

Please Read Instructions on Reverse Side of Yellow copy

Please print in ink or type

ARKANSAS STATE  
CLAIMS COMMISSION

MAY 13 2013

F21

BEFORE THE STATE CLAIMS COMMISSION  
Of the State of Arkansas

RECEIVED

☒ Mr.  
☐ Mrs.  
☐ Ms.  
☐ Miss

Hayward Patterson, #145893 Claimant

vs.

State of Arkansas, Respondent  
Dept. of Correction

Do Not Write in These Spaces		
Claim No.	13-0804-CC	
Date Filed	May 13, 2013	
	(Month)	(Day) (Year)
Amount of Claim \$	10,000.00	
Fund	DOC	

COMPLAINT

Personal Injury, Pain & Suffering  
Negligence, Failure to Follow  
Procedure

Hayward Patterson, #145893, the above named Claimant, of 300 Corrections Dr, Newport, AR 72112  
(Name) (Street or R.F.D. & No.) (City)

ARKANSAS 72112 County of JACKSON represented by SELF  
(State) (Zip Code) (Daytime Phone No.) (Legal Counsel, if any, for Claim)

of 300 Corrections Dr, Newport, ARKANSAS 72112  
(Street and No.) (City) (State) (Zip Code) (Phone No.) (Fax No.) says:

State agency involved: ARK. Dept. of Corrections Amount sought: 10,000 dollars

Month, day, year and place of incident or service: 11.29.12 in Grimes unit, Housing 1 of Brks 1

Explanation: On 11.29.12 At Approx 5:00AM. I went over to the 190 proof machine and fixed me a cup of Hot Coffee. then I called officer Dickey to ask him was I on the Law Library List. As I was walking to meet him, between the Bench area, the Bench that was installed backwards, the Backrest Bottom that was sticking out to far. I tripped over it and dashed Hot Coffee in my face and neck and also injuring my knee, back, and my head when I fell or tripped. then officer Dickey asked me (do you need medical assistance) and I replied (yes). So he and inmate (Jason Hudson) helped me up on the Bench to sit. I was in a lot of pain and when officer Dickey returned from calling medical (Nurse Pulizer) stated: if he isn't bleeding or swollen then tell him to put in a sick-call slip. So after I wrote grievances on maintenance and medical. The next shift (Day Shift) after 2 1/2 hours from my incident seen me, (they seen me). An warden Maples and Rick Jeffery (Review officer) Susan Townsend sabotaged my grievances on the maintenance crew. to stop my claim from being filed. I reported it to Ray Hobbs Director. Sgt Kennedy refused to give me an inventory slip, because maintenance had been by staff given several orders submitted to repair the Bench. An after the incident then maintenance repaired it. Mr. Dotson and Cpl Vandeman are responsible.

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? : to whom? Deputy Director-ADC  
(Yes or No) (Month) (Day) (Year) (Department)

: and that the following action was taken thereon:

and that \$ 2 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:

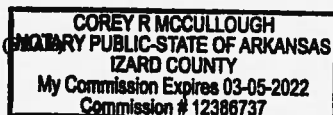
THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verify believes

that they are true.

HAYWARD PATTERSON  
(Print Claimant/Representative Name)

Hayward Patterson  
(Signature of Claimant/Representative)

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



on this 5th day of April, 2013  
(Date) (Month) (Year)

G R McCullough  
(Notary Public)

My Commission Expires: 3/5/2020  
(Month) (Day) (Year)

MAY 16 2013

## BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

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HAYWARD PATTERSON (ADC 145893)

CLAIMANT

V.

NO. 13-0804-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

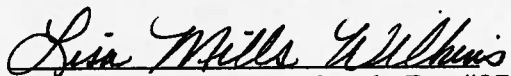
## ANSWER

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 Ark. Bar #87190

Attorney Supervisor

Post Office Box 8707

Pine Bluff, AR 71611

(870)267-6844 Office

(870)267-6373 Facsimile

## CERTIFICATE OF SERVICE

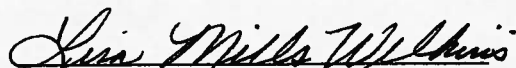
I certify that a copy of this pleading has been served this 16 day of May, 2013, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Hayward Patterson (ADC 145893)

Grimes Unit

300 Corrections Drive

New Port, AR 72112



LISA MILLS WILKINS Ark. Bar #87190

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

HAYWARD PATTERSON (ADC#145893)

CLAIMANT

V.

