

Please print in ink or type

AUG 23 2023 G.10

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

RECEIVED

- Mr.
- Mrs.
- Ms.
- Miss

Joshua Stockton (ADC [redacted]), Claimant

vs.

State of Arkansas, Respondent

Do Not Write in These Spaces		
Claim No.	_____	
Date Filed	(Month) _____	(Day) _____ (Year) _____
Amount of Claim \$	_____	
Fund	_____	

COMPLAINT

Joshua Stockton (ADC [redacted]), the above named Claimant, of [redacted] (City)
 (Name) (Street or R.F.D. & No.)
 [redacted] County of [redacted] represented by Prose Claimant (self)
 (State) (Zip Code) (Daytime Phone No.) (Legal Counsel, if any, for Claim)

of _____, says:
 (Street and No.) (City) (State) (Zip Code) (Phone No.) (Fax No.)

State agency involved: ARKANSAS Division of Corrections Amount sought: \$ 40,000.00

Month, day, year and place of incident or service: 03/07/23 through 03/23/23 AdC [redacted] unit

Explanation: STATE Employees Failed to insure claimant Joshua M. Stockton, inmate of the Arkansas Division of Corrections, [redacted] unit received medical care after the notice to state employees of inmate [redacted] on various reported instances. Inmate claimant was owed the duty by these named states employees to see his medical needs were seen to once brought to their attentions. These named defendants failed to uphold their duty owed to the claimant once reported. And, the defendants' omissions to provide the claimant with the medical treatment examinations once reported [redacted] were made known to the states employees were the proximate cause of his [redacted] of negligent conducts by the states officials in not seeing the medical needs are met.

SEE ATTACHED PAGES

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? 05/10/2023; to whom? Marshal Reed Central office, AdC
 (Yes or No) (Month) (Day) (Year) (Department)
Appellate Board; and that the following action was taken thereon: appeal denied by the office

and that \$ 0 was paid thereon: (2) Has any third person or corporation an interest in this claim? NO; if so, state name and address
 (Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)

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.
Joshua Stockton # [redacted] (Print Claimant/Representative Name)
 [Signature] (Signature of Claimant/Representative)

SWORN TO and subscribed before me at Pine bluff Arkansas
 (City) (State)
 (SEAL) on this 20th day of August, 2023
 (Date) (Month) (Year)

(Notary Public)

SF1-R7/99

DARON D BROWN My Commission Expires: 3/27/2029
 NOTARY PUBLIC-STATE OF ARKANSAS
 JEFFERSON COUNTY
 My Commission Expires 03-27-2029
 Commission # 12709171

Expires: 3/27/2029
 (Month) (Day) (Year)

I.) Duty: Under State Code of Arkansas §12-27-103 Establishment - Powers and duties (B)(1), The Department of Corrections (Arkansas Division of Corrections) shall have exclusive jurisdiction over the care, charge, custody, control, management, administration, and supervision of all persons and offenders committed to, or in the custody of, the State Penitentiary; (b) The Department of Corrections shall employ such officers, employees, and agents and shall secure such offices and quarters as are deemed necessary to discharge the functions of the Department of Corrections. (7) The Department of Corrections shall receive all offenders committed to the Department of Corrections for conviction of felonies or other offenses the punishment of which is commitment to the penitentiary under the laws of this state, and shall be responsible for the care, custody, and correction of such persons pursuant to the policies established by the Board of Corrections.

Authority - The Board of Correction and Community Punishment is vested with the Authority to promulgate this administrative rule by ARK. Code Ann. - §§ 12-27-105, 16-93-1203, and 16-93-1205 (Michie Supp. 1995).

II.) Applicability - This policy applies to Employees and OFFENDERS of the - Department of Correction (D.O.C) and the Department of Community Punishment (DCP) - STAFF, inmates and residents of community punishment centers.

III.) Policy - It is the Policy of the Board of Corrections And Community - Punishment that offenders are provided an opportunity to submit grievances regarding policy, conditions, incidents, or Actions related to incarceration / - Confinement which directly impact them.

IV. Guidelines - A.) Administrative Directives establishing procedures will be set forth by each Agency. B.) Procedures shall, at minimum provide for the following: Timely, Effective and impartial processing of grievances; An Appeals process; appropriate documentation of grievance activity; and Speedy disposition of Emergency situations, with security and safety the paramount concern.

C.) Use of the Grievance procedure shall occur without restraint, Coercion, discrimination, interference or reprisal. Violation of this guideline shall result in prompt and decisive action.

- CURRENT WITH AMMENDMENTS RECEIVED THROUGH NOVEMBER 15, 2022. ARK. CODE 004.03.1-835.

Negligence STANDARD Authority:

In the Eastern District of Arkansas, CASE: Gary V. Langley, 2017-CV-00117-LPR (E.D. ARK. SEP. 13, 2021) it says, "To prevail on a claim of negligence in Arkansas, "The plaintiff must prove that the defendant owed a duty to the plaintiff, that the defendant breached that duty, and that the breach was the proximate cause of the plaintiff's injuries". (1. Duty, 2. Breach of Duty, 3. Causation).

V.) STANDARDS: American Correctional Association - Standard for Adult Community Residential Services, 3rd edition, standard 3-ACRS-3D-07, and Standards for Adult Correctional Institutions, 3rd Edition, Standard 3-427.

Breach of duties - States Employees for Arkansas Division of Correction, [REDACTED] SGT. Cannon, as well as SGT. Barron Both were negligent in their conducts by not upholding their duties owed to the inmate claimant vested by the State and Board of Corrections Found in Ark. Code § 12-27-103 (b)(1), (7) as responsible for the care (medical included) once a 3) report of [REDACTED] was in verbal format as well written format given to each.

On Evidence #1 inmate did an Emergency grievance on 3-23-2023 of which was handled by Kertes Holcomb ID [REDACTED] of which on report of inmate [REDACTED] on 3/23/23

[REDACTED]

Exhibit #4 (AT Arrow) LT Miller in his response stated "you inmate Stockton was back to barracks also the water fountain issue your grieving maintenance has removed the water fountain due to maintenance issue". Evidence #3 states "According to visitor medical records [REDACTED]

[REDACTED]

4. Silver. Causation (Sgt. Cannon) - If Sgt Cannon had not refused to follow state duties and policies vested to change of his position a negligent conduct claim would not have been used to the claimant Joshua Stockton for policy violations against his report of inmate harm. Sgt. Barron on report of inmate [REDACTED] did not follow adlc policy by offering inmate medical care on 03-07-2023's grievance of which he did his response on 03-10-2023 as problem Silver. Inmate as the STATES would relied upon Sgt. Barron to see to the care vested by the state and Board of Corrections to insure

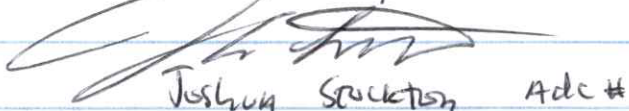
inmate received [REDACTED] notified both verbally and by written
format of being [REDACTED] SGT. Barron negligently in omission
did not see to, nor offer medical care to inmate Stockton, as is A.d.c policy
of a report of injury occurrence, and violates Ark. Code § 12-27-103 (B)(1), (7).

Causation (SGT Barron) - SGT. Barron would not have been negligent in his duty owed
to claimant Stockton if he would have seen that inmate got seen by medical on
a reported injury by grievance dated 3/7/2023 and would have had inmate do a
[REDACTED] and do a witness statement of reported injury on the day reported as
Lt. Holcomb did so on 3/23/2023 on reported injury.

Compensation Sought - Compensation sought is in monetary relief for the
negligent conduct of state employees SGT. Cannon and SGT. Barron's failure
to follow A.d.c and state vested policies of seeing to the care of the
inmate and violating policies in the omissions to due so by both parties
and negligently violated claimant's state due right to medical care for
injury sustained by state's equipment that as evidence # 4 states on
grievance response did have a "maintenance issue".

Relief sought in the amount of \$ 40,000.00 (forty thousand dollars).

Respectfully Submitted,


Joshua Stockton Adc # [REDACTED]

UNIT LEVEL GRIEVANCE FORM (Attachment I)

FOR OFFICE USE ONLY	
GRV. #	_____
Date Received:	_____
GRV. Code #:	_____

Unit/Center _____ *Exhibit # 1*

Name Joshua Stockton

ADC# _____ Brks # _____ Job Assignment Sanitation

_____ (Date) STEP ONE: Informal Resolution

_____ (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)
If the issue was not resolved during Step One, state why: _____

3-23-2023 (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.

_____ 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

[Signature] 3-23-2023
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 3-23-23 (date), and determined to be **Step One** and/or an Emergency Grievance Yes (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 _____

Kurtis L. Holcomb _____ [Signature] 3-23-23
PRINT STAFF NAME (PROBLEM SOLVER) ID Number Staff Signature Date Received

Describe action taken to resolve complaint, including dates: _____

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

This form was received on _____ (date), pursuant to **Step Two**. Is it an Emergency? _____ (Yes or No).
Staff Who Received Step Two Grievance: _____ Date: _____
Action Taken: _____ (Forwarded to Grievance Officer/Warden/Other) Date: _____
If forwarded, provide name of person receiving this form: _____ Date: _____

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

Exhibit #2
Inmate Request Form

9/1/23

This form is to be used to contact staff with requests on issues you may have. You should allow five (5) working days to receive a response to your request. This is the [redacted] in-house form.

Print Name: <u>Joshua Stoketon</u>	ADC Number: [redacted]	Barracks & Bed #: [redacted]	Date: <u>6-1-23</u>
Staff Member Directed to: <u>Carmel Steward</u>		Office or Department: <u>Grievance Officer</u>	

My request is directed to the following area (Check only one):

- | | | | |
|--|--|--|-------------------------------------|
| <input type="checkbox"/> Chaplain | <input type="checkbox"/> General Library | <input type="checkbox"/> Law Library | <input type="checkbox"/> Property |
| <input type="checkbox"/> Classification | <input type="checkbox"/> Hobby Craft | <input type="checkbox"/> Mail Room | <input type="checkbox"/> Records |
| <input type="checkbox"/> Commissary | <input type="checkbox"/> Issuance | <input type="checkbox"/> Medical | <input type="checkbox"/> Security |
| <input type="checkbox"/> Deputy Warden | <input type="checkbox"/> Key Control | <input type="checkbox"/> Mental Health | <input type="checkbox"/> Visitation |
| <input type="checkbox"/> Food Service | <input type="checkbox"/> Laundry | <input type="checkbox"/> Parole | <input type="checkbox"/> Warden |
| <input checked="" type="checkbox"/> Other: <u>Grievance Office</u> | | | |

Give a detailed reason for your request: Please locate this grievance up and put its Grievance #, Date Received, and Grievance Code or a copy of the one you have on file on your computer.
Thanks - I have to locate it as its not back from the Director's finding and in the mail to me yet.

Have you talked to any staff about your request? No Yes If yes, who did you talk to and when?

[Signature] 6-1-23
 Inmate's Signature Date

Responding Staff: Mrs. Steward [redacted] Date: 6-7-23
All grievances received in the [redacted] Grievance office are indicated incomplete, acknowledged or rejected. There is no record of your attached yellow receipt of Unit Level Grievance form (Attachment) dated 3/23/23. Response recorded.

