

11072

## KANSAS DEPARTMENT OF CORRECTIONS INMATE GRIEVANCE FORM

### INMATE COMPLAINT

Inmate's Name Davis, Marvin B. Jr. Number 54688  
 Facility H.C.F. East Housing Unit D1-A-19 Work Detail ES ST.

**NATURE OF COMPLAINT** BE SPECIFIC. (Include names, dates, places, rules, regulation, etc.; how you have been affected and action you believe the Warden should take.) Use additional paper if necessary. ATTACH DOCUMENTATION OF ATTEMPTS AT INFORMAL RESOLUTION PRIOR TO FILING THIS FORMAL GRIEVANCE (i.e. Form 9s or other correspondence and response from staff member).

*This is a grievance against*  
Mr. Sgt. Davis (I) and Mr. Paul Wilson CCI, and Ms. Fields.  
*for interfering with inmates Davis access to Law*  
*library, and Davis' (Mr. Sgt.) and Mr. Wilson CCI, failing*  
*deliberately to assist Mr. Davis in access to Law library*  
*that should've been scheduled for Tuesday, April 10, 2001 @* →

Date this report was given to Unit Team for informal resolution (to be completed by inmate). April 10, 2001

### UNIT TEAM RESPONSE (Complete and return to inmate within 10 calendar days.)

*see attached*

Brown CCI 04-13-01  
 Unit Team Signature Date

### INMATE RESPONSE (Complete and return to Unit Team within 3 calendar days)

☐ I am satisfied with the Unit Team response and wish to withdraw my formal grievance.

☒ I am not satisfied with the Unit Team response, and wish to forward to the Warden's office. (This must be done within 3 calendar days.) Date forwarded to Warden's Office (to be completed by staff). 4/23/01

Marvin Davis Jr.  
 Inmate Signature Date

### WARDEN RESPONSE (Complete, attach response and return within 10 calendar days.)

Date Received 5/7/01 Date of Final Answer 5/8/01 Date Returned to Inmate \_\_\_\_\_

Inmate's Signature \_\_\_\_\_ Date \_\_\_\_\_ Unit Team Signature \_\_\_\_\_ Date \_\_\_\_\_  
 If dissatisfied with this response, the inmate may appeal to the Secretary of Corrections within three (3) calendar days of receipt of this decision from the Warden.

### TO BE COMPLETED BY STAFF ONLY

Grievance Serial Number

BB 0000 9432

Type of Complaint (Item 4: Code 01-75)

1 0

Cause of Complaint (Item 5: Code 01-30)

0 4

Type of Response (Item 6a: Code 01,02,08 or 09)

0 8

5:30pm-8:30pm for research time. Inmate Davis requested all research and typing time available. Inmate Davis has had research scheduled time from 5:30pm-8:30pm since last year.

Ms. Fields must have, by inadvertence, neglected to put inmate Davis down for research time.

Mr. Davis has a Oral Argument scheduled with Judge Ranz, on April 13, 2017.

At 5:30pm inmate Davis approach Mst. Sgt. J. Davis to get his law pass. Mst. Sgt. Davis called over to the library after being unable to locate a pass. He specifically asked Ms. Fields (quote-unquote):

"Marion Davis. Does he have a law library pass?"  
He immediately replies [it is obvious Ms. Fields said no more than no!]; "Nope you don't have one!"

Inmate Davis, then approaches Mr. Wilson CCI, and states, "Can you do me a quick favor?"

Mr. Wilson replies, "What?"

Inmate Davis states, "Can you call Ms. Fields and find out why I don't have a law library pass?"

Mr. Wilson responds, "Yeah. Give me a minute to take care of this!"

Mr. Wilson goes into the officers station and <sup>comes</sup> back out without calling Ms. Fields and states, "Davis said he called, and Ms. Fields said, 'you didn't sign up for one'."

Inmate Davis said, "All Davis (Mst Sgt) did was ask if I had one, 'She only told him no.'"

Mr. Wilson replies, "He (Mst. Sgt. Davis) said she said more than that."

Inmate Davis replied, "I needed you to call, Mst Davis. My question was why don't I have one?" I guess, I'll just have to file a grievance against Ms. Fields, and Mst. Sgt. Davis too, for interfering with this. I asked you to call.

28/2

**KANSAS DEPARTMENT OF CORRECTIONS INMATE GRIEVANCE FORM**

**INMATE COMPLAINT**

Inmate's Name Davis, Marvin Number 54688  
 Facility H.C.E. East Housing Unit DLA-19 Work Detail Fs St.

