THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Robert L. Reibold, Administrative Law Judge

Appellate Case No. 2023-001881

South Carolina Department of Corrections, Respondent,

v.

Willie M. Knox, #153719, Appellant.

APPENDIX

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APPELLANT, PRO SE

TABLE OF CONTENTS

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Willie M. Knox, #153719, Appellant, vs. South Carolina Department of Corrections, Respondent.	Docket No. 16-ALJ-04-0378-AP **FINAL ORDER**

STATEMENT OF THE CASE

This matter is pending before the South Carolina Administrative Law Court (the Court or the ALC) pursuant to an appeal filed by Willie M. Knox (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (the Department or SCDC) pursuant to a life sentence imposed in 1988. In this appeal, Appellant asserts generally that the Department failed to pay him the appropriate prevailing wage and denied him access to his wages. Appellant also seeks interest on allegedly improperly escrowed and withheld wages.

For the reasons discussed herein, the Court affirms the decision of the Department.

PROCEDURAL HISTORY

Appellant filed a step 1 grievance with the Department on October 27, 2011. In that grievance, he stated he was employed in the private sector prison industries program at Evans Correctional Institution from September 1992 through October of 2011, and that during that time period, the Department failed to pay him the prevailing wage and improperly withheld wages and interest. Appellant attached an addendum to the grievance in which he asserted that:

- S.C. Code Ann. §§ 24-3-40, 24-3-315 and 24-3-340(D)(Supp. 2022) created a property interest in the prevailing wage for regular hours, overtime hours, and training hours;

- S.C. Code Ann. §§ 24-3-40, 24-3-315 and 24-3-340(D), 24-3-430(A)(5) and 24-3-340 (B)(2)(Supp. 2022) created a property interest in escrowed wages which Appellant was being improperly prohibited from distributing because he was serving a life sentence;

- Appellant had a property interest in interest on improperly escrowed and/or withheld wages.

Appellant sought compensation for the differential between what he was actually paid and the prevailing wage as well as interest.

The Department denied the Step 1 grievance on December 3, 2012. The Department stated that it had reviewed the Appellant's trust account and determined that no money was missing or had been taken without reason.

Appellant submitted a Step 2 grievance on December 10, 2012. Appellant contended that the Warden had failed to directly address each of the eight points raised in the addendum Appellant had attached to his Step 1 grievance and reasserted generally that the Department had failed to pay him "prevailing wages" and refused to grant him access to money held in escrow. The responsible official denied this grievance approximately three and one-half years later, on March 28, 2016. The responsible official disagreed with Appellant's construction of two legal decisions, *Adkins v. S.C. Dep't of Corr.*, 360 S.C. 413, 602 S.E.2d 51 (2004) and *Wicker v. S.C. Dep't of Corr.*, 360 S.C. 421, 602 S.E.2d 56 (2004) and stated that inmates are not considered to be employees of the Department.

Appellant filed a notice of appeal with the Administrative Law Court on April 28, 2016. In the notice of appeal, Appellant asserted all of the following:

- The Department failed to pay Appellant the prevailing wage for both regular hours and overtime hours during his training period;
- The Department failed to pay Appellant the prevailing wage for both regular hours and overtime hours after his training period;
- The Department "improperly removes and denies Appellant access to 10% of his gross wages held in escrow for his benefit under § 24-3-40(A)(5) and (B)(2); and
- The Department owes Appellant interest on monies in escrow.

The appeal was initially assigned to the Honorable Shirley Robinson and the Department filed the record on appeal with the Court on July 6, 2016.

Subsequently, on August 13, 2016, the Department filed a motion to dismiss the appeal. The Department argued that Appellant had failed to timely file his appellate brief. Because Judge

Robinson had granted Appellant an extension of time in which to file the brief, Judge Robinson denied the motion and permitted Appellant to file the brief on August 24, 2016.

The Department next sought to hold the matter in abeyance. The Department asserted that the issues raised by the Appellant were also present in two cases pending before the South Carolina Court of Appeals and that the appeal should be stayed pending the outcome of these cases. Appellant filed an opposition to the motion, but the court granted the motion to hold the appeal in abeyance on September 30, 2016. After these cases were decided by the Court of Appeals, the Department sought to extend the stay to allow for disposition of possible review by the South Carolina Supreme Court. Finally, on May 16, 2023, Judge Robinson restored this appeal to the active docket.

