

Please read instructions on Reverse Side of Yellow copy

Please print in ink or type

MAY 13 2013

MAY 13 2013

RECEIVED

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

RECEIVED

- Mr. Mrs. Ma. Miss

Michael Orndorff, #104119, Claimant

vs.

State of Arkansas, Respondent Dept. of Correction

Do Not Write in These Spaces Claim No. 13-0802-CC Date Filed May 13, 2013 Amount of Claim \$ 1,800.00+ Fund DOC

COMPLAINT Failure to Follow Procedure, Negligence, Pain & Suffering Personal Injury, Same as

Michael Orddorff, #104119, the above named Claimant, of POB 180, Brickeys, AR 72320 Above

represented by PRO SE (Legal Counsel, if any, for Claim)

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

State agency involved: ARKANSAS DEPARTMENT OF CORRECTIONS Amount sought: \$1800.00 Plus punitive

Month, day, year and place of incident or service: 4-16-2012 and 7-12-2012 at Ozarkite River Correctional Unit, Murray, AR.

Explanation: A. CLAIM NUMBER ONE:

1. On April 16, 2012 at approximately 5:30 a.m., I, Michael Ray Orndorff, AR-#104119 (Claimant), was placed in full restraints gear (chest, waist and shoulder - with handcuffs on front and a lodge tether between the cuffs and the shoulder) at East Arkansas Maximum Security Unit (Max Unit) and placed in a van for transport to Ozarkite River Correctional Unit (ORCU) Infirmary for tests.

2. Sergeant (First Name Unknown) Compton and (First Name Unknown) Gomez transported Claimant from the Max Unit to ORCU and arrived at ORCU approximately three (3) hours after leaving the Max Unit, at about 8:30 a.m. on April 16, 2012.

3. When Claimant arrived at ORCU, an ORCU OFFICER (Name Unknown) opened the door to a HOLDING CELL in the TRANSIT AREA for infirm-ary visits for ORCU central medical facility of the AR.

4. Claimant requested the Restraints be removed so he could use the restroom that is located INSIDE the HOLDING CELL in which Claimant was being placed.

5. The ORCU officer stated that he could not remove the restraints. One of the transportation Sergeants removed the "tether" between the handcuffs and the shoulder but left the handcuffs and shoulder on Claimant.

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 (01) 31 (31) 2012; to whom? Chief Deputy Director of Ark. Dept. of Corr. Larry May (Department)

and that the following action was taken thereon: Due to education and incomplete investigation there was no video nor were photographs were taken of the claimant and his position 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

N/A (Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)

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

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 truly believes that they are true.

Michael Ray Orndorff (Print Claimant/Representative Name)

Michael Orndorff (Signature of Claimant/Representative)

SWORN TO and subscribed before me at

WILLIAM IVORY Notary Public - State of Arkansas St. Francis County My Commission Expires Dec. 1, 2017 Commission # 12363888

on this 05 day of NOV, 2012 (Date) (Month) (Year) William Ivory (Notary Public)

SF1- R/799

My Commission Expires: 12 (Month) 1 (Day) 2017 (Year)

6. Claimant explained to all officers (the ORCU officer, Sergeant Crumpton, and Sergeant Greer) that leaving the handcuffs and shackles on with a buttoned-up jumpsuit on prevented him from using the restroom and caused him to suffer "circulation problems."

7. The ORCU Officer and Sgt's Crumpton and Greer stated there was nothing they could do.

8. Claimant was placed in the Holding Cell, the door was closed by the ORCU officer and ~~locked~~ with the key.

9. Claimant made several gestures to show the camera INSIDE the Holding Cell that he was left restrained even though the cell door was locked and secured.

10. Some time before going to his medical appointment, Claimant was moved from the Holding Cell he was in to a second Holding Cell.

11. To move Claimant, the ORCU Officer used a KEY to open the door to the first Holding Cell, then open the door to the second Holding Cell and lock the second Holding cell door.

12. Again, Claimant requested removal of the restraints so he could use the restroom and to regain circulation and the officer refused.

13. Claimant again showed the restraints to the camera inside the second Holding Cell.

14. At no time on April 16, 2012, did any officer sit

outside the cell door of either Holding Cell in which Claimant was held at ORCU.

15. Claimant was inside a Holding Cell at ORCU in handcuffs and shackles from approximately 8:30 a.m. until approximately 2:30 p.m. on April 16, 2012, a total of six (6) hours.

16. Following the time spent inside the Holding Cell at ORCU, Claimant was re-tethered between handcuffs and shackles, and transported back to the Max Unit at East Arkansas in Briceys, Arkansas, arriving at approximately 5:30 p.m.