I am referring this to:
 cc: GRIEVANCE OFFICE

Departmental File

JUN 02 2023

[Signature] 6/7/23
 Staff Member's Signature Date

RECEIVED

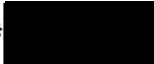
Exhibit 3

IGTT430
3GD

Attachment VI

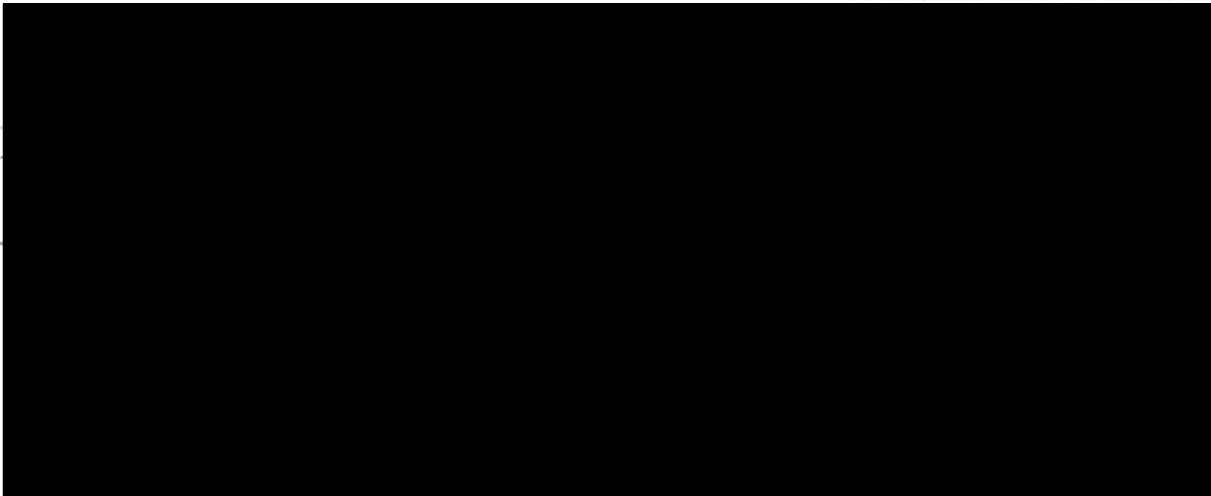
INMATE NAME: Stockton, Joshua

ADC #

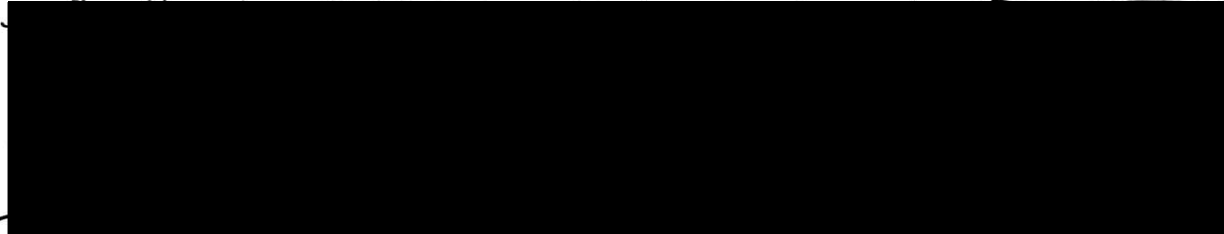


GRIEVANCE#: 23-00095

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION



On 4/26/23 the Warden responded, "You have multiple issues in your complaint, I will only address



Your appeal was received on 4/28/23. I have reviewed your appeal, as well as the Warden's response and supporting documentation. I concur with the Warden's decision and since the water fountain has been removed, I find this matter resolved at the unit level. I find no merit in your appeal.

Appeal denied.

Director

5-10-23

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.

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UNIT LEVEL GRIEVANCE FORM (Unit Level I)

Unit/Center [Redacted]

MAR 31 2023

FOR OFFICE USE ONLY	
GRV. #	23-00095
Date Received:	3-31-23
GRV. Code #:	912

Name Joshua Stockton

ADC# [Redacted] Brks # [Redacted] Job Assignment Stationary

RECEIVED

3/24/23 (Date) STEP ONE: Informal Resolution

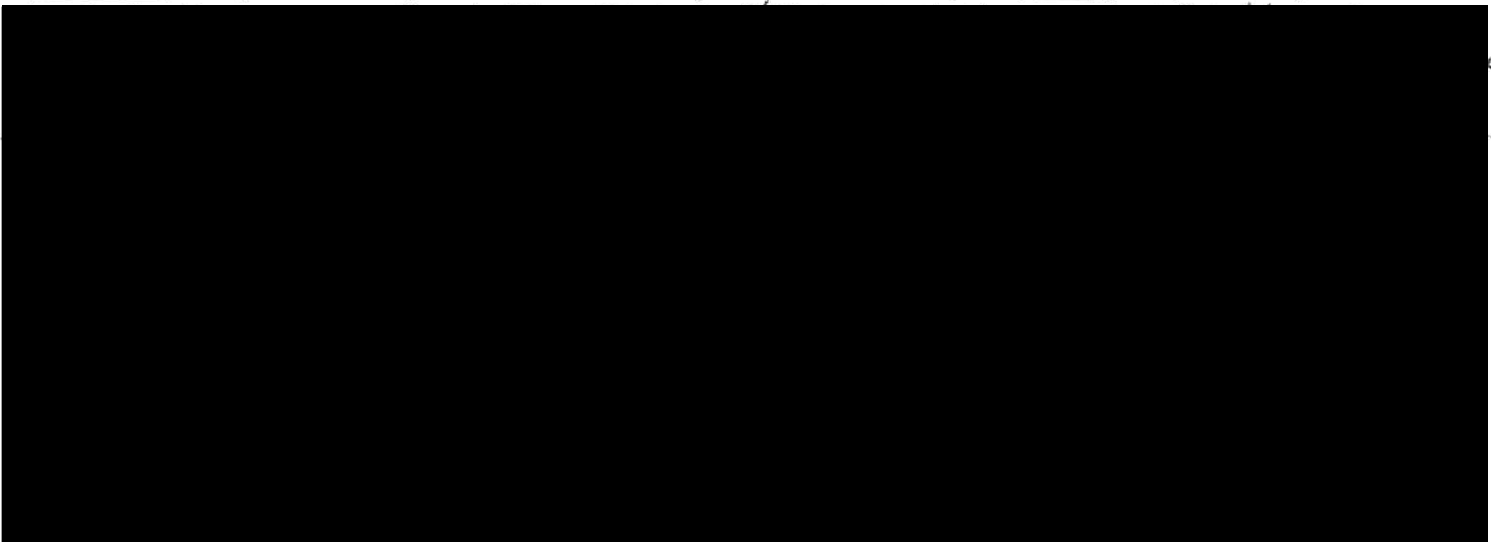
3/30/23 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)

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

3/26/2023 (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: Conspiracy to deprive inmate of Civil Rights to remain 'reasonably safe from harm' in the prison environment by ADC STAFF AND Admin.

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



[Signature] 169885
Inmate Signature

3/26/2023 APR 28 2023
Date

INMATE GRIEVANCES SUPERVISOR
ADMINISTRATION BUILDING

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 3-26-23 (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 received: [Redacted] Date

[Signature] [Signature] 3-26-23
PRINT STAFF NAME (PROBLEM SOLVER) Staff Signature Date Received

Describe action taken to resolve complaint, including dates: [Redacted]

[Signature] 3-30-23 [Signature] 3-30-23
Staff Signature & Date Returned Inmate Signature & Date Received

This form was received on (date), pursuant to **Step Two**. Is it an Emergency? (Yes or No). Staff Who Received Step Two Grievance: Date:

Action Taken: (Forwarded to Grievance Officer/Warden/Other) Date: If forwarded, provide name of person receiving this form: Date:

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

Injury / gm / deliberate Indifference

IGTT430
3GD

Exhibit 5

Attachment VI

INMATE NAME: Stockton, Joshua

ADC #: [REDACTED]

GRIEVANCE# [REDACTED]

-23-00069

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

[REDACTED]

There are multiple issues in your complaint, I will only address one. Sgt. H. Baron stated maintenance was advised to check the water fountain. Maintenance checked it and found it to be

[REDACTED]

Therefore, I find no merit to your complaint.

Your appeal was received on 3/30/2023. After a review of your appeal and supporting

[REDACTED]

Appeal Denied.

[Signature]

Director

4-27-23
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 \(DOC\)](#)
Cc: [Kathryn Irby](#); [Mika Tucker](#); [Bilenda Harris-Ritter](#)
Subject: CLAIM: Joshua Stockton v. ADC, Claim No. 240285
Date: Tuesday, August 29, 2023 1:29:00 PM
Attachments: [Joshua Stockton ADC agency ltr 240285.pdf](#)
[Joshua Stockton Claim 240285.pdf](#)

Please see attached. Contact Kathryn Irby with any questions.

Thank you,
Caitlin

Caitlin McDaniel

Administrative Specialist II

Arkansas State Claims Commission

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-1619

ARKANSAS STATE CLAIMS COMMISSION

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



KATHRYN IRBY
DIRECTOR

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

August 29, 2023

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

(via email)

RE: ***Joshua Stockton v. Arkansas Division of Correction***
Claim No. 240285

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,

Mika Tucker

ES: cmcdaniel

cc: Joshua Stockton (ADC [REDACTED] Claimant (w/ encl.)
Bilenda Harris-Ritter, *counsel for Ark. Dept. of Corrections* (w/encl.) (via email)

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: [Thomas Burns \(DOC\)](#)
To: [ASCC Pleadings](#)
Subject: Joshua Stockton v ADC 240285
Date: Friday, September 1, 2023 7:37:13 AM
Attachments: [0679_001.pdf](#)
[image001.png](#)

Answer

Thank you,
-TB



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BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

JOSHUA STOCKTON ([REDACTED]

CLAIMANT

v.

NO. 240285

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,



Thomas Burns (02006)
Legal Services Unit
Division of Correction
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 September 2023 on the Claimant by placing a copy of the same in the U. S. Mail, regular postage, to:

Joshua Stockton ([REDACTED]
[REDACTED]



Thomas Burns

From: [Misty Scott](#) on behalf of [ASCC Pleadings](#)
To: [Thomas Burns \(DOC\)](#)
Cc: [ASCC Pleadings](#); [Mika Tucker](#)
Subject: CORR: Joshua Stockton v. ADC, Claim No. 240285
Date: Tuesday, October 3, 2023 11:33:17 AM
Attachments: [Joshua Stockton v. ADC285.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

October 3, 2023

Mr. Joshua Stockton (ADC [REDACTED])
[REDACTED]
[REDACTED]

RE: ***Joshua Stockton v. Arkansas Division of Correction***
Claim No. 240285

Dear Mr. Stockton,

Please be advised that the Arkansas Division of Correction (the "Respondent") in the above-styled claim filed an Answer disputing liability. When liability is contested by the Respondent, you have two options:

- 1) You may request a hearing before the Arkansas State Claims Commission (the "Claims Commission") in writing within fifteen (15) calendar days from the date of this correspondence.
- 2) You may do nothing. If this office does not receive any communication from you within fifteen (15) calendar days from the date of this correspondence, your claim will be dismissed by the Claims Commission for failure to respond.

Please note that even if you request a hearing on your claim, the filing of a dispositive motion (such as a Motion to Dismiss or a Motion for Summary Judgment) by the Respondent could result in dismissal of your claim before hearing. The failure of a party to file a timely response is sufficient basis for the granting of a motion by the Claims Commission.

It is your responsibility to know when responses are due to any motions or other pleadings filed in your claim. It is also your responsibility to notify both the Claims Commission and the Respondent if you have a change in mailing address.

