

Please Read Instructions on Reverse Side of Yellow copy

Arkansas Claims Commission

L5.

Please print in ink or type

JUN 24 2013

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

RECEIVED

- Mr.
- Mrs.
- Ms.
- Miss

FRED EDGEM # 138700 Claimant

vs.

State of Arkansas, Respondent
Dept. of Correction

Do Not Write in These Spaces		
Claim No.	<u>13-0929-CC</u>	
Date Filed	<u>June 24, 2013</u>	
	(Month) (Day) (Year)	
Amount of Claim \$	<u>3,000.00</u>	
Fund	<u>DOC</u>	

COMPLAINT Failure to Follow Procedure, Negligence, Mental Anguish

FRED EDGEM (Name), the above named Claimant, of 10 Prison Circle (Street or R.F.D. & No.), CALICO ROCK (City)

AR 72519-9054 (State) (Zip Code) (Daytime Phone No.) County of IZARD represented by NIA (Legal Counsel, if any, for Claim)

of NIA (Street and No.) (City) (State) (Zip Code) (Phone No.) (Fax No.) any:

State agency involved: North Central Unit ADC Amount sought: 3000⁰⁰ dollars

Month, day, year and place of incident or service: 4-05-13 - 4-12-13 North Central Unit / Kitchen

Explanation: It started on 4-5-13, Sgt. Guerra, Cussing me and calling me names. This barrage of verbal assaults included calling me "Fucking lazy," in which I'm not. Also, he kept a steady petty name calling, such as non-working a saying that I'm always trying to shirk my duties and trying to get out of "fucking work." I felt under a constant threat of going to the hole over nothing. Why he chose me as a Sergeant for this barrage of verbal abuse, is beyond me. This all goes against AR 210 which states, "Doc employees shall maintain a courteous and professional demeanor in their association with inmates." On Friday 4-12-13 he had 2 inmates to carry 2 knives and the curb, across my work area. Inmates' use of knives are to be established to a stationary object. Anyone could have been stabbed or strangled in the span of that area. They were unescorted and unsupervised while transporting them. I felt at all a threat due to the fact that both inmates had riotous charges and would carry out all he asked of them. They were considered his back and call boys. This threat was real to me and caused my stomach to hurt due to the stress on my nerves. Facts: I asked in my Grievance that the cameras be returned; Sgt Guerra failed to maintain within the guidelines of AR 210, ADC failed to provide a safe and humane place for me to live as per their mission statement. ADC failed to remove a threat to me and the breach in security. Therefore 3000⁰⁰ dollars is sufficient due to regressive on ADC's Act, and my mental and physical wellbeing.

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to my state department or officer thereof? NO (Yes or No); when? _____ (Month) (Day) (Year); to whom? _____ (Department)

and that \$ _____ was paid thereon: (2) Has any third person or corporation an interest in this claim? _____; 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 verify believes that they are true.

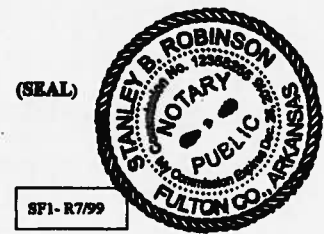
Fred Edgem (Print Claimant/Representative Name) Fred Edgem (Signature of Claimant/Representative)

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

on this 20th day of June (Date) 2013 (Month) (Year)

Stanley B. Robinson (Notary Public)

My Commission Expires: Dec 26 2015 (Month) (Day) (Year)



SF1- R799

UNIT LEVEL GRIEVANCE FORM (Attachment I)

Received

Unit/Center NCU

APR 16 2013

Name Fred Edgin

ADC# 138700 Brks # Z-54 Job Assignment Kitchen Am

FOR OFFICE USE ONLY	
GRV. #	<u>NC-13-00130</u>
Date Received:	<u>4/16/13</u>
GRV. Code #:	<u>800</u>

4-12-13 (Date) STEP ONE: Informal Resolution

4-15-13 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)

If the issue was not resolved during Step One, state why: An issue not resolved,

I can provide witnesses to back my claim.