17. On May 31, 2012, Claimant filed an Informal seeking monetary damages for injuries he had suffered due to mistreatment and violation of Arkansas Department of Correction Policy and Procedure and/or Directives (hereinafter referred to simply as "ADC Policy") of being left restrained inside a Holding Cell in a Secured ADC Facility. [See Exhibit A].

18. Claimant could not get the above referred Informal signed by an ADC Problem Solver until June 3, 2012.

19. The Informal was determined to have taken place at another Unit so Claimant was advised to "proceed to step 2[,] the "[f]ormal [g]rievance" Step. Which he did on 6-3-12. [see Exhibit A, Step Two].

20. The Grievance [No. OR-12-00824] was found to be "untimely."

[EXHIBIT B].

21. However, Claimant "Appealed," [EXHIBIT B, Inmate's Appeal], claiming that no remedy exist to undo the injury done, and there is no "Available" grievance process for monetary relief, there is no "time" for the grievance.

22. On August 10, 2012 Chief Deputy Director Larry May accepted the appeal [No. OR-12-0082x] and though he found no merit in the complaint, he addressed each issue and claim raised, thereby overriding the untimeliness and placing this matter squarely before this Commission for Review. [EXHIBIT C].

23. In his August 10, 2012 Decision, Mr. May states: "After reviewing all supporting documentation, it was determined that [Claimant] [is] a maximum security inmate ... and [Claimant] must be properly secured at all times." He further states that Sgts Crompton and Greer stated they had asked if [Claimant] needed to "use the restroom," "prior to [being] plac[ed]... in a holding cell...", and that they "both sat outside of [Claimant's] cell door waiting for the infirmary to see [Claimant]." Finally, according to Mr. May, Sgts Crompton and Greer stated that "at no time did [Claimant] request any type of assistance or state[] that [his] cuffs were too tight or they were restricting [him] from using the bathroom facility." [EXHIBIT C].

24. CHIEF DEPUTY DIRECTOR'S DECISION is lacking in one

Very important factual "documentation" fact - if Chief Deputy Director May in fact did review "ALL SUPPORTING DOCUMENTATION" as claimed in his "Decision." That primary and most important document is the video from the inside of both holding cells as well as the video from the hall outside the cell.

25. Another document important to the Chief Deputy Director is the key log and shift schedule for ORCU for April 16, 2012.

## II. CAUSE OF CLAIM - FOR CLAIM ONE:

### a. Violation of ADC Policy - Restraints:

1. ADC Policy requires an inmate placed in a secured Holding Cell inside a secure ADC facility, the physical restraints must be removed to allow the inmate unrestricted movement and use of toilet facilities.

2. Claimant was left in handcuffs and shackles inside a secure Holding Cell inside a secure correctional facility for six (6) hours on April 16, 2012 in violation of ADC Policy.

3. Because Claimant was left in the restraints for six (6) hours INSIDE THE HOLDING CELL - separate from and exclusive from the transportation time to and from East Arkansas Max Unit - in violation of ADC Policy causing him to be unable to use the restroom while in a button-up jumpsuit and

to suffer circulation problems from extended, uninterrupted restricted movement of extremities as well as hand and foot placement. Claimant suffered injury and endured pain for the six (6) hours that actually extended another three (3) hours until Claimant reached the Max unit before he could obtain any relief from the restraints.

b. Violation of ADC Policy - Fabrication:

1. ADC Policy requires all employees to tell the truth on all documents and failure to do so is considered fabrication, which is equivalent to perjury. The purpose of this policy is the sensitive nature of the task of the Correction agency in dealing with the lives of inmates. The fabrications of employees in this situation served to harm Claimant not only by violation of the policy of restraint, by restraining him inside a secured cell inside a correctional facility; but by falsifying documents these employees jeopardized the very safety of every inmate entrusted to their care as well as the very integrity of the agency and its duty of care to the safety of the Claimant.

2. Sergeant (First Name Unknown) Crumpton and Sergeant (First Name Unknown) Greer, individually, did each fabricate the following statements:

a). Claimant was asked if he needed to use the restroom before being told to enter the first holding cell at ORCU on April 16, 2012. [A FABRICATION].

b). Claimant did not ask for restraints to be removed on April 16, 2012 before going into holding cell at ORCU the second time. [A FABRICATION].

c). Claimant did not state that restraints were hindering the circulation in both his hands and feet.