**NATURE OF COMPLAINT** BE SPECIFIC. (Include names, dates, places, rules, regulation, etc.; how you have been affected and action you believe the Warden should take.) Use additional paper if necessary. ATTACH DOCUMENTATION OF ATTEMPTS AT INFORMAL RESOLUTION PRIOR TO FILING THIS FORMAL GRIEVANCE (i.e. Form 9s or other correspondence and response from staff member).

I have Oral Arguments April 13, 2001, and need all my time to get prepared!

Mr. Wilson COT, indignantly responds, "you go file whatever you're gonna do, and I'll deal with that then. Go have a nice day!"

He states this while making sure he's pulling the unit team office door angrily and quickly behind him, to prevent

Date this report was given to Unit Team for informal resolution (to be completed by inmate). April 18, 2001

**UNIT TEAM RESPONSE** (Complete and return to inmate within 10 calendar days.)

Unit Team Signature \_\_\_\_\_ Date \_\_\_\_\_

**INMATE RESPONSE** (Complete and return to Unit Team within 3 calendar days)

\_\_\_\_\_ I am satisfied with the Unit Team response and wish to withdraw my formal grievance.

\_\_\_\_\_ I am not satisfied with the Unit Team response; and wish to forward to the Warden's office. (This must be done within 3 calendar days.) Date forwarded to Warden's Office (to be completed by staff). \_\_\_\_\_

Inmate Signature \_\_\_\_\_ Date \_\_\_\_\_

**WARDEN RESPONSE** (Complete, attach response and return within 10 calendar days.)

Date Received 5/7/01 Date of Final Answer 5/8/01 Date Returned to Inmate \_\_\_\_\_

Inmate's Signature \_\_\_\_\_ Date \_\_\_\_\_ Unit Team Signature \_\_\_\_\_ Date \_\_\_\_\_  
 If dissatisfied with this response, the inmate may appeal to the Secretary of Corrections within three (3) calendar days of receipt of this decision from the Warden.

**TO BE COMPLETED BY STAFF ONLY**

Grievance Serial Number

Type of Complaint (Item 4: Code 01-75)

Cause of Complaint (Item 5: Code 01-30)

Type of Response (Item 6a: Code 01,02,08 or 09)

BB00009432  
1 0  
0 4  
0 8

inmate Davis from following him.

This conduct is continuous and egregious by Mst. Sgt. Davis. He refuses to notify unit team counselors even in urgent purposes stating,

"I'm not there damn Secretary. Send them a form 9!"

He further always states, (when asked where are unit team or does he know if they are returning), "Hb." [period].

I had a Court order on March 28, 2001, of which Unit team informed the inmate (Davis) to get with them immediately when orders come from the Court and they require some action to be taken, and Mst. Sgt. Davis refused to call Mr. Brower C.J., and inmate Davis had to take the Court Order to Lt. Smith, and he called Mr. Brower C.J., who told Lt. Smith to send inmate Davis to CP3 to see him. (This resulted in compliance by inmate Davis to the Court order and additional law library and typing time to respond and mail Summary Judgment Motion to Courts by April 9, 2001, and was supposed to accomplish all extra time and regular law library research time for Oral Arguments on April 13, 2001 @ 3:00p. m.)

This loss of  $1\frac{1}{2}$  hr. to do legal research and prepare for Oral Arguments is deliberate by Mr. Wilson C.J., and interference and erection of barriers by Mst. Sgt. Davis, who has consistently.

Mst. Sgt. Davis is always lying to unit team about conversations to inmates. He uses profanity and rudely addresses inmates to deliberately provoke them, then threaten them with D.R.'s. He makes up his own rules regarding personal property, barbers list etc... of which dormitory rules do not say. He further said, Dormitory rules mean nothing. Foot of what Dep. Warden Turner says, what personal property is. It's going to get out D.R.'s according to what he wants.

DO NOT WRITE BELOW THIS LINE



KANSAS DEPARTMENT OF CORRECTIONS  
HUTCHINSON CORRECTIONAL FACILITY  
INTERDEPARTMENTAL MEMORANDUM  
"A Safer Kansas Through Effective Correctional Services"

DATE: April 13, 2001  
TO: DAVIS, Marvin #54688  
EU 1-019  
SUBJECT: Grievance  
FROM: Brower, CCI

FINDING OF FACTS:

You allege in your grievance that M/Sgt Davis, Unit Team Wilson, and Ms Fields the Librarian has interfered in assisting you with law library.