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

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

BRIEFLY state your one complaint/concern and be specific as to the complaint, date, place, name of personnel involved and how you were affected. (Please Print): Kitchen Supervisor Geurra has been

singling me out to berate me. He has been calling me fucking lazy and that I dont do nothing except run my mouth. This has been going on since Friday the 5th of April. I have felt threatened to be locked up all the time over nothing. Now with that been said, on today Friday the 12th of April. He had one inmate to carry knives without being locked down back to his office and one to carry the metal cards that the knives were attached to, back to his office also. I felt threatened even more at this because the two inmates are his best and call boys. You can rewind the camera back to the 12th of April in between 5:58am + 7:00am and see on 2 cameras that the 2 inmates leave the back sink and cut across the cook area then on the other camera from the cook area to the front sink then to the office. Anything could have happened in between these 2 areas. There are several inmates who witnessed both his verbal abuse and the 2 knives and cards. I'd like the recording on the camera put on file. This is

Fred Edgin

4-12-13

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 4/13/13 (date), and determined to be Step One and/or an Emergency Grievance No (Yes or No). This form was forwarded to medical or mental health? No (Yes or No). If yes, name of the person in that department receiving this form: _____ Date _____

PRINT STAFF NAME (PROBLEM SOLVER) C. McCallough ID Number 511165 Staff Signature C. McCallough Date Received 4/13/13

Describe action taken to resolve complaint, including dates: At no time while supervising inmates assigned to the kitchen have I used foul or vulgar language. Inmate Edgin, #138700 was never threatened to be locked up nor was he treated any different from any other inmate.

Staff Signature & Date Returned [Signature] 4/13 Inmate Signature & Date Received Fred Edgin 4-14-13

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: MAY 09 2013

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

2

IGTT410
3GS

Attachment III

INMATE NAME: Edgin, Fred D.

ADC #: 138700A

GRIEVANCE #: NC-13-00130

WARDEN/CENTER SUPERVISOR'S DECISION

Complaint:

Kitchen supervisor Guerra has been singling me out to berate me. He has been calling me fucking lazy and that I don't do nothing except run my mouth. This has been going on since Friday the 5th of April. I have felt threatened to be locked up all the time over nothing. Now with that been said, on today Friday the 12th of April he had one inmate to carry knives without being locked down back to his office and one to carry the metal cords that the knives were attached to back to his office also. I felt threatened even more at this because the two inmates are his beck and call boys. You can rewind the camera to the 12th of April in between 5:00 a.m. and 7:00 a.m., and see on 2 cameras that the 2 inmates leave the back sink and cut across the cook area then on the other camera from the cook area to the front sink then to the office. Anything could have happened in between those 2 areas. There are several inmates who witnessed both his verbal abuse and the 2 knives and cords. I'd like the recording on the camera put on file. This is a breach in security.

Response:

An interview with Sgt. Guerra indicates that while he was performing his duties as Food Production Supervisor, he at no time used any foul or inappropriate language towards you. You were never threatened to be locked up for any reason. You were given the same instructions as all other inmates assigned to food service, that you are to complete your assigned job and that failure to do so could result in disciplinary action being taken. Your grievance is therefore without merit.

Signature of Warden/Supervisor or Designee

RECEIVED

MAY 09 2013

Title

INMATE GRIEVANCE SUPERVISOR
ADMINISTRATION BUILDING

4-25-13

Date

INMATE'S APPEAL

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

WHY DO YOU DISAGREE WITH THE ABOVE RESPONSE? Sgt. Guerra lied about berating me and I'll take a stress test anytime to dispute what he has said. Also, I have witnesses that can back-up both the cussing and the knives that weren't attached. The threat that I felt was real. I understand that officer code is to back up the officer. However, when I feel threatened about knives being carried by other inmates, UNSUPERVISED, that should be reason enough to at the least rewind the camera and take a look. The inmates in particular are his beck and call boys and they both have violent charges. Anything could happen in the distance of the cook area. One or both could have strangled or stabbed any inmate or myself in that space. Again the threat was real to me whether Officer Guerra owns up to his verbal assault or not. It is still a breach in security when inmate handles knives UNSUPERVISED. I understand officer code is to back up the officer, however my pen has been used to state my feelings on the matter.

Inmate Signature

138700

ADC#

4-29-13

Date

INMATE NAME: Edgin, Fred D.

ADC #: 138700

GRIEVANCE#:NC-13-00130

Inmate Edgin, in my review of this matter, I find that I concur with the unit's response. Also, records show that you are no longer assigned to pot & pan washer, you are currently assigned to Utility.

