

3 copies

Please Read Instructions on Reverse Side of Yellow copy

Please print in ink or type

JUN 14 2013

RECEIVED

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

- Mr. Mrs. Ms. Miss

Levester Gillard, #092839 Claimant

Do Not Write in These Spaces
Claim No. 13-0894-CC
Date Filed June 14, 2013
Amount of Claim \$ 39.23
Fund DOC

State of Arkansas, Respondent
Dept. of Correction

COMPLAINT

Levester Gillard, #092839, the above named Claimant, of POB 500, Grady, AR 71644

County of Lincoln represented by

State agency involved: Amount sought: \$39.03 plus 20¢ copies

Month, day, year and place of incident or service: MARCH 18, 2013 Cummins unit

Explanation: ON MARCH 19, 2013 I RECEIVED A MONEY SLIP THAT INFORMED ME THAT I HAD RECEIVED \$95.00 FROM MY MOTHER. SO ON MARCH 20 I WENT TO THE PEN STORE AND SPENT \$11.04. I NOTICED THAT THERE WAS \$37.99 MISSING FROM MY ACCOUNT. I IMMEDIATELY ASKED MRS. BLACK ABOUT IT BUT SHE SAID THAT SHE DIDNT DO COMMISSARY FOR MY BARRACK ON THE 18 OF MARCH. SHE TOLD ME THAT A LADY BY THE NAME OF MRS. COPELAND PASSED OUT COMMISSARY FOR THAT DAY (3-18-13). I HAVE SINCE TRIED TO RESOLVE THIS ERROR THROUGH THE GRIEVANCE PROCEDURE AND REQUESTS TO THE COMMISSARY SUPERVISOR BUT TO NO AVAIL. I WAS UNSUCCESSFUL IN GETTING THE COMMISSARY SUPERVISOR TO FORWARD ME THE RECEIPT THAT WAS SUPPOSEDLY SIGNED BY ME ON 3-18-13 WHICH IS WHAT PEAKED MY SUSPICION EVEN MORE THAT I AM BEING TAKEN FOR \$37.99 WHETHER INTENTIONAL OR MISTAKENLY. I NEED MY MONEY REPLACED. THE EXTRA \$1.04 + THE 20¢ FOR COPIES AND STAMPS. I KNOW THAT ALL RECEIPTS ARE SIGNED UPON PURCHASE AT MY COMMISSARY. THEN PEN STORE HERE AT CUMMINS REFUSES TO PRODUCE THAT SIGNED RECEIPT WHICH PROVES THAT I DID NOT PURCHASE OR SIGN FOR ANY COMMISSARY ON THAT DAY. IT IS POLICY THAT ALL INMATES MUST SIGN A RECEIPT UPON ANY PURCHASE AT THE PEN STORE. THE RECEIPT WILL PROVE IF I WENT TO THE PEN STORE ON 3-18-13.

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof?

(Yes or No) when? to whom? (Department)

and that \$ was paid thereon: (2) Has any third person or corporation an interest in this claim? YES; if so, state name and address Mary Gillard 1211 SUNSET STAMPS AR 71860

and that the nature thereof is as follows: SHE IS MY SOURCE OF INCOME

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. LEVESTER GILLARD #92839 (Print Claimant/Representative Name) [Signature] #92839 (Signature of Claimant/Representative)

SWORN TO and subscribed before me at Grady AR (City) (State) on this 27 day of April 2013 (Date) (Month) (Year)

My Commission Expires: May 27 2021 (Month) (Day) (Year)

UNIT LEVEL GRIEVANCE FORM I (Attachment I)

Unit/Center CUMMINS

Name L. Gillard

ADC# 92839 Brks # 1301 Job Assignment Pu-9

3-21-13 (Date) STEP ONE: Informal Resolution

3-21-13 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)

If the issue was not resolved during Step One, state why: I only spent 11.04 on 3-20-13.