Sincerely,

Mika Tucker

ES: msscott

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

From: [Thomas Burns \(DOC\)](#)
To: [ASCC Pleadings](#)
Subject: Joshua Stockton v ADC 240285
Date: Monday, November 6, 2023 3:53:36 PM
Attachments: [1659_001.pdf](#)
[image001.png](#)

MSJ

Thank you,
-TB



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BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

JOSHUA STOCKTON (ADC [REDACTED])

CLAIMANT

v

NO. 240285

**ARKANSAS DEPARTMENT OF CORRECTIONS
DIVISION OF CORRECTION**

RESPONDENT

MOTION FOR SUMMARY JUDGMENT

Come now the respondent, Arkansas Department of Corrections (ADC), by and through their attorney, Thomas Burns, and for their Motion for Summary Judgment pursuant to Ark. R. Civ. P. 56, states:

1. The pleadings filed herein reveal that the facts in this case are undisputed or are settled.
2. As a result thereof, the ADC is entitled to summary judgment.
3. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of their pleadings, but their response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing there is a genuine issue for trial.
4. The inmate has not cited any legal authority that the summary judgment is inappropriate because the inmate is making claims of medical treatment, deliberate indifference, 8th Amendment, claim preclusion, and failure to respond.
5. The Inmate filed a complaint with the Commission on or about August 23, 2023. *See attached Ex A.*
6. That complaint is based on medical treatment and medical needs. The ADC contracts its medical to Wellpath, a non-state agency. They are not subject to the jurisdiction of the Claims Commission. *Id*

7. The inmates exhibit 1 to his complaint is a grievance that was not appealed. This is why it does not have a grievance number, it never progressed to step 2. Therefore, the inmate has failed to exhaust. *Id*

8. The inmate attached to his complaint grievance PB-23-00095 (Exhibit 3 and 4). The grievance he claims deliberate indifference (42 USC 1983). Across the top of his exhibit 3 he writes injury/cond. of conf/8th all Constitutional claims. *Id*

9. The inmates exhibit 5 to his complaint is grievance PB-23-00069 which is a 8th Amendment violation. Across the top of that grievance the inmate wrote Injury/8th/deliberate indifference again Constitutional violations. *Id*

10. The Arkansas State Claims Commission does not have jurisdiction when an inmate fails to exhaust. “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).

11. On or about July 21, 2023 the inmate filed the exact same claim in the US District Court for the Eastern District of Arkansas, case number 23-cv-00682. *See attached Ex B.*

12. The Federal case involves the same claims, same actors, same facts. The inmate has chosen his forum, the USDC. That case was dismissed on or about October 24, 2023 and counted as a strike for purposes of prison litigation act. *See attached Ex C.*

13. The inmate failed to respond to the letter the Claims Commission sent him on October 3, 2023. In that letter it states: “If this office does not receive any communication from you within fifteen (15) calendar days from the date of this correspondence, your claim will be dismissed by the Claims Commission for failure to

respond.” *See attached Ex D*. The Commission should dismiss the claim as they said the WILL dismiss for failure to respond.

14. Pursuant to the Prison Litigation Reform Act (PLRA), “no actions shall be brought with respect to prison conditions under Section 1983 of this title or any other Federal law, by a prisoner confined in any jail, or other correctional facility until such administrative remedies as are available are exhausted.” 42 U.S.C § 1997e. In 1997, the Arkansas legislature adopted the PLRA’s exhaustion requirement by enacting Ark. Code Ann. §16-106-202. That statute follows the PLRA by adopting a grievance exhaustion requirement for state actions:

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

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

16. Proper exhaustion requires the inmate to have completed “the administrative review process in accordance with the applicable procedural rules.” *Jones v. Bock, 549 U.S. 199, 218 (2007)* (quoting *Woodford v. Ngo, 548 U.S. 81, 88 (2006)*). While the level of detail needed in a grievance will vary between systems, “it is the prison’s requirements, and not the PLRA, that define the boundaries of proper

exhaustion.” *Jones*, 549 U.S. at 218. “[P]roper exhaustion demands compliance with an agency’s deadlines and other critical procedural rules because no adjudicative system can function effectively without imposing some orderly structure on the course of its proceedings.” *Woodford*, 548 U.S. at 90-91. The Supreme Court has held that exhaustion is no longer left to the discretion of the district court, but is mandatory.” *Id.* at 85.

17. In *Turner v. Baptist Medical Center*, 275 Ark. 424, 427, 631 S.W.2d 275, 277-278, (1982), it states . . . “that opposing affidavits that consist merely of general denials, without any statement of specific facts, are insufficient to defeat a summary judgment motion.”

18. The inmate has failed to demonstrate the existence of a genuine issue of any fact material to ADC’s alleged culpability of failure to follow procedure and has failed to rebut the ADC’s prima facie evidence of its entitlement to judgment as a matter of law.

19. Once the moving party makes a prima facie showing of entitlement to summary judgment, the responding party must meet proof with proof in order to demonstrate that there is remaining a genuine issue of material fact. The response and supporting material must set forth specific facts showing that there is a genuine issue for trial. See Ark. R. Civ. P. 56(e) *Hampton v. Taylor*, 318 Ark. 771, 776-777, 887 S.W.2d 535, 538-539 (1994). The inmate has failed to identify any genuine issues of material fact that would preclude a summary judgment in favor of the ADC. Therefore, this Commission should grant the Motion for Summary Judgment.

20. The ADC has attached all the documentation and has demonstrated a prima facie entitlement to Summary Judgment. To overcome this, the inmate must meet

proof with proof and demonstrate the existence of a material issue of fact. *Gonzales v. City of DeWitt*, 357 Ark. 10. 14-15, 159 S.W.3d 298 301 (emphasis added).

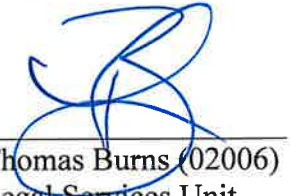
21. The ADC, is entitled to judgment as a matter of law for the following reasons:

- (a) First, the inmate making claims of medial treatment
- (b) Second, the inmate is making deliberate indifference claims (42 USC 1983).
- (c) Third, the inmate is making 8th Amendment claims.
- (d) Fourth, the inmate is barred by Claim Preclusion.
- (e) Fifth, the inmate failed to respond to the Commission letter.
- (f) Sixth the inmate fails to cite any legal authority for his contention that summary judgment is inappropriate.

22. The ADC should be awarded fees and costs for this action.

WHEREFORE, The ADC, prays that their Motion for Summary Judgment be granted; for their attorney's fees and costs; and for all other just and proper relief to which they may be entitled.

Respectfully submitted,



Thomas Burns (02006)
Legal Services Unit
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 6th day of November 2023, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Joshua Stockton ([REDACTED]
[REDACTED]



Thomas Burns

Please print in ink or type

AUG 23 2023

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

RECEIVED

Do Not Write in These Spaces		
Claim No.	_____	
Date Filed	(Month)	(Day) (Year)
Amount of Claim \$	_____	
Fund	_____	

- Mr.
- Mrs.
- Ms.
- Miss

Joshua Stockton (ADC [REDACTED]), Claimant

vs.

State of Arkansas, Respondent

COMPLAINT

Joshua Stockton (ADC [REDACTED]), the above named Claimant, of [REDACTED] (City)
 (Name) (Street or R.F.D. & No.)
 [REDACTED] (State) [REDACTED] (Zip Code) [REDACTED] (Daytime Phone No.) County of [REDACTED] represented by PROVE CLAIMANT (SELF)
 (Legal Counsel, if any, for Claim)
 of [REDACTED] (Street and No.) [REDACTED] (City) [REDACTED] (State) [REDACTED] (Zip Code) [REDACTED] (Phone No.) [REDACTED] (Fax No.), says:

State agency involved: ARKANSAS Division of Corrections Amount sought: \$ 40,000.00

Month, day, year and place of incident or service: 03/07/23 Through 03/23/23 Adc. [REDACTED] Unit

Explanation: STATE Employees Failed to ensure claimant Joshua M. Stockton inmate of the Arkansas Division of Corrections [REDACTED] Unit [REDACTED] after the notice to State employees of inmate being [REDACTED] was reported instances. Inmate claimant was owed the duty by these named States employees to see his medical needs were seen to once brought to their attentions. These named defendants failed to uphold their duty owed to the claimant once reported. And, the defendants Omissions to provide the claimant with the medical treatment examinations once reported [REDACTED] were made known to the States employees were the proximate cause of his [REDACTED] of negligent conducts by the States officials in not seeing the medical needs met.

SEE - ATTACHED PAGES

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? 05/10/2023 ; to whom? Marshal Reed Central Office, Adc
 (Yes or No) (Month) (Day) (Year) (Department)
Appellate Board ; and that the following action was taken thereon: Appeal denied by this office

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

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

_____ and was acquired on _____, in the following manner: _____

EX. A.

I.) Duty: Under State Code of Arkansas §12-27-103 Establishment - Powers and duties (B)(1), The Department of Corrections (Arkansas Division of Corrections) shall have exclusive jurisdiction over the care, charge, custody, control, management, administration, and supervision of all persons and offenders committed to, or in the custody of, the state penitentiary; (b) The Department of Corrections shall employ such officers, employees, and agents and shall secure such offices and quarters as are deemed necessary to discharge the functions of the department of corrections. (7) The Department of Corrections shall receive all offenders committed to the department of corrections for conviction of felonies or other offense the punishment of which is commitment to the penitentiary under the laws of this state, and shall be responsible for the care, custody, and correction of such persons pursuant to the policies established by the Board of Corrections. Authority - The Board of Correction and Community punishment is vested with the Authority to promulgate this administrative rule by ARK. Code ANN. - §§ 12-27-105, 16-93-1203, and 16-93-1205 (Michie Supp. 1995).

II.) Applicability - This policy applies to Employees and OFFENDERS of the - Department of Correction (D.O.C) and the Department of Community Punishment (DCP) - STAFF, inmates and residents of community punishment centers.

III.) Policy - It is the Policy of the Board of Corrections And Community - Punishment that offenders are provided an opportunity to submit grievances regarding policy, conditions, incidents, or Actions related to incarceration/- Confinement which directly impact them.

IV. Guidelines - A) Administrative Directives establishing procedures will be set forth by each Agency. B.) Procedures shall, at Minimum provide for the following: Timely, Effective and impartial processing of grievances; An Appeals process; appropriate documentation of grievance activity; and Speedy disposition of Emergency situations, with security and safety the paramount concern.

C.) Use of the Grievance procedure shall occur without restraint, Coercion, discrimination, interference or reprisal. Violation of this guideline shall result in prompt and decisive action.

- CURRENT with Amendments reviewed through November 15, 2022. ARK. Code 004.03.1-835.

