

Please Read Instructions on Reverse Side of Yellow copy

Arkansas Claims Commission

Please print in ink or type

NOV 05 2012

F8

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

RECEIVED

- Mr.
Mrs.
Ms.
Miss

Jerry Ellis, #078658, Claimant

Do Not Write in These Spaces
Claim No. 13-0384-CC
Date Filed November 5, 2012
Amount of Claim \$50,000.00
Fund DOC

vs.
State of Arkansas, Respondent
Dept. of Corrections

Personal injury, negligence,
COMPLAINT failure to follow procedure

Jerry Ellis, #078658, the above named Claimant, of VSM, P. O. Box 400, Grady, AR 71644

County of LINCOLN represented by PRO SE
of N/A N/A N/A

State agency involved: ARKANSAS DEPT OF COLLECTIONS Amount sought: 50,000.00

Month, day, year and place of incident or service: 11-22-011 VADIVERA UNIT SUPERMARKET
Explanation: ON THE MORNING OF 11-22-011 THE CLAIMANT SLIP AND FELL IN A LARGE PUDDLE OF WATER THAT WAS IN FRONT OF CELL BLOCK #3 BULLPEN... TO THAT THE CLAIMANT HAD SUBMITTED A COMPLAINT ABOUT THE PUDDLE ON 11-30-011 BUT THE ABOVE NAMED RESPONDENTS DID NOTHING TO FIX THE SITUATION UNTIL JAN 4, 011 WHICH THE

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof?
Yes or No: X when? N/A to whom? N/A (Department)

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

and that the nature thereof is as follows: N/A and was acquired on N/A in the following manner:

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verily believes that they are true.
JERRY ELLES (Print Claimant/Representative Name)
[Signature] (Signature of Claimant/Representative)

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

on this 18 day of October, 2012 (Date) (Month) (Year)

[Signature] (Notary Public)

My Commission Expires: 3 09 21 (Month) (Day) (Year)

ROBERTY HARRIS SMITH
NOTARY PUBLIC-STATE OF ARKANSAS
JEFFERSON COUNTY
My Commission Expires 03-09-2011
Commission # 12383686

SF1-R799

CLAIMANT HAD SUBMITTED HIS FIRST COMPLAINT ABOUT THE SITUATION 12-22-11 ON 11-30-11 AND THE NAMED RESPONDENT'S RESPONSE OF 12-6-11 PER TO MR. LARRY CANTRELL (V.S.M) MAINTENANCE SUPERVISOR WAS A ROOF CONTRACTOR HAS SURVEYED THE ROOF FOR LEAKS WHICH IN THE MONTH OF NOVEMBER 2011 COLMS. A. HOLMES OF (CC) SHIFT SLIP AND FELL AND HURT HER SELF DUE TO THE ROOF LEAKS WHICH THE NAMED RESPONDENT WAS AWARE OF COLMS. A. HOLMES OF (CC) SHIFT ACCIDENT ALSO LT. M. DEMERY OF (AA) SHIFT AND LT. A. EMSWELLER OF (CC) SHIFT HAD SUBMITTED SEVERAL OOS REPORTS ABOUT THE ROOF LEAKS OF CELL BLOCKS WHEN IT'S RAIN BUT THE NAMED RESPONDENT STILL DID NOT HAVE THE SITUATION UNTIL JAN 4, 2012

Arkansas Claims Commission

NOV 05 2012

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ARKANSAS STATE
CLAIMS COMMISSION
JAN 03 2013
RECEIVED
CLAIMANT

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

JERRY ELLIS (ADC #078658)

V.

NO. 13-0384-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

RESPONDENT'S MOTION TO DISMISS

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

1. Claimant alleges that on December 22, 2011, he slipped in a puddle of water outside of his cell and injured his lower back, right hip and right wrist. Claimant is seeking \$50,000.00.
2. On December 9, 2011, Claimant did submit a grievance about water dripping inside the cellblock and requested it be fixed. It was placed on the maintenance list. However, this area was not directly in the walking area of the Claimant. Since claimant was aware that water was in the floor, he should have taken reasonable steps to avoid walking in that area and not intentionally walking in the area in an attempt to create an injury to himself.
3. On December 22, 2011, Claimant was being removed from his cell and jerked away from the escorting officer and purposely stepped in the puddle of water making himself fall.
4. Despite his contention in the complaint, Claimant was taken immediately to medical where the examining doctor noted that there were no injuries to him at that time. The nurse noted that although Claimant did not respond verbally as if feigning unconsciousness, his eye movement beneath the lids, verbal response 'no' when asked his ADC number, and reflexes 'grabbing the wheelchair arm indicated his alertness and not unconsciousness. The doctor further noted at multiple times in her report that the Claimant kept 'smiling' during the examination, but refused to speak. No swelling, abrasion, ecchymosis, or other signs of injury were noted.
5. Claimant returned to nursing on January 9, 2012 stating that he was still in pain and needed his medications refilled which was only acetaminophen 325 mg 2 tablets 4 times a day as needed. Claimant does not state in his complaint that he did not miss yard call during this interim. As a matter of fact, he was laid in for a dental call on January 3, 2012 and skipped the dental call and went to yard call or recreation instead. Claimant would have this commission believe that he was injured to the