(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? NO If yes, circle one: medical or mental

BRIEFLY state your one complaint/concern and be specific as to the complaint, date, place, name of personnel involved and how you were affected. (Please Print): ON 3-20-13 I purchased 11.04 in items off the pen store. AFTER I got my receipt I noticed that my balance was not correct my balance was 55.33 when it should have been 93.32. I did not order any special order and the only inmate check I wrote was for copies. That was only 1.50. I want to know what happened to my money. It's 37.99 since missing from my books and I want my money back on my books THIS IS THE SECOND TIME AN INCIDENT LIKE THIS HAS HAPPENED. IT ALSO HAPPENED BACK IN 2011 AROUND THE SAME TIME. MY MONEY NEEDS TO BE ACCOUNTED FOR. THE TRUTH WILL COME OUT AND WHOEVER STOLE MY MONEY WILL BE CAUGHT BECAUSE I WROTE MR ALLEN AND ASKED FOR A COPY OF ALL TRANSACTIONS FOR THE PAST 30 DAYS!

L. Gillard
Inmate Signature

3-21-13
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 3/21/13 (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? _____ (Yes or No). If yes, name of the person in that department receiving this form: _____ Date _____

T. Griffin 8531
PRINT STAFF NAME (PROBLEM SOLVER) ID Number Staff Signature Date Received

Describe action taken to resolve complaint, including dates:
Spoke with Ms. Cool and she stated you went to the store and spent 37.99 on Monday March 18, 2013.

T. Griffin 3/21/13 L. Gillard 3-18-13
Staff Signature & Date Received Inmate Signature & Date Received

This form was received on 3-22-13 (date), pursuant to Step Two. Is it an Emergency? NO (Yes or No). Staff Who Received Step Two Grievance: Forward to Grievance office Date: 3-22-13
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.

INMATE NAME: Gillard, Levester

ADC #: 092839B

GRIEVANCE #: CU-13-00805

WARDEN/CENTER SUPERVISOR'S DECISION

I have reviewed your grievance dated March 21, 2013. You state, "On 3-20-13 I purchased 11.04 in items off the pen store. After I got my receipt I noticed that my balance was not correct. My balance was 55.33 when it should have been 93.32. I did not order any special order and the only inmate check I wrote was for copies. That was only 1.50. I want to know what happened to my money. Its 37.99 since missing from my books and I want my money back on my books. This is the second time an incident like this has happened. It also happened back in 2011 around this same time. My money needs to be accounted for! The truth will come out and whoever stole my money will be caught because I wrote Mrs. Allen and asked for a copy of all transcections for the past 30 days!"

Please be advised, I find that on March 15, 2013, you had a deposit of \$95.00 giving you a balance of \$95.09. You had a postage charge of \$1.52 leaving a balance of \$93.57, then a charge of \$0.25 charge for Legal Copier Fees leaving a balance of \$93.32. On March 18, 2013, there was a canteen sale to you for a total amount of \$37.99 leaving a balance of \$55.33. Then on March 20, 2013, you had another canteen sale for a total of \$11.04 leaving you a balance of \$44.29. My Grievance Officer Mr. J. Mizell has reviewed the camera for 16 barracks for March 18, 2013, and it shows that Officer Ashcraft and Ms. J. Copeland, Pen Store Manager issues commissary to your cell 307 at approximately at 9:00 am. Therefore I find no merit to your complaint.



Signature of Warden/Supervisor or Designee

Title

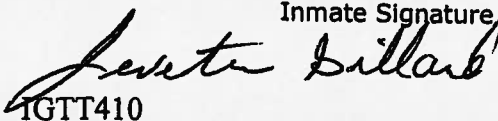
4-8-13
Date

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? EVERYTIME I go to the pen store to purchase anything there are 2 receipts. one is for me the other is for the pen store. I don't have a receipt for 3-18-13. whoever signed for any transaction on 3-18-13 in cell 7 forged my name and stole my 37.99. If the signature is not identical to the one below then its forged. I am on heavy medication for migraine and back pain (immotrex and nortriptyline) and I sleep a lot. I don't know what took place on 3-18-13. I didn't know I had money until 3-19-13 when I got mail at mail call. Records need to