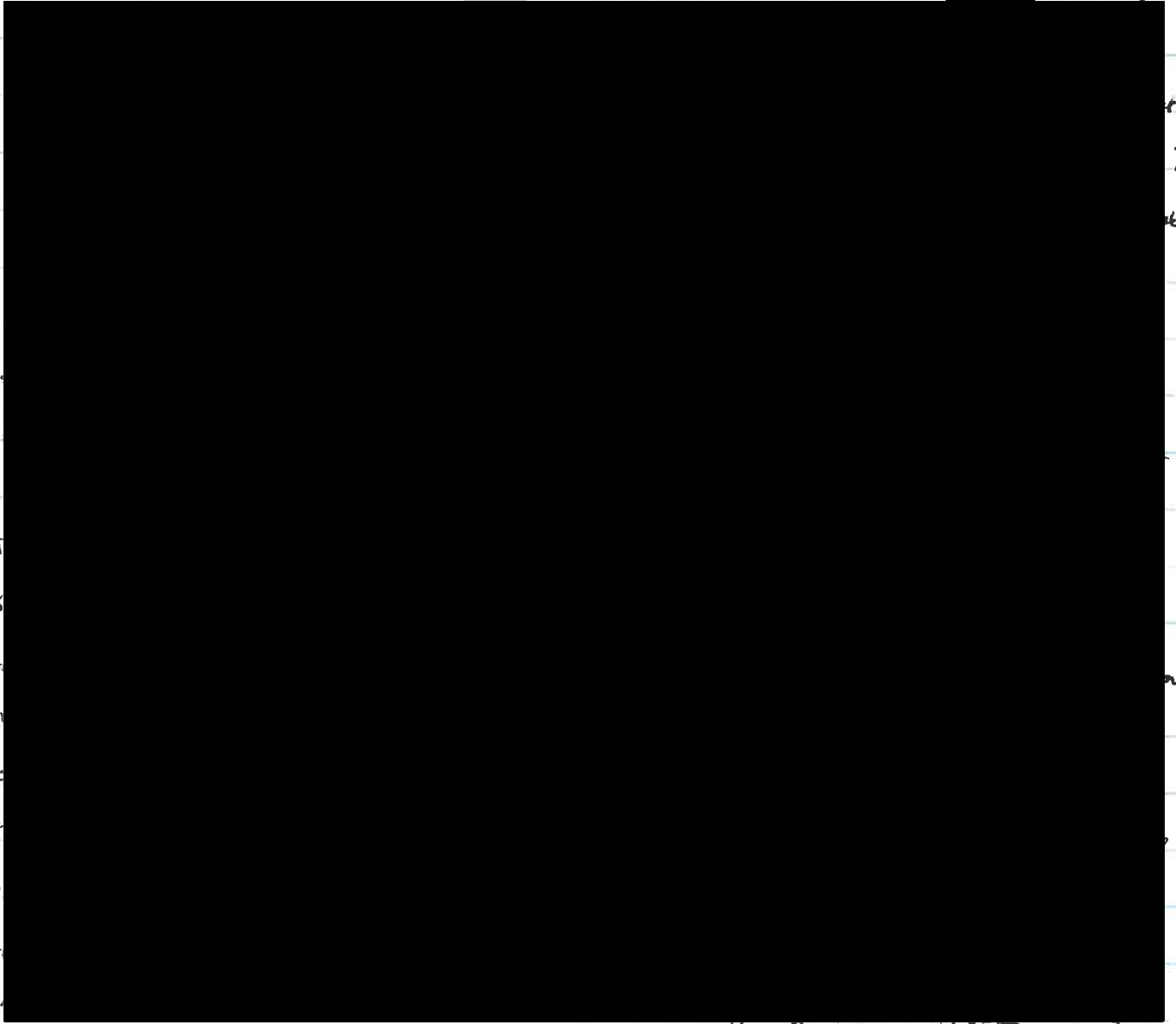
Negligence STANDARD Authority:

In the Eastern District of Arkansas, CASE: Gary V. Langley, 2017-CV-00117-LPR (E.D. ARK. SEP. 13, 2021) it says, "To prevail on a claim of negligence," in Arkansas, "The plaintiff must prove that the defendant owed a duty to the plaintiff, that the defendant breached that duty, and that the breach was the proximate cause of the plaintiff's injuries". (1. Duty, 2. Breach of Duty, 3. Causation).

V.) STANDARDS: American Correctional Association - Standard for Adult Community - Residential Services, 3rd edition, standard 3-ACRS-30-07, and Standards - For Adult Correctional Institutions, 3d Edition, Standard 3-427.

Breach of duties - States Employees for Arkansas Division of Correction, [REDACTED] SGT.- Cannon, as well as Sgt. Barron Both were negligent in their conducts by not upholding their duties owed to the inmate ultimately vested by the State and Board of Corrections found in Ark. Code § 12-27-103 (b)(1), (7) as responsible for the care (medical included) once a 3) report of injury and harm was in verbal format as well written format given to each.

On Evidence #1 inmate did an Emergency grievance on 3-23-2023 of which was handled by Kurtis Holcomb ID# [REDACTED] of which on report of inmate [REDACTED] on 3/23/23



Silver. Causation (SUT-Cannon) - If SUT Cannon had not refused to follow state duties and policies vested to charge of his position a negligent conduct claim would not have been owed to the claimant Joshua Stockton for policy violations against his report [REDACTED] did not follow d.c.c. policy [REDACTED] which he did his

4. response on 03-16-2023 as problem Silver. Inmate as the STATES would relied upon SUT-Barron to see to the care vested by the state and Board of Corrections to insure

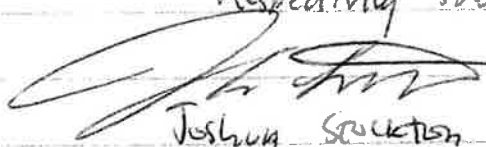
Inmate received medical attention once notified both verbally and by written
format of being [REDACTED] SGT. Barron negligently in omission
did not see to, nor offer medical care to inmate Stockton, as is A.d.c policy
of a report [REDACTED] and violator Ark. Code § 12-27-103 (B)(1), (7).

Causation (SGT Barron) - SGT. Barron would not have been negligent in his duty owed
to claimant Stockton if he would have seen that inmate got seen by medical on
[REDACTED]

Compensation Sought - Compensation sought is in monetary relief for the
negligent conduct of state employees SGT. Cannon and SGT. Barron's failure
to follow A.d.c and STATE vested policies of seeing to the care of the
inmate and violating policies in the omissions to due so by better practices
and negligently violated claimant's state due right to medical care for
[REDACTED] but as Evidence # 4 states on
Grievance response did have a "maintenance issue".

Relief sought in the amount of \$40,000.00 (Forty thousand dollars).

Respectfully Submitted,


Joshua Stockton Adc # [REDACTED]

UNIT LEVEL GRIEVANCE FORM (Attachment I)

FOR OFFICE USE ONLY	
GRV. #	_____
Date Received:	_____
GRV. Code #:	_____

Unit/Center _____ **Exhibit # 1**

Name Joshua Stockton

ADC [redacted] Brks # [redacted] Job Assignment Sanitation

_____ (Date) STEP ONE: Informal Resolution

_____ (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)
If the issue was not resolved during Step One, state why: _____

3-23-2023 (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



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)



[Signature] _____ 3-23-2023 _____
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 3-23-23 (date), and determined to be **Step One** and/or an Emergency Grievance Yes (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 _____
Kurtis L. Holcomb [redacted] [Signature] 3-23-23
PRINT STAFF NAME (PROBLEM SOLVER) ID Number Staff Signature Date Received

Describe action taken to resolve complaint, including dates: _____

Staff Signature & Date Returned _____ Inmate Signature & Date Received _____
This form was received on _____ (date), pursuant to **Step Two**. Is it an Emergency? _____ (Yes or No).
Staff Who Received Step Two Grievance: _____ Date: _____
Action Taken: _____ (Forwarded to Grievance Officer/Warden/Other) Date: _____
If forwarded, provide name of person receiving this form: _____ Date: _____

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

Exhibit #2

9/1/23

Inmate Request Form

This form is to be used to contact staff with requests on issues you may have. You should allow five (5) working days to receive a response to your request. This is the [redacted] in-house form.

Print Name: <u>Joshua Stoketon</u>	ADC Number: [redacted]	Barracks & Bed #: [redacted]	Date: <u>6-1-23</u>
Staff Member Directed to: <u>Carmel Steward</u>	Office or Department: <u>Grievance Officer</u>		

My request is directed to the following area (Check only one):

- Chaplain
- General Library
- Law Library
- Property
- Classification
- Hobby Craft
- Mail Room
- Records
- Commissary
- Issuance
- Medical
- Security
- Deputy Warden
- Key Control
- Mental Health
- Visitation
- Food Service
- Laundry
- Parole
- Warden
- Other: Grievance Office

Give a detailed reason for your request: Please look this grievance up and put its Grievance #, Date Received, and Grievance Code or a copy of the one you have on-file on your computer.

Thanks - I have to locate it as its not back from the Director's filing and in the mail to me yet

Have you talked to any staff about your request? No Yes If yes, who did you talk to and when?

[Signature] 6-1-23
Inmate's Signature Date

Responding Staff: Mrs. Steward Date: 6-7-23
All grievances received in the [redacted] grievance office are indicated incomplete, acknowledged or resolved. There is no record of your attached yellow receipt of Unit Level Grievance Form (Attachment) dated 3/23/23. Response recorded

I am referring this to:

cc: **GRIEVANCE OFFICE**

Departmental File JUN 02 2023 [Signature] 6/7/23
Staff Member's Signature Date

RECEIVED

Exhibit 3

IGTT430
3GD

Attachment VI

INMATE NAME: Stockton, Joshua

ADC #: [REDACTED]

GRIEVANCE#: [REDACTED] 23-00095

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

In
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[REDACTED]

[REDACTED]

to barracks on March 23, 2023. Therefore, I find no merit to your complaint."

Your appeal was received on 4/28/23. I have reviewed your appeal, as well as the Warden's response and supporting documentation. I concur with the Warden's decision and since the water fountain has been removed, I find this matter resolved at the unit level. I find no merit in your appeal.

Appeal denied.

[Signature]

Director

5-10-23

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.

18

UNIT LEVEL GRIEVANCE FORM (Attachment I)

Unit/Center [Redacted]

MAR 31 2023

FOR OFFICE USE ONLY	
GRV. [Redacted]	23-00045
Date Received:	3-31-23
GRV. Code #:	910

Name Joshua Stockton

RECEIVED

ADC# [Redacted] Brks # [Redacted] Job Assignment Sanitation

3/26/23 (Date) STEP ONE: Informal Resolution

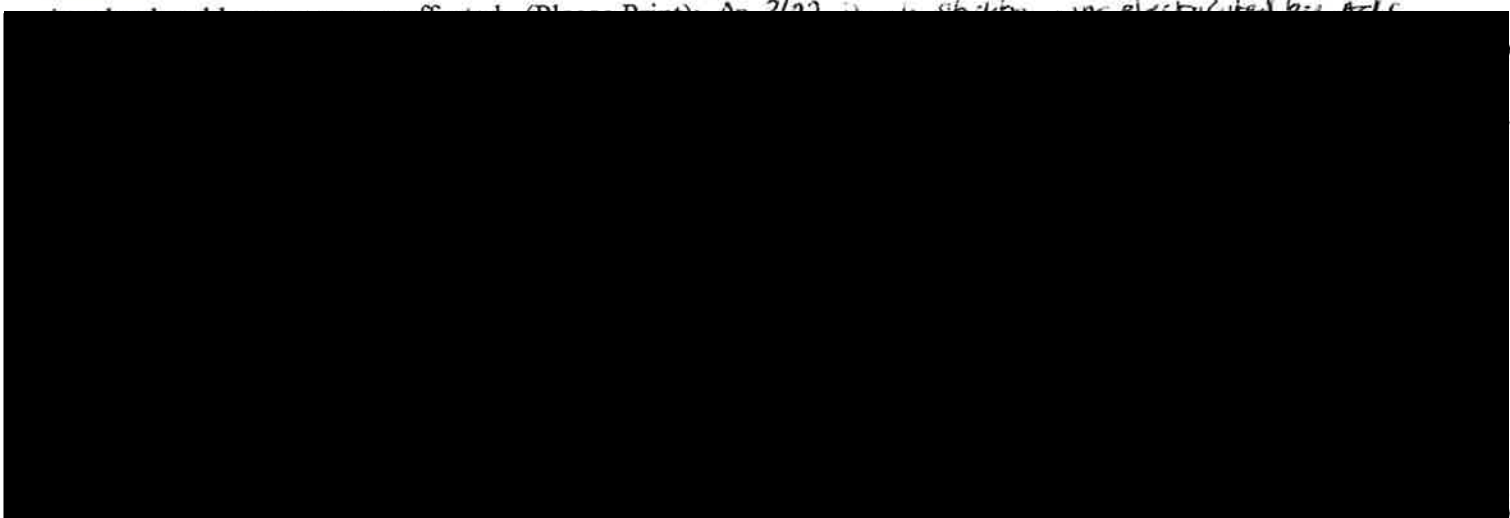
3/30/23 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)

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

3/26/2023 (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: Conspiracy to deprive inmate of Civil Rights to remain 'reasonably safe from harm' in the prison environment by ADC STAFF AND Admin.