Upon Judge Robinson's retirement, this case was reassigned to the Honorable Crystal Rookard. The Department then moved for additional time in which to submit its brief. This motion was granted by Judge Rookard on July 17, 2023. The Department filed its brief on August 7, 2023. At the same time, the Department filed a motion to supplement the record with additional material including payroll records and Department policies. Appellant filed a reply brief on September 1, 2023. Appellant did not file an opposition to the motion to supplement the record on appeal.

The appeal was then reassigned to the undersigned on September 21, 2023. The Court granted the Department's motion to supplement the record on October 4, 2023 and now proceeds to consider the appeal on the merits.

FACTUAL BACKGROUND

Appellant's brief recites the following factual background:

> From September 1992 to October 2011, the Appellant participated in the PSPIP at Evans Correctional Institution. Appellant performed work beside non-inmate peers for Insilco Global Technologies/ESCOD which participated in the program as a private industry sponsor.[1] For the first 480 hours of his labor, the Department paid Appellant a "training wage" of $0.25 per hour for the first 160 hours; $0.75 per hour for the next 160 hours; and $0.95 per hour for the remaining 160 hours. Upon completion of the 480 "training hours," the Department paid Appellant $4.25 per hour for regular hours and $6.37 per hour for overtime hours. In 1995 the

[1] This statement is inconsistent with the record. Payroll records supplied by the Department date back only to April 1994. Additionally, prison industry programs prior to the prevailing wage statute enacted in July of 1995 differed from the for profit programs permitted after July of 1995.

> Federal Minimum Wage was raised to $5.15 per hour. The Department then paid Appellant for his labor at a rate of $5.25 per regular hour and 7.86 per overtime hour.
>
> From the gross wages the Department paid Appellant, FICA federal and state tax deductions were made, leaving Appellant's "net pay," which was deposited in the "PIE Trust Fund Account" from the "Prison Industries Operating Account." From 1992 to 1995, pursuant to an Agreement signed by Appellant, in addition to FICA and taxes, the maximum deductions that Department could make to offset incarceration was 570 of gross, not to exceed $50.00 per pay period (bi-weekly). At the time the federal minimum wage increased in 1995, our Legislature amended S.C. Code § 24-3-40, which governs inmate wage distribution for Program participants. Once the net pay was in the PIE Trust Fund Account, the Department made the following additional deductions; 20% of gross pay for victim's compensation - - 25% of gross pay for SCDC Room & Board (to State General Fund). Ten percent of gross pay stayed in the account, maintained by the State Treasurer's Office, as "escrowed wages" "for Appellant to which Appellant enjoyed access during his incarceration. Subsequent to 1999, the modification by the amendment stated the "escrowed wages" "were for the benefit of the [Appellant]" enacting § 24-3-40(A)(5). However, based upon the Department's interpretation of 24-3-40(A)(5), and specifically § 24-3-40(B)(2), Appellant cannot have access to wages escrowed for his benefit until death or by naming an heir. From 1992 to 1995 the Department invoiced ESCOD $6.17 per regular hour and $8.29 per overtime hour of inmate labor. Subsequent to the 1995 amendment of § 24-3-40 and the federal minimum wage increase to $5.15 per hour, Department invoiced ESCOD $7. 17 per regular hour and $10.86 per overtime hour of inmate tabor. At all times the Department, pursuant to the contract/agreement with ESCOD, has removed $1.92 from every labor hour with $1.32 per hour placed in the SCDC Surplus Fund a pro rata amount of $0.40 for social security and $0.20 for workman's Compensation.
>
> In 2001, inmates at the Evans/ESCOD filed a class action lawsuit in the Richland County Court of Common Pleas. Those Plaintiffs alleged, among other things, that the Department violated South Carolina Code Sections § 24-3-315 through - 430 in failing to pay inmates a prevailing wage for work performed.