CONCLUSION MADE:

As you and I discussed in my office the above date, I informed you that upon looking in to this situation and point out from the posted notice "No passes were written from 4-4-01 to 4-10-01". You were quite upset and didn't want to listen to reason, but the fact still remains these staff did not have to alter this situation to accommodate extra legal time for you. Please remember in doing something special for one I would have to accommodate the rest of the population at the East Unit, which this would be impossible due to the limited law library hours. None of these staff have lied to you in this situation or any previous situation.

ACTION TAKEN:

None

Questions remains, "What prevented inmate from being allowed to come at 5:30p.m. instead of 7:00p.m. Inmate Davis is involved in legal litigation that is not included with the population of H.C.F. Mst. Sgt. Davis interfered with inmates request to Unit team, to call Ms. Fields and inquire about inmate coming to library then. There are no psychological interest in denying request, because Unit team and Librarian knew about inmates legal deadlines. Special passes were already written during time Librarian was absent. It was

*responsibility when she returned. Mst. Sgt. Davis lied about her response. There are other inmates in the grievance not address. Mst. Sgt. Wilson CCI, never made the call. Wilson CCI, never made the call. Wilson CCI, never made the call. Wilson CCI, never made the call.*



KANSAS DEPARTMENT OF CORRECTIONS  
HUTCHINSON CORRECTIONAL FACILITY  
INTERDEPARTMENTAL MEMORANDUM  
*"A Safer Kansas Through Effective Correctional Services"*

DATE: May 8, 2001

TO: Davis, Marvin #54688  
E1-19

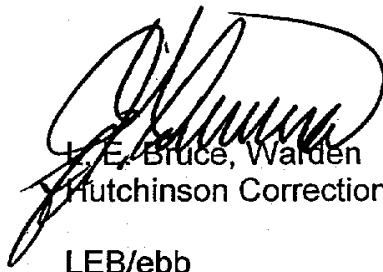
SUBJECT: Grievance #BB00009432

FROM: L. E. Bruce Warden  
HUTCHINSON CORRECTIONAL FACILITY

**FINDING OF FACTS:** You state in your grievance MSgt Davis, Wilson CC II, and Ms. Fields interfered in assisting you with law library.

**CONCLUSION MADE:** I have reviewed your grievance and the comments Mr. Brower made regarding this matter. I am in full agreement with the Unit Team's response and further feel the situation was dealt with appropriately.

**ACTION TAKEN:** None warranted. If you are not satisfied with my position on this matter, you have the right to appeal this grievance to the Secretary of Corrections' office within three (3) days of being notified of this decision.



L. E. Bruce, Warden  
Hutchinson Correctional Facility

LEB/ebb

cc: Unit Team Manager  
Unit Team

**APPEAL OF GRIEVANCE TO SECRETARY OF CORRECTIONS**

Inmate Name: DAVIS, Marvin Facility: H.C.F. East  
 Inmate Number: 54688 Grievance Serial No. BB00009432

(Attach grievance report with Principal Administrator's response or explanation why Principal Administrator is bypassed.)

MAIL TO: Secretary of Corrections  
 Landon State Office Building  
 900 Jackson; 4th Floor  
 Topeka, Kansas 66612

Date Mailed: 5/17/01

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 Tell the Secretary what you feel the Principal Administrator should have done, and state what action you believe the Secretary should take. (Use extra paper as needed.)

*This continued disrespect and unprofessionalism continues, and here manifest itself, in legal research interference, officer refuse to assist contact w/ unit team, but once contact is made, interfere with inmate and unit team dealings. (next page)*

Marvin Davis Jr.  
 Signature of Inmate

**DECISION BY SECRETARY OF CORRECTIONS (to be completed and returned within 20 days)**

If applicable - Confidential File No. \_\_\_\_\_

Date Received in Office of Secretary of Corrections: \_\_\_\_\_

Date of Final Answer: \_\_\_\_\_ Date Sent to Inmate: \_\_\_\_\_

Finding of Fact:

Conclusions Made:

Action Taken:

**Received**  
**MAY 21 2001**  
 DOC Facility Management Area

\_\_\_\_\_  
 Signature of Secretary of Corrections

**For D.O.C. Staff Use Only**

Type of Response (Item 6b: Code 01, 02, 08 or 09) \_\_\_\_

The officers attitudes and actions are as if they are to deliberately oppress, obstruct, and after doing so, call the inmate, "a liar."

The grievance process is unconstitutional and doesn't meet the minimum standard promulgated by Congress. The resolutions and investigations are supposed to be by decentralized personnel, not the very personnel complained against.

"It's an aggrieved against party going to put his job on the line and say, "Yeah, I did it." "No!"

This Master Sergeant Davis (Johnny) even says, he doesn't give a "d-mn" about what the Deputy Warden Turner says.