[A FABRICATION].

d). Sergeants Crumpton and Greer sat outside the holding cell in which Claimant was held in at ORCU on April 16, 2012 between approximately 8:30 a.m and 2:30 p.m. [A FABRICATION].

e). The cells at ORCU in which Claimant was held on April 16, 2012 would not lock because the key for the doors were not available. [A FABRICATION].

3. Chief Deputy Director Larry May fabricated his Decision wherein he clearly and unequivocally stated that he had "reviewed] all supporting documentation...[," and found support for Sergeants Crumpton's and Greer's claims that they "did not have possession of the keys so they sat there waiting[," and that "[t]hey both sat outside [Claimant's] cell door waiting... ." [EXHIBIT C] Mr. May could NOT make the statement that he reviewed ALL documents and then continued to support Sergeant Crumpton's and Sergeant Greer's fabrication because to many other documents prove the Sergeants' statements are pure fabrication. Therefore, Mr. May's claim to have reviewed all

"Supporting documentation" is itself untrue and a misstatement.  
[A FABRICATION].

### III DAMAGES FOR CLAIM ONE:

#### 1. COMPENSATORY:

Claimant requests One-hundred Dollars for each hour in violation of ADC Policy he was made to sit inside a holding cell with handcuffs and shackles at ORCU on April 16, 2012 from approximately 8:30 a.m. until approximately 2:30 p.m. or for approximately six (6) hours, for a total compensation of six-hundred Dollars (\$600.00).

#### 2. PUNITIVE:

Claimant seeks punitive damages as the Commission may deem appropriate under the circumstances of this case.

## B. CLAIM NUMBER TWO:

### I. FACTS - Claim Two:

1. On July 23, 2012 Claimant was transported from East Arkansas Maximum Security Unit, Briceys, Arkansas, (MAX Unit), to Ouachita River Correctional Unit, Malvern, Arkansas (ORCU), for medical purposes.
2. As required by ADC Policy, Claimant, being a maximum security inmate, was placed in handcuffs, shackles, and a leather tether between the handcuffs and shackles for transport. The handcuffs were in front.
3. Upon arrival at ORCU Claimant was placed in a holding cell with handcuffs and shackles for two (2) hours in a buttoned-up jump-suit after being transported three (3) hours from the Max Unit in Briceys, Arkansas.
4. Claimant requested the handcuffs and shackles be removed while he was in the holding cell so he could use the restroom and allow circulation in his arms, hands, legs, and feet, but the request was denied.
5. Claimant indicated to the camera inside the cell at ORCU to show the restraints and his inability to the facility inside the holding cell and/or to be relieved of the restrictions of movement causing circulation irritation and pain.
6. On July 23, 2012, directly across from the holding cell

in which Claimant was being held at ORCU, there were several Tucker Maximum Security Unit Inmates without restraints, whose cell door was "Unlocked" and who were allowed to roam the hall in front of Claimant's cell at will while awaiting the same infirmary visit Claimant was waiting before being transported back to Tucker Maximum Security Unit. Several of those inmates were serving life or life without parole sentences as well as long-term administrative segregation lock-down.

7. Claimant exhausted his administrative remedies advising ADC Administrators of the situation and offering an opportunity to remedy the situation and provide compensation. [See EXHIBITS D, E, and F]

8. This same situation has mirrored itself previously in April of 2012 as expressed in Claim No. one, above, and ADC and its employees has failed to acknowledge the incident or to confront the officers involved. Instead, it seems ADC has taken the "assist" approach even though it is clear the record will show the violation of policy that restricted Claimant's use of the restroom and hindered circulation for prolonged period unnecessarily causing immediate and unnecessary injury to his person and physical pain that he was forced to endure until he was back at the Max Unit in Briceys, Arkansas.

## II. CAUSE OF CLAIM - FOR CLAIM TWO:

### a. Violation of ADC Policy - Restraints:

1. ADC Policy requires an inmate placed in a secured Holding Cell inside a secure ADC facility, the physical restraints must be removed to allow the inmate unrestricted movement and use of toilet facilities.

2. Claimant was left in handcuffs and shackles inside a secure Holding Cell inside a secure correctional facility for two (2) hours on July 23, 2012 in violation of ADC policy.

3. Because Claimant was left in the restraints for two (2) hours inside the holding cell - for a second time, separate from and exclusive from the transportation time to and from the East Arkansas Max Unit - in violation of ADC policy causing him to be unable to use the restroom while in a button-up jump-suit and to suffer circulation problems from extended, uninterrupted restricted movement of extremities as well as hands and feet placement. Claimant suffered injury and endured pain for the two (2) hours that actually extended another several hours until Claimant reached the Max Unit before he could obtain any relief from the restraints.