Appeal denied

17 M7

5.31.13

Director

Date

ADMINISTRATIVE DIRECTIVE

SUBJECT: Mission Statement

NUMBER: 13-06

SUPERSEDES: 08-33

APPLICABILITY: All employees/Inmates

REFERENCE: JAR 400

PAGE 1 of 1

APPROVED: Original signed by Ray Hobbs

EFFECTIVE DATE: 04/12/2013

I. POLICY:

To assure that each unit, as well as the Department has a Mission Statement delineating its mission and is reviewed annually.

II. PROCEDURES:

A. Departmental Mission Statement

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

REPUBLICAN PARTY
STATE OF TEXAS

RESOLUTION

WHEREAS

Resolved, That the Republican Party of the State of Texas do hereby

and

Resolved

Resolved

Resolved

Resolved

Resolved

Resolved

Resolved

Resolved

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

FRED EDGEN (ADC 138700)

CLAIMANT

V.

NO. 13-0929-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

ANSWER

COMES NOW the Respondent, Arkansas Department of Correction, and for its Answer, states and alleges as follows:

1. Respondent denies liability in this claim and asserts it will hold the Claimant to strict proof on each allegation unless admitted by Respondent. Respondent reserves the right to plead further upon completion of the investigation by internal affairs and requests the matter be held in abeyance until the investigation is complete.
2. The applicable account information required by the Commission is:
 - a. Agency number: 0480
 - b. Cost Center: HCA0100
 - c. Internal Order: 340301
 - d. Fund Center: 509


WHEREFORE, for the reasons cited above the Respondent prays that the claim be dismissed with prejudice and that Claimant take nothing, or in the alternative that the matter be held in abeyance until completion of the investigation by internal affairs.

Respectfully submitted,
Department of Correction Office of Counsel

Arkansas Claims Commission

JUN 28 2013

RECEIVED


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

CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been served this 28 day of June, 2013, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Fred Edgen (ADC 138700)
Grimes Unit
300 Corrections Drive
New Port, AR 72112


LISA MILLS WILKINS Ark. Bar #87190

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

FRED EDGEN (ADC #138700)

CLAIMANT

V.

NO. 13-0929-CC

ARKANSAS DEPARTMENT OF CORRECTION

Arkansas Claims Commission

RESPONDENT

JUL 11 2013

RESPONDENT'S MOTION TO DISMISS

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

1. Claimant makes two claims. He alleges a violation of the employee conduct standards on April 4, 2012 and a violation of the mission statement and policy on April 12, 2013. He seeks \$3,000.00 in damages. Claimant has failed to state a cause of action under ARCP 12(B)(6) and the claims should be dismissed.
2. Claimant alleges that Sgt. Guerra used profanity towards him in violation of the employee conduct standards and did not maintain a courteous and professional demeanor in his association with inmates. Sgt. Guerra has denied making these statements. Claimant has failed to state how he was harmed in anyway if the statements were made. Damages are required to be shown.
3. Furthermore, Claimant has no standing to bring a violation of the employee conduct standards as he is not entitled to possession of those standards and they are for performance evaluation of employees.
4. Next, Claimant alleges that on April 12, 2013, two inmate kitchen workers carried knives near him and he felt threatened and could have gotten hurt while they were transporting the knives. That such action is a violation of the mission statement to provide him a safe and humane place for him to live. Claimant has failed to show how he was harmed.
5. Claimant has failed to show that he was damaged in anyway. For a plaintiff to bring an individual action, he must be injured directly or independently." Lenz v. Associated Inns & Restaurants Co. of America, 833 F.Supp. 362, 380 (S.D.N.Y.1993). Claimant has failed to state a cause of action for this claim under ARCP Rule 12(b)(6).
6. Respondent prays that the claim be dismissed.

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

Respectfully submitted,

Department of Correction
Office of Counsel

Lisa Mills Wilkins

LISA MILLS WILKINS Ark. Bar #87190

Attorney Supervisor

Post Office Box 8707

Pine Bluff, AR 71611

(870)267-6844 Office

(870)267-6373 Facsimile

CERTIFICATE OF SERVICE

I certify that a copy of the above MOTION TO DISMISS has been served this 9
day of July, 2013, on the below Claimant by placing a copy of the same in the
U. S. Mail, regular postage to:

FRED EDGEN (ADC #138700)

NCU

#10 PRISON CIRCLE

CALICO ROCK, AR 72519

Lisa Mills Wilkins

LISA MILLS WILKINS Ark. Bar #87190

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION (1)

FRED EDGIN (^{ADC} #138700)

CLAIMANT

v

NO. 13-0929-CC

THE ARKANSAS DEPARTMENT OF CORRECTION RESPONDENT

REBUTTAL TO MOTION TO DISMISS

COMES NOW THE CLAIMANT, FRED EDGIN, AND HIS
REBUTTAL TO THE MOTION TO DISMISS:

1. ALTHOUGH SGT. GUERRA HAS DENIED USING
PROFANITY TOWARDS ME OR ANY OTHER INMATE, I WAS
AT THE RECEIVING END OF ONE OF HIS MANY
TYRANT EPISODES. ALSO, I'VE ASKED FOR HIM TO TAKE
A LIE-DETECTOR TEST TO REFUTE AND DISPELL HIS STATEMENT.

