doing of a wrongful act without just cause or excuse, with an intent to inflict an injury or under circumstances that the law will imply an evil intent. A conscious violation of the law which operates to prejudice another person, that person, known as the petitioner in this action, what the respondents have done to him over the course of many months now which, is currently on-going, is an intentional doing of a wrongful act without just cause or excuse, an evil intent to inflict an injury upon said petitioner to rob him of his freedom to parole within (90) days of May 12, 2021, life, liberty, and property in violation of Arkansas statute. It's been held that a suit against the agency or officer is not prohibited if the state agency is acting illegally or if an agency officer refuses to perform a purely ministerial act required by statute, see, Clowers v. Lassiter, 363 Ark. 241, 213 S.W. 3d 6 (2005). Moreover, this court has long recognized that a state agency or officer may be enjoined from proposed action that is ultra vires, Solomon v. Valco, Inc., 288 Ark. 106, 702 S.W. 2d 6 (1986). IN addition, it's been held how a state agency or officer may be enjoined from acting arbitrarily, capriciously, in bad faith, or in a wantonly injurious manner, see, Ark. Dept. of Envtl. Qual. v. Oil Producers of Ark. 2009 Ark. 297, 318 S.W. 3d 570. After review of the record, it can't be said the respondents are not both guilty of acting in bad faith, arbitrarily, capriciously, in order to detain a seriously mentally ill prisoner illegally in violation of clearly established Arkansas Code and statute. Furthermore, it will be found how Article 5, section 20 of the

(PAGE SEVEN)

ARKANSAS Constitution "does not" bar suit in state court over official capacity claims because the courts have jurisdiction to enjoin officers of state agencies who engage in acts which are ultra vires, in bad faith, or arbitrary, as has been the matter in this action before said respectable court. Pursuant to the provisions of ARKANSAS Code Annotated 25-15-207, the claimant in this action can be awarded declaratory judgment on validity or applicability of all the aforementioned ARKANSAS laws and rules of said motion, that pursuant to the "mandatory" provisions of A.C.A. 25-15-207 (a) The validity or applicability of a rule may be determined in an action for declaratory judgment if it is alleged that the rule, or its threatened application, injures or threatens to injure the plaintiff in his or her person, business, or property. (b) The action may be brought in the circuit court of any county in which the plaintiff resides or does business or in Pulaski County Circuit Court. (c) The agency shall be made defendant in that action. (d) A declaratory judgment may be rendered whether or not the plaintiff has requested the agency to pass upon the validity or applicability of the rule in question. This is a clear cut case whereas the claimant, an ARKANSAS PRISONER, had a right to the law and the validity and applicability of all the aforementioned clearly established ARKANSAS laws and rules which were established to prove he failed to maintain good behavior prior to any transfer taking place between the department of corrections and/or division of community corrections pursuant to the clearly established provisions of A.C.A. 12-27-127(3)(A). A right to a hearing he never received. A process he was guaranteed under ARKANSAS statute he never got because he was never served a major disciplinary report, never allowed to call witnesses over what was alleged, never allowed to give testimony or be heard regarding what was reported to the respondent's at no time, before or after said transfer occurred. It's strictly in violation of the rules and laws of the state of ARKANSAS and this court should award the damages the claimant is requesting and for the

(PAGE Eight)

state of ARKANSAS to re-instate his parole as was required within (90) days of May 12, 2021, before said BREACH OF CONTRACT based on said grounds and validity and applicability of the laws and rules the respondents clearly violated without just cause or excuse and in bad faith in order to illegally incarcerate said claimant. For all the aforementioned reasons, the respondents' motion to dismiss and stay discovery must be denied by this court pursuant to ARKANSAS Law. This is what the claimant PRAYS for and ask of this court and any and all other relief it deems just and proper. Furthermore, the commission has accepted the format of the claimant's interrogatories and admissions and request for production of documentation, because they are in compliance with ARKANSAS Rules of Civil Procedure Rule 33, 34, 36. What's not been in compliance as the record will only reflect is the respondents and their legal representation with the rules of discovery. This should cause sanctions to be imposed against them or an award of default judgment or both. Respectfully submitted,

Charles Hammer # [REDACTED]

(February 15, 2023)

[REDACTED]



LEGAL DIVISION

6814 Princeton Pike

Pine Bluff, Arkansas 71602

Phone: (870) 267-6844 | Fax: (870) 267-6373

DOC.ARKANSAS.GOV

January 24, 2023

(Exhibit One)

Charles Hamner ([REDACTED])

Re: Charles Hamner v ADC
Claim Number 230327

Dear Mr. Hamner:

I am in receipt of your First Set of Interrogatories To Be Answered and First Set of Admissions To Be Answered. These are not correctly formatted, nor correctly stated, in accordance with Rules 26, 33, 36, and 37 of the Arkansas Rules of Civil Procedure. Arkansas law makes it clear that Pro Se parties are held to the same standards as attorney and are presumed to know the law. I am pointing you to the correct rules so that you may correct deficiencies and be in compliance with the rules of Civil Procedure.

Currently, we are seeking these corrections without the intervention of the Claims Commission. We will hold off for twenty-one (21) days to allow for you to have time to correct these deficiencies. Should you fail to correct the responses we will be forced to file a motion to compel, or sanctions as allowed by the Rules.