I've further spoken and written to Deputy Warden Turner, D.W. Dechant, WAYNE BRAWNER Dir. of C.I. in regards to officer's making up own rules, unprofessionalism, obstructions, goading (attempts) into conversations of disrespect, unit team unavailable during scheduled hours, except 2:30-3:30pm, and then can't resolve anything because they're trying to see 50 or more persons, or they're on their telephones or simply chatting with officers in officers station.

You ask officers if unit team are here, and they respond rudely, "It's not my day to watch them; I'm not their Secretary; I wasn't looking for him" etc.

Specifically with this issue of deadlines, it's clear there is a callous indifference toward one's legal activities and court deadlines.



These scheduled hours were rearranged. Mrs. Fields was to take care of the calls when she came back. Bruce Brower CCI, took care of the ones while she was gone. (3 days).

The question to Mr. Wilson CCI, was to ascertain my going to the library then @ 5:30 p.m. All research time was paramount. Oral arguments were scheduled in a day.

So the question back to them is, "How would they feel if they told their boss, 'I can't come to work today because of a court date, and you take off work for court; you don't show up you're fired. You legal deals are yours. Schedule them on your time off.'"

This is the attitude and deliberate indifference that is displayed. I present them with Court Orders ahead of time. There are not random request.

Mst. Sgt Davis makes it a habit to obstruct access to unit team. Even if it simply not contacting them in emergencies and urgent situations. Sometimes unit team work up in CP3. Not in dorm. The officer has to call and wait.

Bring the ombudsman and have him interview inmates regarding Mst Sgt. Davis, Cpl. Zink officer of 3-11 shift. Heck, Zink made a sexual pass at an inmate. It was reported and Zink is still working over here in Dorm 1. (even though the inmate is now in Dorm 2, Zink should not be here period. That's asking for another sexual advance on someone).

# Grievance-Response on Appeal

FACILITY: Hutchinson Correctional Facility  
INMATE: Davis, Marvin # 54688  
GRIEVANCE NO.: BB00009432  
DATE: May 21, 2001

## FINDINGS OF FACT

Mr. Davis claims that staff deprived him of access to the courts. He claims that the failure of staff to provide him with access to the law library somehow kept him from preparing for a court appearance. On review of the record provided to us by Inmate Davis, we find no evidence or argument to support his allegation.

The record pertaining to this grievance does not support the inmate's claim he was denied access to courts because of staff failure to provide him with access to the law library for a one and one half hour period. The record does not show or establish that this failure actually prevented, or even hindered, the inmate's efforts to pursue a nonfrivolous claim. Specifically, the record does not demonstrate any denial of the inmate's meaningful access to the courts; and nothing indicates inmate was either prevented from filing a petition or that the court denied the petition the inmate eventually filed only because the applicable statute of limitations tolled during the relevant period of time that prison officials did not permit his library visit. Therefore, prison officials did not hinder or prevent any good faith efforts by this inmate to pursue nonfrivolous claims.

Became KDOC has chosen to provide both law libraries and inmate assistance through either persons trained in the law or assistance from other inmates with approval of the appointing authority, inmates have no absolute right to any particular type of legal assistance. Throughout the relevant period identified in his grievance the inmate could have obtained assistance in the preparation and filing of meaningful legal papers by pursuing other avenues apart from a library visit.

We take note that Mr. Davis enjoys access to the courts through a variety of channels. He has free access to persons trained in the law through Legal Services for Prisoners Inc., and can contact this organization through the inmate request procedure. Mr. Davis generally has access to a law library at no expense to himself, although in this case, he did not gain access as quickly as he would have liked to. He is free to write letters to attorneys licensed to practice law in the state of Kansas, and he is able to contact bar associations and legal aid societies. Mr. Davis is free to send letters of complaint to the courts, and has the right to bring any concerns that he might have to the attention of a court in this manner.

Prison officials have advised us that the law library is available according to an established schedule. There is no showing anywhere in this grievance or appeal that staff failed to provide the inmate with reasonable access, in accordance with established policies.

## CONCLUSIONS MADE

We have not been provided any evidence or argument that suggests that this incident, in and of itself, amounted to denial of access to the courts. Further, Mr. Davis has not provided us with any evidence or argument that suggests that he has suffered any harm or damages as a result.

## ACTION TAKEN

None further.

  
William L. Cummings  
SECRETARY OF CORRECTIONS DESIGNEE

WLC:slf

cc: Warden-w/attachments  
Grievance File-w/attachments

The original response on appeal and all attached documents were mailed to the inmate by way of United States Mail on

5/22/01