2. ALSO, TO REFUTE THAT I HAVE NO STANDING TO BRING
A VIOLATION OF CONDUCT AGAINST SGT. GUERRA, ALTHOUGH
I AM NOT PRIVY TO EMPLOYEES CONDUCT OF STANDARDS, I
USED AR 210 "D.O.C. EMPLOYEES SHALL MAINTAIN A COURTEOUS
AND PROFESSIONAL DEMEANOR IN THEIR ASSOCIATION WITH INMATES!"
CURSING AN INMATE IS NOT BEING COURTEOUS OR PROFESSIONAL.

3. IN THE INSTANCE OF FEELING THREATENED, SGT. GUERRA
ALLOWED 2 INMATES TO CARRY KNIVES AND METAL CORDS
ACROSS MY WORK STATION. THESE INMATES (WHO HAVE VIOLANT CHARGE)
WERE TWO PEOPLE WHO I FELT THAT WOULD HAVE DONE ANY-
THING FOR SGT. GUERRA TO FUTURE HIS CAUSE AGAINST ME.
THEY THRIVED ON VIOLANCE AND ATTENTION.

Arkansas
State Claims Commission

AUG 14 2013

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(2)

4. AS FOR DAMAGES, MENTAL DISTRESS; I WAS ALWAYS UNDER DISTRESS IN THOUGHT OF LOSING MY CLASS AND BEING THROWN INTO AN UNAIR-CONDITIONED HOLE. IN DISTRESS OF LOSING MY KITCHEN JOB, AND DISTRESSED ABOUT GETTING STABBED. THESE WERE REAL THREATS THAT I FELT. EMBARRASSMENT: I WAS APPALLED AND EMBARRASSED BY THE FACT THAT SGT GUERRA WOULD BELITTLE AND CURSE ME IN FRONT OF OTHER INMATES. LIFE ENDANG-ERMENT: I FELT THAT MY LIFE WAS IN DANGER WHEN SGT. GUERRA ALLOWED INMATES CARRY KNIVES AND METAL CORDS IN MY WORK STATION.

5. I PRAY THAT THE COMMISSION WILL NOT DISMISS MY CLAIM, BUT WILL FUTHER SEE TO THIS CLAIM.

RESPECTFULLY,

FRED EDGIN #138700

STATE CLAIMS COMMISSION LOCKET
OPINION

Amount of Claim \$ 3,000.00

Claim No. 13-0929-CC

Fred Edgin, #138700 Claimant vs. Pro se Claimant
Attorneys

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

Date Filed June 24, 2013 Type of Claim Failure to Follow Procedure, Negligence & Mental Anguish

FINDING OF FACTS

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss" for reasons set forth in paragraphs 2-4 & 6 contained in the motion. Therefore, this claim is hereby unanimously denied and dismissed.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss" for reasons set forth in paragraphs 2-4 & 6 contained in the motion. Therefore, this claim is hereby unanimously denied and dismissed.

Date of Hearing August 15, 2013

Date of Disposition August 15, 2013

Pat Morgan Chairman
Bill Lanier Commissioner
Jim Baker Commissioner

101 E. CAPITOL AVE. SUITE 410
LITTLE ROCK, AR. 7201-3823

10 PRISON CIRCLE
C. ROCK, AR. 72519-9054

NO. 13-0929-CC

MOTION FOR RECONSIDERATION

8-27-13

DEAR SIR,

AS PER A.C.A. § 19-10-211, I HAVE THE OPTION TO FILE FOR RECONSIDERATION. I ADDRESSED, IN MY REBUTTAL, THE ISSUES SET FORTH IN PARAGRAPHS 2-4 AND 6. ALTHOUGH I DID NOT ITEMIZE EACH STANDARD FOR PAYMENT, I PUT IT IN A GROUP AS A WHOLE. I HAVE ALSO ENCLOSED 2 RESPONSES TO REFUTE FURTHER THAT SGT. GUERRA DID IN FACT USE FOUL LANGUAGE TOWARDS ME AND OTHER INMATES AS WELL. IT IS MY PRAYER THAT THIS COMMISSION WILL RECONSIDER ITS DECISION TO DISMISS MY CLAIM.

