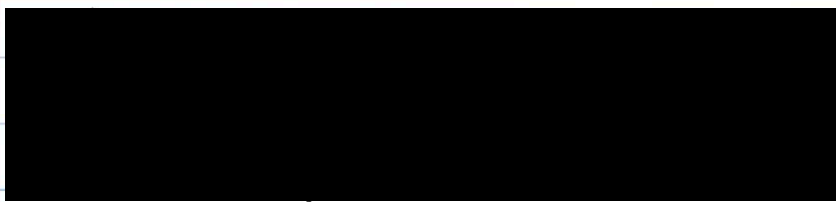


G.03

Nov 5, 2021

Steven Pinder



Arkansas
State Claims Commission

NOV 18 2021

RECEIVED

Arkansas State Claims Commission
101 E. Capitol Ave., STE 410
Little Rock, AR 72201-3823

RE: 2ND CLAIM (New Complaint)
Steven PINDER v Arkansas Department of Corrections,

Dear Sir or Madam:

Please find enclosed one original and 4 copies of a new complaint I wish to file with the Arkansas State Claims Commission. After filing please return a copy to me with the file markings of the Commission.

Thank you in advance for your time and assistance.

Respectfully

Steven Pinder

cc: file

Enclosures (5)

NOV 18 2021

Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

RECEIVED

Mr. Steven Pinder, Claimant

Do Not Write in These Spaces. Claim No., Date Filed, Amount of Claim \$, Fund.

vs. State of Arkansas, Respondent

COMPLAINT

Steven Pinder, the above named Claimant, of Post Office Box 970, Marianna, AR 72360. County of Lee represented by Pro-se.

State agency involved: Arkansas Department of Corrections Amount sought: \$ 15,000.00

Month, day, year and place of incident or service: The incident occurred at the [redacted] unit on 8/26/21

Explanation: ADC employee L. Southern of the East Ark. Regional Unit, who is the mail room supervisor, did on or about August 13, 2021 through August 26, 2021 knowingly and intentionally refused to forward complainant's appeal of the Unit Publication Review Committee's denial of two (2) books to the Central Office Publication Review Committee along with his appeal affidavit. Per ADC policy the appeal is to be forward to the unit mailroom and the mailroom supervisor is to forward the appeal to the Central office Publication Review Committee, AD-20-04 Section IV (F). L. Southern failed to submit complainant's appeal to the Central Office Publication Review Committee whereby denying complainant access to the Publication appeal process guaranteed by AD-20-04. Southern's actions denied complainant to right to exhaust the appeal process and precluding complainant of seeking redress of his grievances in state or federal court for the ADC's denial of violation of the American with Disabilities Act and violation of its own rules. The denial of the completion of the appeal process has violated complainant's Liberty interest guaranteed by AD-20-04. Complainant seeks \$ 15,000.00 in damages.

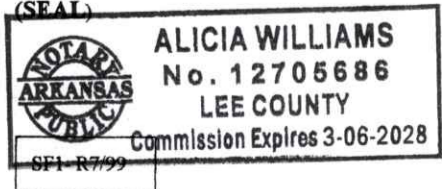
As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof? Yes; when? September 5 2021; to whom? Deputy Director Stroughn - ADC - grievance

and that \$ [redacted] was paid thereon: (2) Has any third person or corporation an interest in this claim? No

and that the nature thereof is as follows: and was acquired on, in the following manner:

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

SWORN TO and subscribed before me at [redacted] (City) [redacted] (State) on this 26th day of October, 2021



Alicia Williams (Notary Public) My Commission Expires: 03 (Month) 06 (Day) 2028 (Year)

UNIT LEVEL GRIEVANCE FORM (Attachment I)

Unit/Center [redacted]

Name Steven Kinder

ADC# [redacted] Brks # X-6-36 Job Assignment [redacted]

FOR OFFICE USE ONLY
RECEIVED GRIEVANCE OFFICER
RV.# 21-01876
Received: 9/14/21
Code #: 306

9/9/21 (Date) STEP ONE: Informal Resolution

9/13/21 (Date) STEP TWO: Formal Grievance (All cases to be handled informally.)

If the issue was not resolved during Step One, state why: NO response in the time allowed

by ADC policy - 9-7-21 through 9-13-21 proceeded to step II on yellow copy

(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? NO 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): Ms. Southern of the Mailroom,

the supervisor, did on or about 8-26-21 deny my right to appeal the unit Publication Committee's 8-13-21 denial of my 2 books. AD 20-04 guarantees me the right to appeal the units denial of any publication, policy states the publication review committee at unit level denial must be sent to the unit mailroom, I did on 8-13-21 send Ms Southern my appeal which included an affidavit stating my reasons for appeal and the publication review committee results. On 8-24-21 Ms Southern, instead of forwarding my appeal to central office, stated "The above referenced publication you received has previously been denied by the Review Committee at central office in Pine Bluff." Southern did NOT forward my appeal to central office whereby denying me access to the publication appeal process. I am seeking damages of \$15,000.00 xx for Southern's denying me access to AD 20-04's appeal process. I was notified of this denial on 9-3-21.

Steven Kinder

OCT 18 2021

9/5/21

Inmate Signature

Date

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 9-13-21 (date), and determined to be Step One and/or an Emergency Grievance (Yes or No). This form was forwarded to medical or mental health? (Yes or No). If yes, name of the person in that department receiving this form: Date

PRINT STAFF NAME (PROBLEM SOLVER) ID Number Staff Signature Date Received
Describe action taken to resolve complaint, including dates: OCT 18 2021

NO Response

Spruitt

9/13/21

Staff Signature & Date Returned

Inmate Signature & Date Received

This form was received on 9-13-21 (date), pursuant to Step Two. Is it an Emergency? (Yes or No)

Staff Who Received Step Two Grievance: Sgt K Jackson Date: 9-13-21

Action Taken: Step Two (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.

MAX 6/36

IGTT410
3GS

Attachment III

INMATE NAME: Pinder, Steven L.

ADC #: [REDACTED] A

GRIEVANCE #: [REDACTED] 21-01876

WARDEN/CENTER SUPERVISOR'S DECISION

Inmate Pinder, you stated in your grievance that, "Ms. Southern of the [REDACTED] mailroom the supervisor did on or about 8-26-21 deny my right to appeal the unit publication committee's 8-14-21 denial of my 2 books. AD 20-04 guarantees me the right to appeal the units denial of any publication. Policy states the publication review committee at unit level denial must be sent to the unit mailroom I did on 8-13-21 send Ms Sothern my appeal which included an aftidarit stating my reasons for appeal and the publication review committee results. On 8/26/21 Ms. Southern instead of forwarding my appeal to central office, Stated " the above referenced publication you received has previously been denied by the review committed at central office in Pine Bluff. Southern did not forward my appeal to central office where by denying me access to the publication appeal process. I am seeking damages of \$ 15,000 xx for southern denying me access to AD 20-04 appeal process! I was notified of this denial on 9-3-21."

Documentation reflects your publication was denied by the Publication Review Committee. Per AD 19-34 Rejection of a Publication is non- grievable. Therefore, I find your grievance without merit.

[Signature]
Signature of Warden/Supervisor or Designee

RECEIVED

OCT 18 2021
Title

[Signature]

10/12/21
Date

INMATE GRIEVANCES SUPERVISOR
ADMINISTRATION BUILDING

INMATE'S APPEAL

If you are not satisfied with this response, you may appeal this decision within five working days by filling in the information requested below and mailing it to the appropriate Chief Deputy/Deputy/Assistant Director along with the Unit Level Grievance Form. Keep in mind that you are appealing the decision to the original grievance. Do not list additional issues, which are not part of your original grievance as they will not be addressed. Your appeal statement is limited to what you write in the space provided below.

WHY DO YOU DISAGREE WITH THE ABOVE RESPONSE? This grievance is reference to Ms Southern denying me access to the appeal of the denial of books were by for closing the appeal process. Southern violated AD 20-04 by not forwarding my appeal to Central office Publication Review Committee. This is grievable and I stand on the merits of my grievance and appeal on the merits put forth in the body of my grievance. Ms Southern violated ADC policy and ~~denied me my process~~

[Signature]
Steven Pinder

ADC#: [REDACTED]
Date 10/13/21

IGTT430
3GD

Attachment VI

INMATE NAME: Pinder, Steven L.

ADC #: [REDACTED]

GRIEVANCE# [REDACTED] 21-01876

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

On 9/5/2021, you stated the following complaint: Ms. Southern of the [REDACTED] mailroom the supervisor did on or about 8-26-21 deny my right to appeal the unit publication committee's 8-14-21 denial of my 2 books. AD 20-04 guarantees me the right to appeal the units denial of any publication. Policy states the publication review committee at unit level denial must be sent to the unit mailroom I did on 8-13-21 send Ms Sothern my appeal which included an aftidarit stating my reasons for appeal and the publication review committee results. On 8/26/21 Ms. Southern instead of forwarding my appeal to central office, Stated " the above referenced publication you received has previously been denied by the review committed at central office in Pine Bluff. Southern did not forward my appeal to central office where by denying me access to the publication appeal process. I am seeking damages of \$ 15,000 xx for southern denying me access to AD 20-04 appeal process! I was notified of this denial on 9-3-21.

The Warden responded on 10/12/2021, by stating the following: Documentation reflects your publication was denied by the Publication Review Committee. Per AD 19-34 Rejection of a Publication is non- grievable. Therefore, I find your grievance without merit.

Your appeal was received on 10/18/2021. After review of your appeal and supporting documentation, I concur with the Warden's response.

Appeal denied

[Signature of Director]

Director

10-20-21

Date

Please be advised that if you appeal this decision to the U.S. District Court, a copy of this Chief Deputy/Deputy/Assistant Director's Decision must be attached to any petition or complaint or the Court may dismiss your case without notice. You may also be subject to paying filing fees pursuant to the Prison Litigation Act of 1995.

From: [ASCC New Claims](#)
To: [Thomas Burns](#); [Roni Gean](#)
Cc: [Kathryn Irby](#)
Subject: CLAIM: Steven Pinder v. ADC, Claim No. 220691
Date: Wednesday, December 1, 2021 12:36:00 PM
Attachments: [Steven Pinder ADC agency ltr.pdf](#)
[Steven Pinder 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, 72201

(501) 682-1619

Caitlin.McDaniel@arkansas.gov

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

December 1, 2021

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

(via email)

RE: ***Steven Pinder v. Arkansas Division of Correction***
Claim No. 220691

Dear Mr. Burns,

Enclosed please find a copy of the above-styled claim filed against the Arkansas Division of 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: Steven Pinder (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: [Roni Gean](#)
To: [ASCC Pleadings](#)
Cc: [Thomas Burns](#)
Subject: Steven Pinder Claim 220691 - Answer 12-01-21.pdf
Date: Wednesday, December 1, 2021 2:01:34 PM
Attachments: [Steven Pinder Claim 220691 - Answer 12-01-21.pdf](#)

Good afternoon,

Please see attached our Answer in the above matter. Thank you.

Roni Gean

Administrative Specialist III
DOC Division of Correction
Internal Affairs Division (870) 267-6218
Legal Division (870) 267-6844
6814 Princeton Pike, Pine Bluff, AR 71602
roni.gean@arkansas.gov

Confidentiality Notice: This e-mail message and any attachment is the property of the State of Arkansas and may be protected by state and federal law governing disclosure of private information. It is for the intended recipient only. If an addressing or transmission error has misdirected this e-mail, please notify the author by replying to it. If you are not the intended recipient you may not use, disclose, distribute, copy, print or reply to this e-mail.

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER (ADC# [REDACTED])

CLAIMANT

v.

NO. 220691

**ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION**

RESPONDENT

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,
Arkansas Department of Corrections
Office of Chief Counsel

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 1st day of December 2021 on the Claimant by placing a copy of the same in the U. S. Mail, regular postage, to:

Steven Pinder (ADC# [REDACTED])
[REDACTED]

Thomas Burns
General Counsel

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER
(ADL # [REDACTED])

CLAIMANT

Arkansas
State Claims Commission

DEC 27 2021

VS

NO: 220691

RECEIVED

ARKANSAS DEPARTMENT OF CORRECTIONS, RESPONDENT
DIVISION OF CORRECTIONS

CLAIMANT'S RESPONSE TO RESPONDENT'S

MOTION TO DISMISS

COMES NOW, Steven Pinder (the "Claimant") here in after, pro-se, and through this his response to respondent's motion to dismiss, states as follows:

1. Steven Pinder ("Claimant") is an inmate incarcerated in the [REDACTED] at AR [REDACTED]

2. On March 12, 2021 claimant received an order of book from Edward R. Hamilton Booksellers, Bargain Books, com. This order contain the below listed seven (7) books:

(1)

A. 3737710	Where There's Fire There's Smoke	\$ 5.95
B. 3799832	Bloody Trail of the Mountain Man	5.95
C. 3735672	Too Soon To Die	5.95
D. 6628524	The Jensen Brand	5.95
E. 458158X	The Book of Enoch	6.95
F. 6841244	The Fantasy Art of Calandra	11.95
G. 3798917	Treasures of The Louvre	<u>12.95</u>
		55.65
	Shipping	4.00
	Tax 9.5%	<u>5.64</u>
		65.31

3. The Mailroom supervisor of the [REDACTED] L. Southern did on March 12, 2021 confiscate the books; 1) The Fantasy Art of Calandra; and 2) Treasures of the Louvre as being in violation of the Arkansas Department of Corrections ("ADC") Administrative Directive 20-04 "Publication" policy (AD-20-04). (see claimants Exhibit "A" Attached here to).

4. These two (2) books were held by L. Southern of the [REDACTED] mailroom until April 5, 2021 at which time L. Southern submitted the Fantasy Art of Calandra book and Treasures of the Louvre book to the unit Publication Review Committee.

(2)

(see Claimant's Exhibit "B" and "C" respectively attached hereto).

5. The Publication Review committee had ten (10) days to review these two (2) publications and "make a determination regarding this publication and forward its decision to the Warden." see Claimant's Exhibit "B" and "C" attached hereto).

6. The Warden then had thirty (30) days to make his decision. (see Exhibit "B" and "C" attached hereto). (see also AD-20-04, IV (E)).

7. The decision by the Publication Review committee did not come until August 13, 2021. (see Claimant's Exhibit "D" and "E" attached hereto).

8. Upon notification on August 13, 2021 of the denial of these two (2) publications, Claimant notified the mailroom of his intention to Appeal to the Central office Publication Review Committee. see Exhibit "D" and "E").

9. Claimant, per policy which provides "You will have up to TEN (10) days upon receipt of this notification to appeal. You may appeal this decision (3)

to the Unit Mailroom by writing 'Appeal' in the option blank." (see Claimant's Exhibit "D" and "E" attached here to).

10. Claimant wrote APPEAL in the blank as required. (see claimant's Exhibit "D" and "E" attached hereto).

11. Claimant also included with his Publication Review Results Appeal and "AFFIDAVIT" To the Publication Review Committee Central office as well as instruction to Ms. L. Southern the mailroom supervisor. (see Claimant's Exhibit "F" and "G" attached hereto) per policy.

12. Claimant intended the Central office Publication review Committee to review the unit level's denial of my books and make a decision on the contents of each individual publication, not previous issues of the same publication.

13. Claimant forwarded his notice of Appeal and appeal affidavit to the Mailroom Supervisor L. Southern on August 14, 2021.

14. Ms. Southern, the mailroom supervisor did not forward my appeal to the Central office Publication
(4)

Review Committee.

15. On August 26, 2021 Ms. Southern forwarded to Claimant a memo stating:

"The above referenced publication you received has previously been denied by the Review Committee at Central Office in Pine Bluff; therefore: "

(See Claimant's Exhibit "H" attached hereto)

16. Claimant was instructed on the four (4) options for disposal of All seven (7) books received March 12, 2021.

17. Claimant Choose to send the seven (7) publications home. (Note Claimant has removed the address of his sister for security and privacy purposes).

18. Claimant was denied access to the appeal process created by AD 20-04 by L. Southern of the [REDACTED] mailroom.

19. ADC policy creates a liberty interest in the publication policy procedures for claimant, this includes the appeal process.

20. By not allowing claimant to complete the appeal process established by ADC's AD-20-04 "Publication" Policy, claimant cannot seek redress of his grievances in State or federal court.

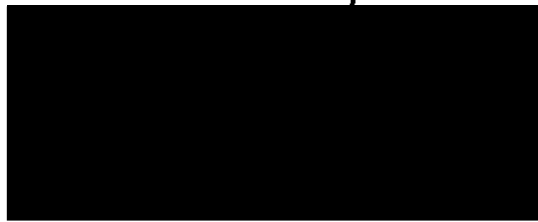
21. The Mailroom Supervisor L. Southern has knowingly and intentionally denied claimant access to ADC's publication appeal process.

WHEREFORE, Steven Pinder prays this Commission deny the Respondent's Motion to dismiss, and deny the Respondent's Motion to hold this matter in abeyance, and any other relief this Commission deems appropriate and just.

EXECUTED THIS 21st
day of December 2021.

Respectfully submitted
Steven Pinder

STEVEN PINDER, CLAIMANT



STATE OF ARKANSAS) AOC Refused Notary No Notary Available
COUNTY OF LEE)

SUBSCRIBED TO AND SWORN BEFORE ME, a
Notary Public this _____ day of _____ 2021

My Commission Expires: _____ Notary

CERTIFICATE OF SERVICE


I, Steven Pinder, do hereby certify that on this 22ND
day of December 2021, I have served on Respondent
through Attorney Thomas Burns, at 6814 Princeton
Pike, Pine Bluff, AR 71602-9411 by placing same
in the U.S. Mail with sufficient postage affixed
to ensure delivery.

Steven Pinder
STEVEN PINDER

ARKANSAS DEPARTMENT OF CORRECTION
RETURN MAIL NOTICE

Barracks No. X-636

Date: 3-10-21

Inmate's Name Steven Puder ADC # 

Regarding Letter/Package from Hamilton Book Corn Fall Village, CT 06031

The above item has to be returned to sender for the following reason(s):

- No ADC Number On Letter
- Incorrect ADC Number On Money Order
- Postage Stamps
- Stamped Envelope
- Unauthorized Photos
- Reading Material (Must come from publisher or Bookstore)
- Unauthorized Money Order
- Money Order did not include your ADC number (All money orders must include inmate name and ADC Number)
- Cash Enclosed (Amount \$ _____)
- Unauthorized Material Enclosed
- Pornographic Material
- Unauthorized Correspondence oversized
- Other TREASURES of the LOUVRE 12x9 1/4
with 35117, 154710

- You need to send a stamped envelope to return this item to the above person.
- Letter too large to fit in regular-size envelope. Send a signed Inmate Check for the amount of \$ 6.25
- Please send a signed Inmate Check for \$ _____ and a stamped envelope.

All money orders that do not have an ADC Number must be returned to the sender to have the number put on it. And in accordance with the new postal regulation, postage has to be paid on letters that are returned to the sender. Therefore, you need to send me a stamped envelope addressed to the above person.

Advise your correspondent that **ALL** of the required information **MUST** be included in your address. The information which shall be required is:
the routing of Alexander ...

Please check one of the boxes below and return this notice to the Mailroom.

I Wish To:

- Donate above items
- Return to sender
- Destroy above items

[Signature]
Mail Room Supervisor

Inmate's Signature _____ Date _____

DC/dh 491

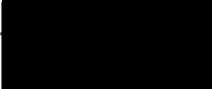
Xb-36

...Arkansas Department of Correction



Publications Review

To: Inmate Steven Pinder
From: Ms. L Southern



RE: Notification of Publication Review

Date 04/05/2021

Publication Title: The Fantasy Art Calandra
Volume: (publications)

Issue/Year This is to notify you that the above publication addressed to you meets the criteria for review. Your publication with a copy of this notification has been forwarded to the Unit Publication Review Committee.

The Unit Publication Review Committee has (10) days from the receipt of this notice to make a determination regarding this publication and forward its decision to the Warden.

The Warden has thirty (30) days to make his decision.

Your publication will be secured until either the process is complete or the (10) day period for filing an appeal has expired.

Cc: Unit Publication Review Committee
Mailroom

CLAIMANTS Exhibit "B"

X 6-36

...Arkansas Department of Correction

██████████
Publications Review

To: Inmate Steven Pinder ██████████
From: Ms. L Southern

RE: **Notification of Publication Review**

Date 04/05/2021

Publication Title: Treasures Of The Louvre
Volume: (publications)

Issue/Year This is to notify you that the above publication addressed to you meets the criteria for review. Your publication with a copy of this notification has been forwarded to the Unit Publication Review Committee.