Inmate Signature



ADC#

92839

Date be checked

4-9-13

IGTT405
3GT

Attachment V

**ACKNOWLEDGEMENT OF GRIEVANCE APPEAL
or REJECTION OF APPEAL**

TO: Inmate Gillard, Levester ADC #: 092839B
FROM: May, Larry D TITLE: Chief Deputy Director
RE: Receipt of Grievance CU-13-00805 DATE: 04/22/2013

Please be advised, the appeal of your grievance dated
03/21/2013
was received in my office on this date 04/22/2013

You will receive communication from this office regarding this Grievance by 06/04/2013

- The time allowed for appeal has expired
- The matter is non-grievable and does not involve retaliation:
 - (a) Parole and/or Release matter
 - (b) Transfer
 - (c) Job Assignment unrelated to medical restriction
 - (d) Disciplinary matter
 - (e) Matter beyond the Department's control and/or matter of State/Federal law
 - (f) Involves an anticipated event
- You did not send all the proper Attachments:
 - (a) Unit Level Grievance Form (Attachment 1)
 - (b) Warden's/Center Supervisor's Decision (Attachment III); or Health Services Response Attached (Attachment IV for Health Issues Only)
 - (c) Did not give reason for disagreement in space provided for appeal
 - (d) Did not complete Attachment III or IV with your name, ADC#, and/or date
 - (e) Unsanitary form(s) or documents received
 - (f) This Appeal was REJECTED because it was a duplicate of , or was frivolous or vexatious

INMATE NAME: Gillard, Levester

ADC #: 092839

GRIEVANCE#: CU-13-00805

I have received your formal grievance dated 03/21/13 in reference to the amount of money on my account is incorrect.

After reviewing all supporting documentation, I am unable to substantiate your claims that money has been deducted from your account incorrectly. The Commissary Supervisor audited all of your transactions and nothing out of the ordinary has been deducted from your account.

Based on the above stated information, I find no merit in your complaint.
Appeal denied.

lrmj

Director

Date

5.16.13

Name: Gillard, Levester

ADC #: 092839B PID #: 001145

IBSS042B

Inmate Bank Account

Friday April 26, 2013 11:07:20 AM

Banking Location*: AR Department of Corrections	Account Type: Inmate Checking Account
Account ID: 0011452	Name: Gillard, Levester
Current Balance: \$ 0.15	ADC #: 092839B
On Hold: \$ 0.00	Unposted Deposits: \$ 0.00
Pending Checks: \$ 0.00	Canteen Weekly Spending Limit*: \$ 100.00
Pending Withdrawals: \$ 0.00	Canteen Weekly Spending Balance: \$ 100.00
Available To Spend: \$ 0.15	Status*: Active
	As Of Date*: 12/02/2010

Comments

Account Setup - convrsion date 12/02/2010

Account Transactions (1 - 20 of 159)

Date	Type	Status	Transaction Location	Reference	Task #	Amount	Balance
04/18/2013	Canteen Sale to Inmate	Posted	Cummins Unit	1617634	03707381	\$ (19.58)	\$ 0.15
04/16/2013	Canteen Sale to Inmate	Posted	Cummins Unit	1617634	03691089	\$ (30.51)	\$ 19.73
04/15/2013	Direct Deposit (via INA)	Posted	Cummins Unit	20130412220756648	03683596	\$ 50.00	\$ 50.24
03/27/2013	Canteen Sale to Inmate	Posted	Cummins Unit	1617634	03603229	\$ (12.01)	\$ 0.24
03/25/2013	Canteen Sale to Inmate	Posted	Cummins Unit	1617634	03588911	\$ (32.04)	\$ 12.25
03/20/2013	Canteen Sale to Inmate	Posted	Cummins Unit	1617634	03573871	\$ (11.04)	\$ 44.29
03/18/2013	Canteen Sale to Inmate	Posted	Cummins Unit	1617634	03558823	\$ (37.99)	\$ 55.33
03/15/2013	Legal Copier Fees WD	Posted	Cummins Unit	AB 002 01	03554266	\$ (0.25)	\$ 93.32
03/15/2013	Postage Charge	Posted	Cummins Unit	AB 003 01	03554266	\$ (1.52)	\$ 93.57
03/15/2013	Deposit Money for Inmate	Posted	Cummins Unit	50943476237	03554148	\$ 95.00	\$ 95.09
02/27/2013	Canteen Sale to Inmate	Posted	Cummins Unit	1617634	03473810	\$ (5.19)	\$ 0.09
02/25/2013	Canteen Sale to Inmate	Posted	Cummins Unit	1617634	03459960	\$ (3.61)	\$ 5.28
02/20/2013	Canteen Sale to Inmate	Posted	Cummins Unit	1617634	03440515	\$ (9.65)	\$ 8.89