SINCERELY,

Paul Edgim

ENCLOSED: 1, MOTION FOR RECONSIDERATION

2, ITEM 1

3, ITEM 2

Arkansas
State Claims Commission

AUG 27 2013

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ARKANSAS STATE CLAIMS COMMISSION DOCKET # 13-0929-CC

THE FOLLOWING PEOPLE HAVE LISTED THEIR NAMES AS TO STATING THAT THEY HEARD, THEN KITCHEN SUPERVISOR SGT. GUERRA, CURSE ME, FRED EDGEM, CALLING ME "FUCKING LAZY" AND VARIOUS OTHER NAMES. THIS COMPILED LIST IS AS FOLLOWS:

Danny King #150196

DANNY KING

Delbert Bridges #149334

DELBERT BRIDGES

Arkansas State Claims Commission

AUG 27 2013

RECEIVED

ARKANSAS STATE CLAIMS COMMISSION DOCKET # 13-0929-CC

THE FOLLOWING PEOPLE LIST THEIR NAMES AS TO STATEMENTS THAT THEY HAVE HEARD, THEN KITCHEN SUPERVISOR, SGT GUERRA, CURSING INMATES IN THE KITCHEN. THIS LIST IS COMPILED TO REFUTE HIS CLAIM THAT HE NEVER USED FOUL OR INAPPROPRIATE LANGUAGE TOWARD ANYONE IN THE KITCHEN. THE LIST IS AS FOLLOWS:

Delbert Bridges # 49334	DELBERT BRIDGES
Danny King # 158196	DANNY KING
Teddy Weets # 135490	TEDDY WEETS

Arkansas
State Claims Commission

AUG 27 2013

RECEIVED

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 3,000.00

Claim No. 13-0929-CC

Fred Edgin, #138700 Claimant
vs.

Attorneys
Pro se Claimant

Department of Correction Respondent

Lisa Wilkins, Attorney Respondent

State of Arkansas
Date Filed June 24, 2013

Type of Claim Failure to Follow Procedure,
Negligence & Mental Anguish

FINDING OF FACTS

The Claims Commission hereby unanimously denies Claimant's "Motion for Reconsideration" for the Claimant's failure to offer evidence that was not previously available. Therefore, the Commission's August 15, 2013, order remains in effect.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

The Claims Commission hereby unanimously denies Claimant's "Motion for Reconsideration" for the Claimant's failure to offer evidence that was not previously available. Therefore, the Commission's August 15, 2013, order remains in effect.

Date of Hearing September 12, 2013

Date of Disposition September 12, 2013

Richard D. May
Chairman

Huewa
Commissioner

Bill Janssen
Commissioner

NO. 13-0929-CC

9-14-13

DEAR SIRs,

I WOULD LIKE TO USE THIS LETTER AS MY "NOTICE OF APPEAL". THIS IS DONE WITHIN THE 20 DAY STANDARD FOR AN APPEAL.

IN YOUR REASON FOR DENIAL OF MY RECONSIDERATION, YOU STATED FAILURE TO OFFER EVIDENCE THAT WAS NOT PREVIOUSLY AVAILABLE, THE REASON FOR THE DELAY WAS I HAD NO KNOWLEDGE OF YOUR DATE FOR CONSIDERING MY CASE: # 13-0929-CC. IT WAS TO MY UNDERSTANDING, IN YOUR LETTER DATED 7-1-13 THAT I WAS TO APPEAR BEFORE THE COMMISSION, IF I SENT IN WRITING IN 15 DAYS OF 7-1-13, IN WHICH I REPLIED, AND THAT A DATE WOULD BE SET FOR ME TO APPEAR. I WAS NOT ALLOWED THAT APPEARANCE OR TOLD OF A DATE THAT YOU WOULD HEAR MY CASE.

IT IS FOR THE ABOVE REASONS THAT I WANT TO APPEAL TO THE GENERAL ASSEMBLY.

SINCERELY,

Fred Edgin

FRED EDGIN

Arkansas Claims Commission

SEP 17 2013

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