NO. 13-0804-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

**RESPONDENT'S MOTION TO DISMISS**

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

1. Claimant has filed an action for personal injury, negligence, failure to follow procedure and seeks damages of \$60,000.00.
2. Claimant has attached several grievances to his pleading, but did not exhaust his remedies on this issue. He alleges that the grievance was 'sabotaged', but does not state how or by what means. Specifically, he attaches an incomplete grievance referencing a maintenance complaint concerning the bench installation. This grievance is the basis of his Complaint and he did not exhaust it. Under AD 12-16, inmate Grievance Procedure if he did not get a response to the informal grievance within three working days, 'the inmate may proceed to Step 2, the formal grievance, without the completion of Step 1.' Claimant failed to do this and therefore, has failed to exhaust his administrative remedies.
3. Furthermore, inmates are allowed fifteen (15) days in which to file a claim. If claimant knew that the Step One had not been returned to him, he could have submitted another within the twelve (12) remaining days. Inmates are allowed to only submit three (3) grievances every seven (7) days. According to AD 12-16 VII(J)(1)b "Inmates are only allowed to submit three formal grievances, Step Two, each seven-day period which begins each Saturday and ends on Friday. Only the first three formal grievances, Step Two, submitted each week by an inmate requires an investigation and response. This limit includes both institutional and medical or mental health grievances. All other formal grievances will be logged and reviewed to determine if an emergency exists. If it is determined to be an emergency situation, action will be taken promptly to resolve the issue; however, a written response to the inmate is not required. If no emergency exists, the grievance will be logged out on the same day received, and it shall be written on the Unit Level Grievance Form "No action necessary-exceeds weekly limit," dated and signed. The original grievance will then be placed in the grievance file and no written response will be given to the inmate.
4. Claimant utilized his three grievances prior to the maintenance grievance being submitted and so it was not addressed according to policy. Claimant did not exhaust this grievance.
5. Under Administrative Directive 12-16 (N) which provides that "inmates are hereby advised that they must exhaust their administrative remedies as to all defendants at all levels of the grievance procedure before filing a Section 1983 lawsuit and *Claims*

CLAIMS COMMISSION

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*Commission claim.* If this is not done, their lawsuit or claims may be dismissed immediately."

6. Just as in the Prison Litigation Reform Act (PLRA), 42 U.S.C. § 1997e, which states "No action shall be brought with respect to prison conditions under section 1979 of the Revised Statutes of the United States (42 U.S.C. § 1983), or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted," this matter should be dismissed for failing to exhaust.
7. The courts have interpreted this provision as a mandatory requirement requires complete exhaustion of administrative remedies prior to filing suit. The Courts have held that the exhaustion requirement applies to "all inmate suits about prison life, whether they involve general circumstances or particular episodes, and whether they allege excessive force or some other wrong." *Porter v. Nussle*, 534 U.S. 516, 532 (2002).
8. A.C.A. Section 19-10-204(b)(3) states "The commission shall make no award for any claim which, as a matter of law, would be dismissed from a court of law or equity for reasons other than sovereign immunity." Claimant's claim would be dismissed for failing to exhaust his case were it in federal court on other grounds and it should be dismissed here.
9. In his cover letter accompanying this pleading, Claimant argues that the exhaustion requirement is inapplicable because it does not provide a remedy to Claimant. However, federal court also recognizes the requirements of Administrative Directive (AD) 09-01, the Inmate Grievance Procedure, which outlines the process for filing and appealing grievances. In *Johnson v. Jones*, 340 F.3d 624, 627 (8th Cir. 2003), the Court held that "under the plain language of section 1997e(a), an inmate must exhaust administrative remedies *before* filing suit in federal court....If exhaustion was not completed at the time of filing, dismissal is mandatory."
10. If the federal courts recognize this preliminary step in the process, the commission has and should continue to recognize it under the theory of rule of law.
11. Since Claimant did not exhaust his grievance process his Complaint should be dismissed.

WHEREFORE, for the reasons stated above and the evidence submitted, the Respondent prays that this matter be dismissed.

Respectfully submitted,  
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 pleading has been served this 30 day of May, 2013, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

HAYWARD PATTERSON (ADC#145893)  
Grimes Unit  
300 Corrections Drive  
Newport, AR 72112

  
LISA MILLS WILKINS Ark. Bar #87190

Before the ARKANSAS STATE CLAIMS COMMISSION

HAYWARD PATTERSON (#ADC 145893)

Claimant

V.