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



[Signature] Inmate Signature

[Redacted]

3/26/2023 Date

APR 28 2023

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 3-26-23 (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 re [Redacted] Date 3-26-23

[Signature] Staff Signature [Redacted] Date Received 3-26-23

Describe action taken to resolve complaint, including dates: [Redacted]

your grieving maintenance was denied the work of furniture due to maintenance issues.

[Signature] Staff Signature & Date Returned 3-30-23 [Signature] Inmate Signature & Date Received 3-30-23

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

Staff Who Received Step Two Grievance: Date:

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

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

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

Injury / 8th / Deliberate Indifference

IGTT430
3GD

Exhibit 5

Attachment VI

INMATE NAME: Stockton, Joshua

ADC #: [REDACTED]

GRIEVANCE#: [REDACTED] 23-00069

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

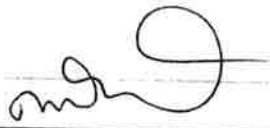
[REDACTED]

[REDACTED]

Your appeal was received on 3/30/2023. After a review of your appeal and supporting documentation, I find that Sgt. H. Baron states...

[REDACTED]

Appeal Denied.



Director

4-27-23

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.

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

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

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

JUL 21 2023

CASE NO. 4:23-cv-00682-BRW-JTR

By: TAMMY H. DOWNS, CLERK
DEP. CLERK

Jury Trial: Yes No
(Check One)

I. Parties

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

A. Name of plaintiff: Joshua Matthew Stockton
ADC # [REDACTED]

Address: _____

Name of plaintiff: _____
ADC # _____

Address: _____

Name of plaintiff: _____
ADC # _____

Address: _____

This case assigned to District Judge Wilson
and to Magistrate Judge Ray

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

B. Name of defendant: SGT. Cannon

Position: SGT

Place of employment: ADC [REDACTED] - night shift

Address: ADC Compliance Division

Name of defendant: CPL. Howell

Position: CPL. (matience supervisor)

2023 JUL 21 A 11:14

①

FB

Place of employment: ADC [REDACTED]

Address: ADC Compliance Division

Name of defendant: SGT. BARRION

Position: SGT

Place of employment: ADC [REDACTED]

Address: ADC Compliance Division

Name of defendant: _____

Position: _____

Place of employment: _____

Address: _____

II. Are you suing the defendants in:

- official capacity only
- personal capacity only
- both official and personal capacity

III. Previous lawsuits

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

Yes No _____

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

Parties to the previous lawsuit:

Plaintiffs: ~~_____~~ Joshua Spector ADC [REDACTED]

Defendants: JOYAGE III, et al

2

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

U.S. District Court Eastern District of Arkansas

Docket Number: 4:23-cv-00582-JM

Name of judge to whom case was assigned: J. M.

Disposition: (for example: Was the case dismissed? Was it appealed? Is it still pending?) Dismissed without prejudice for failure to state a claim on which relief may be granted.

Approximate date of filing lawsuit: 05-25-2023

Approximate date of disposition: 07-12-2023

IV. 

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

in jail and still awaiting trial on pending criminal charges

serving a sentence as a result of a judgment of conviction

in jail for other reasons (e.g., alleged probation violation, etc.)
explain: _____

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

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

Yes No

B. Did you completely exhaust the grievance(s) by appealing to all levels within the grievance procedure?

Yes X No _____

If not, why? _____

VII. Statement of claim

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

- 1) STATE Employees under Ark. Code § 12-27-103, Establishment - Powers and duties (B)(1), The D.O.C (Arkansas Division of Corrections) shall have exclusive jurisdiction over the Care, Charge, Custody, Control, management, administration, and supervision of all persons and offenders committed to, or in the custody of, the State penitentiary.
- 2) Plaintiff is An inmate of Arkansas Division of Corrections and was housed at [REDACTED], Brantley [REDACTED]
- 3) Plaintiff on 03-07-2023, at 6:20pm approx. notified Sgt. Cannon By Both verbal and written (Emergency guidance) of inmate being [REDACTED]
- 4) Plaintiff made clear the basic human need of water, and that safety is the duty of state employees. once notified of inmates [REDACTED] and [REDACTED] was Sgt Cannon -

duty to intervene and see that inmate Plaintiff was medically clear which is a duty owed to inmates under the Eighth Amendment's

protections when notified of [REDACTED] upon

verbal and written notices. He offered no medical aid to Plaintiff.

5) SGT Cannon as a Administrative Problem Solver failed to uphold

A.D.C. Policy and Customs of A.C. [REDACTED] reported upon verbal or

written notice by Emergency guidance to him.

6.) As the states ward, Plaintiff relied solely upon SGT. Cannon for

his [REDACTED] being met as a states Employee once notified

of his [REDACTED] class

to do [REDACTED]

7) SGT Cannon by omission to intervene in notified [REDACTED] through

verbal and written forms violated Plaintiff's Eighth Amendment

5) Rights afforded Prisoners.

8.) SGT Cannon as a STATE Employee of which violated plaintiffs

Eighth Amendment Rights also violated plaintiffs Fourteenth -

Amendment Right to be free from States infringing upon plaintiffs

Rights Constitutionally.

9.) SGT Cannon in his [REDACTED] the

plaintiff nor any remedy to the [REDACTED] is a

"similar to criminal Recklessness" in omission of liabilities upon

him against the plaintiff.

10.) Defendant #2 STATES Employee CPL Howell under ARK. Code -

§ 12-27-103 Establishment - Powers and Duties (B)(1) AS STATED IN

(1.) is applicable to Defendant CPL Howell for their duty to plaintiff.

11.) Defendant Howell was made aware of the A.D.C Equipment

[REDACTED] inmate and called on to provide maintenance to the

(6)

Equipment.

12) Defendant Howell once notified of [REDACTED] owed the plaintiff the duty to remain reasonably safe from harm once notified of the [REDACTED] Equipment.

13) Adequately safe after notification of [REDACTED] would include putting Equipment out of service or unplugging the unit, or repairing the shot.

14) Constitutional violation of Plaintiff's safety under the Eighth Amendment was breached by CPL Howell in the State Employees' omission to repair or put out of service the Equipment of A.D.C.

15) Plaintiff has eyewitness testimony of two eyewitnesses of which will testify in court, that CPL Howell "just asked inmates if the water fountain worked, then just pushed the buttons and just left,

⑦ without attempting to repair".

(6) CPL Howell in not repairing or putting out of service the reported faulty equipment as a state employee failed to protect the safety of her ward inmate Plaintiff, and allowed his safety to be violated on a daily basis [REDACTED] that were allowed to continue in CPL Howell's commission to put out of service the notified faulty equipment of the State.

(7) By CPL Howell's not putting out of service the States Equipment or repairing the equipment once notified of the short inside it, violated by [REDACTED] and does violate Plaintiff's Eighth Amendment Right as result.

(8) As a state employee and violating Plaintiff's Eighth Amendment Rights has violated Plaintiff's Fourteenth Amendment Right as result to be free from State's violations of Constitutional Rights.

(8)

19) By CPL Howell's omissions to repair the violative equipment of the STATE, which violated the plaintiff's right to safety in his prison conditions environment constitutionally under the Eighth Amendment, is the amount to criminal recklessness once notified of a inmate [REDACTED], And [REDACTED] equipment and not attempting repairs.

20) CPL Howell had the duty to the plaintiff to intervene in the violative conduct. CPL Howell had the opportunities to intervene as maintenance supervisor of Pine Bluff. CPL Howell according to witness statements whom will testify to the fact that CPL Howell did not attempt repair or putting out of service equipment.

21) Defendant #3 states employee SGT. Barron under Ark. Code -

§ 12-27-103 Establishment - Powers and duties (B)(1) AS STATED in

(1.) is Applicable to SGT Barron for their duty to plaintiffs

22) Defendant was notified on 03-07-2023 and 03-10-2023 Both verbally

and in written grievance formats of plaintiff being in [REDACTED] and injured

by Adc. Equipment.

23)

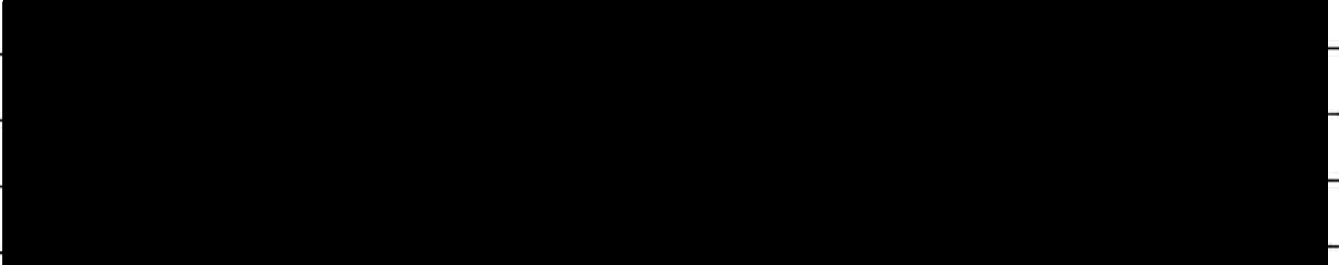
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24)

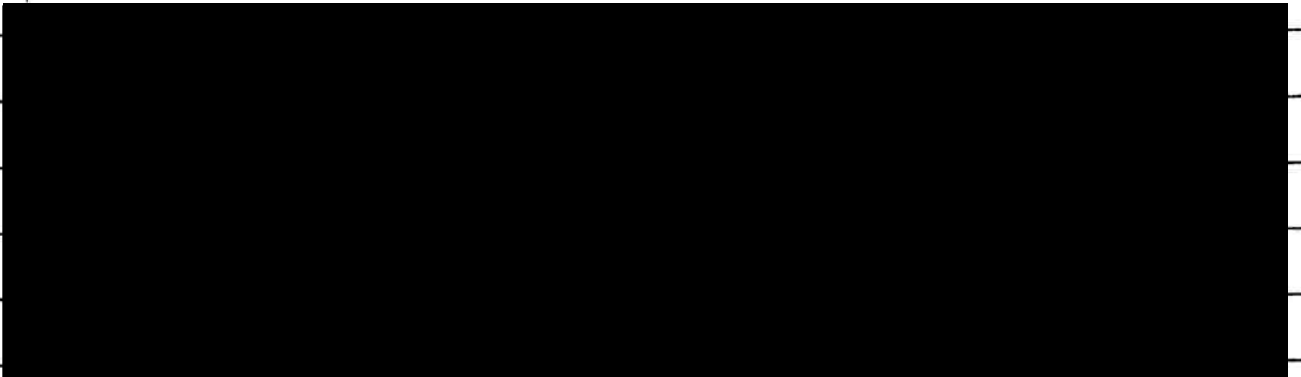
25) AS A STATE EMPLOYEE AND DEFENDANT VIOLATING PLAINTIFFS



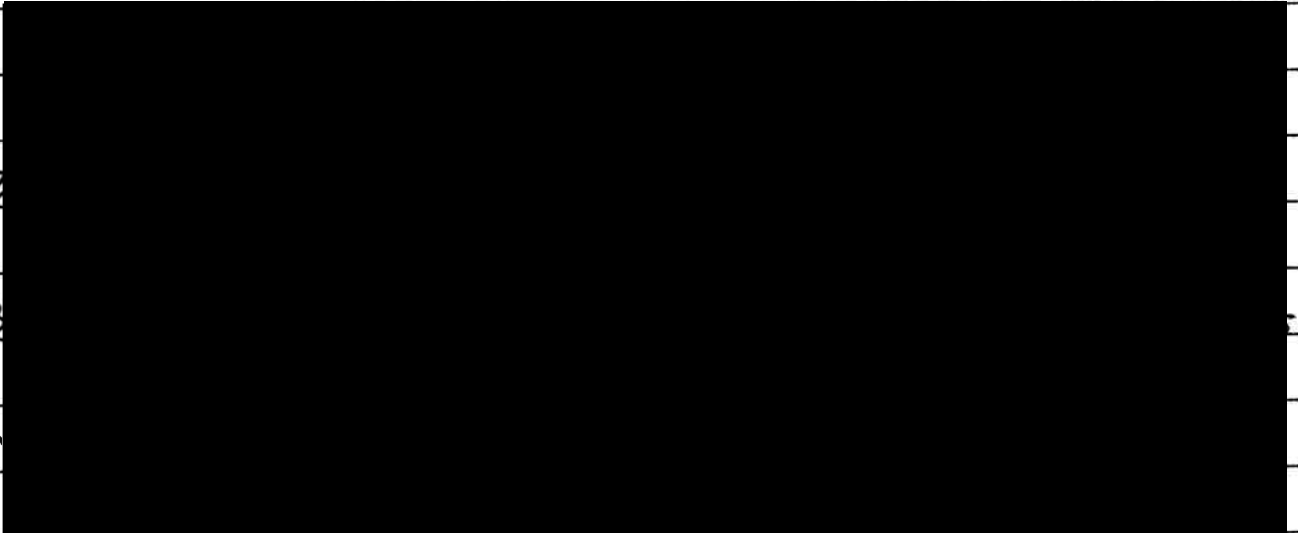
AMENDMENT RIGHT TO BE FREE FROM STATES VIOLATIONS OF HIS

CONSTITUTIONAL RIGHTS.