### b. Violation of ADC Policy - Fabrication:

1. ADC policy requires all employees to tell the truth

on all documents and failure to do so is fabrication equal to perjury. The purpose of this policy is to ensure the protection and safety of the lives of the inmates given to the custody and care of the ADC. Fabrication by employees in this situation served to harm Claimant by jeopardizing not only his safety, but the safety of every inmate under the care of these employees where the ADC has stood in support of their fabrication which is expressed by repeated administrative action that constitutes the actions of the agency.

2. Sergeant (First Name Unknown) Carness and Sergeant (First Name Unknown) Martin both made fabricated reports when they claimed that:

- a). Claimant never requested removal of the restraints so he could use the restroom inside the holding cell of ORCU on July 23, 2012.
- b). Claimant never made any statement that the restraints were effecting the circulation in his hands, arms, legs, and feet.

### III. DAMAGES FOR CLAIM TWO:

#### 1. COMPENSATORY:

Claimant requests Three-Hundred Dollars (\$300.00) for each hour in violation of ADC policy he was made to sit inside a holding cell with handcuffs and shackles at

ORCU on July 23, 2012 - approximately two (2) hours - for a total of Six-hundred Dollars (\$600.00) and that the amount be doubled since this has not been the first time ADC has violated its policy and has done so before this Commission in the case of Harvey v. ADC in May of 2012. The Amount therefore being for Claim two, a total of Twelve-hundred Dollars (\$1,200.00).

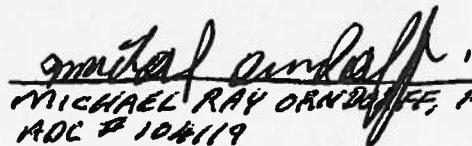
## 2. PUNITIVE:

Claimant seeks punitive damages as the Commission may deem appropriate under the circumstances of this case.

## CONCLUSION

WHEREFORE, this Commission should find that Claimant has stated a claim sufficient to go forward with discovery and other proceeding including a hearing to determine whether the damages sought should be rewarded.

Dated this 5th day of November 2012.

  
MICHAEL RAY ORNDORFF, PROSE  
ADC # 104119  
EARU-MAX  
P. O. BOX 180  
BRICKEYS, AR 72320-0180

RECEIVED

UNIT LEVEL GRIEVANCE FORM (Attachment I)

Unit/Center Blickley

Name Wanda A. M.

ADC# 104119 Brks # max 2-5 Job Assignment \_\_\_\_\_

5-31-12 (Date) STEP ONE: Informal Resolution

6-3-12 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)  
If the issue was not resolved during Step One, state why: \_\_\_\_\_

5-31-12 (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):

on April 16th 2012 I went to Malvern unit on a medical run, there I was left cuffed in a cell (a security cell) for around 6-Hours (in a jump suit) making me unable to use the Restroom (#2), I was there for MERCA due to my stomach, the whole trip took around 12-Hours, I should never have had to endure this humiliation or cruel punishment. For 12 hours I was left in shackles and cuffs. 6- in a holding cell alone (security cell) no reason to have left the cuffs on me. I want compensation for this unnecessary treatment (6cc. of).

GRIEVANCE/RECEIVED

RECEIVED

JUN 7 2012

JUN 21 2012

Michael Andrew  
Inmate Signature

5-31-12  
Date

INMATE GRIEVANCE SUPERV

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 6-3-12 (date), and determined to be Step One and/or an Emergency Grievance (Yes or No). This form was forwarded to medical or mental health? \_\_\_\_\_ (Yes or No). If yes, name of the person in that department receiving this form: \_\_\_\_\_ Date 6-3-12

Sgt Daniel 7408 Sgt Daniel 6-3-12  
PRINT STAFF NAME (PROBLEM SOLVER) ID Number Staff Signature Date Received

Describe action taken to resolve complaint, including dates: his work done at another unit. Moved to Step 2

Sgt Daniel Michael Andrew  
Staff Signature & Date Returned Inmate Signature & Date Received

This form was received on 6-3-12 (date), pursuant to Step Two. Is it an Emergency? \_\_\_\_\_ (Yes or No). Staff Who Received Step Two Grievance: Sgt Daniel Date: 6-3-12

Action Taken: \_\_\_\_\_ (Forwarded to Grievance Officer/Warden/Other) Date: 6-3-12  
If forwarded, provide name of person receiving this form: ole Date: 6-3-12

EXHIBIT  
A

IGTT400

3GR

Attachment II

**ACKNOWLEDGMENT OR REJECTION OF UNIT LEVEL GRIEVANCE**

TO: Inmate Orndorff, Michael R.  
FROM: Ball, Ronald F  
DATE: 06/07/2012

ADC #: 104119A  
TITLE: ADC Inmate Grievance Coord  
GRIEVANCE #: OR-12-00824

Please be advised, I have received your Grievance dated 05/31/2012 on 06/07/2012.