ARKANSAS DEPARTMENT OF CORRECTION

Respondent

Motion Claimant of Voluntary Dismissal

Comes now the Claimant HAYWARD PATTERSON Pro-se Brings his motion for Voluntary Dismissal, States the following:

Due to the fact that the ARKANSAS Department of Correction Grimes unit has willfully and Deliberately Sabotaged the grievance process. I could not proceed to Exhaust my Remedies in due process correctly. Because the grievance co-ordinator Ricky M. Jeffery, Susan Townsend and Shunika Brown of the Administration here in Grimes unit has delayed and willfully stopped my Exhaustion by Sabotaging it in violation of due process. Now I would like to Ask to Resubmit my Claim At A Later time.

Wherefore the Claimant, Hayward Patterson humbly and Respectfully Ask the ARKANSAS STATE CLAIMS COMMISSION to Accept this Voluntary dismissal at this point in time without prejudice.

Respectfully Submitted

ARKANSAS STATE  
CLAIMS COMMISSION

JUN 05 2013

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Hayward Patterson

300 Correction Drive

Newport, ARK 72112

Certificate of Service

I certify that a copy of Above pleading has been served this  
1<sup>st</sup> day of June 2013, on the below parties by placing a  
copy of the same in the U.S. MAIL Regular Postage to:

LISA Mills Wilkins ARK. BAR #87190

Attorney Supervisor

P.O. Box 8707

Pine Bluff AR 71601

MR Norman Hodges JR

Claim Commission

101 E. Capitol Avenue, Suite 410

Little Rock, AR 72201-3823

By: Hayward Patterson

IN THE ARKANSAS STATE CLAIMS COMMISSION

Arkansas Claims Commission

JUN 26 2013

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IN THE MATTER OF

HAYWARD PATTERSON V. ARKANSAS DEPT. OF CORRECTION

CLAIM NO. 13-0804-CC

CLAIMANT'S MOTION TO WITHDRAW VOLUNTARY DISMISSAL

COMES NOW THE CLAIMANT HEREIN, NAMELY, Hayward Patterson  
AND PRESENTING PRO SE, STATES:

(1) That claimant is  
bringing this plead-  
ing in good faith.

(2) At a 11 times  
relevant and  
~~mentioned to herein, claimant submitted a motion~~  
for voluntary dismissal of this claim and all of  
the issues within it. Claimant merely did so  
because he thought that he had not exhausted  
his administrative remedies as required by  
the PLRA - 42 U.S.C. § 1997(e).

(3) The claimant  
has realized  
that he has indeed exhausted his administra-



tive remedies and would now like to withdraw his motion for voluntary dismissal. The following shows proof.

(4) Exhibits number 1 & 2 are institutional grievances both dated November 29, 2012, Thursday, wherein which claimant went all the way to Wendy Kelly, Deputy Director of Health and Correctional Programs, then Marvin Evans, Deputy Director, respectively about this Claim - THEN - Exhibit #3, an institutional grievance dated Saturday, June 1, 2013, where claimant had attempted to AGAIN EXHAUST, which was REJECTED by the institutional grievance officer at level one WITH NOTHING SPECIFICALLY EXPLAINING REASONS WHY IT WAS REJECTED - plus - by Marvin Evans, who MERELY agreed with the REJECTION, such occurring on or about Monday, June 3, 2013 and Monday, June 10, 2013, RESPECTIVELY.

Then Exhibit #4, a memorandum dated Monday, February 4, 2013, from John Martin, Warden of the Facility, talked about the November 29, 2012 issues.

Again, PROOF OF EXHAUSTION OF THE REQUIRED administrative remedies - pursuant to 28 U.S.C. § 1915, et. seq.

(5) At all times  
relevant and  
mention to herein, claimant moves that this Hon-  
orable Court/Commission not only grant claim-  
ant's claim, because not only is it "clearly  
established" that the respondent are liable.

It is so sought:

Respectfully submitted,

131 Hayward Patterson

Hayward Patterson - Claimant  
pro se!