The Unit Publication Review Committee has (10) days from the receipt of this notice to make a determination regarding this publication and forward its decision to the Warden.

The Warden has thirty (30) days to make his decision.

Your publication will be secured until either the process is complete or the (10) day period for filing an appeal has expired.

Cc: Unit Publication Review Committee
Mailroom

CLAIMANT'S EXHIBIT "C"

ARKANSAS DEPARTMENT OF CORRECTION

PUBLICATION REVIEW RESULTS

46-36

TO: Inmate: Steven Pinder ADC # [REDACTED]
FROM: Deputy/Assistant Warden
DATE: 05/05/2021 Received by me on 8/13/21 BP
RE: Notification of Publication Review Results - The Fantasy Art Calandra

The Unit Publication Review Committee has denied your publication for the reason(s) listed below:

Homosexuality Discrimination/Inflammatory Attitude Nudity Gang Signs
 Encouraging and/or Instructing Criminal Activity

Other (explain) Too large exceeds standards for AD 20-04

Pages: _____

D.W.M. Mulholland 6/30/21
Committee Member/Title Date
[Signature] 6-29-21
Committee Member/Title Date

[Signature] Arlen Parkour
Committee Member/Title Captain 8-13-21
[Signature] 8-13-21
Committee Member/Title Date

This decision is consistent with AR 864 and the AD on Publications. You will have up to TEN (10) days upon receipt of this notification to appeal. You may appeal this decision to the Unit Mailroom by writing "Appeal" in the option blank.

If you choose not to appeal the decision within TEN (10) days, the publication will be disposed of. You will have an extra (15) fifteen days to exercise option 1, 2, 3, or 4 before the publication is destroyed.

- 1. Destruction
- 2. Return the publication to sender at your own expense (unless return postage is guaranteed).
- 3. Mail the publication to a third party at your own expense Address: _____
- 4. Give to 3rd party at Visitation

OPTION: Appeal Rec'd by me 8/13/21 Appeal forwarded to mailroom 8/14/21

***Failure to exercise an option will be considered authorization for destruction.

Steven Pinder 8/13/21
Inmate Signature Date

Witness _____ Date _____

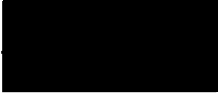
Refused to sign

cc: Unit Publication Review Committee Chair
Institutional File
Warden
File

ARKANSAS DEPARTMENT OF CORRECTION

PUBLICATION REVIEW RESULTS

4636

TO: Inmate: Steven Pinder ADC # 
FROM: Deputy/Assistant Warden
DATE: 5-05-2021 Received by me on 8/13/21 (AP)
RE: Notification of Publication Review Results - Treasures of Louvre

The Unit Publication Review Committee has denied your publication for the reason(s) listed below:

- Homosexuality
- Discrimination/Inflammatory Attitude
- Nudity
- Gang Signs
- Encouraging and/or Instructing Criminal Activity
- Other (explain) Over size Book and nudity AD-20-04

Pages: _____

Dw m Anderson 6/28/21
Committee Member/Title Date
[Signature] 6-29-21
Committee Member/Title Date

Mag Henry Reed 7-1-21
Committee Member/Title Date
Arken Parker
Chaplain 8-13-21
Committee Member/Title Date

This decision is consistent with AR 864 and the AD on Publications. You will have up to TEN (10) days upon receipt of this notification to appeal. You may appeal this decision to the Unit Mailroom by writing "Appeal" in the option blank.

If you choose not to appeal the decision within TEN (10) days, the publication will be disposed of. You will have an extra (15) fifteen days to exercise option 1, 2, 3, or 4 before the publication is destroyed.

1. Destruction
2. Return the publication to sender at your own expense (unless return postage is guaranteed).
3. Mail the publication to a third party at your own expense
4. Give to 3rd party at Visitation

Address: _____

OPTION: Appeal Recd by SHP on 8/13/21 Appeal forwarded to mail room 8/14/21

***Failure to exercise an option will be considered authorization for destruction.

Steven Pinder 8/13/21
Inmate Signature Date

Witness Date

Refused to sign

cc: Unit Publication Review Committee Chair
Institutional File
Warden
File

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER

CLAIMANT

(AOC [REDACTED])

Arkansas
State Claims Commission

DEC 27 2021

VS

NO: 220691

RECEIVED

ARKANSAS DEPARTMENT OF CORRECTIONS, RESPONDENT

DIVISION OF CORRECTIONS

CLAIMANT'S RESPONSE TO RESPONDENT'S

MOTION TO DISMISS

COMES NOW, Steven Pinder (the "Claimant") here in after, pro-se, and through this his response to respondent's motion to dismiss, states as follows:

1. Steven Pinder ("Claimant") is an inmate incarcerated in the Arkansas Department of Correction, Division of Corrections

2. On March 12, 2021 Claimant received an order of book from Edward R. Hamilton Booksellers, Bargain Books.com. This order contain the below Listed seven (7) books:

(1)

A. 3737710	Where There's Fire There's Smoke	\$ 5.95
B. 3799832	Bloody Trail of the Mountain Man	5.95
C. 3735672	Too Soon To Die	5.95
D. 6628524	The Jensen Brand	5.95
E. 458158X	The Book of Enoch	6.95
F. 6841244	The Fantasy Art of Calandra	11.95
G. 3798917	Treasures of The Louvre	<u>12.95</u>
		55.65
	Shipping	4.00
	Tax 9.5%	<u>5.66</u>
		65.31

3. The Mailroom supervisor of the [REDACTED] L. Southern did on March 12, 2021 confiscate the books; 1) The Fantasy Art of Calandra; and 2) Treasures of the Louvre as being in violation of the Arkansas Department of Corrections ("ADC") Administrative Directive 20-04 "Publication" policy (AD-20-04). (see claimants Exhibit "A" Attached here to).

4. These two (2) books were held by L. Southern of the [REDACTED] mailroom until April 5, 2021 at which time L. Southern submitted the Fantasy Art of Calandra book and Treasures of the Louvre book to the unit Publication Review Committee.

(2)

(See Claimant's Exhibit "B" and "C" respectively attached hereto).

5. The Publication Review committee had ten (10) days to review these two (2) publications and "make a determination regarding this publication and forward its decision to the Warden." see Claimant's Exhibit "B" and "C" attached hereto).

6. The Warden then had thirty (30) days to make his decision. (see Exhibit "B" and "C" attached hereto). (see also AD-20-04, IV (E)).

7. The decision by the Publication Review committee did not come until August 13, 2021. (see Claimant's Exhibit "D" and "E" attached hereto).

8. Upon notification on August 13, 2021 of the denial of these two (2) publications, Claimant notified the mailroom of his intention to Appeal to the Central office Publication Review Committee. see Exhibit "D" and "E").

9. Claimant, per policy which provides "You will have up to TEN (10) days upon receipt of this notification to appeal. You may appeal this decision
(3)

to the Unit Mailroom by writing 'Appeal' in the option blank." (see Claimant's Exhibit "D" and "E" attached here to).

10. Claimant wrote APPEAL in the blank as required. (see claimant's Exhibit "D" and "E" attached hereto).

11. Claimant also included with his Publication Review Results Appeal and "AFFIDAVIT" To the Publication Review Committee Central office as well as instruction to Ms. L. Southern the mailroom supervisor. (see Claimant's Exhibit "F" and "G" attached hereto) per policy.

12. Claimant intended the Central office Publication review Committee to review the unit level's denial of my books and make a decision on the contents of each individual publication, not previous issues of the same publication.

13. Claimant forwarded his notice of Appeal and appeal affidavit to the mailroom supervisor L. Southern on August 14, 2021.

14. Ms. Southern, the mailroom supervisor did not forward my appeal to the Central office Publication
(4)

Review Committee.

15. On August 26, 2021 Ms Southern forwarded to Claimant a memo stating:

"The above referenced publication you received has previously been denied by the Review Committee at Central Office in Pine Bluff; therefore:"

(see Claimant's Exhibit "H" attached hereto)

16. Claimant was instructed on the four (4) options for disposal of All Seven (7) books received March 12, 2021.

17. Claimant Choose to send the seven (7) publications home. (Note Claimant has removed the address of his sister for security and privacy purposes).

18. Claimant was denied access to the appeal process created by AD 20-04 by L. Southern of the [REDACTED] mailroom.

19. ADC policy creates a liberty interest in the publication policy procedures for claimant, this includes the appeal process.

20. By not allowing claimant to complete the appeal process established by ADC's AD-20-04 "Publication" Policy, claimant cannot seek redress of his grievance in state or federal court.

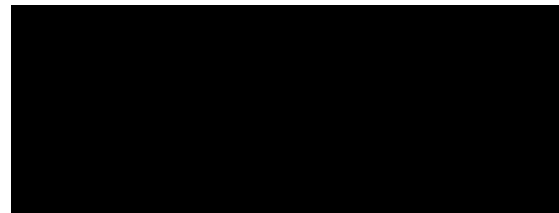
21. The Mailroom Supervisor L. Southern has knowingly and intentionally denied claimant access to ADC's publication appeal process.

WHEREFORE, Steven Pinder prays this Commission deny the Respondent's Motion to dismiss, and deny the Respondent's Motion to hold this matter in abeyance, and any other relief this Commission deems appropriate and just.

EXECUTED THIS 21st
day of December 2021,

Respectfully submitted
Steven Pinder

STEVEN PINDER, CLAIMANT



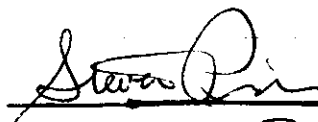
STATE OF ARKANSAS) AOC Returned Notary No Notary Available
COUNTY OF LEE)

SUBSCRIBED TO AND SWORN BEFORE ME, a
Notary Public this _____ day of _____ 2021

My Commission Expires: _____ Notary

CERTIFICATE OF SERVICE

I, Steven Pinder, do hereby certify that on this 22ND
day of December 2021, I have served on Respondent
through Attorney Thomas Burns, at 6814 Princeton
Pike, Pine Bluff, AR 71602-9411 by placing same
in the U.S. Mail with sufficient postage affixed
to ensure delivery.




STEVEN PINDER

ARKANSAS DEPARTMENT OF CORRECTION
RETURN MAIL NOTICE

Barracks No. X-6 36

Date: 3-10-21

Inmate's Name Steven Puder ADC # 

Regarding Letter/Package from Hammer Book, Conn Kill Village, CT 06037

The above item ^{SOLD} has to be returned to sender for the following reason(s):

- No ADC Number On Letter
- Incorrect ADC Number On Money Order
- Postage Stamps
- Stamped Envelope
- Unauthorized Photos
- Reading Material (Must come from publisher or Bookstore)
- Unauthorized Money Order
- Money Order did not include your ADC number (All money orders must include inmate name and ADC Number)

Cash Enclosed (Amount \$ _____)

Pornographic Material Unauthorized Correspondence personal

Other Treasures of the Louvre 12x9 1/4
with 35117 / 1/4 inch

You need to send a stamped envelope to return this item to the above person.

Letter too large to fit in regular-size envelope. Send a signed Inmate Check for the amount of \$ 6.25

Please send a signed Inmate Check for \$ _____ and a stamped envelope.

All money orders that do not have an ADC Number must be returned to the sender to have the number put on it. And in accordance with the new postal regulation, postage has to be paid on letters that are returned to the sender. Therefore, you need to send me a stamped envelope addressed to the above person.

Advise your correspondent that **ALL** of the required information **MUST** be included in your address. The information which shall be required is:

in full of Anderson County

Please check one of the boxes below and return this notice to the Mailroom.

I Wish To:

- Donate above items
- Return to sender
- Destroy above items

E. South
Mail Room Supervisor

Inmate's Signature

Date

DC/dh 491

CLAMMAN'S EXHIBIT "A"

X6-36

...Arkansas Department of Correction

Publications Review

To: Inmate Steven Pinder [REDACTED]
From: Ms. L Southern

RE: **Notification of Publication Review**

Date 04/05/2021

Publication Title: The Fantasy Art Calandra
Volume: (publications)

Issue/Year This is to notify you that the above publication addressed to you meets the criteria for review. Your publication with a copy of this notification has been forwarded to the Unit Publication Review Committee.

The Unit Publication Review Committee has (10) days from the receipt of this notice to make a determination regarding this publication and forward its decision to the Warden.

The Warden has thirty (30) days to make his decision.

Your publication will be secured until either the process is complete or the (10) day period for filing an appeal has expired.

Cc: Unit Publication Review Committee
Mailroom

CLAIMANTS Exhibit "B"

X 6-36

...Arkansas Department of Correction
E.A.R.U.
Publications Review

To: Inmate Steven Pinder [REDACTED]
From: Ms. L Southern

RE: **Notification of Publication Review**

Date 04/05/2021

Publication Title: Treasures Of The Louvre
Volume: (publications)

Issue/Year This is to notify you that the above publication addressed to you meets the criteria for review. Your publication with a copy of this notification has been forwarded to the Unit Publication Review Committee.

The Unit Publication Review Committee has (10) days from the receipt of this notice to make a determination regarding this publication and forward its decision to the Warden.

The Warden has thirty (30) days to make his decision.

Your publication will be secured until either the process is complete or the (10) day period for filing an appeal has expired.

Cc: Unit Publication Review Committee
Mailroom

CLAIMANT'S EXHIBIT "C"

X6-36

ARKANSAS DEPARTMENT OF CORRECTION
[REDACTED]
PUBLICATION REVIEW RESULTS

TO: Inmate: Steven Pinder ADC# [REDACTED]
FROM: Deputy/Assistant Warden
DATE: 05/05/2021 Received by me on 8/13/21 (BP)
RE: Notification of Publication Review Results - The Fantasy Art Calandra

The Unit Publication Review Committee has denied your publication for the reason(s) listed below:

- Homosexuality
- Discrimination/Inflammatory Attitude
- Nudity
- Gang Signs
- Encouraging and/or Instructing Criminal Activity

Other (explain) Too large exceeds standards for AD 20-04

Pages: _____

Dwight Mulholland 6/30/21
Committee Member/Title Date

[Signature] 6-29-21
Committee Member/Title Date

Artlen Pugh 8-13-21
Committee Member/Title Date

Maj. Kevin [Signature] 8-13-21
Committee Member/Title Date

This decision is consistent with AR 864 and the AD on Publications. You will have up to TEN (10) days upon receipt of this notification to appeal. You may appeal this decision to the Unit Mailroom by writing "Appeal" in the option blank.

If you choose not to appeal the decision within TEN (10) days, the publication will be disposed of. You will have an extra (15) fifteen days to exercise option 1, 2, 3, or 4 before the publication is destroyed.

1. Destruction
2. Return the publication to sender at your own expense (unless return postage is guaranteed).
3. Mail the publication to a third party at your own expense Address: _____
4. Give to 3rd party at Visitation

OPTION: Appeal Rec'd by me 8/13/21 Appeal forwarded to mailroom 8/14/21

***Failure to exercise an option will be considered authorization for destruction.

Steven Pinder 8/13/21
Inmate Signature Date

Witness _____ Date _____

Refused to sign

cc: Unit Publication Review Committee Chair
Institutional File
Warden
File

ARKANSAS DEPARTMENT OF CORRECTION

PUBLICATION REVIEW RESULTS

4636

TO: Inmate: Steven Pinder ADC # [REDACTED]
FROM: Deputy/Assistant Warden
DATE: 5-05-2021 Received by me on 8/13/21 (AP)
RE: Notification of Publication Review Results - Treasures of Louvre

The Unit Publication Review Committee has denied your publication for the reason(s) listed below:

- Homosexuality
- Discrimination/Inflammatory Attitude
- Nudity
- Gang Signs
- Encouraging and/or Instructing Criminal Activity
- Other (explain) Over size Book and Nudity AD-20-04

Pages: _____

Dw M. Anderson 6/28/21
Committee Member/Title Date
[Signature] 6-29-21
Committee Member/Title Date

Mag Henry Reed 7-1-21
Committee Member/Title Date
Arden Parkar chaplain 8-13-21
Committee Member/Title Date

This decision is consistent with AR 864 and the AD on Publications. You will have up to TEN (10) days upon receipt of this notification to appeal. You may appeal this decision to the Unit Mailroom by writing "Appeal" in the option blank.

If you choose not to appeal the decision within TEN (10) days, the publication will be disposed of. You will have an extra (15) fifteen days to exercise option 1, 2, 3, or 4 before the publication is destroyed.

1. Destruction
2. Return the publication to sender at your own expense (unless return postage is guaranteed).
3. Mail the publication to a third party at your own expense Address: _____
4. Give to 3rd party at Visitation _____

OPTION: Appeal Rec'd by SLP on 8/13/21 Appeal forwarded to mail room 8/14/21

***Failure to exercise an option will be considered authorization for destruction.

Steven Pinder 8/13/21
Inmate Signature Date

Witness Date

Refused to sign

cc: Unit Publication Review Committee Chair
Institutional File
Warden
File

COPY

8/13/21

Ms. Southern

Enclosed is the Publication denial forms for my two (2) books, signed for appeal and my affidavit of statement of Appeal which must accompany these denials to Central office Publication Review Committee.

Phil
cc:file

Claimants Exhibit "F"

To: Publication Review
Committee
Central office

"AFFIDAVIT"

page 1 of 2

Appeal to denial of Books -

Book 1 Treasures of Louvre; This book was ordered because of my visual impairment. It is a collection of artifacts in the Louvre museum located in Paris France. The book was taken for review because of being oversized and nudity.

Pursuant to ADC's Publication Policy AD 20-04 books of an educational and anthropological or artistic content will not be rejected solely on the basis that the material contains nudity - AD-20-20, IV, 10.

Further more the warden has the authority to waive the oversize conditions. Due to my visual impairment I have to order oversize books. The nudity that allege is ART. This Book should have been allowed.

Book 2 The Fantasy Art of Calandra

This book is a drawing book containing Art. Cartoon drawings. It is an art instruction book. Pursuant to AD-20-04 it should have been allowed AD-20-04, IV, 10

This Publication was not oversized.

Both of these publications were improperly

(1)

claimants Exhibit G-1

rejected.

Furthermore a book of the same size and weight has been allowed in and I have obtained affidavits from this inmate.

These publications were taken up by the mailroom supervisor Southern on March 12, 2021. The mailroom surrendered them to the review committee on April 5, 2021. The Unit Committee has had these books for over 5 months in violation of ADC's Publication Policy AD-20-04, IV, 15 (E) thus preventing me from being able to return the book to the company to get a refund further violating my liberty interests for some one-hundred and twenty (120) days. The committed had my books for one hundred and fifty (150) days. These officials backdated their response.

I appeal the denial of my books to the Central office publication review committee.

Steven Prude
cc: file

X 16-36

ARKANSAS DEPARTMENT OF CORRECTIONS

[Redacted]

TO: Steven Pinder # [Redacted]

RE: The Fantasy Art of Calandra

DATE: 08/26 /2021

Rec'd by SPinder on 9/3/21 (AS)

The above referenced publication you received has previously been denied by the Review Committee at Central Office in Pine Bluff. therefore;

You have 10 days upon receipt of this notification to notify the mailroom of your decision to either have the publication destroyed, returned to the sender, or forwarded to a third party.

- 1. Destroy publication.
- 2. Return the publication to sender at your own expense.
- 3. Forward publication to a third party at your own expense.

Third party name and address: Lisa Pinder

[Redacted]

- 4. Send home on visitation.

Name of visitor picking up publication: _____

Date to be picked up on visitation: _____

Your postage expense \$ 7.60

OPTION CHOICE: # 3

Steven Pinder 9-3-21
Inmate Signature Date

Witness Date

cc: I/M File
File

CLAIMANTS Exhibit "H"

I want a tracking number so I can have the receiving party track this item and the rest of the books. These are now considered evidence in a lawsuit.

From: [Thomas Burns](#)
To: [ASCC Pleadings](#)
Cc: [Roni Gean](#)
Subject: Steven Pinder v ADC 220691
Date: Monday, December 27, 2021 10:00:12 AM
Attachments: [4408_001.pdf](#)

MTD

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
thomas.burns@arkansas.gov

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BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER (ADC [REDACTED])

CLAIMANT

v

NO. 220691

ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF 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 that "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 \$15000.00 for alleged Injunctive Relief, Denial of 1st Amendment “redress of grievances” and violation of Americans with Disabilities Act. Although inmate seeks an award of damages (\$15000.00), 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 the [REDACTED] of the ADC. He is serving a life sentence on a conviction of Rape.