The Department submitted no counterstatement of facts; however, Appellant's brief does not contain references to the record on appeal in support of his factual statements as required by SCALC Rule 60(B)(3). Moreover, the Court's review of the record, even as supplemented by the

Department, indicates that many of the factual statements made by Appellant in his brief are statements which cannot be supported by the record. For example:

- the record contains no information regarding Appellant's hours, pay rate, or deductions prior to April of 1994;
- Appellant refers to an agreement he signed which is not in the record; and
- While the payroll report contains some information regarding hours, pay rate deductions from April of 1994 forward, the report itself is insufficient to allow the Court to determine whether Appellant has correctly described various standard deductions from payroll and activities relating to Appellant's escrow account.

The Court will consider only facts which appear in the record on appeal. S.C. Code Ann. § 1-23-380(4) (Supp. 2022) (the review "must be confined to the record").

ISSUES ON APPEAL

Appellant raised the following issues in his brief:

1. Did the Department improperly fail to pay Appellant the prevailing wage during training?
2. Did the Department improperly fail to pay Appellant the prevailing wage after training?
3. Did the Department improperly deny Appellant access to wages escrowed for his benefit?
4. Did the Department improperly deny Appellant a fair interest rate on escrowed wages?
5. Is Appellant entitled to interest on improperly withheld wages?

JURISDICTION

The Court's jurisdiction to hear inmate appeals is derived from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). *See also* S.C. Code Ann. § 1-23-600(D) (Supp. 2022); *Allen v. S.C. Dep't of Corr.*, 439 S.C. 164, 170, 886 S.E.2d 671, 674 (2023)("[T]he ALC has subject matter jurisdiction over inmate grievance appeals that have been properly filed."); *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004) ("[T]he [ALC] has jurisdiction over all inmate grievance appeals that have been properly filed . . . .").

In *Al-Shabazz*, the Court held that the ALC's jurisdiction in inmate appeals is generally limited to state-created liberty interests typically involving: (1) cases in which an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody

status; and (2) cases in which an inmate has received punishment in a major disciplinary hearing as a result of a serious rule violation. 338 S.C. at 369, 527 S.E.2d at 750. However, the South Carolina Supreme Court subsequently clarified that the ALC has the authority to review the Department's failure to pay the prevailing wage. *See Wicker*, 360 S.C. at 423-25, 602 S.E.2d at 57-58 (2004) (stating the ALC was authorized to review the Department's failure to pay the prevailing wage); *Adkins,* 360 S.C. at 419, 602 S.E.2d at 55 (stating inmates could seek remedy for unfair pay by filing an inmate grievance.). Accordingly, the Court determines it has jurisdiction to hear the present appeal.

STANDARD OF REVIEW

In reviewing appeals of the Department's actions in inmate grievance matters, the Court sits in an appellate capacity and is, therefore, limited to review of the record on appeal. *Al-Shabazz*, 338 S.C. at 377, 527 S.E.2d at 754. Section 1-23-380(5) of the South Carolina Code provides the standard used by appellate bodies to review final agency decisions. *See also* S.C. Code Ann. § 1-23-600(E) (directing administrative law judges to conduct appellate review in the same manner prescribed in section 1-23-380). Specifically, section 1-23-380(5) provides the following:

> The [C]ourt may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The [C]ourt may affirm the decision of the agency or remand the case for further proceedings. The [C]ourt may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:
>
> (a) in violation of constitutional or statutory provisions;
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> (b) in excess of the statutory authority of the agency;
>
> (c) made upon unlawful procedure;
>
> (d) affected by other error of law;
>
> (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
>
> (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

See also Marietta Garage, Inc. v. S.C. Dep't of Pub. Safety, 337 S.C. 133, 137, 522 S.E.2d 605, 607 (Ct. App. 1999); *S.C. Dep't of Labor, Licensing & Regulation v. Girgis*, 332 S.C. 162, 166, 503 S.E.2d 490, 492 (Ct. App. 1998). "[T]he burden rests squarely on the appellant to prove that substantive rights were prejudiced based on one of six statutory criteria" proscribed in section 1-23-380(5). *S.C. Dep't of Corr. v. Mitchell*, 377 S.C. 256, 260, 659 S.E.2d 233, 235 (Ct. App. 2008).