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3-18-13

Hi Levester

How are you, fine I pray. Just a few lines to say hello and let you know I received your letter today and was glad to hear from you. This letter I received from you was an answer to my last letter I wrote you. I wrote you two letters back to back but you make me feel that I don't answer any of your letters, I have to admit I have slowed down a lot, but when I think back over my life at what I have been through I am blessed to still have my sanity. In some areas of my ~~life~~ past life I can see where I'm blessed to be a lier. I'm still struggling, even after I have changed my life and started living for the Lord. But I am reassured in God's word and I am also strengthened, Praise God. About the price that woman said about the transcript, I think it was 265.⁰⁰, that might not be exactly right, but its not far off. I'll get Cleve address and send it to you, I don't see him that often but I do see him, and may hardly ever, but he still talk to her. When I changed my life friends and some family fled, it don't bother me at all.

you told me to give all this info to Stacie
but I just went on and put it on
paper, I am one who has always been
careful not to wear out welcome. When
Stacie came that Sunday, it was to
bring 45.⁰⁰ dollars to send you, I put
it with me and moma and bought a
* 95.⁰⁰ money order and mailed it that
following Monday. Some time you
make me feel like I'm not doing enough
for you, just remember Stacie hasn't always
been here, Well I love you and I will
get Clew's address to you, I wouldn't look
for an answer when you write, ^{Shoffes}
Michael and Michelle still in Dallas, they
don't stay together anymore, Michelle just
started Academy today her first play.
I didn't get to tell them you asked about
them, but I'll tell you what they say
on my ~~next~~ letter. Moma say hello
and you were more than welcome for
that little money.

Love Always
moma

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

LEVESTER GILLARD (ADC 092839)

CLAIMANT

V.

NO. 13-0894-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

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 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:

Levester Gillard (ADC 092839)

Cummins Unit

PO Box 500

Grady, AR 71644-0500

Lisa Mills Wilkins

LISA MILLS WILKINS Ark. Bar #87190

JUL 18 2013

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

RECEIVED

LEVESTER GILLARD (ADC #092839)

CLAIMANT

V.

NO. 13-0844-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

MOTION TO DISMISS

COMES NOW the Respondent, Arkansas Department of Correction, and for its Amended Motion to Dismiss, states as follows:

1. Claimant has filed an action seeking \$39.23 for failure to follow policy and loss of funds arising from an alleged wrongful withdrawal from his inmate banking account in the amount of \$37.99 on or about March 18, 2013.
2. Claimant has failed to state a claim upon which relief can be granted under ARCP Rule 12(b)(6) and the matter should be dismissed.
3. Claimant was in administrative segregation during this time and turned in a commissary slip for purchases in the amount of \$37.99 as evidenced by the roster attached as Exhibit "A".
4. After a determination that funds were available, the order was filled and the bags of commissary were taken to be delivered to Claimant. Video for 16 Barracks shows that the commissary was delivered to him between the hours of 8:57 and 9:07 a.m. Mr. Mizell, the Grievance Coordinator at the Cummins Unit, reviewed the video tape (a copy has been secured) and will testify that the video shows the Claimant receiving his property.
5. A new employee, Ms. Copeland, was delivering the commissary. During this time, someone was flooding a cell nearby. Ms. Copeland had to move the bags to avoid water damage and thought the slips had been signed. She did not realize Claimant had not returned his. Her statement is attached as Exhibit "B".
6. As evidence that Claimant ordered the items and received the items, attached are other purchases made by the Claimant to show that the items purchased on December 3rd and 5th are similar to other purchases he routinely made near in proximity to that time and consistent with his preferences. See Exhibit "C".
7. A motion to dismiss is proper when there are no facts upon which relief can be granted. ARCP 12(B)(6). Claimant has failed to state facts to support his claim.
8. Respondent moves that the commission dismiss this claim.