26) DEFENDANT SGT BARRON FAILED TO ADHERE TO A.D.C POLICY




27)



28.) Plaintiff was owed the duty by state employees to have his needs adequately met once they were brought to their attention.

29.) Reasonableness factor - "A reasonable officer would know its



VIII. Relief

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

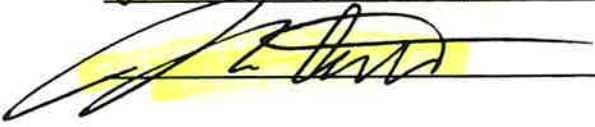
Recovery of all costs for services and fees, nominal damages \$ 526.00,

Compensatory Damages \$ 25,000.00 and Punitive Damages of \$ 150,000.00

Each Defendant in suit for violation of Plaintiff's Constitutional Rights.

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

Executed on this 19 day of July, 2023.

Justin Straker


Signature(s) of plaintiff(s)

Verification

I have read the foregoing Complaint and hereby verify that the matters alleged therein are true, except as to matters alleged on information and belief, and, as to those, I believe them to be true. I certify under penalty of perjury that the foregoing is true and correct.

Executed at [REDACTED]

[REDACTED] on Date 07/19/2023



Joshua Stockton
Plaintiff

Exhibit #.1

IGTT430
3GD

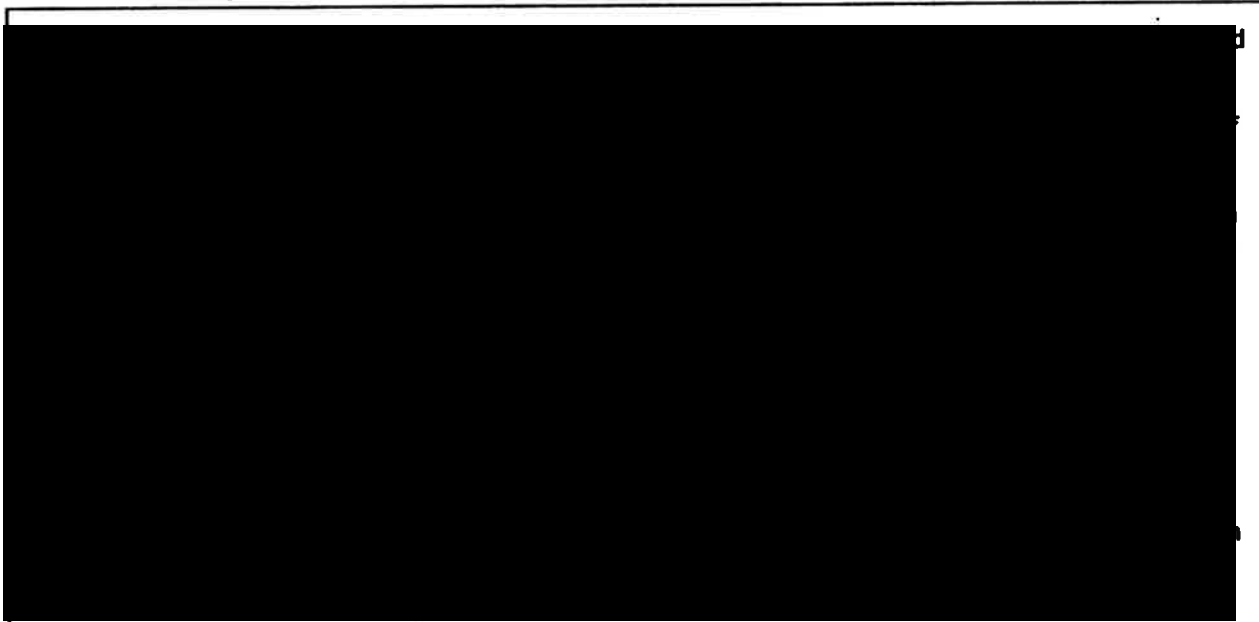
Attachment VI

INMATE NAME: Stockton, Joshua

ADC # [REDACTED]

GRIEVANCE# [REDACTED] 23-00069

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION



Your appeal was received on 3/30/2023. After a review of your appeal and supporting [REDACTED] I find that [REDACTED] was advised to check the water

this matter. Therefore, I find no merit to your appeal.

Appeal Denied.

Director

Date 4-27-23

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.

2023 JUL 21 A 11:08
TAMMY H DOWNS

(16)

Notice / Failure 2 protect / Liability
Exhibit 2

IGTT430
3GD

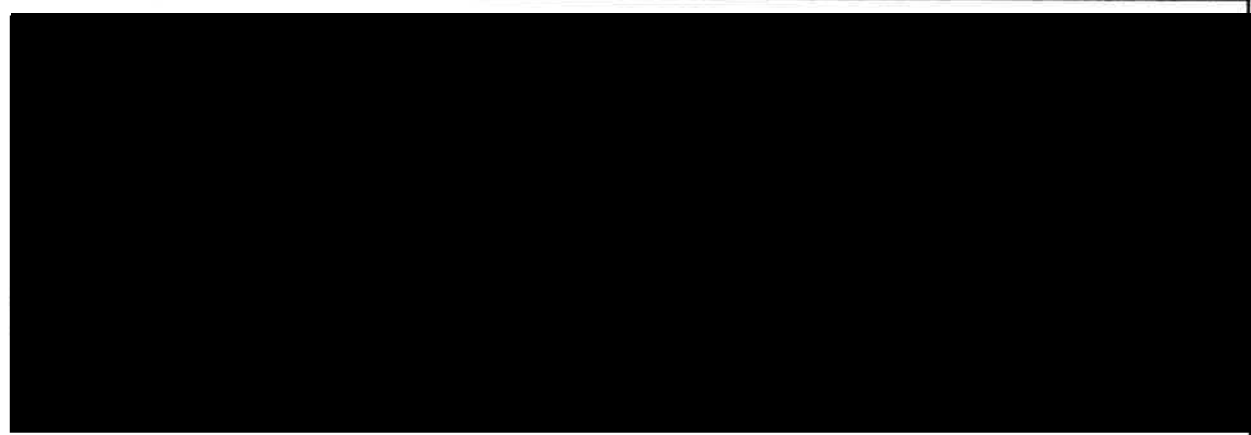
Attachment VI

INMATE NAME: Stockton, Joshua

ADC #: [REDACTED]

GRIEVANCE#: [REDACTED] 23-00099

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION



On 4/22/23 the Warden responded, "According to your grievance record, Grievance Number [REDACTED] 23-00069 is currently in the appeal status. Therefore, I find no merit to your complaint."

Your appeal was received on 4/28/23. I have reviewed your appeal, as well as the Warden's response and I concur with the Warden's decision. This matter has been address in a previous grievance ([REDACTED]-23-00069), which has been exhausted, therefore, I will not address the merit of this appeal.

Director

5-10-23

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.

57

Exhibit 3

IGTT430
3GD

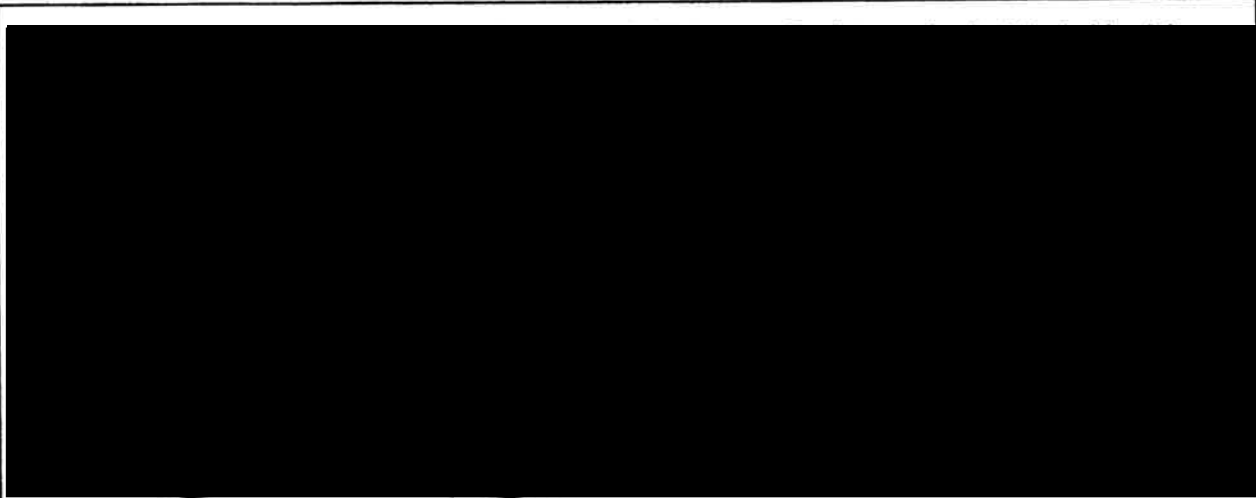
Attachment VI

INMATE NAME: Stockton, Joshua

ADC #: [redacted]

GRIEVANCE# [redacted] 23-0095

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION



Your appeal was received on 4/28/23. I have reviewed your appeal, as well as the Warden's response and supporting documentation. I concur with the Warden's decision and since the water fountain has been removed, I find this matter resolved at the unit level. I find no merit in your appeal.

Appeal denied.

Director

5-10-23
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.

18

Notice / Failure 2 protect / Liability

IGTT430
3GD

Attachment VI

INMATE NAME: Stockton, Joshua

ADC #: [REDACTED]

GRIEVANCE#: [REDACTED] 23-00099

CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION



On 4/22/23 the Warden responded, "According to your grievance record, Grievance Number [REDACTED]-23-00069 is currently in the appeal status. Therefore, I find no merit to your complaint."

Your appeal was received on 4/28/23. I have reviewed your appeal, as well as the Warden's response and I concur with the Warden's decision. This matter has been address in a previous grievance ([REDACTED] 23-00069), which has been exhausted, therefore, I will not address the merit of this appeal.



Director

5/10/23

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.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

JOSHUA MATTHEW STOCKTON
ADC [REDACTED]

PLAINTIFF

V.