A.D.C. # 145893

CRIMES UNIT

300 CORRECTIONS DR.

NEWPORT, AR 72112-1058

dated:

6/21/13

STATE CLAIMS COMMISSION DOCKET  
OPINION

Amount of Claim \$ 10,000.00 Claim No. 13-0804-CC

Hayward Patterson, #145893 Claimant Attorneys Pro se Claimant

vs.

Department of Correction Respondent Lisa Wilkins, Attorney Respondent

State of Arkansas

Date Filed May 14, 2013 Type of Claim Failure to Follow Procedure

FINDING OF FACTS

The Claims Commission hereby unanimously grants the Claimant's "Motion for Voluntary Dismissal," without prejudice." Therefore, this claim is hereby unanimously denied and dismissed without prejudice.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

The Claims Commission hereby unanimously grants the Claimant's "Motion for Voluntary Dismissal," without prejudice." Therefore, this claim is hereby unanimously denied and dismissed without prejudice.

Date of Hearing June 14, 2013

Date of Disposition June 14, 2013

Postman Chairman  
Bill Lancaster Commissioner  
Jim Baker Commissioner

IN THE ARKANSAS STATE CLAIMS COMMISSION

Arkansas Claims Commission  
JUN 26 2013  
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IN THE MATTER OF :

HAYWARD PATTERSON #145893 V. DEPT. OF CORRECTION  
Claim No. 13-0804-CC

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CLAIMANT'S MOTION FOR RECONSIDERATION & RE-HEARING

---

COMES NOW THE CLAIMANT HEREIN, NAMELY, HAYWARD PATTERSON, AND FOR HIS MOTION FOR RECONSIDERATION & RE-HEARING, PRO 30, STATES:

(1) That the claimant  
being this plead-  
ing in good faith.

(2) On or about Thurs-  
day, June 14, 2013, the  
Claims Commission unanimously voted to dis-  
miss the claimant's claim, doing so based  
upon claimant's motion for voluntary dismiss-  
al, doing so WITHOUT PREJUDICE.

(6) Pursuant to Rule  
59(2)(2)(6) & (7),

A.R. Civ. P., the claimant moves for a reconsideration/re-hearing, based upon the fact that counsel for the respondent had committed fraud, fraudulent practices, which forced claimant to file a voluntary dismissal motion. <sup>(1)</sup>

When the Commission provide the equitable relief and full review of this matter.

It is so sought.

Dated: 6/21/13

Respectfully submitted

/s/ Hayward Patterson

HAYWARD PATTERSON-Claimant!

A.D.C. # 145893

CRIMES UNIT

300 CORRECTIONAL DR.

NEWPORT, AR 72412-1058

Footnote One:

The Atty. Gen., Lisa Wilkins, made claims Commission think that the Claimant had not "exhausted his administrative remedies" by the grievance procedure. This was untrue. The attached documentation shows not ONLY ACTUAL PROOF OF EXHAUSTION OF his administrative remedies

STATE CLAIMS COMMISSION DOCKET  
OPINION

Amount of Claim \$ 10,000.00 Claim No. 13-0804-CC

Hayward Patterson, #145893 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 Personal Injury, Pain & Suffering,  
Negligence & Failure to Follow  
Procedure

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 June 14, 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 June 14, 2013, order remains in effect.

Date of Hearing July 11, 2013

Date of Disposition July 11, 2013

Patterson Chairman  
H. Wilkins Commissioner  
Jim Baker Commissioner

IN THE ARKANSAS STATE CLAIMS COMMISSION

IN THE MATTER OF:

Haywood PATTERSON v. State of ARKANSAS

Claim No. : 13-080420

CLAIMANT'S NOTICE OF APPEAL AND DESIGNATION

COMES NOW THE CLAIMANT HEREIN, NAMELY, Haywood Patterson, AND FOR HIS PRIOR NOTICE OF APPEAL AND DESIGNATION, HEREBY STATES:

(1) At all times relevant and mentioned to herein, such is brought forth in good faith.

(2) Pursuant to ACA 19-10-201 - thru - 210, et seq., the petitioning claimant is hereby appealing the final denial of the Finding, July 11, 2013, Finding of Facts Order, denying the claim as encapsulated above as well as hereby designating the entire record, seeking that such is appeal to the Legislature and Legislative Counsel.

Respectfully,

dated:

7/27/13

151 Haywood Patterson

Haywood Patterson #145893

Grimes Unit

300 Corrections Dr

Arkansas State Claims Commission

Arkansas  
State Claims Commission  
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