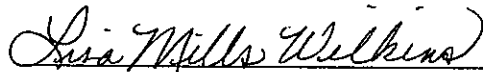
point of needing more medication, yet, not so injured as to miss recreation. Such is not consistent with one who truly suffered from injury.

6. Repairs were completed on January 4, 2012 to the roof and the leaks have been greatly decreased.
7. Claimant has failed to state a cause of action for relief and a motion to dismiss is proper when there are no facts upon which relief can be granted. ARCP 12(B)(6).

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

Respectfully submitted,

Department of Correction
Office of Counsel



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

CERTIFICATE OF SERVICE

I certify that a copy of the above pleading has been served this 31 day of Dec., 2012, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

JERRY ELLIS (ADC #078658)
VSM
P. O. Box 600
Grady, AR 71644-0600


LISA MILLS WILKINS Ark. Bar #87190

STATL CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 50,000.00

Claim No. 13-0384-CC

<u>Jerry Ellis, #078658</u>	Claimant	<u>Pro se</u>	Claimant
vs.			
<u>Department of Correction</u>	Respondent	<u>Lisa Wilkins, Attorney</u>	Respondent
<u>State of Arkansas</u>			
<u>Date Filed November 5, 2012</u>		<u>Type of Claim Personal Injury</u>	

FINDING OF FACTS

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss," solely for Claimant's failure to respond. All other motions are moot. Therefore, this claim is hereby unanimously denied and dismissed.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss," solely for Claimant's failure to respond. All other motions are moot. Therefore, this claim is hereby unanimously denied and dismissed.

Date of Hearing February 8, 2013

Date of Disposition February 8, 2013

Robert Brown
Chairman
H. Moore
Commissioner
Bill Janicek
Commissioner

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

JERRY ELLIS #78658 CLAIMANT

V. #03-384-LC
ARKANSAS DEPT. OF CORRECTION

RESPONDENT

Arkansas Claims Commission

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MOTION FOR RECONSIDERATION

COMES NOW THE CLAIMANT JERRY ELLIS #78658 PRO SE. MOVES THE HONORABLE - ARKANSAS STATE CLAIMS COMMISSION - COMMITTEE MEMBERS TO SET ASIDE ITS BULING OF FEB. 8TH 2013 DUE TO THE - FOLLOWS.

1. THE CLAIMANT STATES THAT THE ARKANSAS- STATE CLAIMS COMMISSION COMMITTEE - MEMBERS OPINION OF FEB. 8TH 2013 SHOULD BE SET ASIDE DUE TO THAT THEY NEVER RULED - ON ANY OF THE CLAIMANT MOTIONS THAT HE FILED AS OF NOV. 30TH 2012 THROUGH JAN. 23 2013 ACCORDING TO SLATON V. SLATON, 956 - S.W. 2d 150 (1997) ALSO SEE LAYMAN V. BONE, 967 - S.W. 2d 561 (1998) AND SEE MAY V. BARKS, 633 - S.W. 2d 376 (1982) BEFORE ITS BULING OF FEB. 8TH 2013

2. THE CLAIMANT STATES THAT IN HIS MOTION - TO COMPEL HE REQUESTED THE ARKANSAS - STATE CLAIMS COMMISSION TO ORDER THE -

MAR 04 2013

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RESPONDENT'S ATTORNEY MRS. LISA MILLS WILKINS TO COMPLY WITH RULE (33) AND RULE (34) OF THE ARKANSAS RULES OF CIVIL PROCEDURES BUT THE CLAIMANT MOTION WAS NEVER RULED ON ACCORDINGLY TO SLATON V. SLATON, 956 S.W.2D 150 (1997) ALSO SEE LAYMAN V. BONE, 967 S.W.2D 561 (1998) AND SEE MAX V. BARK, 633 S.W.2D 376 (1982) AND DUE TO THAT THE ARKANSAS STATE CLAIMS COMMISSION COMMITTEE MEMBERS OPINION OF FEB. 8TH 2013 SHOULD BE SET ASIDE