Very truly yours,

Thomas Burns
Legal Department
Arkansas Division of Correction

TB/ldb

cc: File
ASCC

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

CHARLES HAMNER (ADC [REDACTED])

CLAIMANT

V.

CLAIM NO. 230327

**ARKANSAS DIVISION OF
COMMUNITY CORRECTION AND
ARKANSAS DIVISION OF CORRECTION**

RESPONDENTS

**ORDER ON CLAIMANT'S
MOTION FOR RECONSIDERATION**

Now before the Arkansas State Claims Commission (the “Claims Commission”) is a motion filed by Charles Hamner (the “Claimant”) for reconsideration of the Claims Commission’s February 9, 2023, order denying and dismissing Claimant’s claim against the Arkansas Division of Correction (ADC) and by Arkansas Department of Correction – Division of Community Correction (“ACC”) (collectively the “Respondents”). Based upon a review of the pleading, the arguments made therein, and the law of Arkansas, the Claims Commission hereby unanimously finds as follows:

1. Claimant filed his claim against ADC and ACC on September 8, 2022, seeking “maximum benefits.” Claimant alleges that he was forced to serve over fourteen months “in the state prison system illegally due to breach of contract.” He states that he had no notice of hearing or opportunity to be heard and was removed from the STRP program.

2. Respondents thereafter filed motions to dismiss, arguing that Claimant failed to state facts upon which relief can be granted and that Claimant was making constitutional claims outside the Claims Commission’s jurisdiction. The Claims Commission agreed and granted Respondents’ motion to dismiss on February 9, 2023. The Claims Commission also found that the

Claims Commission is not the proper venue for a claim related to denial of parole and that it does not have authority to grant injunctive relief.

3. Claimant thereafter filed the instant motion for reconsideration, arguing, *inter alia*, that ADC has not complied with discovery requests and that Respondents violated laws in order to illegally detain Claimant.

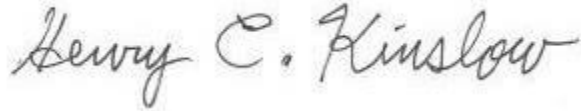
4. Respondents did not respond to the motion for reconsideration.

5. In analyzing a motion for reconsideration, Rule 7.1 of the Claims Commission Rules and Regulations states that motions for reconsideration “will only be entertained if they set forth new or additional evidence which was not [previously] available”

6. The Claims Commission finds that the motion does not set forth new or additional evidence not previously available. As such, Claimant’s motion for reconsideration is DENIED, and the February 9, 2023, Claims Commission order remains in effect.

7. The Claims Commission notes that Claimant’s motion for reconsideration contains a notice of appeal. Therefore, the Claims Commission will transmit this claim file to the Arkansas General Assembly pursuant to Ark. Code Ann. § 19-10-211.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair



ARKANSAS STATE CLAIMS COMMISSION
Sylvester Smith

DATE: April 20, 2023

Notice(s) which may apply to your claim

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

From: [Misty Scott](#) on behalf of [ASCC Pleadings](#)
To: [Thomas Burns \(DOC\)](#); [Amber Schubert \(DOC\)](#)
Cc: [Leslie Browning \(DOC\)](#); [ASCC Pleadings](#); [Mika Tucker](#)
Subject: ORDER: Charles Hamner v. ADC and ACC, Claim No. 230327
Date: Thursday, April 20, 2023 1:51:00 PM
Attachments: [Charles Hamner v. ADC and ACC2.pdf](#)
[Charles Hamner-order2.pdf](#)

Mr. Burns and Ms. Schubert:

Please see attached. Contact Mika Tucker with any questions.

Thank you,

Misty

Misty Scott
Arkansas State Claims Commission

ARKANSAS STATE CLAIMS COMMISSION

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



KATHRYN IRBY
DIRECTOR

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

April 20, 2023

Mr. Charles Hamner (ADC [REDACTED])
[REDACTED]
[REDACTED]

Mr. Thomas Burns
Arkansas Division of Correction
6814 Princeton Pike
Pine Bluff, Arkansas 71602-9411

(via email)

Ms. Amber R. Schubert
Arkansas Division of Community Correction
1302 Pike Avenue, Suite B
North Little Rock, Arkansas 72114

(via email)

Re: *Charles Hamner v. Arkansas Division of Correction and Arkansas Division of
Community Correction*
Claim No. 230327

Dear Mr. Hamner, Mr. Burns, and Ms. Schubert:

Enclosed please find an Order entered today by the Arkansas State Claims Commission. If you have any questions, please do not hesitate to contact my office.

Sincerely,

Mika Tucker

ES: msscott

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

CHARLES HAMNER (ADC [REDACTED])

CLAIMANT

V.

CLAIM NO. 230327

**ARKANSAS DIVISION OF
COMMUNITY CORRECTION AND
ARKANSAS DIVISION OF CORRECTION**

RESPONDENTS

**ORDER ON CLAIMANT'S
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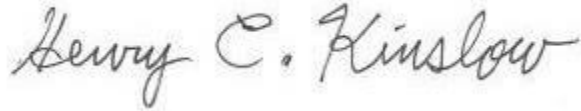
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IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair



ARKANSAS STATE CLAIMS COMMISSION
Sylvester Smith

DATE: April 20, 2023

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