No. 4:23-CV-682-BRW-JTR

CANNON, Sgt., Night Shift,
[REDACTED] ADC;
HOWELL, Cpl., Maintenance
Supervisor, [REDACTED]
ADC; BARRON, Sgt [REDACTED]
Complex, ADC; BOULDEN,
Deputy Warden, ADC, [REDACTED]
MARSHALL REED, Chief Deputy
Director, ADC; and JOE PAGE, III,
Superintendent

DEFENDANTS

ORDER

The Court has received a Recommendation for dismissal from Magistrate Judge J. Thomas Ray, along with timely objections. After careful review of the objections and a *de novo* review of the Recommendation and the record in this case, the Court concludes that the Recommendation should be, and hereby is, approved and adopted as this Court's findings in its entirety.

IT IS THEREFORE ORDERED THAT:

1. Stockton's Amended Complaint (*Doc. 6*) is **DISMISSED**, without prejudice, for failure to state a claim on which relief may be granted.

EXC

2. The Court RECOMMENDS that the dismissal count as a “strike” for the purposes of the Prison Litigation Reform Act. 28 U.S.C. § 1915(g); *see Gonzalez v. United States*, 23 F.4th 788, 789 (8th Cir.), *cert. denied*, 142 S. Ct. 2837 (2022).

3. The Court CERTIFIES, pursuant to 28 U.S.C. § 1915(a)(3), that an in forma pauperis appeal from any Order adopting this Recommendation would not be taken in good faith.

IT IS SO ORDERED this 24th day of October, 2023.

BILLY ROY WILSON

UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

JOSHUA MATTHEW STOCKTON
ADC [REDACTED]

PLAINTIFF

V.

No. 4:23-CV-682-BRW-JTR

CANNON, Sgt., Night Shift,
[REDACTED] ADC;
HOWELL, Cpl., Maintenance
Supervisor, [REDACTED]
ADC; BARRON, Sgt., [REDACTED]
[REDACTED] ADC; BOULDEN,
Deputy Warden, ADC, [REDACTED]
MARSHALL REED, Chief Deputy
Director, ADC; and JOE PAGE, III,
Superintendent

DEFENDANTS

JUDGMENT

Consistent with the Order that was entered on this date, it is CONSIDERED,
ORDERED, and ADJUDGED that this case is DISMISSED without prejudice.

IT IS SO ADJUDGED this 24th day of October, 2023.

BILLY ROY WILSON
UNITED STATES DISTRICT JUDGE

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

October 3, 2023

Mr. Joshua Stockton (ADC) [REDACTED]

RE: ***Joshua Stockton v. Arkansas Division of Correction***
Claim No. 240285

Dear Mr. Stockton,

Please be advised that the Arkansas Division of Correction (the "Respondent") in the above-styled claim filed an Answer disputing liability. When liability is contested by the Respondent, you have two options:

- 1) You may request a hearing before the Arkansas State Claims Commission (the "Claims Commission") in writing within fifteen (15) calendar days from the date of this correspondence.
- 2) You may do nothing. If this office does not receive any communication from you within fifteen (15) calendar days from the date of this correspondence, your claim will be dismissed by the Claims Commission for failure to respond.

Please note that even if you request a hearing on your claim, the filing of a dispositive motion (such as a Motion to Dismiss or a Motion for Summary Judgment) by the Respondent could result in dismissal of your claim before hearing. The failure of a party to file a timely response is sufficient basis for the granting of a motion by the Claims Commission.

It is your responsibility to know when responses are due to any motions or other pleadings filed in your claim. It is also your responsibility to notify both the Claims Commission and the Respondent if you have a change in mailing address.

Sincerely,

Mika Tucker

ES: msscott

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

E+D

From: [Misty Scott](#) on behalf of [ASCC Pleadings](#)
To: [Thomas Burns \(DOC\)](#)
Cc: [ASCC Pleadings](#); [Mika Tucker](#)
Subject: ORDER: Joshua Stockton v. ADC, Claim Nos. 240163, 240164, 240211, 240233, 240234, 240266, 240285, and 240378
Date: Wednesday, November 8, 2023 2:37:24 PM
Attachments: [Joshua Stockton v. ADC2.pdf](#)
[Stockton-order163.pdf](#)
[Stockton-order164.pdf](#)
[Stockton-order211.pdf](#)
[Stockton-order233.pdf](#)
[Stockton-order234.pdf](#)
[Stockton-order266.pdf](#)
[Stockton-order285.pdf](#)
[Stockton-order378.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. Joshua Stockton (ADC [REDACTED])
[REDACTED]
[REDACTED]

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

(via email)

Re: ***Joshua Stockton v. Arkansas Division of Correction***
Claim Nos. 240163, 240164, 240211, 240233, 240234, 240266, 240285, and 240378

Dear Mr. Stockton 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

JOSHUA STOCKTON (ADC [REDACTED])

CLAIMANT

V.

CLAIM NO. [REDACTED]

ARKANSAS DIVISION OF
CORRECTION

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Commission”) is the claim filed by Joshua Stockton (the “Claimant”) against Arkansas Division of Correction (the “Respondent”).

Respondent filed an answer denying liability.

The Commission sent correspondence to Claimant on October 3, 2023, advising that Respondent recommended that the claim be denied. In that correspondence, Claimant was given fifteen (15) calendar days to request a hearing and advised that if Claimant did not do so within the specified time frame, Claimant’s claim would be dismissed for failure to respond. To date, Claimant has not responded to the Commission’s October 3, 2023, correspondence.

As such, the Commission hereby unanimously DENIES and DISMISSES this claim for Claimant’s failure to prosecute the claim. Any pending motions are denied as moot.

The Commission notes that, as of the date of this Order, eight (8) claims filed by Claimant within a two-year period have been dismissed: (1) Claim No. 240163, was filed on August 3, 2023, and dismissed on November 8, 2023; (2) Claim No. 240164 was filed on August 3, 2021, and dismissed on November 8, 2023; (3) Claim No. 240211 was filed on August 9, 2023, and dismissed on November 8, 2023; (4) Claim No. 240233 was file on August 12, 2023, and dismissed on November 8, 2023; (5) Claim No. 240234 was filed on

August 12, 2023, and dismissed on November 8, 2023; (6) Claim No. 240266 was filed on August 17, 2023, and dismissed on November 8, 2023; (7) the instant claim, Claim No. 240285, was filed on August 23, 2023, and dismissed on November 8, 2023; and (8) Claim No. 240378 was filed on September 9, 2023, and dismissed on November 8, 2023.

Ark. Code Ann. § 19-10-221 provides,


An inmate in the Division of Correction or the Division of Community Correction who has filed more than three (3) unsuccessful claims or actions under this subchapter within a period of two (2) years may have his or her subsequent claims or motions dismissed by the Arkansas State Claims Commission upon receipt as abuse of process, for one (1) year from the date of dismissal of the inmate's third unsuccessful claim.

Accordingly, the Commission bars Claimant from filing any claims for one year from the date of this Order. Any claims submitted by Claimant within a year from the date of this Order will be dismissed upon receipt pursuant to Ark. Code Ann. § 19-10-221. The Commission notes that this statute does not authorize the Commission to dismiss any pending claims that Claimant may have filed before the date of this Order.

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).

Before the ARKANSAS State Claims Commission

Joshua Stockton (ADC [REDACTED])

Claimant

v.

Claim no. 240285

Arkansas
State Claims Commission

NOV 15 2023

RECEIVED

A.D.C
Division of Corrections

Respondent

Opposition for Respondent's Motion for Summary Judgment

1. Disputed. The Facts in this case remain disputed and are not settled.
2. Disputed. ADC is not entitled to summary judgment.
3. Disputed. Claimant's not merely relied on allegations but supported her assertions with evidence and policies of the State codes and A.D.C policies, otherwise Defendant's negligently denied claimant.
4. Disputed. Claimant cited: state code § 12-27-103 on page 2 (I), the 'Authority' of the Board of Corrections vesting the D.O.C (A.D.C) under ^{Ark code Ann.} § 12-27-105, 16-93-1203; and 16-93-1208 (Michie Supp. 1995) under (I) duty on page 2 of claim, and the Eastern District of Arkansas Court case: Grady v. Langley, 2:12-cv-00117-LPR (E.D. Ark - Sept. 13, 2021, re claims 'negligence standard' of authority format.
5. Undisputed.
6. Disputed. Claimant filed claim against ADC employees not medical employees of wellwith. State Employees for the A.D.C are responsible for the medical needs of claimant ultimately not the contractor. see 'Estelle'.

The Eighth Circuit in Smith v. Andrews, 21-3356 (8th Cir. Jul. 26, 2023) on the issue of

The PLRA's Exhaustion requirement said, (Page 5), "In Ross, the Supreme Court ended a Judge-made exception (the "special circumstances" exception) to the PLRA's Exhaustion requirement. Ross, 578 U.S. at 638-39. In doing so, the Court emphasized the PLRA's mandatory language. Id. at 638-

"As we have often observed, that language is 'mandatory': An inmate 'shall' bring 'no action' (or said more conversationally, may not bring any action) absent exhaustion of available administrative remedies." (quoting Woodford v. Ngo, 548 U.S. 81, 85 (2006)). However, the Court

also explained that the PLRA contains "its own, textual exception": "[A]n inmate is required to exhaust those, but only those, grievance procedures that one (available, i.e.,) 'capable of use' obtain 'some relief for the action complained of'. Id. at 642 (quoting Booth v. Churner, 532 U.S. 731, 738 (2001)). But "to state that standard, of course, is just to begin; Courts in the

and other cases must apply it to the real-world workings of prison grievance systems." Id. The Supreme Court then noted "as relevant here three kinds of circumstances in which an administrative remedy" may be unavailable. Id. at 643 (emphasis added). Those situations are

(1) when the procedure "operates as a simple dead end"; (2) when the administrative scheme is so opaque that it becomes, practically speaking, incapable of use; and (3) when prison administrators deliberately thwart prisoner attempts to use the process. Id. at 643-44.

In Estelle, 'An inmate must rely on prison authorities to treat his medical needs; if the authorities fail to do so, those needs will not be met.' 429 U.S., at 103, 97 S. Ct., at 290.

8. disputed. Claimants Exhibit

Visit Administration Lt. Holcomb

indicated 'yes' on 3-23-23, and determined to be step one and/or an Emergency grievance, of inmates 3-23-2023 dated 'Emergency grievance' of injury to A.D.C Employees, which Lt. Holcomb (agreed) by 'yes' on 3/23/23, on Exhibit 1,

Exhibit 2 - Is the grievance officers (Carmel Stawards) response of 'what occurs when a State Employee notified by grievance, who turns it into the paper office As is policy' would have done and that it would have been acknowledged in some way, or rejected by her office and given a number. Claimant did his part of his grievance process, and his grievance was made 'unavailable' due to State

Employee Lt. Holcomb's failure to adhere to his own policy as a State Actor - which by his not turning in the Emergency grievance made unavailable Claimants grievance process, and fulfilled the PLRA requirements.

Completed by him, turned into to his dated 3-23-23, of which Lt. Holcomb

8. disputed. (under Res Judicata Argumentation ((issue preclusion))).

9. disputed (under Res Judicata Argumentation ((issue preclusion))).

10. disputed (under Res Judicata Argumentation) " " " "

11. disputed (under Res Judicata Argumentation) " " " "

12. disputed (under Res Judicata Argumentation) " " " "

13. disputed. Claimant properly replied to the Claims Commission, Respondent offers no actual evidence that Claimant has not done so, except unsubstantiated allegations.

14. Disputed. (under Res Judicata). Only available remedies 'capable of use' to obtain some relief for the person complained of according to Woodford v Ngo, 548 US 81, 85 - (2006), and Booth v. Churner 532 U.S. 731, 787 (2001) states "(3) when prison administrators deliberately thwart prisoners attempts to use the process" (id. at 643-44. which is, what Lt. Halcomb did on 3-23-2023 when he did not turn on the Emergency Grievance, which made not available the grievance for the Claimant.