Your grievance was rejected as either non-grievable, untimely, duplicative, frivolous, or vexatious.

*Ron Ball*

Signature of ADC Inmate Grievance Coord

*ml*  
*6-7-12*

**CHECK ONE OF THE FOLLOWING**

- This Grievance will be adressed by the Warden/Center Supervisor or designee.
- This Grievance is of a medical nature and has been forwarded to the Health Services Administrator who will respond.
- This Grievance involves a mental health issue and has been forwarded to the Mental Health Supervisor who will respond.
- This Grievance has been determined to be an emergency situation, as you so indicated.
- This Grievance has been determined to not be an emergency situation because you would not be subject to a substantial risk of personal injury or other serious irreparable harm. Your Grievance will be processed as a Non-Emergency.
- This Grievance was REJECTED because it was either non-grievable ( ), untimely, was a duplicate of , or was frivolous or vexatious.

**INMATE'S APPEAL**

If you disagree with a rejection, 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. Keep in mind that you are appealing the decision to reject the original complaint. Address only the rejection; do not list additional issues, which were not a 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. *This cannot be "untimely" because no matter when filed there is no ADL remedy available to undo the 6 to 8 hours I spent in restraints unable to use restroom, etc. Monetary relief is the only compensation and this is non-grievable per ADL Policy. Therefore, this exhaustion is a formality only to gain access to the State Claim Commission where I am seeking \$100 for each hour of improper restraint pursuant to Harvey v. ADL, decided May, 2012, Ark. State Claim Commission.*

*Michael Orndorff*  
Inmate Signature

*104119*  
ADC # RECEIVED  
JUN 21 2012

*6-18-12*  
Date  
**EXHIBIT B**  
JUN 07 2012

INMATE GRIEVANCE SUPERVISOR  
ADMINISTRATION BUILDING



**UNIT LEVEL GRIEVANCE FORM (Attachment I)**

**GRIEVANCE/RECEIVED**

FOR OFFICE USE ONLY

Unit/Center \_\_\_\_\_

AUG 06 2012

GRV. # EAM12-03-45

Name \_\_\_\_\_

Date Received: 8/6/12

ADC# \_\_\_\_\_ Brks # \_\_\_\_\_ Job Assignment \_\_\_\_\_

**EAST AR REGIONAL UNIT**

GRV. Code #: 803

*Pink Copy*

\_\_\_\_ (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: \_\_\_\_\_

\_\_\_\_ (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): \_\_\_\_\_

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

\_\_\_\_\_  
PRINT STAFF NAME (PROBLEM SOLVER) ID Number Staff Signature Date Received  
Describe action taken to resolve complaint, including dates: \_\_\_\_\_  
RECEIVED  
*[Signature]*  
SEP 11 2012

\_\_\_\_\_  
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: EXHIBIT  
If forwarded, provide name of person receiving this form: \_\_\_\_\_ Date: D

Max 2/CBOS  
Attachment III

IGTT410  
3GS

INMATE NAME: Orndorff, Michael R. ADC #: 104119A GRIEVANCE #: EAM12-03445

WARDEN/CENTER SUPERVISOR'S DECISION

Inmate Orndorff, you grieve on July 23, 2012 during a medical run to Malvern you were left cuffed and shackled which cut off your circulation to your hands and feet. Staff stated you never notified them of the cuffs or shackles being too tight nor did you tell them you needed to use the restroom. You are a maximum security inmate, and per policy inmates being transported from one unit/center to another or being taken from and returned to a unit/center must be handcuffed and a security belt and/or leg irons may also be used to provide additional security. Without further evidence, I find your complaint is without merit.

*JUB*

*Warden*

*9/6/12*

Signature of Warden/Supervisor or Designee

Title

Date

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SEP 11 2012

INMATE'S APPEAL

INMATE GRIEVANCE SUPERVISOR  
ADMINISTRATION BUILDING

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? *Because "Once Again" I was left in a secure locked holding cell - shackled and cuffed (while several other inmates in the cell across from me (MAX security inmates) were not shackled or cuffed, with "their" door left "open". while "I" alone in a secure locked cell was forced to remain shackled and cuffed for almost two hours. In violation of policy. This is the 2nd time. And I am asking compensation for \$600.00.*

*Michael R. Orndorff*

*104119A*

*9-7-12*

Inmate Signature

ADC#

Date

EXHIBIT  
E

IGTT430  
3GD

Attachment VI

INMATE NAME: Orndorff, Michael R.