13. The inmate claims that the ADC did not allow him to appeal the Units denial of his books.

14. The inmate states in his complaint that the mailroom supervisor did not forward his books to the ADC publication committee. *See Inmate Complaint*

15. The Inmate claims hid books were not sent, but the publication committee records show his book was rejected at that level. *See attached Ex. A.*

16. The Inmate only sent one book, not two, to the publication committee. He did not list the titles of the alleged books, but records show one rejected the Month he claims books were not sent. *Id.*

17. The Inmate grievance attached to his complaint starts the publication committee denied his book. *See attached Ex B.*

18. AD 20-04 sets out publications allowed in the Units and the appeal process. *See attached Ex C.*

19. The Claims Commission does not have jurisdiction over any of the claims made by the Inmate. The Inmates claims may be brought in a Court of general jurisdiction.

20. The Inmate admits his books totaled \$80.00, claiming for \$15000.00 is beyond the pale and a gross disregard for justice.

21. 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.

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

23. “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)
Legal Department
Division of Correction
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 the above pleading has been served this 27th day of December 2021, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Steven Pinder ([REDACTED])
[REDACTED]



Thomas Burns

IGTT430
3GD

Attachment VI

INMATE NAME: Pinder, Steven L.

ADC # [REDACTED]

GRIEVANCE#: [REDACTED] 21-01876


CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

On 9/5/2021, you stated the following complaint: Ms. Southern of the [REDACTED] mailroom the supervisor did on or about 8-26-21 deny my right to appeal the unit publication committee's 8-14-21 denial of my 2 books. AD 20-04 guarantees me the right to appeal the units denial of any publication. Policy states the publication review committee at unit level denial must be sent to the unit mailroom I did on 8-13-21 send Ms Sothern my appeal which included an affidavit stating my reasons for appeal and the publication review committee results. On 8/26/21 Ms. Southern instead of forwarding my appeal to central office, Stated " the above referenced publication you received has previously been denied by the review committed at central office in Pine Bluff. Southern did not forward my appeal to central office where by denying me access to the publication appeal process. I am seeking damages of \$ 15,000 xx for southern denying me access to AD 20-04 appeal process! I was notified of this denial on 9-3-21.

The Warden responded on 10/12/2021, by stating the following: Documentation reflects your publication was denied by the Publication Review Committee. Per AD 19-34 Rejection of a Publication is non- grievable. Therefore, I find your grievance without merit.

Your appeal was received on 10/18/2021. After review of your appeal and supporting documentation, I concur with the Warden's response.

Appeal denied



Director

10-20-21

Date

Please be advised that if you appeal this decision to the U.S. District Court, a copy of this Chief Deputy/Deputy/Assistant Director's Decision must be attached to any petition or complaint or the Court may dismiss your case without notice. You may also be subject to paying filing fees pursuant to the Prison Litigation Act of 1995.

Ex B



6814 Princeton Pike
Pine Bluff, AR 71602
Phone: 870-267-6200
Fax: 870-267-6244
www.adc.arkansas.gov

DIVISION OF
CORRECTION

ADMINISTRATIVE DIRECTIVE

SUBJECT: Publications

NUMBER: 20-04

SUPERSEDES: 17-17

APPLICABILITY: Division Staff and Inmates

REFERENCE: AR-864-Publications
AD-Inmate Correspondence
AD-Inmate Property Control
AD-Inmate Grievance Procedure

PAGE: 1 of 5

APPROVED: Original Signed by Dexter Payne

EFFECTIVE DATE: 4/10/2020

I. POLICY:

Inmates may receive publications only from recognized commercial, religious or charitable outlets. All publications are subject to inspection and may be rejected when the publication presents a danger to the security, discipline, or good order of the institution or is inconsistent with rehabilitative goals.

II. PURPOSE:

This Administrative Directive establishes the process by which the Division of Correction determines which publications may be received by the inmate population.

III. DEFINITIONS:

- A. Publication: A book, magazine, catalog, advertising brochure, religious tract, newspaper, periodical, newsletter, or any type of image or text. The term publication does not include a personal letter.
- B. Commercial Outlet: A publisher, bookstore, educational or vocational institute, or other entity whose primary business is the sale and distribution of printed materials.

Ex.C

- C. Charitable Outlet: A religious group or an incorporated non-profit organization established to promote literacy or to provide literature for inmates.
- D. Nudity: A depiction in which genitalia, buttock(s) or female breasts are fully exposed.
- E. Sexually Explicit: A depiction or description of actual or simulated sexual acts including sexual intercourse, anal or oral sex, masturbation, sadism, sado-masochism, bondage, bestiality, or excretory functions which the average adult, taking the material as a whole and applying statewide contemporary community standards, would find appeals to the prurient interest, and which material, taken as a whole, lacks serious literary, scientific, political, or artistic value.
- F. Security Terrorist Threat Group (STTG): Any group of inmates that the Division of Correction reasonably believes poses a threat to the security of the institution or the physical safety of other inmates or staff by virtue of the group's nature, purpose or activities.

IV. PROCEDURES:

- A. The Warden/Center Supervisor shall designate staff to review incoming publications.
- B. A publication will be rejected if it contains contraband or if the material presents a danger to the security, discipline, or good order of the institution, or is inconsistent with rehabilitative goals. A publication containing pictorial or textual material meeting any one or more of the following categories may be rejected:
 - 1. Material that incites, advocates, aids or abets a riot, work stoppage, or any other behavior that may be detrimental to the safe, secure, and orderly operation of the institution;
 - 2. Material that advocates or assists criminal activity, which is an act or omission prohibited and punished by law to include but not limited to:
 - a. Material advocating, or describing, or assisting methods of escape or eluding capture or which contain blueprints, drawings, or depictions of Division facilities;
 - b. Maps or drawings depicting a geographical region that could reasonably be construed to assist methods of escape or eluding capture, or otherwise be a threat to security;
 - c. Material advocating or providing instructions on identity theft;
 - d. Material that incites, encourages, advocates, or promotes act of violence such as but not limited to sexual assaults and physical assaults;
 - 3. Depictions, descriptions, or instructions regarding the introduction, manufacture, concealment, or use of guns, knives or any other weaponry, including realistic

- pictures of such weapons suitable to aid in the manufacture of such weapons, or facsimiles of such weapons;
4. Depictions, descriptions, or instructions regarding the operation of security devices such as locks, cameras, or alarms;
 5. STTG materials including, but not limited to, codes, signs, symbols, photographs, drawings, training materials, and catalogs;
 6. Depictions, descriptions, or instructions on the use of hands, feet, or the head as weapons or of other fighting techniques;
 7. Depictions, descriptions, or instructions on the manufacture, cultivation, or introduction of drugs, alcohol, tobacco, or poisons;
 8. Instructions or patterns for tattoos, or other skin modification techniques or equipment;
 9. Material that incites, encourages, advocates, or promotes racism or any other illegal act of discrimination, or that is likely to be disruptive, produce violence, or cause a threat to the offender population or staff;
 10. Material that depicts nudity; however, material that includes the depiction of nudity as illustrative of and as part of broader medical, educational, anthropological, or artistic content will not be rejected solely on the basis that the material includes nudity;
 11. Sexually explicit material, whether pictorial or textual, which could reasonably pose a threat to the safety, security, discipline, or good order of the institution, or is inconsistent with rehabilitative goals;
 12. Posters measuring more than two hundred (200) square inches;
 13. Publications containing a product insert which, by itself, would be deemed contraband; and
 14. Publications which meet two (2) of the following conditions:
 - a. Books that measure more than 9" x 11".
 - b. Hardback books thicker than two (2) inches.
 - c. Softback books thicker than four (4) inches.
 - d. Any book heavier than three (3) pounds.

The Warden has the authority to waive these conditions on legal, educational and religious publications:

15. Photobooks are not considered an allowable publication and will not be permitted.

Note: Inmates are only allowed five (5) individual photos. This does not include digital photos (refer to Inmate Correspondence AD).

C. Publications recommended for rejection will be referred to the Warden/Center Supervisor for final decision. With respect to any publication, the decisions must be made on the contents of an individual publication, not previous issues of the same publication.

D. Items within the package cannot be separated; therefore, the package is rejected in its entirety.

Note: For any publication rejected solely because it contains a product insert, if the product insert(s) can be removed, the publication is acceptable.

E. The Warden must approve or reject the publication within thirty (30) days of receipt. If the publication is rejected, the inmate must be notified, in writing, of any decision to reject and the basis for rejection of the publication. The inmate is also notified of appeal procedures and options for disposing of the publication. The inmate must sign that the notice of rejection has been received. Should the inmate refuse to sign, an employee will attest to the fact that the inmate was duly notified.

F. The decision to reject a publication may be appealed to the Central Office Publication Review Committee. The Committee members are to be assigned by the Director or his/her designee. The appeal must be initiated within ten (10) days of the receipt of written notification of the Warden/Center Supervisor's decision to reject the publication. Rejection of a Publication is not grievable.

G. Any rejected publication will be held safe by the Warden/Center Supervisor or his/her designee until the appeal process has been completed, or until the ten (10) day period for filing an appeal has expired.

H. Options for disposing of an unacceptable publication are:

1. Destruction;
2. Return of the publication to the sender at the expense of the inmate unless return postage is guaranteed;
3. Mailing the publication to a third party at the expense of the inmate;

JAN 28 2022

RECEIVED

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER

CLAIMANT

(ADC #



NO: 220691

ARKANSAS DEPARTMENT OF CORRECTIONS RESPONDENT
DIVISION OF CORRECTIONS

CLAIMANT'S RESPONSE TO RESPONDENT'S
MOTION TO DISMISS

COMES NOW, Steven Pinder, (the "Claimant") pro-se, and for this his response to respondent's Motion to dismiss, states as follows:

1. This claim should not be dismissed pursuant to Arkansas Rules of Civil Procedure for in accordance with ARCP Rule Rule 12 claimant has stated facts upon which the relief he seeks can be granted.
2. Claimant asserts that in accordance with A.R.C.P. Rule 12 the claimant has plead specific facts, when viewed in the light most favorable to the plaintiff, Doekery v. Morgan 2011 AR1294, not mere conclusions, as the Respondent alleges,

then the plaintiff is entitled to the relief he seeks.

3. The respondents in this matter have knowingly and intentionally attempted to mislead this commission by lying about the facts of complainant's complaint. You can put lipstick on a pig and it is not a princess, it is still a pig.

4. The facts of this case are clear:

A. The Arkansas Department of Corrections (ADC) has created a policy entitled "Publications" numbered AD-20-04 dated 4/10/2020 signed by Dexter Payne the Director.

B. This policy creates the policy and procedures the respondent MUST (emphasis added throughout) as well as the inmate must follow, with regard to incoming Publications, i.e. books as referenced in this case.

5. The respondent has again falsely plead that there was only one book involved in this matter when in fact complainant has clearly presented evidence that in fact 2 two publications are involved: Treasures of the Louvre and

The Fantasy Art of Calandra. The respondent has began its pleadings by lying to this commission in an effort to distort the facts. Claimant asserts the respondent is lying to distort and cover up this fact, two (2) publications were submitted to the unit Publication review committee for possible rejection.

6. The unit level publication committee did reject the publications after some 157 days. Claimant was notified of the rejection on August 13, 2021,

7. The facts are clear claimant had a right to appeal this objection of these two (2) Publications to the Central office Publication Review Committee per AD 20-04. see AD-20-04 section IV, F, which clearly states:

" The decision to reject a publication may be appealed to the Central office Publication Review Committee. The Committee Members are to be assigned by the Director or his/her designee. The appeal must be initiated within ten (10) days of the receipt of written notification of the Warden/Center Supervisor's decision

to reject the publication. Rejection of the Publication is not grievable."

Id. This policy clearly sets the standards for the inmate to appeal.

8. As claimant clearly demonstrated in his first response to respondents first motion to dismiss, his access to the appeal process by L. Southern by not forwarding to the Central office Publication Review Committee his appeal affidavit and papers, she did in fact violate ADC's Publication Policy and denied claimant access to the appeal process.

9. The facts are abundantly clear, L. Southern the mailroom supervisor at the East Arkansas Regional Unit, knowingly and intentionally refused to comply with clearly established ADC policies regarding the appeal process and by NOT adhering to ADC's clearly established policy she denied claimant access to the established appeal process.

10. This is not mere conclusions as the respondent

has suggested, but actual facts. We can not lie about the facts, the evidence submitted thus far by complainant without question establish these facts,

11. The respondent alleges these claims are meritless but in fact, there is that word again, but detailed factual meritable claims and facts are before this commission. This Commission could clearly see this claim contains sufficient factual matter that, when accepted as true, state a plausible claim on its face. Ashcroft v Iqbal 564 US 662 (2009). This commission should draw a reasonable inference that the respondent is liable for the misconduct alleged. Id.

12. Claimant has clearly established the fact ADC's very own policies establish an appeal process that must be followed by ADC officials as well as ADC's inmates. ADC's officials have violated that policy and denied claimant access to the appeal process and as previously plead, this denial of completion of the appeal process precludes claimant from seeking redress of his grievances.

13. The claimant has been damaged by being denied access to the appeal process clearly established by ADC. The facts, again that word is clear, as are the facts of this complaint, L. Southern denied claimant what ADC policy allows, access to the Publication Review Appeal. Those facts clearly satisfy the factual issue as well as the damages issue and clearly supports the monetary relief sought by claimant. Wallis v Ford Motor Company, 362 Ark 317, 208 S.W. 3d 153 (2008).

14. Claimant states that as a matter of law the Commission is not to decide the disputed facts or access credibility. Anderson v Liberty Lobby, Inc., 477 US 242, 255, 106 S.Ct. 2505 (1986). The commission cannot grant the respondents motion to dismiss because the record before it so justifies. Fed. R. Civ. P. Rule 56 (d) (2).

15. The Commission is supposed to decide this issue on the facts and the ADC has clearly and intentionally lied about the facts trying to cover up its wrong doing and the law precludes dismissal based on disputed facts.

16. Based on the undisputed facts, supported by ample documentation by claimant, pursuant to the law, he is in fact entitled to the damages sought, the relief sought and judgment in his favor, Anderson v Liberty Lobby Inc, 477 US 242 (1986).

17. There are NO genuine issues of material fact as to each element of claimant's legal claim, Claimant did comply with ADC's Publication Review Policy. Documentation clearly demonstrates that two (2) books were reviewed by the unit Publication Review Committee, two (2) books were denied by the Unit Publication Review Committee, and claimant attempted to appeal to the Central office Publication Review Committee the denial at the unit level. There is NO dispute that L. Southern denied claimant access to the appeal process by NOT forwarding his appeal to the Central office Publication Review Committee thus denying claimant access to the appeal process. There simply is no disputing these facts.

18. The Commission must ~~denied~~ deny the respondents motion to dismiss based on the

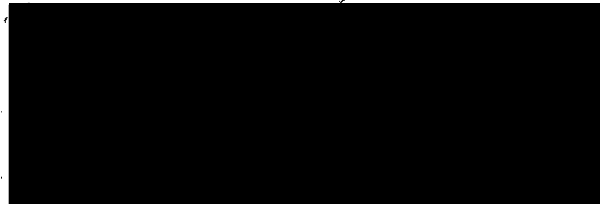
Facts and law,

19. This Commission, based on the facts and law should grant claimant a judgment in his favor and grant the relief requested.

WHEREFORE, Steven Pinder prays this Commission deny the respondents Motion to dismiss the complaint, grant Claimant summary judgment on the pleadings and all relief claimant has requested, and any other relief this commission deems just.

EXECUTED THIS 19th
day of January 2022.

Respectfully submitted
Steven Pinder
STEVEN PINDER, Claimant



STATE OF ARKANSAS)
COUNTY OF LEE)

ADC Refused Notary

SUBSCRIBED AND SWORN TO BEFORE ME, a
Notary Public this _____ day of _____ 2022.

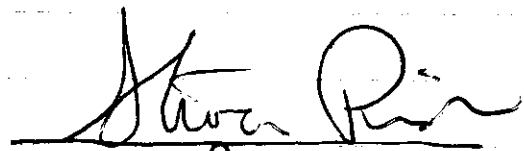
My Commission Expires:

Notary

(8)

Certificate of Service

I, Steven Pinder do hereby certify that on this 19th day of January 2022, I have served on Respondent via Thomas Burns, Attorney at 6814 Princeton Pike, Pine Bluff, AR 71602 a true copy of my Response to Respondent's Motion to dismiss by placing same in the U.S. Mail with sufficient Postage affixed to ensure delivery.


Steven Pinder

From: [Thomas Burns \(DOC\)](#)
To: [ASCC Pleadings](#)
Cc: [Roni Gean \(DOC\)](#); [Mika Tucker](#)
Subject: Steven Pinder v ADC claims 220691 and 220456
Date: Wednesday, June 1, 2022 10:52:36 AM
Attachments: [2169_001.pdf](#)

Motion protective order

Thomas Burns
General Counsel
Arkansas Department of Corrections
Division of Correction
6814 Princeton Pike
Pine Bluff Arkansas 71602
Phone: (870) 267-6845
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BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER (ADC [REDACTED])

CLAIMANT

v

NO. 220691
220456

ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION

RESPONDENT

MOTION FOR PROTECTIVE ORDER

Comes Now the Respondent, Arkansas Department of Corrections (ADC), by Thomas Burns, and for his Motion for Protective Order pursuant to Rule 26 (c) of the Arkansas Rules of Civil Procedure, states:

1. In the course of Discovery the ADC found documents are the germane to the case.
2. In filing their motion to dismiss they attached exhibit A as an in-camera document.
3. The document contains items, names, and other matters that if released to the Inmate would pose a danger.
3. The document needs to be protected due to the safety and security of Inmates, staff, and units.
4. as to any confidential materials that if provided to inmate, would pose a risk to the safety of employees, inmates, and the public. Conflict and violence in the prison system often arises when one inmate learns of alleged behavior, statements, or certain documents by another inmate. Such materials may contain confidential statements by inmates or correctional staff regarding an inmate's statements or actions or private health or other records that may be

used to intimidate or blackmail inmates. Releasing such statements to an inmate could pose a significant safety and security risk to those inmates, staff, or Claimant. Such materials need to remain in-camera to protect the claimant and others from harm.

5. Respondent relies on Ark. R. Civ. P. 26(c)(4) and requests the Commission to limit the matters and scope of discovery requested by the inmate. Rule 26 provides as follows:

Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following.....(2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place.

6. The Court in which the action is pending may make any order which justice requires to protect a party so that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters.

7. While there are no Arkansas cases on point, Rule 26(c) is the same as its Federal counterpart. The discovery rules were intended to allow the parties greater opportunity to gather information as to pertinent facts and documents within the knowledge and possession of the other party, in order to ensure a more adjudication on the merits. *27 C.J.S. Discovery § 1 (1959)*. They also were intended to guarantee accountability and to reduce surprise at trial. *See J. Whigmore, Whigmore on evidence § 1845, at 487 (1976)*. The courts, however, are given broad authority to intervene to protect against abuses. *See 27 C.J.S. Discovery § 2 (1959)*. The answer to discovery abuses is to employ reasonable measures to protect against unduly burdensome and

unduly intrusive discovery inquiries. *See 8 C. Wright & A. Miller, Federal Practice and Procedure § 2008, at 45 (1970)*. Therefore, the courts will protect against discovery efforts that are unreasonable and abusive. *See 27 C.J.S. Discovery § 2 (1959)*

8. The ADC asks this Commission, based on safety and security, to allow the in-camera inspection and not release to the inmate.

WHEREFORE, the Respondent prays that the Commission enter a Protective Order on behalf of the Respondent; that this Commission limit the scope and extent of inmate's discovery; for his attorney fees and costs; and for all other just and proper relief to which he may be entitled.

Respectfully submitted,



Thomas Burns (02006)
Legal Department
Division of Correction
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 the above pleading has been served this 1st day of June 2022, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Steven Pinder ([REDACTED])
[REDACTED]



Thomas Burns

JUN 04 2022

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION RECEIVED

STEVEN PINDER,
(ADC# [REDACTED])

CLAIMANT

v

NO: 220691

ARKANSAS DEPARTMENT OF CORRECTIONS, RESPONDENT
DIVISION OF CORRECTIONS

CLAIMANT'S MOTION FOR SUMMARY
JUDGMENT

COMES NOW, Steven Pinder (the "Claimant"), pro-se, pursuant to Federal Rules of Civil Procedure ("Fed. R. Civ. P.") Rule 56, and requests this Arkansas State Claims Commission (the "Commission") to grant Claimant summary judgment as to the liability of Respondent Arkansas Department of Corrections Division of Corrections ("ADC") and its employee L. Southern ("Southern") for damages for denying ~~plain~~ claimant access to the Administrative Directive ("AD") 20-04 "Publication" Policy Appeal process as set out by statutes. The reasons therefor are set forth in Claimant's declaration and brief in support of this Motion.