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

Respectfully submitted,
Department of Correction

10

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 MOTION TO DISMISS has been served this 17 day of July, 2013, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

LEVESTER GILLARD (ADC #092839)

Cummins Unit

P. O. Box 500

Grady, AR 71644-0500

Lisa Mills Wilkins

LISA MILLS WILKINS Ark. Bar #87190

ARKA AS DEPARTMENT OF CORRECTION
STATEMENT OF WITNESS

Copeland

Rank/Status/Number

91642

Pen Store

Unit

Cummins

STATEMENT: On March 18, 2013 Inmate Gillard
Did receive his commissary. When I went
down to deliver the commissary. Someone
flooded the cell. I had to move bags
so they wouldn't get wet. When I
went back to giving inmates there bags. I
thought that the slips had been signed
and picked up but Gillard's was still
in his bag. He didn't give it back to
me. So therefore I don't have a signed
slip on him.

Thanks,

Copeland

Statement freely, under no duress, and without undue coercion exerted against me by any correctional officer or
Arkansas Department of Correction.

Copeland
Signature

7/9/13
Date

Johnson 7-9-13
Witness/Statement Taken By

ADC

Exhibit

B

STATE CLAIMS COMMISSION CHECKET
OPINION

Amount of Claim \$ 39.23

13-0894-CC
Claim No. _____

Levester Gillard, #092839 Claimant
vs.

Attorneys
Pro se Claimant

Department of Correction Respondent
State of Arkansas

Lisa Wilkins, Attorney Respondent

Date Filed June 14, 2013

Type of Claim Other (missing funds)

FINDING OF FACTS

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

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

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

Date of Hearing August 14, 2013

Date of Disposition August 14, 2013

Pastor Chairman
Bill Lenczy Commissioner
Jim Baker Commissioner

ARKANSAS STATE CLAIMS COMMISSION Arkansas Claims Commission
LITTLE ROCK, ARKANSAS

SEP 17 2013

RECEIVED

LEVESTER GILLARD, #092839 APPELLANT
VS. CASE No: 13-0894-CC
DEPARTMENT OF CORRECTION APPELLEE

NOTICE OF APPEAL
AND
DESIGNATION OF RECORD

COMES THE CLAIMANT, LEVESTER GILLARD, PRO SE, AS APPELLANT FOR THE PURPOSE OF FILING NOTICE OF APPEAL OF THIS COURT'S ORDER TO THE ARKANSAS GENERAL ASSEMBLY, AND DESIGNATES THE ENTIRE RECORD OF THIS CASE TO THE ARKANSAS GENERAL ASSEMBLY.

WHEREFORE, APPELLANT HEREBY DIRECTS THE CLERK OF THIS COURT TO ISSUE THE APPROPRIATE APPELLATE PROCEDURE IN THIS CAUSE.

RESPECTFULLY SUBMITTED,

Levester Gillard
APPELLANT, PRO SE

VERIFICATION OF PLEADING

I, LEVESTER GILLARD, HEREBY CERTIFY THAT THE FOREGOING NOTICE OF APPEAL IS TRUE AND CORRECT, AND IS NOT INTENDED TO DEFRAUD PROCEDURE OR CAUSE DELAY.

Levester Gillard
APPELLANT, PRO SE

ATTACHMENT TO NOTICE OF APPEAL, CONTINUED FROM PG. 1 OF 2 THIS SET.

STATE OF ARKANSAS)
COUNTY OF Lincoln) SS

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, on this 14 day of 9, 2013.

NOTARY PUBLIC Dolores A. R.

My Commission Expires: 11/25/2019