15. disputed. See (14.) Above

16. disputed. See 14. Above

17. disputed. Claimant claimed on filing Negligence claim and evidence on the Service employees in the proper jurisdiction and negligence forum to Service Summary Judgment.

Arkansas
State Claims Commission

NOV 15 2023

RECEIVED

18. Disputed -

18. Resjudicata Claim Preclusion Argumentation:

Genuine issues of material Facts

In the Eastern District of Arkansas, In ADC v. Hobbs, case no. 5:14-cv-314 JAH/BD - (E.D. Ark Sep. 17, 2015) states; (starting on p. 12); "Recently, however, The Eighth Circuit addressed the issue of whether a inmate's deliberate - Indifference claim is precluded by a prior action before the Claims Commission." Smith v. Johnson, 779 F.3d 867 (8th Cir. 2015). In SMITH, the trial court dismissed an inmates Constitutional claims because he had previously brought an action involving the same underlying facts before the Arkansas Claims Commission. The Court of appeals reversed the trial court's dismissal, holding that 'Claim preclusion' does not apply because the Claims Commission does not have jurisdiction to address a Constitutional claim against an ADC officer sued in his individual capacity.

Because, the Arkansas Claim Commission has 'Jurisdiction' only over those claims which are 'barred' by the doctrine of 'Sovereign Immunity' from being litigated in a Court of general jurisdiction, the "Claims Commission was the only forum in which [The inmate Plaintiff] could bring his claims against the State" - Id at 870.

Sovereign Immunity did not bar the inmate plaintiff's claim against the officer in his individual capacity, so the Claim Commission lacked jurisdiction over that claim for the Constitutional issues.

The Eighth Circuit also explained that "to invoke preclusion a defendant must establish not only that a claim arises from the same facts, but that the same issue was decided in the prior proceeding." Id at 871. (Emphasis in Original). Because the inmate plaintiff in SMITH asserted only a negligence claim before the Claims Commission, he was not precluded from bringing a 'deliberate - Indifference' claim in a Section 1983 lawsuit.

In Smith, the district court thought the doctrine of 'issue preclusion' barred SMITH Actions Against Johnson. Issue preclusion bars the relitigation of an issue that was 'actually litigated in a prior action and was determined by, and essential to, a valid and final judgment.' Deer/mt. Judea Sch. Dist. v. Kimbrell, 2013 Ark. 393, 430 S.W. 3d 29, 39 (2013). Applying that doctrine the district court ruled that SMITH was precluded from bringing a claim

"based on the same facts that were litigated and decided against him in the Arkansas Claims Commission.

To invoke 'issue preclusion', however, a defendant must establish not only that claim arises from the same facts, but that the same issue was decided in the prior proceeding. Estate of Goston v. Ford Motor Co. (In re Estate of Goston), 320 Ark. 699, 898 S.W. 2d. 471, 473 (1995). The Arkansas Supreme Court requires a party invoking issue preclusion to establish that "the precise issue" was decided in the first proceeding, Smith, 683 S.W. 2d at 936, and interprets "very narrowly" whether an issue was previously litigated. In re, Estate of Goston, 898 S.W. 2d at 473.

One claim involves alleged 'Criminal Recklessness' - where the defendant must - both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists', and... also draw the inference', the other involves 'alleged 'intentional wrongdoing' (negligence of the official).

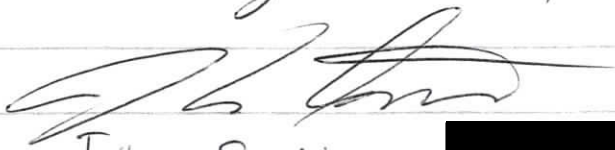
"The theories of negligence and intentional tort are contradictory and mutually exclusive". Hockensmith v. Brown, 929 S.W. 2d 840, 845 (Mo. Ct. App. 1996). Accordingly, "There is generally no claim of negligence that flows from intentionally tortious conduct". BP Chems. Ltd. v. Jiangsu Sopo Corp., 285 F.3d 677, 685 (8th Cir. 2002).

The doctrine of claim preclusion in Arkansas applies to decisions of administrative agencies like the Claims Commission, Craven v. Fulton Sanitation Serv., Inc., 361 Ark. 390, 206 S.W. 3d 842, 844 (2005), and it "bars not only the relitigation of claims that were actually litigated in the first suit, but also those that could have been litigated". Jayel Corp. v. Cochran, 366 Ark. 175, 234 S.W. 3d 278, 281 (2006). (Thus, Joshua Stokton is simultaneously pursuing both claims at the same time in Actions). But the doctrine does "not bar a subsequent action where a party was actually prohibited from asserting a claim in the earlier action." Cater v. Cater, 301 Ark. 622, 846 S.W. 2d. 173, 176 (1993).

The restatement of Judgements, which has been followed by the Arkansas Courts in other respects, e.g., Ruth R. Remmel Revocable Trust v. Roane, 284 Ark. 568, 683 S.W. 2d. 935, 936 (1985), Likewise provides that claim preclusion is not applicable here "The plaintiff was unable to rely on a certain theory of the case to seek a certain remedy or form of relief in the first action because of the limitations on the subject matter jurisdiction of the courts... and the plaintiff desires in the second action (or subsequent) ~~to~~ to rely on that theory or to seek that remedy or form of relief." Restatement (second) of Judgments § 24(1)(c). The Restatement reasons that "It is unfair to preclude (the plaintiff) from a second action in which he can present those phases of the claim which he was disabled from presenting in the first." Id. cmt. c" (Quoted from Smith v. Johnson 779 F.3d 867 (8th Cir. 2015) (which reversed the district court findings and recommended for further proceedings).

As Quoted from the Eighth Circuit's citation from Smith, 'The States Sovereign Immunity, Barring Plaintiffs Bringing state negligence claims,' would be unfair 'to preclude from action the claim against the states negligence in the state claim Commission. As claimant simultaneously are bringing separate claims. The respondent, nor claims Commission has jurisdiction on a suits' deliberate - indifference claims, similar case details or not, according to the Eighth Circuit's precedent found in Smith v. Johnson 779 F.3d 867 (8th Cir. 2015).

Respectfully Submitted,



Joshua Stockton



19. Disputed. Respondant's evidence is outside the Jurisdictional reach of the state claims Commission as contributory individual capacity claims filed.

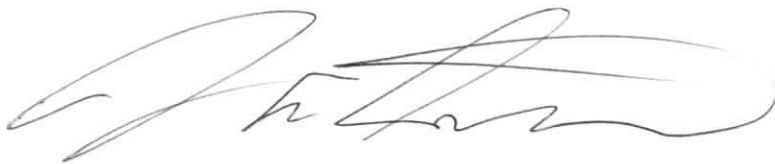
20. Disputed. Respondant has not brought forth any Evidence within this jurisdiction of the state Claims Commission that refute claimant's claim of negligent acts and omissions of the state Employees, only cited 'individual capacity' general jurisdictional elements of which are not able to overcome this jurisdiction's Sovereign Immunity claim claimant filed. Leaving continuing issues of material fact to be brought before the Court (Commission) for proper adjudication and Monetary Relief due claimant under the proper Jurisdictional venue claimed in the Claims Commission.

- 21. (A) Disputed. The state is Restorable Ultimate for various medical, 'Estelle'.
- (B) Disputed. never brought before Claims Commission's claim, only negligence.
- (C) Disputed. never asserted in this jurisdiction.
- (D) Disputed. argued in (18) of proper venue/jurisdiction for negligence claims.
- (E) Disputed. Respondant Failed to produce Evidence of such allegations.
- (F) Disputed. see (4.) of authorities from claims content.

22. Disputed. Respondant and Defendants failed to meet proof with proof in the negligence claim brought forth to this Commission, on the claimant's claims and Evidence and cited authorities by the state and H.O.C policies, leaving a triable claim. No relief should be granted to defense.

Claimant prays the Commission NOT grant Respondent / Defendants
'motion for Summary judgement', and allow Claimants Case to proceed
To Trial, or Settlement offer.

Respectfully Submitted, under Oath Sworn.

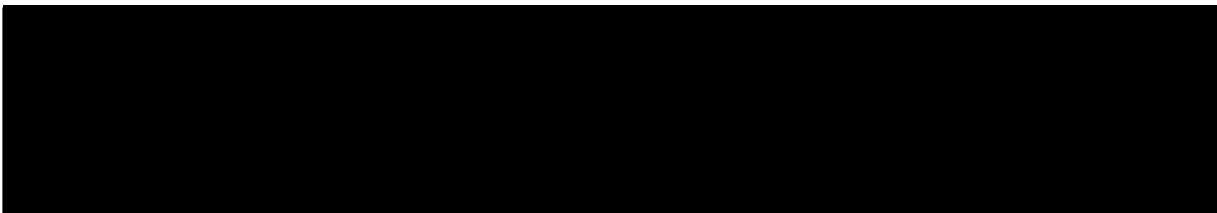


APC



Josh Va Stockton

Ester



Dated 11-09-2023

Arkansas State Claims Commission

Joshua Stockton ADC

CLAIMANT

V.

Claim no. 240163, 240164, 240211, 240233, 240234

Arkansas Department of Corrections 240266, 240285, 240378

Division of Corrections

Respondent
Arkansas
State Claims Commission

NOV 17 2023

NOTICE OF APPEAL

RECEIVED

pursuant to Ark. Code ann. § 19-10-211 (supp. 1997), claimant Joshua

Stockton Appeals to the General Assembly for his appeal of this cited claim

against Defendants in their official capacities as STATE Employees.

The Arkansas State Claims Commission's denied all at one time, after claimant did

responses to Respondents motions for summary judgments and/or Motion for dismissals

of which claimant responded to. The Claims Commission sent correspondence's to claimant

that he had 15 days to respond to request a hearing after notices were served

to Respondents Counsel, of which claimant did in letter formats (incorporating

multiple claim numbers) in a response for claimant's wanting a trial. The

claimant did respond to each claim notice and did put Attu: Mike Tucker in

his requests for trial Responses, all sent in prior to the 15 day response period of expiration. Inside one or more of these claim numbers have the response letters in their records. All someone has to do is look for them! perhaps The General assembly will do so in their investigation of appellate to their Authority

This appeal of claims nos. 240163, 240164, 240211, 240233, 240234, 240266, 240285 - and 240328 are disputed. As claimant met criteria 1) and 2) on Exhibit 1

claimant appeals to the General assembly according to Ark. Code Ann. § 19-10-211 -

(2) (1).

under oath sworn, and Respectfully Submitted -

 Adc to 

Joshua Stocketon



Dated 11-14-2023

Exhibit 1

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

September 6, 2023

Mr. Joshua Stockton (ADC [REDACTED])
[REDACTED]

RE: *Joshua Stockton v. Arkansas Division of Correction*
Claim No. 240164

Dear Mr. Stockton,

Please be advised that the Arkansas Division of Correction (the "Respondent") in the above-styled claim filed an Answer disputing liability. When liability is contested by the Respondent, you have two options:

- 1) You may request a hearing before the Arkansas State Claims Commission (the "Claims Commission") in writing within fifteen (15) calendar days from the date of this correspondence.
- 2) You may do nothing. If this office does not receive any communication from you within fifteen (15) calendar days from the date of this correspondence, your claim will be dismissed by the Claims Commission for failure to respond.

Please note that even if you request a hearing on your claim, the filing of a dispositive motion (such as a Motion to Dismiss or a Motion for Summary Judgment) by the Respondent could result in dismissal of your claim before hearing. The failure of a party to file a timely response is sufficient basis for the granting of a motion by the Claims Commission.

It is your responsibility to know when responses are due to any motions or other pleadings filed in your claim. It is also your responsibility to notify both the Claims Commission and the Respondent if you have a change in mailing address.

Sincerely,

Mika Tucker

ES: msscott

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