~~EXECUTED~~

EXECUTED THIS 31st
day of May 2022

Respectfully submitted
Steven Pinder
STEVEN PINDER, Claimant



BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER,
(ADC [REDACTED])

CLAIMANT

v

NO: 220691

ARKANSAS DEPARTMENT OF CORRECTIONS RESPONDENT
DIVISION OF CORRECTIONS,

CLAIMANT'S BRIEF IN SUPPORT
OF MOTION FOR SUMMARY JUDGMENT

COMES NOW, Steven Pinder (the "Claimant"), pro-se, and for his Brief in Support of his Motion for Summary Judgment, states as follows:

I

INTRODUCTION

This is a pro-se inmate claim alleging a violation of Arkansas Department of Corrections (the "ADC") rules, regulations and policies in which "ADC" employee L. Southern failed to carry out the mandates of ADC's "Publication" Policy - Administrative Directive ("AD") 20-04 in failure to forward Claimant's appeal to the Central office Publication Review Committee, thus denying Claimant to right to appeal the denial of two (2) books received via U.S. Mail on March 10, 2021. (see initial claim form).

Claimant Steven Pinder request this Arkansas State

(1)

Claims Commission (the "Commission") enter an order granting him summary judgment against respondent as to Claimant's claim against ADC. For the reasons explained below this Commission should grant Claimant the damages sought of \$ 15,000⁰⁰.

II

SUMMARY JUDGMENT STANDARD

Summary judgment is appropriate where the evidence, viewed in the light most favorable to the nonmovant, shows that no genuine issue of material fact exists, such that the movant is entitled to judgment as a matter of law. See Federal Rules of Civil Procedure (Fed. R. Civ. P.) Rule 56(c). The initial burden is on the moving party to demonstrate the absence of a genuine issue of material fact requiring the trier of fact to resolve the dispute in favor of one party or the other. Celotex Corp. v. Catrett, 477 US 317, 223, 106 S.Ct. 2548, 2553, 91 L.Ed. 2d 245 (1986); Anderson v. Liberty Lobby, Inc., 477 US 242, 250, 106 S.Ct. 2505, 2511, 91 L.Ed. 2d 202 (1986).

To defeat a properly supported summary judgment motion, the nonmoving party must establish that there is a genuine issue of material fact. Celotex, 477 US at 322, 106 S.Ct. at 2552; Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp., 475 US 574, 585-86, 106 S.Ct. 1348, 1355, 89 L.Ed. 2d 538 (1986). To establish the existence of a genuine issue, the non-moving party must produce specific facts showing that there is a genuine issue for trial. Fed. R. Civ. P. Rule 56(e); Matsushita, 475 US at 587, 106 S.Ct. at 1356.

Accordingly, a non-moving party cannot rest on mere allegations or denials in order to get to a jury without any "significant probative evidence tending to support the complaint." Anderson, 477 US at 249, 106 S. Ct. at 2510; see also Fed. R. Civ. P. Rule 56(c). That is, the non-moving party must present sufficient probative evidence that would permit a fact finder to rule in his favor based upon more than "mere speculation, conjecture, or fantasy," Kneibert v Thomson Newspapers, 129 F.3d 444, 455 (8th Cir 1997). If the nonmoving party's evidence is merely colorable or is not probative, then summary judgment is appropriate. See Anderson, 477 US at 249-50. In short, the nonmoving party must meet "proof with proof." Fed. R. Civ. P. Rule 56(e). Broad and conclusory statements unsupported by facts are insufficient to support an claim. Ellingburg v King, 490 F.2d 1270, 1271 (8th Cir 1974).

III

EXHAUSTION OF ADMINISTRATIVE REMEDIES

The Prison Litigation Reform Act ("PLRA") requires Claimant to exhaust all administrative remedies as to each claim against an defendant or respondent before he brings any type of civil action. The PLRA provides that no action shall be brought by a prisoner confined in any jail, prison or other correctional facility "until such administrative remedies as are available are exhausted. see 42 USC. § 1997(e)(a). This exhaustion requirement applies to all "inmate suits about prison life, whether they involve general circumstances or particular episodes."

Johnson v Jones, 340 F.3d 624, 627 (8th Cir 2003).

Exhaustion is mandated by Congress, which eliminates a court's discretion to excuse exhaustion. Booth v Churner, 532 US 731, 739, 741 (2001); see also Porter v Nussle, 534 US 516, 525-26, 122 S.Ct. 983, 988-89, 152 L.Ed. 2d (2002) (prisoners who claim denial of their federal rights while incarcerated must meet 1997 e(a)'s exhaustion requirement before commencing a civil rights action). The United States Court of Appeals for the Eighth Circuit, discussing Booth, has also held that administrative remedies should be exhausted before an inmate files an action. Jones v Norris, 310 F.3d 610, 612 (8th Cir 2002). The Court in Jones explained that the amendments of the PLRA "mandate exhaustion of available administrative remedies before an inmate files suit" and that a Plaintiff is required to file "a proper grievance against all defendants." Jones, *supra*; see also Woodford v Ngo, 548 US 81, 93, 126 S.Ct. 2378, 165 L.Ed. 2d 368 (2006).

It is important to note that the U.S. Supreme Court has stated that "it is the prison's requirements, and not the PLRA, that define the boundaries of proper exhaustion." Jones v Boock, 549 US 199, 218, 127 S.Ct. 910, 923, 166 L.Ed.2d 798 (2007). Administrative exhaustion means "using all steps that the agency holds out, and doing so properly (so that the agency addresses the issue on the merits)." Hammett v Cofield, 681 F.3d 945, 947 (8th Cir 2012) (quoting Woodford, 548 US at 90, 126 S.Ct. at 2385). Properly using the agency's

exhaustion requirements allows the agency to address complaints about its programs before being subjected to suit. Hammett, 681 F.3d at 947 (quoting Jones, 549 US at 219, 127 S.Ct. at 923); see also Woodford 548 US at 88-91. This reduces litigation to the extent complaints are satisfactorily resolved by the ADC and improves litigation that does occur by generating a useful administrative record. Hammett 681 F.3d at 947. Thus, to satisfy the PLRA a prisoner must comply with the exhaustion requirements of the incarcerating facility before he can bring or properly file an action.

At the time of the incidents alleged by Claimant, the ADC's "Inmate Grievance Policy" in place was Administrative Directive 19-34 (hereinafter AD-19-34). The policy was issued by Dexter Payne the Director of ADC and its effective date was December 12, 2019. The policy instructs an inmate to file a grievance if he or she believes he or she has been wronged. As its name suggests, AD 19-34 is the "administrative mechanism for the resolution of complaints and identification of problem areas within the ADC. Exhibit (Ex) A at II.

The grievance procedure at the ADC involves multiple steps. Step One of the policy instructs the inmate to file an Informal Resolution with a unit problem solver, a sergeant, within fifteen days of an alleged incident. Ex A, at (IV)(E)(i). The problem solver will meet with the inmate within three (3) working days in an attempt to resolve the issue. Ex. A, at (IV)(E)(4). The problem solver will sign and date the Informal grievance noting whether the issue is resolved or not. Ex A, at (IV)(E)(9-10). If the inmate and the problem solver cannot resolve the complaint, inmates

are instructed to proceed to Step Two of the process within three (3) working days of meeting with the problem solver. Ex. A, at (IV)(E)(10). If the inmate does not receive a response from the problem solver within three (3) working days, they have an additional three (3) days to initiate Step Two. Ex. A, at (IV)(E)(11). The inmate will utilize the yellow or pink copy of the original grievance form used at the Informal step to proceed to step two. Ex. A, at (IV)(F). The inmate must complete his portion of STEP TWO and have a Sergeant or above sign the bottom STEP TWO section. This yellow or pink copy will be forwarded to the Unit Level Grievance office. Ex. A, at (IV)(F). The Unit Level Grievance office will provide the inmate an Acknowledgement or Rejection of the Grievance within five (5) working days. Ex. A, (IV)(F)(4). This Acknowledgment is called an Attachment II and must accompany the grievance when proceeding to STEP III appeal if necessary. Ex. A, (IV)(G)(1).

Within the thirty (30) working days after receipt at the Unit level grievance office, the inmate will receive a written response from the Warden or Health Service Administrator (medical grievances) recapping the grievance, a statement whether the grievance has merit or not, and whether the issue in the grievance has been resolved. Ex. A, at (IV)(F)(4); (7). Finally, if the inmate disagrees with or feels the warden or HSA's response does not fully or properly address their grievance are instructed to appeal to the Deputy Director of the prison or Health Services, respectively, within five (5) working days of receiving the the Warden or HSA's response. Ex. A, at (IV)(G). The appeal must include the original unit

level grievance form, and either a copy of the Warden or HSA's rejection or the Warden or HSA's decision, whichever is applicable Ex.A, at (IV)(G)(2). In the event that the inmate did not timely receive a response from the Warden or HSA, the inmate may proceed to the final step in the appeal process by submitting the Acknowledgement or Rejection of the Unit level grievance form (Attachment II) with the reason for the appeal directly to the deputy Director Ex.A, at (IV)(G)(1). A written response on the merits from the Deputy Director is the end of the ADC's grievance process. Ex.A, at (IV)(G)(6). Only those grievances which identify the personnel involved, have meet clearly stated deadlines, includes all proper documentation, and are properly appealed to the Deputy Director level are considered exhausted for litigation purposes Ex.A, at (IV)(G)(6).

A. Claimants claim against L. Southern denying Claimant the right of access to complete the appeal process of the denial at the unit level of two (2) books.

Claimant commenced his grievance against L. Southern on September 5, 2021 alleging "Ms Southern of the [REDACTED] Mailroom, the supervisor, did, on or about 8-26-21 deny my right to appeal the unit Publication Committee's 8-13-21 denial of my 2 books."

Claimant did not receive a response at the informal step and timely proceeded to Step II the formal grievance on September 13, 2021. (Ex. I, at Page 1). The Warden center responded on October 12, 2021. Claimant appealed on October 13, 2021 to the Deputy Director. The Deputy Director responded, thus, claimant exhausted the ADC's grievance

(7)

on October 20, 2021. (Ex. I, page 3).

Claimant has completely and properly exhausted all administrative remedies available to him regarding his claims against Respondent.

IV LIBERTY INTEREST

Claimant has alleged that ADC employee L. Southern did violate his protected liberty interest in the appeal process of the AD 20-04 "Publication" policy. At the time of the incidents alleged by claimant, the State of Arkansas had in place Arkansas Regulation ("AR) 864 - "Publications". This AR was further ensconced in AD-20-04 "Publications" signed by Dexter Payne, Director of the ADC effective date 4/10/20. Exhibit (Ex.) "J". This state statute and state regulation created a protected liberty interest in the Publication policy and procedures as well as the appeal process included therein.

Claimant is entitled to expect the ADC to follow its own policies and procedures. Anderson v Smith, 697 F.2d 239, 240 (8th Cir 1983). The state created liberty interests occurs when state rules and or regulations contain mandatory language and substantive predicates. Hewitt v Helms, 459 US 460, 466-67, 103 S.Ct. 864, 74 L.Ed. 2d 675 (1983). Specifically, a state creates a liberty interest by both 1) establishing "substantive predicates" to govern official decisions making, and 2) using "explicitly mandatory language," i.e. specific directives to the decision maker that if the regulation's substantive predicates are present, a particular outcome must follow. Kentucky Dept. of

Corrections v Thompson, 490 US 454, 462-63, 109 S.Ct. 1904, 104 L.Ed.2d 506 (1989).

Claimant had a protected liberty interest in the appeal process of the Publication Policy. This liberty interest was violated by L. Southern by failure to forward claimant's appeal to the Central office Publication Review Committee.

Claimant asserts that the denial of the two (2) books by the Unit Publication Review Committee should have been reviewed by the Central office Review Committee. The books in question were large print due to claimant's visual impairment. Claimant had a liberty interest in completion of the appeal process so that the denial of these publications could be reviewed under the American with Disabilities Act. Claimant asserts the ADC denied claimant completion of the appeal process in an effort to prevent claimant from seeking redress in Federal Court or State Court under the American with Disabilities Act of the denial of said publications.

This denial of completion of claimant of the appeal process of the Publication denial, which denial was caused by ADC official L. Southern created an atypical and significant hardship on claimant in relation to the ordinary incidents of prison life. Perry v State, 2020 Ark 32, (Ark. 2020).

Claimant cannot read regular print books and he is in need of large print books to enjoy reading. The ADC will not (emphasis added throughout) make any exception to its Publication Policy to or capitulate to persons with handicaps especially visual impairment. Claimant intended to complete the appeal process

(9)

and seek injunctive relief to order ADC to conform to the Mandates of the American with Disabilities Act whereby making accommodations for visually impaired inmates. Claimant sought the reduction of future erroneous deprivations under the current ADC policy and procedures.

↓

FACTS

Claimant adopts by reference, pursuant to Fed. R. Civ. P. Rule 10(b), Claimant's Statement of Undisputed Facts ("SOF") and all Exhibits Attached thereto.

On March 10, 2021 Claimant received seven (7) books from Hamilton Books.Com. (SOF 3). The books received were valued at \$65.31. (SOF 4-5). Upon arrival, ADC employee L. Southern, mail room supervisor, confiscated all of the incoming books for claimant (SOF 6). ADC employee L. Southern ("Southern") determined that 2 of the incoming books violated ADC's Publication Policy, book 1) The Fantasy Art of Calandra (an instructive art book); and 2) Treasures of the Louvre (a picture book of the artifact and paintings and sculptures housed and displayed in the Louvre in Paris France) (SOF 7).

On April 5, 2021 Southern submitted the 2 books 1) Treasures of the Louvre ("Book 1") and 2) The Fantasy Art of Calandra ("Book 2") to the Publication Review Committee of the [REDACTED]

(NOTE: There is no reason Southern would hold these 2 books for some 26 days before submitting them

for review) The Unit Publication Review then had ten (10) days to either allow or reject the 2 books. (SOF 9). The Unit Publication Review Committee did not complete its review until August 13, 2021. (SOF 12). Claimant was notified of the Unit Publication Review Committee's Review denial in writing on August 13, 2021. (SOF 13). Claimant completed his affidavit and completed the Appeal form on August 14, 2021 (SOF 14-15). Claimant submitted his Appeal package to Southern per policy on August 14, 2021 (SOF 15). Southern, per ADC policy had a duty and responsibility to forward claimant's appeal to the Central office Publication Review Committee. (SOF 15-16). Southern did not forward claimant's appeal to the Central office Publication Review Committee. (SOF 17, 18, 19). Claimant sent all seven (7) confiscated books to his sister's home at a cost of \$ 7.60. (SOF 20). Claimant properly exhausted the grievance process. (SOF 31). Claimant's appeal ~~merits~~ merits were not addressed by the Unit warden nor the Deputy Director Straughn. Claimant, not receiving proper adjudication of his denial of access to the appeal process by Southern, did on November 18, 2021 file this complaint seeking damages of \$ 15,000⁰⁰ (fifteen thousand dollars) for the denial by Southern of claimant's protected Liberty interest in completing the Publication appeal process.

VI CONCLUSION

The PLRA requires an inmate to exhaust his administrative remedies before bringing any action. Claimant has properly exhausted ADC's grievance policy regarding his claim

(11)

before this Commission.

Claimant has demonstrated the protected liberty interest to the appeal process couched in the Publication Policy AD 20-04 of which Respondent did deny claimant access to or to complete. Claimant asserts due process attached to the policy and was violated by Respondent.

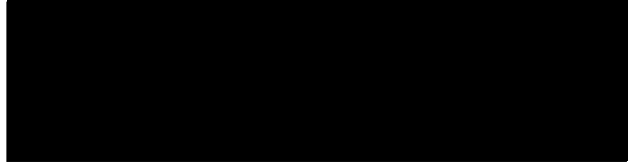
Claimant has established the substantive due process triggered by AD 20-04 to appeal the denial of the Unit Publication Review Committee's decision to deny any Publication. This review to the Central office Publication Review Committee is mandated if the inmate so chooses to appeal. Claimant choose to complete the Publication Appeal process. Southern denied claimant substantive due process to the mandated appeal process by failing to or refusing to forward claimants appeal to the appropriate authority. Claimant has shown an atypical and significant hardship endured by claimant in relation to the ordinary incidents of prison life.

Claimant finally asserts there are no genuine issues of material fact to be tried.

WHEREFORE, Steven Pinder respectfully requests this Arkansas State Claims Commission grant his Motion for Summary Judgment and award claimant the \$15,000⁰⁰ (fifteen thousand dollars) in damages sought, and any other relief this Commission deem appropriate and just.

EXECUTED THIS 31st
day of May 2022.

Respectfully submitted
Steven Pinder
STEVEN PINDER, Claimant



STATE OF ARKANSAS)
COUNTY OF LEE)

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary
Public this _____ day of _____ 2022.

MY COMMISSION EXPIRES:

NOTARY

CERTIFICATE OF SERVICE

I, Steven Pinder do hereby certify that on this 1st
day of June 2022, I have served on Respondent
via Thomas Burns, Attorney, at 6814 Princeton Pike, Pine
Bluff, AR 71602 a true copy of My Motion for
Summary Judgment, Brief in Support of Motion for
Summary Judgment and Statement of Undisputed Facts
by placing same in the U.S. Mail with sufficient
postage affixed to ensure delivery.

Steven Pinder
STEVEN PINDER

BEFORE THE ARKANSAS STATE CLAIMS COMMISSIONS

STEVEN PINDER,
(ADC# [REDACTED])

CLAIMANT

v

NO: 220691

ARKANSAS DEPARTMENT OF CORRECTIONS, RESPONDENT
DIVISION OF CORRECTIONS

CLAIMANT'S STATEMENT OF
UNDISPUTED FACTS

COMES NOW, Steven Pinder, (the "Claimant") here in
after, pro-se, and through this his Statement of
Undisputed Facts, states as follows:

1. Steven Pinder ("Claimant") is an inmate incarcerated in
the custody of the Arkansas Department of Corrections,
Division of Corrections ("Respondent") at the [REDACTED]
[REDACTED]

2. Claimant filed his complaint against respondent on
November 18, 2021 alleging that on August 13, 2021
through August 26, 2021, ADC employee L. Southern,
[REDACTED] Mailroom supervisor did, knowingly and intentionally
refused to comply with ADC's Administrative Directive
20-04 titled "Publications" and in doing so, denied
Claimant access to the Publication appeal process
guaranteed by the statute.

(1)

3. On March 10, 2021 claimant received an order of books from Edward R. Hamilton Book sellers, Bargain Books.com. This order contained seven books.

4. The seven books that arrived at the EAU unit for claimant were:

1,3737710	where There's Fire There's Smoke	\$15.95
2,3799832	Bloody Trail of the Mountain Man	5.95
3,3735672	Too Soon To Die	5.95
4,6628524	The Jensen Brand	5.95
5,458158X	The Book of Enoch	6.95
6,6841244	The Fantasy Art of Calandra	11.95
7,3798917	Treasures of the Louvre	<u>12.95</u>

5. Claimant paid a total of \$55.65 for the books, a \$4.00 shipping fee, a tax of 9.59% or \$5.66, for a total cost of \$65.31.

6. On March 10, 2021, the mailroom supervisor L. Southern of the [REDACTED] unit, confiscated all of the books.

7. On March 10, 2021 the mailroom supervisor L. Southern ("Southern") did determine that the book 1) Treasures of the Louvre and 2) The Fantasy Art of Calandra were in violation of ADC's "Publication" Policy (AD-20-04) (see Exhibit "A" Attached hereto).

8. All books were held in the [REDACTED] Mailroom by Southern until April 5, 2021, at which time Southern submitted the books 1) Fantasy Art of Calandra, and 2) Treasures (2)

of The Louvre to the Unit Publication Review Committee for review. (see Exhibit "B" attached hereto). (see also Exhibit "C" attached hereto).

9. The Unit Publication Review Committee had ten (10) days to review these two (2) rejected publications book 1 The Fantasy Art of Calandra and Book 2 Treasures of the Louvre. See Exhibit "B" and "C" attached here to).

10. Once The Publication Review Committee at the Unit level made a determination ~~to~~ reject the books, this decision was forwarded to the Unit Warden. (see Exhibit "B" and "C" attached hereto).