ADC #: 104119

GRIEVANCE#: EAM12-03445

**CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION**

Inmate Orndorff, you allege during a medical run to Malvern on 7/ 23/2012, you were left cuffed and shackled for eight and a half hours, which cut off your circulation to your hands and feet and not being allowed to use the bathroom.

After reviewing your appeal and statements gathered from staff, I find Transportation Sgt. Carness states in part; "Inmate Orndorff is a Max inmate. Therefore, he is restrained with leg irons and handcuffs while on gate pass. At no time during a medical run has Inmate Orndorff complained to me about restraints cutting off his circulation or stated to me that he needed to use restroom." Transportation Sgt. Martin states in part, "On the above date Inmate Orndorff was transported to the Malvern unit for a medical appointment. While in transport Inmate Orndorff never stated to me that he the hand cuffs or leg irons was cutting off his circulation. Upon arriving at the Malvern unit Inmate Orndorff was placed in a holding cell because he was a Max Inmate." You have failed to provide any evidence to substantiate your allegations. Therefore, Due to the evidence submitted in this appeal, I concur with the Warden's response in which he states in part, "Staff stated you never notified them of the cuffs or shackles being too tight nor did you tell them you needed to use the restroom. You are a maximum security inmate, and per policy inmates being transported from one unit/center to another or being taken from and returned to a unit/center must be handcuffed and a security belt and/or leg irons may also be used to provide additional security. Without further evidence, I find your complaint is without merit."

Appeal denied

LMJ

Director

10.5.12  
Date

EXHIBIT  
F 19

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

MICHAEL ORNDORFF (ADC 104119)

CLAIMANT

V.

NO. 13-0802-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

**ARKANSAS STATE  
CLAIMS COMMISSION**

MAY 16 2013

**RECEIVED**

**CERTIFICATE OF SERVICE**

I certify that a copy of this pleading has been served this 14 day of May, 2013, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Michael Orndorff (ADC 104119)

East Arkansas Max Unit

PO Box 180

Brickeys, AR 72320

*Lisa Mills Wilkins*

LISA MILLS WILKINS Ark. Bar #87190

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

MICHAEL RAY ORNDORFF (ADC #104119)

RECEIVED  
CLAIMANT

VS.

CLAIM NO. 13-0802-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT


MOTION TO DISMISS

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

1. Claimant has two claims, one arising on April 16, 2012 and one on July 23, 2012, seeking \$600.00 for one and \$1,200.00 for the other both alleging failure to follow policy, negligence, pain and suffering, and personal injury.
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 alleges that on April 16, 2012, he was taken from EARU to ORU for medical services and was left in restraints while other max inmates were uncuffed in the temporary holding cell while waiting on his procedure. That by not uncuffing him the officers violated ADC policy and he suffered circulation problems and was not allowed to use the restroom.
4. Claimant has failed to state a cause of action under ARCP 12(b)(6) and the claims should be dismissed.
5. Claimant is serving life without parole for capital murder and is housed in maximum security unit at EARU. He is classified a high security risk. Each inmate is considered an individual and security measures are tailored to each specifically.
6. There is no requirement that restraints must be removed when the Claimant is not in his own secure cell. Restraints may be used 'to prevent escape, assault, or the commission of some other offense by violent or disruptive offenders and to protect employees, offenders, and other individuals,' according to AR 403 "Use of Restraints." This policy furthermore "restraint devices shall not be removed until the offender is placed in a secure area or upon the express approval of the warden/center supervisor, chief of security, or designee. Restraints will not be used longer than is necessary." Restraints may even be used within a cell according to this policy as determined by the warden/center supervisor and/or medical mental health authorities.

7. Claimant alleges he was not afforded a restroom break. A toilet was located in each of the holding cells to which he was assigned. He was handcuffed and tethered in the front to allow for some restroom relief. The transporting officers would all testify that claimant never requested a restroom break.
8. Claimant alleges that he had circulation problems. When he seen by the medical staff at ORU and upon his return to EARU, there is no indication in the medical notes that he complained of or showed any signs of circulatory problems.
9. 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. Respondent moves that the commission dismiss this claim.