3. THE CLAIMANT STATES THAT HE CANNOT BE HELD RESPONSIBLE FOR HIS LEGAL MAIL THAT WAS ADDRESSED TO MR. NORMAN L. HODGES, JR. DIRECTOR OF THE ARKANSAS STATE CLAIMS COMMISSION THAT HE SUBMITTED TO MRS. DOROTHY SMITH, V.S.M. LEGAL COORDINATOR ON THE MORNING OF JAN. 23, 2013 THAT SHE DELIVERED TO THE VARNER UNIT MAIL ROOM ON THE MORNING OF JAN. 23, 2013 WHICH THE CLAIMANT MET THE REQUIREMENT OF HOUSTON V. LACK, 478 U.S. 266 (1988) ALSO SEE HAMEL V. STATE, 1 S.W.3D 434 (1999) AND SEE FALLEN V. UNITED STATES, 378 U.S. 139 (1964) AND DUE TO THAT THE ARKANSAS STATE CLAIMS COMMISSION COMMITTEE MEMBERS OPINION OF FEB. 8TH 2013 SHOULD BE SET ASIDE.

4. THE CLAIMANT STATES THAT AFTER HE RECEIVED THE ARKANSAS STATE CLAIMS COMMISSION COMMITTEE MEMBERS OPINION ON FEB, 4, 2013 ON FEB, 15, 2013 CLAIMANT HAD C/O MRS. M. - GUY OF (CC) SHIFT CONTACT THE VARNER - UNIT MAIL ROOM SUPERVISOR MRS. ALLEN AND MRS. ALLEN THE VARNER UNIT MAIL ROOM - SUPERVISOR AFFIRM TO C/O MRS. GUY ON THE MORNING OF FEB, 15, 2013 THAT THE MAIL ROOM RECEIVED CLAIMANT LEGAL MAIL ADDRESS TO - MR. NORMAN L. HODGES, THE DIRECTOR OF THE ARKANSAS STATE CLAIMS COMMISSION ON THE MORNING OF JAN, 23, 2013 BY MRS. DORIS - SMITH, V.S.M. LEGAL COORDINATOR BUT THAT LEGAL MAIL WAS NOT MAILED OUT UNTIL JAN, 25, 2013 BUT PER TO THE A.D.C. POLICY ALL LEGAL MAIL IS SUPPOSED TO BE MAILED OUT THE SAME DAY ITS SUBMITTED TO THE MAIL ROOM AND DUE TO THE CLAIMANT MET THE PRISONERS MAIL BOX REQUIREMENT ACCORDINGLY TO HOUSTON V. LACK, 478 U.S. 266 (1988) THE ARKANSAS STATE CLAIMS COMMISSION COMMITTEE MEMBERS - OPINION OF FEB, 8TH 2013 SHOULD BE SET - ASIDE.

Arkansas Claims Commission

MAR 04 2013

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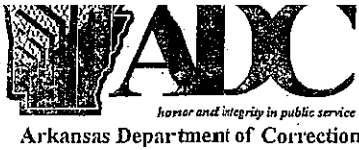
WHEREFORE FOR THE REASONS STATED THE-
ARKANSAS STATE CLAIMS COMMISSION-
COMMITTEE MEMBERS OPINION OF FEB, 8 TH 2013
SHOULD BE SET ASIDE,

CERTIFICATE OF SERVICE

I, JERRY ELLIS # 78658 PRO SE, DO HEREBY
BY CERTIFY THAT (4) COPIES OF THE FORE-
GOING MOTION HAS BEEN MAILED TO MR.
NORMAN L. HODGES, JR, DIRECTOR OF THE
ARKANSAS STATE CLAIMS COMMISSION AND
ONE COPY OF THE SAME MOTION HAS BEEN
MAILED TO THE RESPONDENT'S ATTORNEY MRS
LESA MILLS WALKERS AT P. O. BOX 8757
IN PINE BLUFF, AR 71601 ON THIS 20TH
DAY OF FEBRUARY 2013

Arkansas Claims Commission
MAR 04 2013
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PRO SE, ~~JERRY ELLIS~~
RESPECTFULLY SUBMITTED
JERRY ELLIS # 78658
V. M
P. O. BOX 400
CADY, AR 71644-0400



ARKANSAS DEPARTMENT OF CORRECTIONS
VARNER SUPERMAX
VSM TELEPHONE REQUEST

DATE: _____

INMATE NAME _____ ADC# _____

CELL _____ VSM Status _____

Reason for Call: Personal Legal 48 Hour Relief

Phone Number _____

Person you request to Call: _____

Description of Call: _____

Call Incomplete: _____ Time _____ Reason: _____

Call Incomplete: _____ Time _____ Reason: _____

OFFICER PLACING CALL: _____

DATE: _____ **TIME CALL WAS MADE** _____

Authorizing Signature, VSM Supervisor

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 50,000.00 Claim No. 13-0384-CC