11. The Unit Warden then had thirty (30) days to make a decision to override or accept the Unit Publication Review Committee's decision (see Exhibit "B" and "C" attached hereto). (see also AD 20-04, IV (E) attached hereto)

12. The decision by the Unit Publication Review Committee did not come until August 13, 2021 (see Exhibit "D" and "E" attached hereto).

13. Claimant did, upon notification on August 13, 2021 of the rejection by the Unit Publication Review Committee of 1) The Fantasy Art of Calandra and 2) Treasures of the Louvre, of his intention to Appeal to the Central office Publication Review Committee (see Exhibit "D" and "E"); (see also AD 20-04, IV, (F)).

14. Policy provides that "You will have up to TEN (10) days upon receipt of this notification to appeal. You may appeal this decision to the Unit Mailroom by writing "Appeal" in the option blank." (see Exhibit "D" and "E" attached hereto).
15. Claimant wrote Appeal in the blank as required on April 13, 2021 and forwarded his appeal forms, affidavit of appeal and letter notifying Southern to forward my appeal to the Central office Publication Review Committee per ANC's policy. (see Exhibit "F" and "G" attached hereto).
16. The Central Office Publication Review Committee had a duty and responsibility to review Claimant's appeal of the Unit Publication Review Committee's denial of Book 1 The Fantasy Art of Calandra and book 2 Treasures of the Louvre.
17. Southern did NOT forward claimant's appeal to the Central office Publication Review Committee.
18. On August 26, 2021 Southern forwarded Claimant a memo stating:
- "The above referenced publication you received has previously been denied by the Review Committee at Central office in Pine Bluff; therefore"
- see Exhibit "H" attached hereto).
19. Claimant was informed by memo of the four (4) options for disposal of all seven (7) books

received and confiscated by Southern on March 10, 2021.

20. Claimant chose to send all seven (7) publications confiscated by Southern on March 10, 2021 to his sister via regular mail at a cost of \$ 7.60. (see Exhibit "H" attached hereto).

21. Claimant returned his notice to the [REDACTED] Mailroom on September 3, 2021.

22. Claimant filed a grievance regarding the fact Southern denied my right to appeal the unit publication committee's 8-14-21 denial of my two (2) books. (see Exhibit "I" attached hereto). This grievance commenced on September 5, 2021.

23. ADC Staff Sgt King signed the Step I informal resolution on September 6, 2021. Exhibit "I" attached hereto).

24. No response came within the time allotted per ADC's grievance policy. (AD-19-34, IV, (E)(11)).

25. Claimant did on September 13, 2021, having not received a timely response by ADC staff, proceeded to STEP II the grievance process by having Sgt. Jackson sign the form for Step II process on September 13, 2021. (see AD-19-34, IV (E)(11)).

26. The Unit level grievance office acknowledged the Step II grievance and assigned grievance number "EAM 21-01876 to this grievance. (see Exhibit "I"

attached hereto).

27. On October 12, 2021 Asst. Warden Richardson responded to the grievance but failed to address the merits of the grievance. Richardson said in his response that the denial of a publication was not grievable per ADC's grievance policy, but the appeal was clearly over the "denied my right to appeal." (see Exhibit "I" attached hereto).

28. Claimant appealed this erroneous decision again stating this grievance was "in reference to Ms. Southern denying me access to the appeal of the denial of books whereby foreclosing the appeal process." (see Exhibit "I" attached hereto).

29. Claimant appealed to Step III deputy Director William Straughn.

30. On October 20, 2021 deputy Director W. Straughn denied claimants' appeal. (see Exhibit "I" attached hereto).

31. On October 20, 2021 Claimant exhausted ADC's grievance procedure to no avail.

32. Claimant not having received satisfactory adjudication of his grievable issue, did on November 18, 2021 file this complaint in this Arkansas State Claims Commission seeking damages in the amount of \$ 15,000 ~~ee~~.

I, Steven Pinder, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury that the foregoing is true and correct.

EXECUTED THIS 31st
day of May 2022.

Respectfully submitted
Steven Pinder
STEVEN PINDER, Claimant

STATE OF ARKANSAS)
County of LEE)

SUBSCRIBED TO AND SWORN BEFORE ME, a Notary Public this _____ day of _____ 2022.

MY COMMISSION EXPIRES:

NOTARY

CERTIFICATE OF SERVICE

I, Steven Pinder do hereby certify that on this 1st day of June 2022, I have served on respondent via Respondent's Attorney Thomas Burns at 6814 Princeton Pike, Pine Bluff Ar 71602 a true copy of this my Statement of Undisputed facts and Motion for Summary Judgment by placing same in the U.S. Mail with sufficient postage affixed to ensure delivery.


Steven Pinder
STEVEN PINDER

(7)

ARKANSAS DEPARTMENT OF CORRECTION
RETURN MAIL NOTICE

Barracks No. X-636

Date: 3-11-21

Inmate's Name Steven Puder ADC # 

Regarding Letter/Package from Hamilton Book Com Fall Village, CT 06031

The above item has to be returned to sender for the following reason(s):

- No ADC Number On Letter
- Incorrect ADC Number On Money Order
- Postage Stamps
- Stamped Envelope
- Unauthorized Photos
- Reading Material (Must come from publisher or Bookstore)
- Unauthorized Money Order
- Money Order did not include your ADC number (All money orders must include inmate name and ADC Number)

- Cash Enclosed (Amount \$ _____)
- Unauthorized Material Enclosed

- Pornographic Material
- Unauthorized Correspondence oversized

Other TREASURES of the LOUVRE 12x9 1/4
with 34117 1/4 1/4

You need to send a stamped envelope to return this item to the above person.

Letter too large to fit in regular-size envelope. Send a signed Inmate Check for the amount of \$ 6.25

Please send a signed Inmate Check for \$ _____ and a stamped envelope.

All money orders that do not have an ADC Number must be returned to the sender to have the number put on it. And in accordance with the new postal regulation, postage has to be paid on letters that are returned to the sender. Therefore, you need to send me a stamped envelope addressed to the above person.

Advise your correspondent that **ALL** of the required information **MUST** be included in your address. The information which shall be required is:

The mailing of Alexandra - undelivered

Please check one of the boxes below and return this notice to the Mailroom.

I Wish To:

- Donate above items
- Return to sender
- Destroy above items

L. Smith
Mail Room Supervisor

Inmate's Signature _____ Date _____

DC/dh 491

FLAMMAN'S EXHIBIT "A"

Xb-36

...Arkansas Department of Correction



Publications Review

To: Inmate Steven Pinder # [REDACTED]
From: Ms. L Southern

RE: Notification of Publication Review

Date 04/05/2021

Publication Title: The Fantasy Art Calandra
Volume: (publications)

Issue/Year This is to notify you that the above publication addressed to you meets the criteria for review. Your publication with a copy of this notification has been forwarded to the Unit Publication Review Committee.

The Unit Publication Review Committee has (10) days from the receipt of this notice to make a determination regarding this publication and forward its decision to the Warden.

The Warden has thirty (30) days to make his decision.

Your publication will be secured until either the process is complete or the (10) day period for filing an appeal has expired.

Cc: Unit Publication Review Committee
Mailroom

PLACEMENTS Exhibit "B"

X 6-36

...Arkansas Department of Correction

[REDACTED]
Publications Review

To: Inmate Steven Pinder [REDACTED]
From: Ms. L Southern

RE: **Notification of Publication Review**

Date 04/05/2021

Publication Title: Treasures Of The Louvre
Volume: (publications)

Issue/Year This is to notify you that the above publication addressed to you meets the criteria for review. Your publication with a copy of this notification has been forwarded to the Unit Publication Review Committee.

The Unit Publication Review Committee has (10) days from the receipt of this notice to make a determination regarding this publication and forward its decision to the Warden.

The Warden has thirty (30) days to make his decision.

Your publication will be secured until either the process is complete or the (10) day period for filing an appeal has expired.

Cc: Unit Publication Review Committee
Mailroom

CLAIMANT'S EXHIBIT "C"

ARKANSAS DEPARTMENT OF CORRECTION

PUBLICATION REVIEW RESULTS

4636

TO: Inmate: Steven Pinder ADC # [REDACTED]
FROM: Deputy/Assistant Warden
DATE: 5-05-2021 Received by me on 8/13/21 (AP)
RE: Notification of Publication Review Results - Treasures of Louvre

The Unit Publication Review Committee has denied your publication for the reason(s) listed below:

- Homosexuality
- Discrimination/Inflammatory Attitude
- Nudity
- Gang Signs
- Encouraging and/or Instructing Criminal Activity
- Other (explain) Over size Book and Nudity AD-20-04

Pages: _____

Dw M. Anderson 6/28/21
Committee Member/Title Date
[Signature] 6-29-21
Committee Member/Title Date

Mag Henry Reed 7-1-21
Committee Member/Title Date
Arken Parkar 8-13-21
Committee Member/Title Date

This decision is consistent with AR 864 and the AD on Publications. You will have up to TEN (10) days upon receipt of this notification to appeal. You may appeal this decision to the Unit Mailroom by writing "Appeal" in the option blank.

If you choose not to appeal the decision within TEN (10) days, the publication will be disposed of. You will have an extra (15) fifteen days to exercise option 1, 2, 3, or 4 before the publication is destroyed.

1. Destruction
2. Return the publication to sender at your own expense (unless return postage is guaranteed).
3. Mail the publication to a third party at your own expense Address: _____
4. Give to 3rd party at Visitation

OPTION: Appeal Recd by SLP on 8/13/21 Appeal forwarded to mail room 8/14/21
***Failure to exercise an option will be considered authorization for destruction.

Steven Pinder 8/13/21
Inmate Signature Date

Witness Date

Refused to sign

cc: Unit Publication Review Committee Chair
Institutional File
Warden
File

COPY

8/13/21

Ms. Southern

Enclosed is the Publication denial forms for my two (2) books, signed for appeal and my affidavit of statement of Appeal which must accompany these denials to Central office Publication Review Committee.

Phil

cc:file

Claimants Exhibit "F"

To: Publication Review
Committee
Central office

"AFFIDAVIT"

page 1 of 2

Appeal to denial of Books -

Book 1 Treasures of Louvre; This book was ordered because of my visual impairment. It is a collection of artifacts in the Louvre museum located in Paris France. The book was taken for review because of being oversized and nudity.

Pursuant to ADC's Publication Policy AD 20-04 books of an educational and anthropological or artistic content will not be rejected solely on the basis that the material contains nudity - AD-20-20, IV, 10.

Further more the warden has the authority to waive the oversize conditions. Due to my visual impairment I have to order oversize books. The nudity that allege is ART. This Book should have been allowed.

Book 2 The Fantasy Art of Calandra

This book is a drawing book containing Art. Cartoon drawings. It is an art instruction book. Pursuant to AD-20-04 it should have been allowed AD-20-04, IV, 10 This Publication was not oversized.

Both of these publications were improperly

(1)

claimants Exhibit G-1

rejected.

Furthermore a book of the same size and weight has been allowed in and I have obtained affidavits from this inmate.

These publications were taken up by the mailroom supervisor Southern on March 12, 2021. The mailroom surrendered them to the review committee on April 5, 2021. The unit Committee has had these books for over 5 months in violation of ADC's Publication Policy AD-20-04, IV, 15 (E) thus preventing me from being able to return the book to the company to get a refund further violating my liberty interests for some one-hundred and twenty (120) days. The committed had my books for one hundred and fifty (150) days. These officials backdated their response.

I appeal the denial of my books to the Central office publication review committee.

Steven Pruden
cc: file

x 16:36

ARKANSAS DEPARTMENT OF CORRECTIONS



TO: Steven Pinder # [Redacted]

RE: The Fantasy Art of Calandra

DATE: 08/26 /2021

Rec'd by Spinder on 9/3/21 (46)

The above referenced publication you received has previously been denied by the Review Committee at Central Office in Pine Bluff, therefore:

You have 10 days upon receipt of this notification to notify the mailroom of your decision to either have the publication destroyed, returned to the sender, or forwarded to a third party.

- 1. Destroy publication.
- 2. Return the publication to sender at your own expense.
- 3. Forward publication to a third party at your own expense.

Third party name and address: Lisa Pinder



- 4. Send home on visitation.

Name of visitor picking up publication: _____
Date to be picked up on visitation: _____

Your postage expense \$ 7.60

OPTION CHOICE: # 3

Steven Pinder 9-3-21
Inmate Signature Date

Witness Date

cc: I/M File
File

CLAIMANT'S Exhibit "H"

I want a tracking number so I can have the receiving party track this item and the rest of the books in case they are considered evidence in a lawsuit.

UNIT LEVEL GRIEVANCE FORM (Attachment I)

Unit/Center _____

Name Steven Pinder

ADC# _____ Brks # X-6-36 Job Assignment _____

FOR OFFICE USE ONLY
RECEIVED GRIEVANCE OFFICER # _____
21-01876
Received: 9/14/21
ADC #: 306

1/5/21 (Date) STEP ONE: Informal Resolution

9/13/21 (Date) STEP TWO: Formal Grievance (All complaints must be handled informally.)
If the issue was not resolved during Step One, state why: in the time allowed

(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? NO 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): Ms. Southern of the Mailroom,

the supervisor, did on or about 8-26-21 deny my right to appeal the unit Publications Committee's 8-13-21 denial of my 2 books. AD 20-04 guarantees me the right to appeal the unit's denial of any publication. Policy states the publication issue committee at unit level denial must be sent to the unit supervisor. I did on 8-13-21 send Ms. Southern my appeal which included an affidavit asking my reasons for appeal and the Publications Committee's result. On 8/26/21 Ms. Southern, instead of forwarding my appeal to central office, stated "I cannot forward your appeal as you have already been denied by the Review Committee at central office in print blue." Ms. Southern did NOT forward my appeal to central office thereby denying me access to the Publications Appeal process. I am seeking damages of \$15,000 for systems denying me access to AD 20-04 appeal process. I was notified of this denial on 9-3-21.

Inmate Signature _____

OCT 18 2021

Date 9/5/21

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 _____ (date), and determined to be Step One and/or an Emergency Grievance (Yes or No). This form was forwarded to medical or mental health? _____ (Yes or No). If yes, name of the person in that department receiving this form: _____ Date RECEIVED _____

PRINT STAFF NAME (PROBLEM SOLVER) ID Number Staff Signature Date Received
Describe action taken to resolve complaint, including dates: _____ OCT 18 2021

~~NO Response~~
~~NO Response~~ Spiter 9/13/21
INMATE GRIEVANCE SUPERVISOR: _____

Staff Signature & Date Returned _____ Inmate Signature & Date Received _____

This form was received on 9-13-21 (date), pursuant to Step Two. Is it an Emergency? (Yes or No) (No)

Staff Who Received Step Two Grievance: Sgt Jackson Date: 9-13-21

Action Taken: Step TWO (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. CLAIMANT'S EXHIBIT I - 1

INMATE NAME: Pinder, Steven L.

ADC #: [REDACTED]

GRIEVANCE #: [REDACTED] 21-01876

WARDEN/CENTER SUPERVISOR'S DECISION

Inmate Pinder, you stated in your grievance that, "Ms. Southern of the [REDACTED] mailroom the supervisor did on or about 8-26-21 deny my right to appeal the unit publication committee's 8-14-21 denial of my 2 books. AD 20-04 guarantees me the right to appeal the units denial of any publication. Policy states the publication review committee at unit level denial must be sent to the unit mailroom I did on 8-13-21 send Ms Sothern my appeal which included an affidavit stating my reasons for appeal and the publication review committee results. On 8/26/21 Ms. Southern instead of forwarding my appeal to central office, Stated " the above referenced publication you received has previously been denied by the review committed at central office in Pine Bluff. Southern did not forward my appeal to central office where by denying me access to the publication appeal process. I am seeking damages of \$ 15,000 xx for southern denying me access to AD 20-04 appeal process! I was notified of this denial on 9-3-21."

Documentation reflects your publication was denied by the Publication Review Committee. Per AD 19-34 Rejection of a Publication is non- grievable. Therefore, I find your grievance without merit.

[Signature]
Signature of Warden/Supervisor or Designee

RECEIVED
OCT 18 2021
[Signature]
Title

10/12/21
Date

INMATE BEING APPEALED BY: [REDACTED]

INMATE'S APPEAL

If you are not satisfied with this response, you may appeal this decision within five working days by filling in the information requested below and mailing it to the appropriate Chief Deputy/Deputy/Assistant Director along with the Unit Level Grievance Form. Keep in mind that you are appealing the decision to the original grievance. Do not list additional issues, which are not part of your original grievance as they will not be addressed. Your appeal statement is limited to what you write in the space provided below.

WHY DO YOU DISAGREE WITH THE ABOVE RESPONSE? This grievance is reference to Ms Southern denying me access to the appeal of the denial of books were by for closing the appeal process. Southern violated AD 20-04 by not forwarding my appeal to Central office Publication Review Committee - This is grievable and I stand on the merits of my grievance and appeal on the merits put forth in the body of my grievance. Ms Southern violated ADC policy and ~~method~~ ~~process~~

[Signature]

ADC#: 123397
Date: 10/13/21

IGTT430
3GD

Attachment VI

INMATE NAME: Pinder, Steven L.

ADC #: [REDACTED]

GRIEVANCE# [REDACTED] 21-01876

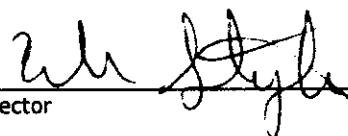
CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

On 9/5/2021, you stated the following complaint: Ms. Southern of the [REDACTED] mailroom the supervisor did on or about 8-26-21 deny my right to appeal the unit publication committee's 8-14-21 denial of my 2 books. AD 20-04 guarantees me the right to appeal the units denial of any publication. Policy states the publication review committee at unit level denial must be sent to the unit mailroom I did on 8-13-21 send Ms Sothern my appeal which included an aftidarit stating my reasons for appeal and the publication review committee results. On 8/26/21 Ms. Southern instead of forwarding my appeal to central office, Stated " the above referenced publication you received has previously been denied by the review committed at central office in Pine Bluff. Southern did not forward my appeal to central office where by denying me access to the publication appeal process. I am seeking damages of \$ 15,000 xx for southern denying me access to AD 20-04 appeal process! I was notified of this denial on 9-3-21.

The Warden responded on 10/12/2021, by stating the following: Documentation reflects your publication was denied by the Publication Review Committee. Per AD 19-34 Rejection of a Publication is non- grievable. Therefore, I find your grievance without merit.

Your appeal was received on 10/18/2021. After review of your appeal and supporting documentation, I concur with the Warden's response.

Appeal denied



Director

10-20-21

Date

Please be advised that if you appeal this decision to the U.S. District Court, a copy of this Chief Deputy/Deputy/Assistant Director's Decision must be attached to any petition or complaint or the Court may dismiss your case without notice. You may also be subject to paying filing fees pursuant to the Prison Litigation Act of 1995.

Claimants Exhibit I-3



6814 Princeton Pike
Pine Bluff, AR 71602
Phone: 870-267-6200
Fax: 870-267-6244
www.adc.arkansas.gov

DIVISION OF
CORRECTION

ADMINISTRATIVE DIRECTIVE

SUBJECT: Publications

NUMBER: 20-04

SUPERSEDES: 17-17

APPLICABILITY: Division Staff and Inmates

REFERENCE: AR-864-Publications
AD-Inmate Correspondence
AD-Inmate Property Control
AD-Inmate Grievance Procedure

PAGE: 1 of 5

APPROVED: Original Signed by Dexter Payne

EFFECTIVE DATE: 4/10/2020

I. POLICY:

Inmates may receive publications only from recognized commercial, religious or charitable outlets. All publications are subject to inspection and may be rejected when the publication presents a danger to the security, discipline, or good order of the institution or is inconsistent with rehabilitative goals.

II. PURPOSE:

This Administrative Directive establishes the process by which the Division of Correction determines which publications may be received by the inmate population.

III. DEFINITIONS:

- A. Publication: A book, magazine, catalog, advertising brochure, religious tract, newspaper, periodical, newsletter, or any type of image or text. The term publication does not include a personal letter.
- B. Commercial Outlet: A publisher, bookstore, educational or vocational institute, or other entity whose primary business is the sale and distribution of printed materials.

Clairmont E.J.