Department of Correction  
Office of Counsel

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

CERTIFICATE OF SERVICE

I certify that a copy of the above MOTION TO DISMISS has been served this 27 day of August, 2013, on the below Claim to:

MICHAEL RAY ORNDORFF (ADC #104119)  
EAMU  
P. O. Box 180  
Brickeys, AR 72320

  
LISA MILLS WILKINS Ark. Bar #87190

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION.  
MICHAEL RAY BRNDORFF (ADL 104119) CLAIMANT,  
VS. CLAIM NO: 13-0802-CC.  
ARKANSAS DEPARTMENT OF CORRECTION RESPONDENT.

CLAIMANTS RESPONSE TO MOTION TO DISMISS.

COMES NOW CLAIMANT IN RESPONSE TO THE  
RESPONDENT'S MOTION TO DISMISS STATES AS  
FOLLOWS:

Arkansas Claims Commission

SEP 11 2013

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1. SEE ALL RESPONSES BELOW.

2.A. CLAIMANT HAS STATED A CLAIM WHICH "WILL"  
BE PROVEN ONCE CLAIMS COMMISSION HAS  
SECURED INTERROGATORIES FROM DANIEL  
RISHER, AND VIEWED IN CELL AND OUT  
OF CELL FOOTAGE FROM CAMERAS, ALONG  
WITH ALL OTHER EVIDENCE CLAIMANT  
HAS REQUESTED BE PRODUCED, AND RELEASED  
BY RESPONDENT. RESPONDENT "CANNOT"  
SIMPLY WITHHOLD EVIDENCE (VIOLATING  
DISCOVERY) AND THEN CLAIM THERE IS  
NO EVIDENCE. 1

2.B. ACCORDING TO ARCP RULE 12(B)(6) CLAIM  
CANNOT BE DISMISSED IF ENOUGH FACTS  
ARE STATED TO MAKE CASE OR CLAIM TO BE

~~PLAUSIBLE ON ITS FACE, (BELL ATLANTIC V.~~

~~TWOMBLY, 550 U.S. 544, 570.), CLAIMANT~~

HAS DONE SO, AS RESPONDENT DOES "NOT" DENY INCIDENT HAPPENED, AND THE RESPONDENT DOES "NOT" DENY THERE IS PROOF THROUGH WITNESS TESTIMONY FROM DANIEL RISHER, "NOR" DOES RESPONDENT DENY THE PROOF OF IN CELL CAMERAS TO PROVE CASE OF CLAIMANT, RESPONDENT ONLY FAILS TO DISCLOSE TO COMMISSION CAMERAS EXIST ETC - BY GIVING HALF ANSWERS, OR REFUSING TO ANSWER AT ALL AS TO THIS AND OTHER FACTS REQUESTED BY CLAIMANT. ACCORDING TO ARCP 12(B)(6) CLAIMANT'S CLAIM IS PLAUSIBLE AND THEREFORE CLAIM SHOULD BE HEARD AND THE RESPONDENT'S MOTION TO DISMISS DENIED.

3. SEE RESPONSE TO NO: 2.

4. SEE RESPONSE TO NO: 2.

5. CLAIMANT IS IN MAXIMUM SECURITY DUE TO AN ATTEMPT BEING MADE ON THE LIFE OF THE CLAIMANT. CLAIMANT IN THE LAST TWENTY YEARS HAS WORKED PRE-REALE (COUNSELOR), S.A.T.P. (COUNSELOR), SCHOOL CLERK, TUTOR, ADMINISTRATION PORTER (WORKING FOR THE WARDEN AND ASSISTANT WARDEN), AND BUSINESS OFFICE. SOME OF THE TOP MOST SECURE JOBS IN THE PRISON SYSTEM. WITH ACCESS TO

OF THE MOST CLASSIFIED RECORDS AND INFORMATION ON INMATES AS WELL AS STAFF. IN CLAIMANT'S 32-YEAR'S OF INCARCERATION CLAIMANT HAS "NEVER" HAD AN ASSAULT ON OFFICER OR INMATE, OR ANYONE. CLAIMANT HAS "NEVER" HAD AN ESCAPE ATTEMPT. CLAIMANT IS "ONLY" HIGH SECURITY DUE TO THREAT ON CLAIMANT. THERE WAS NO REASON OR RISK WHY CLAIMANT OULE IN A SECURE MAX CELL SHOULD REMAIN RESTRAINED. (AR 403 NO:3 - RESTRAINTS SHALL NOT BE REMOVED "UNTIL" OFFENDER IS PLACED IN A SECURE AREA) KEY WORD "UNTIL", CLAIMANT NEVER HAVING AN ASSAULT OR ESCAPE ATTEMPT, AND BEING PLACED IN A MAXIMUM SECURITY LOCKED CELL (EMPTY EXCEPT FOR TOILET AND CAMERA) DEEP BEHIND AN ELECTRIC GUARDED FENCE WAS AS SECURE AS IT GETS - ESPECIALLY SINCE EACH CELL IS MONITORED ON CAMERA BY MASTER CONTROL, AND CAMERA ROOM. RESPONDENT HAS "FAILED" TO SHOW OR PROVIDE ANY OOS FORMS STATING THAT CLAIMANT WAS TO REMAIN RESTRAINED. THEREFORE RESPONDENT IS IN VIOLATION OF POLICY AR 403 NO:3 MENTIONED ABOVE.