Jerry Ellis, #078658 Claimant vs. Pro se Claimant
Attorneys

Department of Correction Respondent vs. Lisa Wilkins, Attorney Respondent
State of Arkansas

Date Filed November 5, 2012 Type of Claim Personal Injury, Negligence & Failure to Follow Procedure

FINDING OF FACTS

The Claims Commission hereby unanimously denies Claimant's "Motion for Reconsideration" for the Claimant's failure to offer evidence that was not previously available. Therefore, the Commission's February 8, 2013, order remains in effect. All other motions are moot.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

The Claims Commission hereby unanimously denies Claimant's "Motion for Reconsideration" for the Claimant's failure to offer evidence that was not previously available. Therefore, the Commission's February 8, 2013, order remains in effect. All other motions are moot.

Date of Hearing April 11, 2013

Date of Disposition April 11, 2013

Richard Mays Chairman
H. [Signature] Commissioner
Bill Janetz Commissioner

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

BEFORE THE ARKANSAS STATE GENERAL ASSEMBLY

JERRY ELLES #78658

APPELLANT

V.

#13-0384-CC

ARKANSAS DEPARTMENT OF CORRECTION

APPELLEES

ARKANSAS STATE
CLAIMS COMMISSION

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AN APPEAL FROM THE STATE CLAIMS
COMMISSION

COMES NOW THE APPELLANT JERRY ELLES #78658
PHOSE, SUBMIT THIS APPEAL PER TO ACT (33) OF -
1997 BEFORE THE ARKANSAS STATE GENERAL ASSEMBLY -
TOWARD THE STATE CLAIMS COMMISSION OPINION OF -
APRIL 11, 2013 AS OF THE FOLLOWS.

1. THE APPELLANT STATE THAT THE STATE CLAIMS
COMMISSION OPINION OF FEB, 8, 2013 WAS
INADEQUATE DUE TO THE FACTS THAT THEY NEVER RULED
ON ANY OF THE APPELLANT PENDING MOTIONS THAT THE
APPELLANT HAD FILED AS OF NOV, 30TH 2012 THROUGH
JAN, 23RD 2013 PER TO RULE 7.1 OF THE ARKANSAS
STATE CLAIMS COMMISSION RULES MANUAL SEE THE
CITED CASES AS OF SLATON V. SLATON, 956 S.W. 2D 150
1997, LANMAN V. BONE, 967 S.W. 2D 561 1998) AND SEE -
MAY V. BABY, 633 S.W. 2D 376 (1982) THEREFORE THE STATE
CLAIMS COMMISSION OPINION OF FEB, 8, 2013 SHOULD
BE REVERSED.

2. THE APPELLANT STATE THAT HE CAN NOT BE HELD - 12

RESPONSIBLE FOR HIS LEGAL MAIL THAT WAS ADDRESS-
TO MR. NORMAN L. HODGES, JR. DIRECTOR OF THE STATE -
CLAIMS COMMISSION THAT THE APPELLANT SUBMITTED -
TO MRS. DOBOTHY SMITH, V.S.M. LEGAL COORDINATOR ON -
THE MORNING OF JAN, 23RD 2013 WHICH MRS. DOBOTHY SMITH -
V.S.M. LEGAL COORDINATOR DELIVERED THOSE LEGAL -
DOCUMENTS TO THE VARNER UNIT MAIL ROOM ON THE
SAME MORNING OF JAN 23RD 2013 AND DUE TO THAT THE
APPELLANT MET THE REQUIREMENT ACCORDINGLY TO THE -
CITED CASES AS OF HOUSTON V. LACK, 478 U.S. 266 -
1988, HAMEL V. STATE, 1 S.W. 3D 433 (1999) AND SEE -
FALLEN V. UNITED STATES, 378 U.S. 139 (1964) THEREFORE
THE STATE CLAIMS COMMISSION OPINION OF FEB. 8, -
2013 SHOULD BE REVERSED.