- C. Charitable Outlet: A religious group or an incorporated non-profit organization established to promote literacy or to provide literature for inmates.
- D. Nudity: A depiction in which genitalia, buttock(s) or female breasts are fully exposed.
- E. Sexually Explicit: A depiction or description of actual or simulated sexual acts including sexual intercourse, anal or oral sex, masturbation, sadism, sado-masochism, bondage, bestiality, or excretory functions which the average adult, taking the material as a whole and applying statewide contemporary community standards, would find appeals to the prurient interest, and which material, taken as a whole, lacks serious literary, scientific, political, or artistic value.
- F. Security Terrorist Threat Group (STTG): Any group of inmates that the Division of Correction reasonably believes poses a threat to the security of the institution or the physical safety of other inmates or staff by virtue of the group's nature, purpose or activities.

IV. PROCEDURES:

- A. The Warden/Center Supervisor shall designate staff to review incoming publications.
- B. A publication will be rejected if it contains contraband or if the material presents a danger to the security, discipline, or good order of the institution, or is inconsistent with rehabilitative goals. A publication containing pictorial or textual material meeting any one or more of the following categories may be rejected:
 - 1. Material that incites, advocates, aids or abets a riot, work stoppage, or any other behavior that may be detrimental to the safe, secure, and orderly operation of the institution;
 - 2. Material that advocates or assists criminal activity, which is an act or omission prohibited and punished by law to include but not limited to;
 - a. Material advocating, or describing, or assisting methods of escape or eluding capture or which contain blueprints, drawings, or depictions of Division facilities;
 - b. Maps or drawings depicting a geographical region that could reasonably be construed to assist methods of escape or eluding capture, or otherwise be a threat to security;
 - c. Material advocating or providing instructions on identity theft;
 - d. Material that incites, encourages, advocates, or promotes act of violence such as but not limited to sexual assaults and physical assaults;
 - 3. Depictions, descriptions, or instructions regarding the introduction, manufacture, concealment, or use of guns, knives or any other weaponry, including realistic

- ◆
- pictures of such weapons suitable to aid in the manufacture of such weapons, or facsimiles of such weapons;
4. Depictions, descriptions, or instructions regarding the operation of security devices such as locks, cameras, or alarms;
 5. STTG materials including, but not limited to, codes, signs, symbols, photographs, drawings, training materials, and catalogs;
 6. Depictions, descriptions, or instructions on the use of hands, feet, or the head as weapons or of other fighting techniques;
 7. Depictions, descriptions, or instructions on the manufacture, cultivation, or introduction of drugs, alcohol, tobacco, or poisons;
 8. Instructions or patterns for tattoos, or other skin modification techniques or equipment;
 9. Material that incites, encourages, advocates, or promotes racism or any other illegal act of discrimination, or that is likely to be disruptive, produce violence, or cause a threat to the offender population or staff;
 10. Material that depicts nudity; however, material that includes the depiction of nudity as illustrative of and as part of broader medical, educational, anthropological, or artistic content will not be rejected solely on the basis that the material includes nudity;
 11. Sexually explicit material, whether pictorial or textual, which could reasonably pose a threat to the safety, security, discipline, or good order of the institution, or is inconsistent with rehabilitative goals;
- ◆
12. Posters measuring more than two hundred (200) square inches;
 13. Publications containing a product insert which, by itself, would be deemed contraband; and
 14. Publications which meet two (2) of the following conditions:
 - a. Books that measure more than 9" x 11".
 - b. Hardback books thicker than two (2) inches.
 - c. Softback books thicker than four (4) inches.
 - d. Any book heavier than three (3) pounds.
- ◆

The Warden has the authority to waive these conditions on legal, educational and religious publications:

15. Photobooks are not considered an allowable publication and will not be permitted.

Note: Inmates are only allowed five (5) individual photos. This does not include digital photos (refer to Inmate Correspondence AD).

C. Publications recommended for rejection will be referred to the Warden/Center Supervisor for final decision. With respect to any publication, the decisions must be made on the contents of an individual publication, not previous issues of the same publication.

D. Items within the package cannot be separated; therefore, the package is rejected in its entirety.

Note: For any publication rejected solely because it contains a product insert, if the product insert(s) can be removed, the publication is acceptable.

E. The Warden must approve or reject the publication within thirty (30) days of receipt. If the publication is rejected, the inmate must be notified, in writing, of any decision to reject and the basis for rejection of the publication. The inmate is also notified of appeal procedures and options for disposing of the publication. The inmate must sign that the notice of rejection has been received. Should the inmate refuse to sign, an employee will attest to the fact that the inmate was duly notified.

F. The decision to reject a publication may be appealed to the Central Office Publication Review Committee. The Committee members are to be assigned by the Director or his/her designee. The appeal must be initiated within ten (10) days of the receipt of written notification of the Warden/Center Supervisor's decision to reject the publication. Rejection of a Publication is not grievable.

G. Any rejected publication will be held safe by the Warden/Center Supervisor or his/her designee until the appeal process has been completed, or until the ten (10) day period for filing an appeal has expired.

H. Options for disposing of an unacceptable publication are:

1. Destruction;
2. Return of the publication to the sender at the expense of the inmate unless return postage is guaranteed;
3. Mailing the publication to a third party at the expense of the inmate;

From: [Thomas Burns \(DOC\)](#)
To: [ASCC Pleadings](#)
Cc: [Leslie Browning \(DOC\)](#); [Roni Gean \(DOC\)](#)
Subject: Steven Pinder v ADC 220691
Date: Friday, July 1, 2022 7:50:08 AM
Attachments: [2955_001.pdf](#)

ADC response to MSJ

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

STEVEN PINDER (ADC [REDACTED])

CLAIMANT

V.

NO. 220691

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

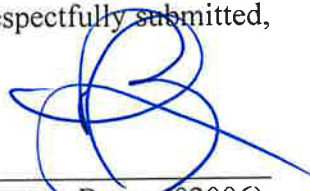
ADC RESPONSE TO MOTION FOR SUMMARY JUDGMENT

Respondent, Arkansas Department of Correction (ADC), for its reply, states:

1. The ADC denies each and every allegation contained in the Inmate's motion unless specifically admitted herein. In fact every thing in the Inmates complaint is disputed.
2. The inmate has a one (1) paragraph recitation of the rules for summary judgment. This requires no response but out of caution the ADC denies the paragraph.
3. The inmate states no facts in which summary judgment may be had.
4. The ADC denies each alleged statement of undisputed facts the inmate has attached.
5. The inmate in paragraph IV of his brief states the ADC violated his liberty interests.
6. The ADC is entitled to summary judgement since the Claims Commission does not have jurisdiction to hear Constitutional claims.
7. All the averments in the Inmate's motion are in dispute making Summary Judgement for the inmate inappropriate.

WHEREFORE, Respondent prays that this Motion to Dismiss 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)
Division of Correction
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 30th day of June 2022, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Steven Pinder [REDACTED]
[REDACTED]
[REDACTED]



Thomas Burns

JUL 09 2022

RECEIVED

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER

CLAIMANT

(ADC# [REDACTED])

v

NO: 220691

ARKANSAS DEPARTMENT OF CORRECTIONS, RESPONDENT

CLAIMANT'S MOTION TO STRIKE

COMES NOW, Steven Pinder (the "Claimant") pro-se and through this his Motion to strike, states as follows:

1. Steven Pinder ("Claimant") did, on June 4, 2022, file a Motion for Summary Judgment along with his Brief in Support of Motion for Summary Judgment and Claimant's Statement of undisputed facts pursuant to Federal Rules of Civil Procedure Rule 56.
2. Pursuant to Federal Rules of Civil Procedure Rule 56 the Respondent had fourteen (14) days to respond to Claimant's Motion for Summary Judgment and dispute any presented factual issues, else otherwise they are admitted.

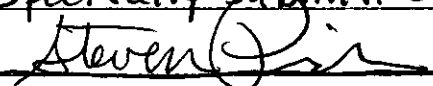
3. The Respondent Arkansas Department of Corrections by and through their attorney Thomas Burns did not file his answer until June 30, 2022 some twenty-six (26) days after claimant's filing of his Motion for Summary Judgment.

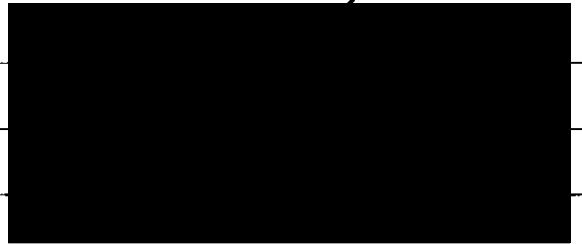
4. The Respondent's response was untimely and therefore must be stricken from the record and denied.

5. The Respondent's response is frivolous.

WHEREFORE, Steven Pinder requests this Commission to deny and strike as untimely Respondent's late and untimely response and Grant Claimant Summary Judgment.

EXECUTED THIS 6th
day of July 2022.

Respectfully submitted

STEVEN PINDER, Claimant



CERTIFICATE OF SERVICE

I, Steven Pinder certify that on this 7th day of July

(2)

From: [Misty Scott](#) on behalf of [ASCC Pleadings](#)
To: [Thomas Burns \(DOC\)](#)
Cc: [Leslie Browning \(DOC\)](#); [ASCC Pleadings](#); [Mika Tucker](#)
Subject: ORDER: Steven Pinder v. ADC, Claim No. 220691
Date: Wednesday, July 20, 2022 3:37:36 PM
Attachments: [Steven Pinder v. ADC2 .pdf](#)
[Steven Pinder-order2.pdf](#)

Thomas:

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

July 20, 2022

Mr. Steven Pinder (ADC [REDACTED])
[REDACTED]
[REDACTED]

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

(via email)

Re: ***Steven Pinder v. Arkansas Division of Correction***
Claim No. 220691

Dear Mr. Pinder and Mr. Burns:

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

STEVEN PINDER (ADC [REDACTED])

CLAIMANT

V.

CLAIM NO. 220691

**ARKANSAS DIVISION OF
CORRECTION**

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Claims Commission”) is a motion filed by the Arkansas Division of Correction (the “Respondent”) to dismiss the claim of Steven Pinder (the “Claimant”). Also pending is a motion for protective order filed by Respondent, a motion for summary judgment filed by Claimant and a motion to strike filed by Claimant. Based upon a review of the pleadings, the arguments made therein, and the law of Arkansas, the Claims Commission hereby finds as follows:

1. Claimant filed his claim on November 18, 2021, seeking \$15,000.00 in damages related to a Respondent’s mailroom supervisor knowingly and intentionally refusing to forward Claimant’s appeal of the publication review committee’s denial of two books. Claimant alleges that Respondent denied him access to the publication appeal process and precluded him from seeking redress in court.

2. Respondent filed a motion to dismiss pursuant to Ark. R. Civ. Proc. 12(b)(6), arguing, *inter alia*, that the Claims Commission does not have jurisdiction over Claimant’s claims.

3. Claimant responded to the motion to dismiss, arguing that dismissal was not proper.

4. Respondent has also filed a motion for protective order requesting that the Claims Commission designate Exhibit A to Respondent’s motion to dismiss as an in-camera document

available for the Claims Commission's inspection only. Respondent requests that this document not be released to Claimant.

5. Claimant did not respond to the motion for protective order.

6. Claimant has filed a motion for summary judgment, arguing, *inter alia*, that Respondent's mailroom supervisor "denied [C]laimant due process to the mandated appeal process by failing or refusing to forward [Claimant's] appeal" to the Central Publication Review Committee.

7. Respondent responded to the motion for summary judgment, arguing, *inter alia*, that Claimant states that Respondent violated his liberty interests and that the Claims Commission does not have jurisdiction.

8. Claimant filed a motion to strike Respondent's response to his motion for summary judgment, arguing that the response was untimely.

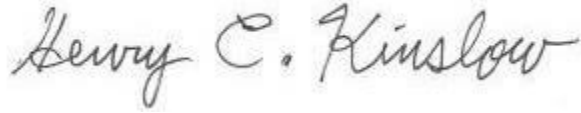
9. The Claims Commission finds that Respondent's motion to dismiss did not provide a clear basis, argument or authority for challenging the jurisdiction of the Claims Commission over this matter, and the Claims Commission is unwilling to infer such an argument. However, subject matter jurisdiction is an issue that may be raised by the Claims Commission *sua sponte* at any time. *See* Ark. R. Civ. Pro. 12(h)(3); *see also* *Barclay v. Farm Servs.*, 340 Ark. 65, 68, 8 S.W.3d 517, 518 (2000); *see also* *Young v. Smith*, 331 Ark. 525, 529, 964 S.W.2d 784, 785 (1998).

10. Having reviewed the pleadings in this matter, the Claims Commission finds that Claimant may be asserting a due process claim, which can be brought in a court of general jurisdiction. If the claim is a due process claim, the Claims Commission lacks jurisdiction over this claim. *See* Ark. Code Ann. § 19-10-204.

11. The Claims Commission finds it to be prudent and efficient to address any jurisdictional concerns now to avoid any surprises after the parties and the Claims Commission have expended more time and resources. **Therefore, the Claims Commission directs the parties to file briefs addressing whether the Claims Commission has jurisdiction over this claim in light of the fact that this claim appears to involve a due process issue. This claim will be placed in abeyance for a period of 30 days to permit the parties to submit their briefs on this jurisdictional issue.**

12. The Claims Commission finds that Respondent's motion for protective order does not include a statement that it has in good faith conferred or attempted to confer with Claimant in an effort to resolve the issue without action from the Claims Commission. The Claims Commission finds that such a statement is a requirement under Ark. R. Civ. Proc. 26(c). As such, the Claims Commission DENIES Respondent's motion for protective order.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION

Courtney Baird
Dexter Booth
Henry Kinslow, Co-Chair
Paul Morris, Co-Chair
Sylvester Smith

DATE: July 20, 2022

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: [Mika Tucker](#)
To: [Thomas Burns \(DOC\)](#); [ASCC Pleadings](#)
Cc: [Leslie Browning \(DOC\)](#)
Subject: RE: ORDER: Steven Pinder v. ADC, Claim No. 220691
Date: Friday, July 22, 2022 9:27:00 AM
Attachments: [Pinder 220691_CL MSJ, BIS of MSJ, and Statement of Undisputed Facts.pdf](#)
[Pinder 220691_CL Response to MTD.pdf](#)

Please find the two pleadings you requested in Claim No. 220961 attached. Thank you.

Mika Tucker
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2818

From: Thomas Burns (DOC) <Thomas.Burns@arkansas.gov>
Sent: Wednesday, July 20, 2022 3:40 PM
To: ASCC Pleadings <ASCCPleadings@arkansas.gov>
Cc: Leslie Browning (DOC) <Leslie.Browning@arkansas.gov>; Mika Tucker <Mika.Tucker@arkansas.gov>
Subject: RE: ORDER: Steven Pinder v. ADC, Claim No. 220691

Again please send us copies of the response and motions. We did not get them. Denying the protective order is placing this inmate and staff in grave danger.

-TB
Legal Division
Arkansas Department of Corrections
Division of Correction

From: Misty Scott <Misty.Scott@arkansas.gov> **On Behalf Of** ASCC Pleadings
Sent: Wednesday, July 20, 2022 3:38 PM
To: Thomas Burns (DOC) <Thomas.Burns@arkansas.gov>
Cc: Leslie Browning (DOC) <Leslie.Browning@arkansas.gov>; ASCC Pleadings <ASCCPleadings@arkansas.gov>; Mika Tucker <Mika.Tucker@arkansas.gov>
Subject: ORDER: Steven Pinder v. ADC, Claim No. 220691

Thomas:

Please see attached. Contact Mika Tucker with any questions.

Thank you,

Misty

Misty Scott
Arkansas State Claims Commission

August 2, 2022

Steven Pinder



Arkansas
State Claims Commission

AUG 5 2022

RECEIVED

Clerk

Arkansas State Claims Commission
101 E. Capitol Ave., Suite 410
Little Rock, AR 72201-2823

Re: Pinder v Department of Corrections
claim NO 220 456
claim NO 220 691

Clerk.

Please find enclosed my response to the order of the Commission of July 19, 2022. Be apprised that I did not receive this order until August 2, 2022 at 0710 Am. It appears that the letter was mailed from Little Rock on 7/20/22 and received at this unit on August 1, 2022. In all probability the Mailroom supervisor Southern has held this mail in the unit mail room for numerous days before delivering it to me as she often does. Remember she is a key part of both of these small claims complaints.

(1)

I have enclosed the original envelope to demonstrate the slow and intentional delay in delivering this ORDER to me.

Also, we are not being provided legal copies by ADC. They are refusing to make legal copies of ANY kind. I have hand written a copy for respondent but could in no way copy this pleading 6 more times.

PLEASE I beg, you to make the necessary copies for the commission and my self this time since time is of the essence for filing this. I AM BEGGING. This mess here is out of hand. It has to stop and will only stop when wrong is exposed. ADC IS WRONG doing wrong and will continue.

Thank you.

Please return a copy of my pleading and envelope.

Respectfully
Steven P. P. P.

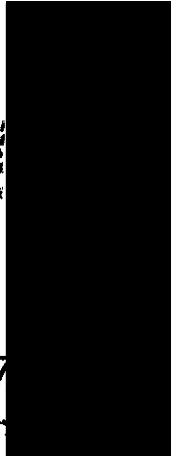
cc: file

Enclosure (2)

(2)



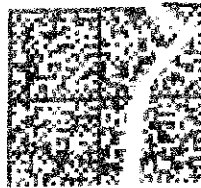
ARKANSAS STATE CLAIMS COMMISSION
101 E. CAPITOL AVE., SUITE 410
LITTLE ROCK, ARKANSAS 72201-3823



2202 1 0 9VA

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MAIL ROOM

Mr. Steven Pinder (ADD)



013601225072
07/20/2022 ZIP 72201
FIRST-CLASS MAIL
\$000.81⁹

US POSTAGE

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER

CLAIMANT

LADE # [REDACTED]

VS

NO: 220456
220691

ARKANSAS DIVISION OF
CORRECTIONS

RESPONDENT

CLAIMANT'S RESPONSE TO
THE JULY 19, 2022
ORDER

COMES NOW, Steven Pinder, "Claimant" here
in ~~afdr~~, pro-se, and through this his response
to the Claims Commission's July 19, 2022 order
states, as follows:

Claimant asserts that in none of his pleadings to
this commission has he put forward the word or
words "Constitutional violation" or "due process".

This Claims Commission has jurisdiction over
this matter so determine whether or not

(1)

the Arkansas Department of Corrections and its staff are adhering to the states directives, policies, procedures and mandates for operations of the prison.

If agency staff are not in compliance with or intentionally disregarding state directives, policies, procedure and mandates or failing to comply with such directives, policies, procedures and mandates then this State Claims Commission, after it being brought to its attention has a duty and responsibility to hold the agency accountable.

Claimant has clearly presented sufficient evidence to demonstrate that the Agency is NOT complying with the states directives, policies, procedures and mandates. Claimant has been injured in both cases and suffered damages. The Arkansas Division of Corrections and its Staff are in violation of State Policy, directive, "Publications" AD 20-04 as has clearly been demonstrated by Claimant in his pleadings in both of his filings.

This Arkansas State Claims Commission does

have subject matter jurisdiction over claimant's complaints.

The Respondent, Arkansas Division of Correction is clearly liable for violating State directives, policies, procedures and mandates for operation of the state prison, as has been set out by Claimant.

As a prisoner, incarcerated in the Arkansas Department of Correction, Division of Correction, claimant has an interest in the provisions of state directives, policies procedures and mandates, Perry v State, 2020 ARK 32 (Ark. 2020).

Claimant asserts in both pending claims before this commission, (1) the Publication Review Committee had ten (10) days to either accept or reject the two (2) questionable publications presented to them by the Mailroom supervisor. That decision did not come for some one-hundred and fifty-six (156) days, clearly in violation of State directives (Claim No: 220456). Then the Warden had thirty (30) days to either accept or deny the Publication

Review Committee's Decision, this Warden's decision NEVER came. And claimant had a right to appeal the rejection of the two (2) publications to the Central Office Publication Review Committee. The Appeal could not happen because A) no warden rejection or acceptance and B) Southern of the GATE Mail room refused to forward my appeal to the Central Office Publication Review Committee. (Claim No 220691).

My two (2) publications, books, along with the other 5 were denied to me because ADC and its staff refused to adhere to State directive AD 20-04.

The Respondent has forced claimant to send the seven (7) books received on March 10, 2021 home without the books all (7) or the two (2) questionable being fully reviewed by and in accordance with ADC's clearly established policy procedures and mandates.

This Arkansas State Claims Commission, by law, has subject matter jurisdiction to determine whether the State's Arkansas Division of

Correctness adhere to, comply with and follow the explicit mandatory language of state directive, policy, procedure and mandates of AD 20-04 "Publications."