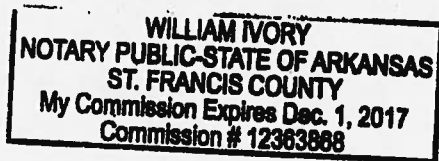
6. SEE RESPONSE NO: 5.

7. CLAIMANT DID REQUEST REMOVAL OF RESTRAINTS AND OFFICERS DID NOT COMPLY BUT STATED: I DON'T KNOW IF I CAN DO THAT, AT WHICH TIME CLAIMANT APPROACHED IN CELL CAMERA AND TRIED TO GET ATTENTION OF ANYONE VIEWING CAMERA, TO GET HELP. THIS DID NOT HAPPEN ONCE BUT NUMEROUS TIMES. AND CLAIMANT ASSERTS OFFICERS FALSIFIED DOCUMENTS AS WELL AS DIRECTOR MAY FOR NOT VIEWING CAMERAS WHICH TOLD THE FACTS (AS WELL AS OTHER PRISONERS) BUT ONLY STATED: IT DID NOT HAPPEN (FALSIFICATION).

8. I SEE "ALL" RESPONSES ABOVE.

9. SEE "ALL" RESPONSES ABOVE.

FOR ONE OR ALL REASONS STATED HEREIN CLAIMANT PRAYS STATE CLAIMS COMMISSION DENY RESPONDENT'S MOTION TO DISMISS AND SET HEARING DATE TO ADJUDICATE CLAIM, AND GIVE CLAIMANT CHANCE TO BE HEARD.



RESPECTFULLY SUBMITTED.

*M. Orndorff*  
M. ORNDORFF, #104119,  
P.O. BOX 180,  
BICKLEY, AR, 72320.

CERTIFICATE OF SERVICE.

I CERTIFY THAT A COPY OF THE ABOVE HAS BEEN SERVED THIS ~~4TH~~ DAY OF ~~SEPTEMBER~~ 2013 TO:  
LISA MILLS WILKINS,  
POST OFFICE BOX, 8707,  
PINE BLUFF, AR, 71611.

*M. Orndorff*  
M. ORNDORFF, #104119. 20

STATE CLAIMS COMMISSION DOCKET  
OPINION

Amount of Claim \$ 1,800.00+

13-0802-CC  
Claim No. \_\_\_\_\_

Michael Orndorff, #104119 Claimant      Attorneys Pro se Claimant  
vs.

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

Date Filed May 13, 2013      Type of Claim 1- Failure to Follow Procedures, Negligence, Pain & Suffering & Personal Injury  
2 - Same as above

FINDING OF FACTS

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss" for reasons set forth in paragraphs 1, 3, 5 & 6 on Claim #1 and 7 & 8 on Claim #2 all 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 1, 3, 5 & 6 on Claim #1 and 7 & 8 on Claim #2 all contained in the motion. Therefore, this claim is hereby unanimously denied and dismissed.

Date of Hearing September 12, 2013

Date of Disposition September 12, 2013

[Signature] Chairman  
[Signature] Commissioner  
[Signature] Commissioner

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

9-26-13,

CLAIM'S COMMISSION,  
ATTN: NORMAN HODGE'S JR.,  
101 EAST CAPITAL AVENUE, SUITE #10,  
LITTLE ROCK, AR, 72201-3823.

RE: NOTICE OF APPEAL.  
CLAIM NO: 13-0802-CC.

DEAR MR. HODGE'S:

THIS IS TO NOTIFY YOU THAT I WISH TO  
APPEAL YOUR DECISION TO DISMISS MY  
CASE. I WOULD LIKE ALL PROPER FORMS  
AND INFORMATION CONCERNING THIS MATTER?

Sincerely -  
Michael Ondaatje,  
M. Ondaatje, #104119  
MAX 2-5,  
P.O. Box, 180,  
Brickey, AR, 72320.

Arkansas  
State Claims Commission

OCT 02 2013

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