3. THE APPELLANT STATES THAT DUE TO MR. NORMAN L. -
HODGES, JR. DIRECTOR OF THE STATE CLAIMS
COMMISSION GRANTED THE APPELLANT FIRST EXTENSION
OF TIME ON JAN, 15, 2013 HE SHOULD HAVE GRANTED -
THE APPELLANT SECOND MOTION FOR ADDITIONAL TIME OF
EXTENSION DUE TO THE APPELLANT WAS WAITING FOR -
DEPUTY ASSET WARDEN MEENZER CONSET TO BE -
ALLOWED TO OBTAIN AFFIDAVITS FROM CO:TL F. -
BROOKS, CO:TL D. BROTHERS, AS WELL AS INMATE -
LARRY JONES # 70147, INMATE THOMAS VERSEY, # 77398 AND -
INMATE HAYEN MALIN # 92994 TO PROPERLY BE ALLOWED -
TO RESPONSE OF THE RESPONDENT'S MOTION TO DISMISS -
THE APPELLANT CLAIM, DUE TO THAT MR.

NORMAN L. HODGES, JR., DIRECTOR OF THE STATE CLAIMS COMMISSION FAILED TO MET THE REQUIREMENT OF RULE 1.9 OF THE STATE CLAIMS COMMISSION RULES MANUAL IN FILING THE APPELLANT MOTIONS OF JAN, 23, 2013 FOR THE STATE CLAIMS COMMISSION TO MET THE REQUIREMENT OF RULE 7.1 OF THE ARKANSAS STATE CLAIMS COMMISSION RULES MANUAL OF THE CITED CASES (SEE SLATON V. SLATON, 956 S.W. 2D 150 (1997), LAYMAN V. BONE, 967 S.W. 2D 561 (1998) AND SEE MAY V. BARK, 633 S.W. 2D 376 (1982)) THEREFORE THE STATE CLAIMS COMMISSION OPINION OF FEB. 8, 2013 SHOULD BE REVERSED.

4. THE APPELLANT STATES THAT DUE TO MR. NORMAN L. HODGES, JR. DIRECTOR OF THE STATE CLAIMS COMMISSION FAILED TO MET THE REQUIREMENT OF RULE 1.9 AND FILING THE APPELLANT MOTIONS OF JAN, 23, 2013 BEFORE THE STATE CLAIMS COMMISSION FOR RULING OF APRIL, 11, 2013 THAT WAS INADEQUATE OF THE STATE CLAIMS COMMISSION OPINION OF APRIL, 11, 2013 TOWARD RULE 7.1 OF THE ARKANSAS STATE CLAIMS COMMISSION RULES MANUAL. SEE THE CITED CASES AS OF SLATON V. SLATON, 956 S.W. 2D 150 (1997), LAYMAN V. BONE, 967 S.W. 2D 561 (1998) AND SEE MAY V. BARK, 633 S.W. 2D 376 (1982) THEREFORE THE STATE CLAIMS COMMISSION OPINION OF APRIL, 11, 2013 MUST BE REVERSED.

5. THE APPELLANT STATES THAT THE STATE CLAIMS-COMMISSION SHOULD HAVE RULED ON APPELLANT PENDING MOTIONS FILED ON JAN. 11, 2013 AND JAN. 23, 2013 PER TO RULE 7.1 OF THE ARKANSAS STATE CLAIMS-COMMISSION RULES MANUAL, BUT THE STATE CLAIMS COMMISSION FAILED TO MEET THE REQUIREMENT TOWARD RULE 7.1 OF THE RULING OF FEB. 8, 2013 ACCORDINGLY TO SLATON V. SLATON, 956 S.W.2D 450 (1997), LAYMAN V. BONE, 967 S.W.2D 561 (1998) AND SEE MAH V. BARKER, 633 S.W.2D 376 (1982) THEREFORE THE STATE CLAIMS COMMISSION OPINION OF FEB. 8, 2013 SHOULD BE REVERSED, -

THEREFORE THE APPELLANT PRAYS THAT THE ARKANSAS STATE GENERAL ASSEMBLY REVERSE THE STATE CLAIMS COMMISSION OPINION OF APRIL 11, 2013

CERTIFICATE OF SERVICE

I, JERRY ELLIS #78658 PRO SE, CERTIFY -
THAT 4 COPIES OF THE APPELLANT APPEAL
HAS BEEN MAILED TO LEGISLATIVE COUNCIL OF
THE ARKANSAS STATE GENERAL ASSEMBLY AT -
270 STATE CAPITOL, 500 WOODLANE
LITTLE ROCK, AR 72201 AND THE SAME HAS
BEEN MAILED TO MR. NORMAN L. HODGES JR.,
DIRECTOR OF THE STATE CLAIMS COMMISSION
ON THIS 3RD DAY OF MAY 2013

~~PRO SE~~ SLM
RESPECTFULLY SUBMITTED
JERRY ELLIS #78658
V. SLM
P.O. Box 400
Cahoon, AR
71614-0400