This State Claims Commission must reject the words of the respondent that claimant makes a "constitutional due process claim" and see the intent to steer the commission in the wrong direction. This claim is whether the state agency adhered to state directive, policy procedure and mandates and claimant's substantial submission of evidence demonstrates that the ADC has NOT

WHEREFORE, Steven Pinder request this Arkansas State Claims Commission to exercise its subject matter jurisdiction over claimant's complaints NO: 220 456 and NO 220 691, and grant claimant summary judgment and any other relief this Commission deems appropriate and just.

EXECUTED THIS 2ND
day of August 2022

Respectfully submitted
Steven Pinder
STEVEN PINDER,

123397

P.O. Box 970

Marionna, AR 72360

CERTIFICATE OF SERVICE

I, Steven Pinder do hereby certify that on this 2ND day of August 2022 I have served on the Clerk of this Court and the below listed a copy of my response to the Commissioner's July 19, 2022 order by placing same in the US Mail with sufficient postage affixed to ensure delivery.

Steven Pinder
STEVEN PINDER

From: [Thomas Burns \(DOC\)](#)
To: [ASCC Pleadings](#)
Cc: [Leslie Browning \(DOC\)](#)
Subject: Steven Pinder v ADC 220456 and 220691
Date: Tuesday, August 23, 2022 8:59:24 AM
Attachments: [4220_001.pdf](#)

Jurisdiction Brief

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

STEVEN PINDER (

CLAIMANT

v

**NO. 220456
220691**

**ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION**

RESPONDENT

JURISDICTIONAL BRIEF

Come now the respondent, Arkansas Department of Correction (ADC), by and through their attorney, Thomas Burns, and for their Brief, states:

1. Both of these matters concern books of the Inmates.
2. The Inmate admits that his claim is a Due Process (4th Amendment) claim in that he alleges that the ADC violated his due process property rights.
3. In claim 220691 the inmate states in his grievance that he was denied his appeal process (due process).
4. The inmates filed a motion for summary judgment in claim 220691 stating that the ADC denied him “due process” (4th Amendment claim).
5. The Inmate filed a motion to dismiss in claim 220456 in which he stated he was denied “due process”.
6. The Inmate in the body of his complaint in claim 220456 states that policy violates complainants’ liberty interest rights. (Constitutional claims), he further reiterates this in the grievance attached.

7. It is true that under the Federal constitution, appellate review is a privilege; however, **the tenth amendment of the constitution of this state guarantees a 'right to [sic] appeal in all cases'**¹

8. The 14th Amendment to the Constitution states in part the State shall not enforce any law which will deprive any person of life, liberty, or property, without due process of law.

9. This is exactly what the Inmate is complaining of. In fact, he says it in his pleadings and grievances.

10. The Arkansas State Claims Commission does not have jurisdiction over Constitutional matters. Arkansas Code Annotated 19-10-204.

11. Publications are the sole purview of the ADC and what is allowed in or rejected based on safety and security of the institution.

12. The Claims Commission would not have jurisdiction to tell the ADC what publications should or should not be allowed into the institutions.

13. This is clearly a matter that is only for a Court of competent jurisdiction to hear as it involves Constitutional matters and injunctive matters.

WHEREFORE, The ADC, prays that the matter be dismissed; for their attorney's fees and costs; and for all other just and proper relief to which they may be entitled.

¹ State v Schoel 341 P.2d 481 (Supreme Court of Washington 1959)

Respectfully submitted,



Thomas Burns (02006)
Legal Department
Division of Correction
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 the above pleading has been served this 23rd day of August 2020, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Steven Pinder # [REDACTED]

[REDACTED]



Thomas Burns

IN THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER

CLAIMANT

(ADC #



No: 220 456

v

220 691

ARKANSAS DEPARTMENT OF CORRECTIONS,

DIVISION OF CORRECTIONS

RESPONDENT

CLAIMANT'S RESPONSE

TO RESPONDENT'S JURISDICTIONAL

BRIEF AND MOTION TO DISMISS

COMES NOW, Steven Pinder, claimant here in after and for this his Response to the Jurisdictional Brief of Respondent, states as follows:

1. Both of the claims submitted to this Commission for adjudication regarded the Arkansas Department of Corrections denying claimant books by disregarding policy.

2. Claimant NEVER stated there were a

Constitutional due process claims, but did state the respondents denied claimant several books without adhering to its Publication Policy, AD 20-04 before doing so.

3. In claim # 220691 the Respondent, per policy, intentionally denied claimant the books and did so without allowing claimant the access the appeal. Policy clearly states claimant had the right to appeal the denial of the Books to the Central Office Publication Review Committee before the books could be refused (AD 20-04). This appeal was taken away by ADC. ADC failed to adhere to state rules and regulations before denying claimant the Books in question.

4. Claimant made perfectly clear to this Commission the Arkansas Department of Corrections and its staff knowingly and intentionally refused to adhere to the state rules, regulations and mandates of AD 20-04 before denying claimant the books.

5. Claimant did not file any motion to dismiss claim # 220456.

6. Claimant made clear he had a protected liberty interest in ADC adhering to the state rules, regulations and mandates of AD 20-04.

7. The State Respondent failed to timely Respond to claimant's Summary Judgment motions in claim # 220691 and claim # 220456 and by law this Commission must grant claimant summary judgment. (Fed. Rules of Civil Procedure Rule 56).

8. The Respondent is trying desperately to avoid liability for its failures to adhere to state rules, regulations and mandates.

9. These claims are NOT claims on what books should or should not be allowed into ADC.

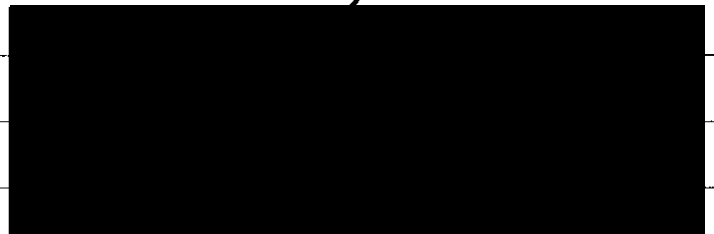
10. These claims are about ADC refusing to adhere to State Rules, Regulations and mandates before taking the books from claimant.

WHEREFORE, Steven Pinder prays this Commission ignore and disregard this fourth Motion to dismiss filed by Respondent and adhere to the mandates of Summary Judgment and grant claimant the relief he seeks in both claim # 220691 and claim # 220456.

EXECUTED THIS 28th
day of August 2022.

Respectfully submitted
Steven Pinder

STEVEN PINDER, Claimant



CERTIFICATE OF SERVICE

I, Steven Pinder do hereby certify that on this 28th day of August 2022, I have served on

the below listed a true copy of my Response
to the Respondents Jurisdictional Brief and Motion
to dismiss by placing same in the U.S. Mail with
sufficient postage affixed to ensure delivery.

Steven Pinder

STEVEN PINDER

Mr. Thomas Burns, Attorney
Legal Department, ADC
6814 Princeton Pike
Pine Bluff, AR 71602

Clerk

Arkansas State Claims Commission
101 E. Capitol Ave., STE 410
Little Rock, AR 72201-3823

STATE OF ARKANSAS)
COUNTY OF LEE) No Notary Available

SUBSCRIBED AND SWORN TO BEFORE ME
a Notary Public this _____ day of _____
2022

My Commission Expires:

Notary

(5)

From: [Kathryn Irby](#)
To: [Thomas Burns \(DOC\)](#)
Cc: [Leslie Browning \(DOC\)](#)
Subject: HEARING SCHEDULED: Pinder v. ADC, Claim Nos. 220456 and 220691
Date: Tuesday, January 10, 2023 8:12:00 PM
Attachments: [Pinder v. ADC -- 220456 and 220691 -- hearing ltr \(motions\).pdf](#)

Thomas, please see attached.

Thanks,
Kathryn

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

January 10, 2023

Mr. Steven Pinder (ADC [REDACTED])
[REDACTED]

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

(via email)

RE: *Steven Pinder v. Arkansas Division of Correction*
Claim No. 220456
Claim No. 220691

Dear Mr. Pinder and Mr. Burns,

The Claims Commission has scheduled a hearing on the parties' pending motions for **Friday, March 10, 2023**, beginning at 9:00 a.m. All parties will attend via Zoom. The Zoom invitation is enclosed. The Claims Commission requests that Mr. Burns transmit the Zoom invitation and hearing details to Mr. Pinder's unit.

As this is a motions hearing, no prehearing materials are requested.

Sincerely,

Kathryn Irby

ES: kmirby

The Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings

Time: Mar 10, 2023 09:00 AM Central Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/84070339416?pwd=MTJ3Q1ZuYkg4WURWdFA0VDdRZUhlUT09>

Meeting ID: 840 7033 9416

Passcode: 9A1twG

One tap mobile

+13017158592,,84070339416#,,,*492071# US (Washington DC)

+13052241968,,84070339416#,,,*492071# US

Dial by your location

+1 301 715 8592 US (Washington DC)

+1 305 224 1968 US

+1 309 205 3325 US

+1 312 626 6799 US (Chicago)

+1 646 931 3860 US

+1 929 436 2866 US (New York)

+1 360 209 5623 US

+1 386 347 5053 US

+1 507 473 4847 US

+1 564 217 2000 US

+1 669 444 9171 US

+1 669 900 6833 US (San Jose)

+1 689 278 1000 US

+1 719 359 4580 US

+1 253 205 0468 US

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 840 7033 9416

Passcode: 492071

Find your local number: <https://us06web.zoom.us/j/84070339416>

From: [Kathryn Irby](#)
To: [Thomas Burns \(DOC\)](#); [Leslie Browning \(DOC\)](#)
Cc: [Mika Tucker](#)
Subject: HEARING RESCHEDULED: Pinder v. ADC, Claim Nos. 220456 and 220691
Date: Monday, February 27, 2023 11:29:00 AM
Attachments: [Pinder v. ADC -- 220456 and 220691 -- resched hearing ltr \(motions\).pdf](#)

Thomas, please see attached.

Thanks,
Kathryn

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 27, 2023

Mr. Steven Pinder (ADC [REDACTED])
[REDACTED]
[REDACTED]

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

(via email)

RE: *Steven Pinder v. Arkansas Division of Correction*
Claim No. 220456
Claim No. 220691

Dear Mr. Pinder and Mr. Burns,

The Claims Commission has rescheduled the hearing on the parties' pending motions for **Thursday, May 18, 2023**, beginning at 9:00 a.m. All parties will attend via Zoom. The new Zoom invitation is enclosed. The Claims Commission requests that Mr. Burns transmit the new Zoom invitation and hearing details to Mr. Pinder's unit.

As this is a motions hearing, no prehearing materials are requested.

Sincerely,

Kathryn Irby

ES: kmirby

The Claims Commission invites you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings

Time: May 18, 2023 09:00 AM Central Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/85883857910?pwd=M2R4YnRMN2xoMFC3NG5LK0VEV3djQT09>

Meeting ID: 858 8385 7910

Passcode: LBAQM3

One tap mobile

+16469313860,,85883857910#,,,,*454554# US

+19294362866,,85883857910#,,,,*454554# US (New York)

Dial by your location

+1 646 931 3860 US

+1 929 436 2866 US (New York)

+1 301 715 8592 US (Washington DC)

+1 305 224 1968 US

+1 309 205 3325 US

+1 312 626 6799 US (Chicago)

+1 669 444 9171 US

+1 669 900 6833 US (San Jose)

+1 689 278 1000 US

+1 719 359 4580 US

+1 253 205 0468 US

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 360 209 5623 US

+1 386 347 5053 US

+1 507 473 4847 US

+1 564 217 2000 US

Meeting ID: 858 8385 7910

Passcode: 454554

Find your local number: <https://us06web.zoom.us/j/85883857910>

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

May 9, 2023

Mr. Steven Pinder (ADC) [REDACTED]

RE: ***Steven Pinder v. Arkansas Division of Correction***
Claim Nos. 220456 and 220691

Dear Mr. Pinder,

Enclosed please find the file-marked copy of your response to the Order dated July 19, 2022. If you have any questions, please do not hesitate to contact my office.

Sincerely,

Mika Tucker

ES: msscott

August 2, 2022

Steven Pinder

Arkansas
State Claims Commission

AUG 5 2022

RECEIVED

Clerk

Arkansas State Claims Commission
101 E. Capitol Ave., Suite 410
Little Rock, AR 72201-2823

Re: Pinder v Department of Corrections
claim NO 220 456
claim NO 220 691

Clerk.

Please find enclosed my response to the order of the Commission of July 19, 2022. Be apprised that I did not receive this order until August 2, 2022 at 0710 Am. It appears that the letter was mailed from Little Rock on 7/20/22 and received at this unit on August 1, 2022. In all probability the Mailroom supervisor Southern has held this mail in the unit mail room for numerous days before delivering it to me as she often does. Remember she is a key part of both of these small claims complaints.

(1)

I have enclosed the original envelope to demonstrate the slow and intentional delay in delivering this ORDER to me.

Also, we are not being provided legal copies by AOC. They are refusing to make legal copies of ANY kind. I have hand written a copy for respondent but could in no way copy this pleading 6 more times.

PLEASE I beg, you to make the necessary copies for the commission and my self this time since time is of the essence for filing this. I AM BEGGING. This mess here is out of hand. It has to stop and will only stop when wrong is exposed. AOC IS WRONG doing wrong and will continue.

Thank you.

Please return a copy of my pleading and envelope.

Respectfully
Steven Pifer

cc:file

Enclosure (2)

(2)

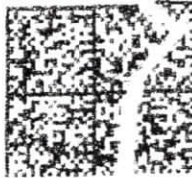


ARKANSAS STATE CLAIMS COMMISSION
101 E. CAPITOL AVE., SUITE 410
LITTLE ROCK, ARKANSAS 72201-3823



RECEIVED
MAIL ROOM

Mr. Steven Pinder (ADD)



of adjacent
FIRST-CLASS MAIL
\$000.81
07/29/2022 ZIP 72201
043M01225072

US POSTAGE

636

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER
(AOC # [REDACTED])

CLAIMANT

VS

NO: 220456
220691

ARKANSAS DIVISION OF
CORRECTIONS

RESPONDENT

CLAIMANT'S RESPONSE TO
THE JULY 19, 2022
ORDER

COMES NOW, Steven Pinder, "Claimant" here
in after, pro-se, and through this his response
to the Claims Commission July 19, 2022 order
states, as follows:

Claimant asserts that in none of his pleadings to
this commission has he put forward the word or
words Constitutional violation or "due process".

This claims Commission has jurisdiction over
this matter to determine whether or not

(1)

the Arkansas Department of Corrections and its staff are adhering to the States directives, policies, procedures and mandates for operations of the prison.

If agency staff are not in compliance with or intentionally disregarding state directives, policies, procedures and mandates or failing to comply with such directives, policies, procedures and mandates then this State Claims Commission, after it being brought to its attention has a duty and responsibility to hold the agency accountable.

Claimant has clearly presented sufficient evidence to demonstrate that the Agency is NOT complying with the States directives, policies, procedures and mandates. Claimant has been injured in both cases and suffered damages. The Arkansas Division of Corrections and its Staff are in violation of State Policy, directive, "Publications" AD 20-04 as has clearly been demonstrated by Claimant in his pleadings in both of his filings.

This Arkansas State Claims Commission does

have subject matter jurisdiction over claimant's complaints.

The Respondent, Arkansas Division of Correction is clearly liable for violating State directives, policies, procedures and mandates for operation of the state prisons as has been set out by Claimant.

As a prisoner, incarcerated in the Arkansas Department of Correction, Division of correction, claimant has an interest in the provisions of state directives, policies procedures and mandates, Perry v State, 2020 ARK 32 (Ark. 2020).

Claimant asserts in both pending claims before this commission, 1) the Publication Review Committee had ten (10) days to either accept or reject the two (2) questionable publications presented to them by the Mailroom supervisor. That decision did not come for some one-hundred and fifty-six (156) days, clearly in violation of State directives (claim No: 220456). Then the Warden had thirty (30) days to either accept or deny the Publication

Review Committee's Decision, this Warden's decision NEVER came. And claimant had a right to appeal the rejection of the two (2) publications to the Central Office Publication Review Committee. The Appeal could not happen because A) no warden rejection or acceptance and B) Southern of the GATE Mail room refused to forward my appeal to the Central Office Publication Review Committee. (Claim No 220691).

My two (2) publications, books, along with the other 5 were denied to me because ADC and its staff refused to adhere to State directive AD 20-04.

The Respondent has forced claimant to send the seven (7) books received on March 10, 2021 home without the books all (7) or the two (2) questionable being fully reviewed by and in accordance with ADC's clearly established policy procedures and mandates.

This Arkansas State Claims Commission, by law, has subject matter jurisdiction to determine whether the State's Arkansas Division of

Corrections adhere to, comply with and follow the explicit mandatory language of state directive, policy, procedure and mandates of AD 20-04 "Publications."

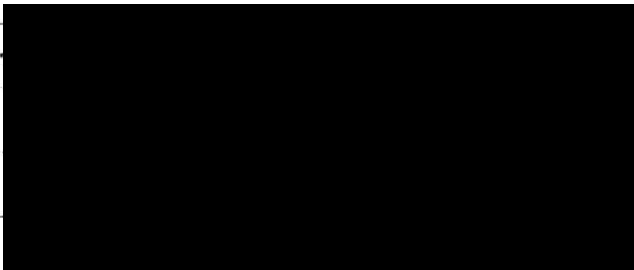
This State Claims Commission must reject the words of the respondent that claimant makes a "constitutional due process claim" and see the intent to steer the commission in the wrong direction. This claim is whether the state agency adhered to state directive, policy procedure and mandates and claimant's substantial submission of evidence demonstrates that the ADC has NOT

WHEREFORE, Steven Pinder request this Arkansas State Claims Commission to exercise its subject matter jurisdiction over claimants complaints No: 220 456 and No 220 691, and grant claimant summary judgment and any other relief this Commission deems appropriate and just.

EXECUTED THIS 2ND
day of August 2022

Respectfully submitted
Steven Pinder
STEVEN PINDER,

(5)



CERTIFICATE OF SERVICE

I, Steven Pinder do hereby certify that on this 2ND day of August 2022 I have served on the Clerk of this Court and the below listed a copy of my response to the Commissioner's July 19, 2022 order by placing same in the US Mail with sufficient postage affixed to ensure delivery.

Steven Pinder
STEVEN PINDER

From: [Misty Scott](#) on behalf of [ASCC Pleadings](#)
To: [Thomas Burns \(DOC\)](#)
Cc: [Leslie Browning \(DOC\)](#); [Bilenda Harris-Ritter](#); [ASCC Pleadings](#); [Mika Tucker](#)
Subject: ORDER: Steven Pinder v. ADC, Claim Nos. 220456 and 220691
Date: Monday, June 19, 2023 12:42:00 PM
Attachments: [Steven Pinder v. ADC3.pdf](#)
[Steven Pinder-order4.pdf](#)
[Steven Pinder-order5.pdf](#)

Thomas:

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

June 19, 2023

Mr. Steven Pinder (ADC [REDACTED])
[REDACTED]
[REDACTED]

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

(via email)

Re: ***Steven Pinder v. Arkansas Division of Correction***
Claim Nos. 220456 and 220691

Dear Mr. Pinder and Mr. Burns:

Enclosed please find the Orders entered on June 16, 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

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER (ADC [REDACTED])

CLAIMANT

V.

CLAIM NO. 220691

**ARKANSAS DIVISION OF
CORRECTION**

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Claims Commission”) is a motion filed by the Arkansas Division of Correction (the “Respondent”) to dismiss the claim of Steven Pinder (the “Claimant”). At the motion hearing on May 18, 2023, Claimant proceeded *pro se*, and Thomas Burns appeared on behalf of Respondent. Based upon a review of the pleadings, as well as the argument of the parties and the law of the State of Arkansas, the Claims Commission hereby finds as follows:

1. Claimant filed his claim on November 18, 2021, seeking \$15,000.00 in damages. Claimant alleges that, after the publications review committee denied two books, Respondent’s mailroom supervisor knowingly and intentionally refused to forward Claimant’s appeal of the denial. Claimant alleges that Respondent denied him access to the publication appeal process and precluded him from seeking redress in court.

2. Respondent filed a motion to dismiss pursuant to Ark. R. Civ. Proc. 12(b)(6), arguing, *inter alia*, that Claimant has failed to state facts upon which relief can be granted, that Respondent did not violate policy and that Claimant has not been damaged.

3. Claimant responded to the motion to dismiss, arguing that dismissal was not proper.

4. The Claims Commission entered an order on July 20, 2022, directing the parties to file briefs addressing whether the Claims Commission has jurisdiction over this claim.

5. The parties filed briefs in response to the July 20, 2022, order.

6. At the hearing¹, Respondent argued that Claimant says his liberty rights were violated and, for that reason alone, his claim should be dismissed because this is a constitutional claim. Respondent also argued that Claimant was not the real party in interest and that he did not buy the books. Respondent also argued that Claimant violated the book policy. Respondent argued that books received in a group violate the policy on publications. Respondent argued that once a book violates policy, it is either to be sent back, sent home or sent with one of an inmate's visitors.

7. Claimant argued that he started the appeal process once Respondent denied the books. He stated that he has the right to appeal, and the mailroom officer is supposed to forward the appeal and that was not done. Claimant argued that Respondent did not respond until 156 days after the rejection and the next day he appealed. Claimant also argued that his claim was not a constitutional claim. Upon a question for a commissioner, Claimant stated that his sister, who is his fiduciary, purchased the books with his stimulus check money. Claimant stated that he paid for the books. Upon a question from a commissioner, Claimant stated that the books cost about \$65.00. Claimant stated that the books were large because they were large-print books for the visually impaired. He stated that these large print books always exceed the requirements of the policy, which means there is a policy issue. He argued that he was not allowed to appeal this on the grounds that it is a book for the visually impaired. Claimant argued that once the books are denied, he had a right to appeal to the central publication review committee. Claimant stated that the

¹ The Claims Commission also had a motion hearing on Claimant's related claim, Claim No. 220456, on May 18, 2023. Claim No. 220456 relates to Claimant's allegation that Respondent's publication review committee held his books for 156 days before accepting or rejecting them when policy required the committee to make a decision in 30 days. During the hearings, Claimant confirmed that Claim Nos. 220456 and 220691 relate to the same set of books, and Respondent expressly stated during the hearing that its arguments in support of its motions to dismiss in Claim Nos. 220456 and 220691 were the same. The Claims Commission notes that, due to the shared facts of the two claims, some of the arguments made by the parties during the motion hearings of Claim Nos. 220456 and 220691 could be construed to be relevant to both claims. Therefore, the Claims Commission considered the arguments made by both parties during the motion hearings for Claim Nos. 220456 and 220691 when analyzing the motion to dismiss for Claim No. 220691.

mailroom officer is to forward that appeal and the mailroom did not do that. Claimant argued that Respondent denied him his appeal at the unit level. Claimant stated that the day after his books were rejected, he responded with his appeal and sent it to the mailroom. Claimant argued that Respondent failed to forward this appeal per policy. Claimant stated that Respondent immediately sent him a form to send the books home and he paid the money and sent the books home.

8. Respondent argued that the books were denied for two reasons: because they were oversized and included nudity. Respondent argued that the books were held so long because they were supposed to get sent home, but Claimant dragged his feet.

9. The Claims Commission is not persuaded by the arguments set forth in the parties' briefs filed in response to the July 20, 2022, order.

10. 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)).

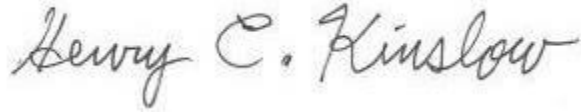
11. The Claims Commission agrees with Respondent that dismissal is proper under *Hodges*. Even liberally construing the complaint, Claimant has not stated facts to support a negligence claim. *See Chambers v. Stern*, 347 Ark. 395, 406, 64 S.W.3d 737, 744 (2002) (The elements of a negligence claim are duty, breach of duty, and damages proximately caused by the

breach). The Claims Commission finds that Claimant's claim states no facts regarding how he has been damaged by the alleged actions of Respondent.

12. Respondent's motion to dismiss is GRANTED pursuant to Ark. R. Civ. Proc. 12(b)(6), and Claimant's claim is DISMISSED without prejudice.

13. Any other pending motions are denied as moot.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair



ARKANSAS STATE CLAIMS COMMISSION
Sylvester Smith

DATE: June 16, 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).

JUN 28 2023

RECEIVED

IN THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER

CLAIMANT

(# [REDACTED])

v

NO: 220691

ARKANSAS DEPARTMENT OF CORRECTIONS,
DIVISION of Corrections

RESPONDENT

CLAIMANT'S MOTION FOR
RECONSIDERATION

COMES NOW, Steven Pinder (the "Claimant") pro-se, and through this his motion for reconsideration, states as follows:

1. This Arkansas State Claims Commission (the "Commission") did hold a hearing on May 18, 2023 to determine the Motion for Summary Judgment, Brief in Support of Motion for Summary Judgment and Undisputed Facts filed by claimant in this claims action on June 4, 2022.

2. Along with claimant's Motion for Summary Judgment, Brief in Support and Undisputed Facts, the Commission was to hear the motion to Dismiss of respondent.

(1)

3. Claimant's Motion for Summary Judgment, Brief in Support of Summary Judgment and Undisputed facts was answered by Respondent on June 30 2022 with "ADC denies each alleged statement of undisputed facts the inmate has attached."

4. Pursuant to Arkansas Rules of Civil Procedure (A.R.C.V.P.) Rule 56, if a party moves for summary judgment and submits undisputed facts pursuant to local Rule 56.1 and the non-moving party fails to dispute each of the moving parties undisputed facts, then the non-moving party is considered ~~to~~ to admitting the undisputed facts. There are no disputed facts and the moving party is entitled to judgment. Ark. R. C.V. P. Rule 56 (2022).

5. The Commission made up of Commissioners Kinslow, Smith and Morris refused to grant claimant's Motion for Summary Judgment whereby denying claimant due process of law.

6. The Commission's decision to deny claimant's summary judgment motion was errant and

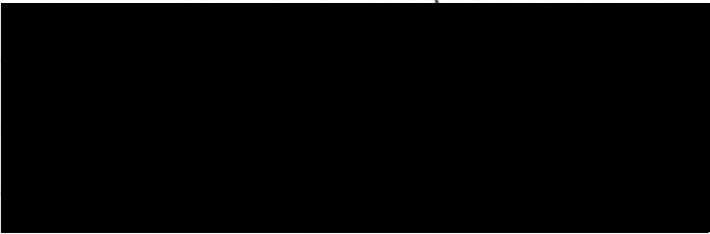
contrary to Arkansas' laws, treaties and mandates.

WHEREFORE, Steven Pinder requests this Commission to reconsider its errant decision to deny claimant summary Judgment, grant claimant's summary judgment and the \$15,000.⁰⁰ (fifteen thousand ~~thollars~~) sought in damages which is just and proper.

EXECUTED THIS 23RD
day of June 2023

Respectfully submitted
Steven Pinder

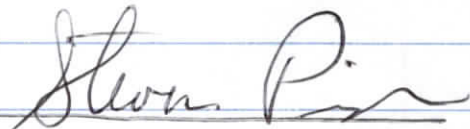
STEVEN PINDER, Claimant



CERTIFICATE OF SERVICE

I, Steven Pinder do hereby swear that on this 23RD day of June 2023 I have served a true copy of my Motion for Reconsideration on Respondent through counsel Thomas Burns, attorney at 6814 Princeton Pike, Pine Bluff, Ar 71602 by placing same in the U.S. Mail

with sufficient Postage to ensure
delivery


STEVEN PINDER

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

July 6, 2023

Mr. Steven Pinder (ADC [REDACTED])
[REDACTED]
[REDACTED]

RE: ***Steven Pinder v. Arkansas Division of Correction***
Claim Nos. 220456 and 220691

Dear Mr. Pinder,

Enclosed please find the file-marked copies of your motion for reconsideration. If you have any questions, please do not hesitate to contact my office.

Sincerely,

Mika Tucker

ES: msscott

June 23, 2023

Steven Pinder

Arkansas
State Claims Commission

JUN 28 2023

RECEIVED

Ms. Irby, Clerk
ARK. State Claims Commission
101 E. Capitol Ave., Suite 410
Little Rock, AR 72201-3823

RE: Case No 220456
Case No 220691
PINDER v ARK. Dept. of Corrections

1. Petition for Reconsideration 220456
2. Petition for Reconsideration 220691

Ms. Irby
Please find enclosed for filing my petition
for Reconsideration of the incredulous ruling
of this Commission. After filing the
Petitions (1 for claim 220456) and (1 for
220691) please return to me file marked
copies.

Cordially

Steven Pinder

cc: file

enclosures (2)

IN THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER

CLAIMANT

(# [REDACTED])

v

NO: 220456

ARKANSAS DEPARTMENT OF CORRECTIONS,
DIVISION of Corrections

RESPONDENT

CLAIMANT'S MOTION FOR
RECONSIDERATION

COMES NOW, Steven Pinder (the "Claimant") pro se and through this his Motion for reconsideration, states as follows:

1. The Arkansas State Claims Commission (the "Commission") did hold a hearing on May 18, 2023 to determine the Motion for Summary Judgment, Brief in Support of Motion for Summary Judgment and Undisputed Facts filed by claimant in this claims action on June 11, 2022.
2. Along with claimants Motion for Summary Judgment, Brief in Support and Undisputed Facts, the Commission was to hear the Motion to Dismiss of Respondent.

3. Claimant's Motion For Summary Judgment, Brief in Support of Summary Judgment and Undisputed facts went unanswered by Respondent throughout the proceedings before the claim Commission.

4. Pursuant to Arkansas Rules of Civil Procedure (A.R.Civ.P.) Rule 56, if a party moves for summary judgment and submits undisputed facts pursuant to local Rule 56.1 and the non-moving party fails to dispute each of the moving parties undisputed facts, then the non-moving party is considered as to admitting the undisputed facts. There are no disputed facts and the moving party is entitled to judgment. ARK. R. Civ. P. Rule 56, (2023).

5. This Commission made up of Commissioners Kinslow, Smith and Morris refused to grant claimant's motion for Summary Judgment, whereby denying claimant due process of law.

6. The commission's decision to deny claimant's Summary Judgment motion was errant and contrary to Arkansas' laws, treaties and

7. Furthermore, the facts of this claim are clear, the Unit Publication Review Committee held claimant's books for one hundred and fifty six (156) days, when in fact policy allows for only ten (10) days.

8. The Respondent violated ADC's Publication policy by holding claimant's books in excess of the ten (10) days allowed.

9. The Respondent violated ADC's Publication Policy by back dating the Unit Publication Review Committee Results to cover up the holding of claimant's books in excess of the ten (10) days allowed.

10. The Respondent denied claimant the Warden's Review mandated by ADC's Publication Policy of the Unit Publication Review Results.

11. The Respondent clearly violated ADC's Publication Policy prior to ordering claimant to send his books (property) home or denying claimant admission of his books

mandates.

WHEREFORE, Steven Pinder requests the Commission to reconsider its decision to deny claimant summary Judgment, reverse its errant decision, grant claimant's Motion for Summary judgment and the \$9600.⁰⁰ (nine thousand six hundred dollars) seeks in damages, which is just and proper.

EXECUTED THIS 23RD
day of June 2023.

Respectfully submitted
Steven Pinder
STEVEN PINDER, Claimant

CERTIFICATE OF SERVICE

I, Steven Pinder do hereby swear that on this 23RD day of June 2023 I have served a true copy of my Motion for Reconsideration on Respondent through counsel Thomas Burns, Attorney at 6814 Princeton Pike, Pine Bluff, AR 71602 by placing same in the U.S. Mail with

Sufficient postage affixed to ensure delivery.

Steven Pinder

STEVEN PINDER

JUN 28 2023

RECEIVED

IN THE ARKANSAS STATE CLAIMS COMMISSION

STEVEN PINDER

CLAIMANT

(# [REDACTED])

v

NO: 220691

ARKANSAS DEPARTMENT OF CORRECTIONS,
DIVISION of Corrections

RESPONDENT

CLAIMANT'S MOTION FOR
RECONSIDERATION

COMES NOW, Steven Pinder (the "Claimant") pro-se, and through this his motion for reconsideration, states as follows:

1. This Arkansas State Claims Commission (the "Commission") did hold a hearing on May 18, 2023 to determine the Motion for Summary Judgment, Brief in Support of Motion for Summary Judgment and Undisputed Facts filed by claimant in this claims action on June 4, 2022.

2. Along with claimant's Motion for Summary Judgment, Brief in Support and Undisputed Facts, the Commission was to hear the motion to Dismiss of respondent.

(1)

3. Claimant's Motion for Summary Judgment, Brief in Support of Summary Judgment and Undisputed facts was answered by Respondent on June 30 2022 with "ADC denies each alleged statement of undisputed facts the inmate has attached."

4. Pursuant to Arkansas Rules of Civil Procedure (A.R. Civ.P.) Rule 56, if a party moves for summary judgment and submits undisputed facts pursuant to local Rule 56.1 and the non-moving party fails to dispute each of the moving parties undisputed facts, then the non-moving party is considered to be admitting the undisputed facts. There are no disputed facts and the moving party is entitled to judgment. Ark. R. Civ. P. Rule 56 (2022).

5. The Commission made up of Commissioners Kinslow, Smith and Morris refused to grant claimant's Motion for Summary Judgment whereby denying claimant due process of law.

6. The Commission's decision to deny claimant's summary judgment motion was errant and

contrary to Arkansas' laws, treaties and mandates.

WHEREFORE, Steven Pinder requests this Commission to reconsider its errant decision to deny claimant summary Judgment, grant claimant's summary Judgment and the \$15,000.⁰⁰ (fifteen thousand dollars) sought in damages which is just and proper.

EXECUTED THIS 23RD
day of June 2023

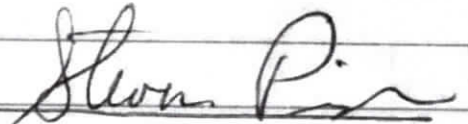
Respectfully submitted
Steven Pinder
STEVEN PINDER, Claimant

Box

CERTIFICATE OF SERVICE

I, Steven Pinder do hereby swear that on this 23RD day of June 2023 I have served a true copy of my Motion for Reconsideration on Respondent through counsel thomas burns, attorney at 6814 Princeton Pike, Pine Bluff, Ar 71602 by placing same in the U.S. Mail

with sufficient Postage to ensure
delivery


STEVEN PINDER

From: [Misty Scott](#) on behalf of [ASCC Pleadings](#)
To: [Thomas Burns \(DOC\)](#)
Cc: [Mika Tucker](#); [ASCC Pleadings](#)
Subject: ORDER: Steven Pinder v. ADC, Claim Nos. 220456 and 220691
Date: Wednesday, November 8, 2023 12:45:13 PM
Attachments: [Steven Pinder v. ADC3 .pdf](#)
[Steven Pinder-order456.pdf](#)
[Steven Pinder-Order691.pdf](#)

Thomas:

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

November 8, 2023

Mr. Steven Pinder (ADC [REDACTED])
[REDACTED]
[REDACTED]

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

(via email)

Re: ***Steven Pinder v. Arkansas Division of Correction***
Claim Nos. 220456 and 220691

Dear Mr. Pinder and Mr. Burns:

Enclosed please find the Orders 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

STEVEN PINDER (ADC [REDACTED])

CLAIMANT

V.

CLAIM NO. 220691

**ARKANSAS DIVISION OF
CORRECTION**

RESPONDENT

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

Now before the Arkansas State Claims Commission (the "Commission") is a motion filed by Steven Pinder (the "Claimant") for reconsideration of the Commission's June 16, 2023, order dismissing Claimant's claim against the Arkansas Division of Correction (the "Respondent"). Based upon a review of the motion, the arguments made therein, and the law of Arkansas, the Commission hereby finds as follows:

1. Claimant filed his claim on November 18, 2021, seeking \$15,000.00 in damages. Claimant alleges that, after the publications review committee denied two books, Respondent's mailroom supervisor knowingly and intentionally refused to forward Claimant's appeal of the denial.
2. Respondent filed a motion to dismiss pursuant to Ark. R. Civ. P. 12(b)(6), arguing, *inter alia*, that Claimant has failed to state facts upon which relief can be granted and that Claimant has not been damaged.
3. Claimant responded to the motion to dismiss, arguing that dismissal was not proper.
4. Respondent filed a motion for protective order, and Claimant filed a motion for summary judgment.

5. The Commission entered an order on July 20, 2022, directing the parties to file briefs addressing whether the Commission has jurisdiction over this claim. The parties filed briefs in response to the July 20, 2022, order.

6. The Commission held a motion hearing on May 18, 2023. The Commission granted Respondent's motion to dismiss and dismissed Claimant's claim in its order dated June 16, 2023. The Commission's June 16, 2023, order denied any other pending motions.

7. Claimant then filed the instant motion for reconsideration, arguing, *inter alia*, that the Commission's decision to deny Claimant's motion for summary judgment was errant.

8. Respondent did not respond to the motion for reconsideration.

9. In analyzing a motion for reconsideration, Rule 7.1 of the 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"

10. The Commission finds that the motion does not set forth new or additional evidence not previously available.

11. As such, Claimant's motion for reconsideration is DENIED, and the June 16, 2023, Commission order remains in effect.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Courtney Baird



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair

DATE: November 8, 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: [Mika Tucker](#)
To: [Thomas Burns \(DOC\)](#); [ASCC Pleadings](#)
Subject: RE: ORDER: Steven Pinder v. ADC, Claim Nos. 220456 and 220691
Date: Thursday, November 9, 2023 9:11:00 AM
Attachments: [220691 CL Motion for Reconsideration.pdf](#)
[220456 CL Motion for Reconsideration.pdf](#)

Please see attached.

Thanks, Mika

Mika Tucker
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2818

From: Thomas Burns (DOC) <Thomas.Burns@arkansas.gov>
Sent: Wednesday, November 8, 2023 12:54 PM
To: [ASCC Pleadings <ASCCPleadings@arkansas.gov>](mailto:ASCCPleadings@arkansas.gov)
Cc: [Mika Tucker <Mika.Tucker@arkansas.gov>](mailto:Mika.Tucker@arkansas.gov)
Subject: RE: ORDER: Steven Pinder v. ADC, Claim Nos. 220456 and 220691

We do not have copies of either motions for reconsideration in these claims. May we have copies please?

-TB

Legal Services Unit
Arkansas Department of Corrections
Division of Correction
870 267-6845-telephone

From: [Misty Scott <Misty.Scott@arkansas.gov>](mailto:Misty.Scott@arkansas.gov) **On Behalf Of** [ASCC Pleadings](mailto:ASCCPleadings@arkansas.gov)
Sent: Wednesday, November 8, 2023 12:45 PM
To: [Thomas Burns \(DOC\) <Thomas.Burns@arkansas.gov>](mailto:Thomas.Burns@arkansas.gov)
Cc: [Mika Tucker <Mika.Tucker@arkansas.gov>](mailto:Mika.Tucker@arkansas.gov); [ASCC Pleadings <ASCCPleadings@arkansas.gov>](mailto:ASCCPleadings@arkansas.gov)
Subject: ORDER: Steven Pinder v. ADC, Claim Nos. 220456 and 220691

Thomas:

Please see attached. Contact Mika Tucker with any questions.

Thank you,

Misty

Misty Scott
Arkansas State Claims Commission

Nov 13, 2023

Steven Pinder



Arkansas
State Claims Commission

NOV 17 2023

RECEIVED

Ark. State Claims Commission
101 E. Capitol Ave., Suite 410
Little Rock, Ark 72201-3823

RE: Notice of Appeal
Pinner v Ark. Dept. of Corrections,
Claim NO: 220691

Clerk:

Please find enclosed a copy of my notice of Appeal
in the above referenced claim. After filing
Please return a file marked copy to me.

Thank you
Steven Pinder

cc: fdr

Enclosure (1)

NOV 17 2023

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

RECEIVED

STEVEN PINDER

CLAIMANT / APPELLANT

~

NO: 220691

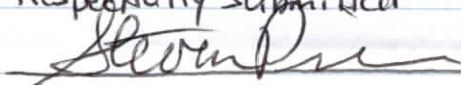
ARKANSAS Department of Corrections

RESPONDENT / APPELLEE

NOTICE OF APPEAL

NOTICE is hereby given that on this 13th day of November 2023, Steven Pinder appeals to the Arkansas General Assembly pursuant to A.C.A. § 19-10-211 et. seq. the Arkansas State Claims Commission's denial of my Motion for reconsideration issued November 8, 2023 and order to dismiss this claim issued June 16, 2023.

EXECUTED THIS 13th
Day of November 2023

Respectfully submitted

STEVEN PINDER, Claimant / Appellant