DISCUSSION

Appellant initially argues that he was entitled to the prevailing wage for the position in which he was employed while training and after training. The Department largely sidesteps the substantive arguments made by Appellant involving an entitlement to a prevailing wage. The Department instead raises two additional sustaining grounds. It first argues that Appellant was not entitled to a prevailing wage prior to the enactment of the prevailing wage statute in 1995. It then argues that claims for back pay following the enactment of the prevailing wage statute are barred by SCDC Policy ADM-15.13 Section 12, which requires claims involving inmate pay to be timely asserted. Appellant objects to the Court's consideration of these issues because they were not asserted by the Department below.

Appellant also asserts that he was denied access to wages that had been escrowed for his benefit, that he did not receive a fair interest rate on escrowed wages and should receive an award of interest on wages he contends were improperly withheld. In response, the Department argues that Appellant's claims regarding access to monies in escrow are moot because these funds have in fact been distributed. The Department also asserts that Appellant's request for a higher interest on escrowed funds fails because the Department has no control over the interest earned on such funds. Finally, the Department argues Appellant has no right to an award of interest on back pay, if any, because the prevailing wage statute does not create a private right of action.

Appellant counters with two arguments. First, he argues that claims for prevailing wages which predate the enactment of S.C. Code Ann. § 24-3-430(D) are viable because other statutes, such as 18 U.S.C. § 1761(c) and section 24-3-315, which existed at all times relevant to this appeal, also required that inmates receive the prevailing wage. Appellant next asserts that SCDC Policy ADM-15.13 Section 12 is inapplicable to claims for prevailing wages. Appellant did not respond to the Department's arguments regarding interest earned on the escrow account or an entitlement

to interest on any award of back pay. The prayer for relief included in Appellant's reply brief also omitted any request for relief involving interest.

These arguments will be discussed below.

I. Prevailing Wages

At the outset, the Court must address Appellant's argument that the Department's arguments regarding the date on which the prevailing wage act was enacted and SCDC Policy ADM-15.13 Section 12 are not properly before the Court because the Department did not raise these issues below. A review of the record reveals that Appellant's statement that these matters were not raised below is correct.

However, the Department's failure to raise these issues in its responses to Appellant's Step 1 and Step 2 grievances is not a bar to consideration of these matters on appeal. SCALCR 65 provides that "[t]he Administrative Law Judge may affirm any ruling, order, or judgment upon any ground(s) appearing in the Record."[2] The rules therefore expressly authorize the Department to make arguments for affirmance even if those arguments were not raised below, provided, of course, that the basis of the arguments appears in the record on appeal. The basis for both arguments can be found in the record in this case. Appellant recited the dates of his employment in his statement of the case contained in his brief and the Court may take judicial notice of the effective date of the prevailing wage statute. Additionally, the Court granted the Department's motion to supplement the record, and the record, as supplemented, contains SCDC Policy ADM-15.13 Section 12. The Court also sees no particular unfairness to the Appellant in considering these matters. *See I'On, L.L.C. v. Town of Mt. Pleasant,* 338 S.C. 406, 420, 526 S.E.2d 716, 723 (2000) (listing fairness as a concern about whether our supreme court will affirm on an additional sustaining ground). Appellant has responded to these arguments.

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[2] The Court's authority to affirm upon any ground appearing in the record is broader than that conferred by the South Carolina Appellate Court Rules. In cases governed by those rules, Rule 208(b)(2), SCACR, which permits a respondent to include in the respondent's brief an argument, asking the court to affirm upon any ground appearing in the record, and Rule 220(c), SCACR, authorizing the appellate court to affirm for any ground appearing in the record, work together. A respondent may therefore waive or abandon an additional sustaining ground by failing to raise it in an appellate brief. *E.g., I'On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C 406, 420, 526 S.E.2d 716, 723 (2000). Neither Rule 208, SCACR, nor Rule 220(c), SCACR, apply at the ALC because the ALC has its own applicable rules. *See* SCALC Rule 68 (stating the South Carolina Appellate Court Rule may, in the discretion of the presiding judge, be applied in appeals "to resolve questions *not addressed by the rules*" (emphasis added)). Moreover, unlike the court of appeals and our supreme court, the ALC's rules governing briefs in inmate appeals do not reference the presentation of additional sustaining grounds. *See* SCALC Rule 60(B).

Because the arguments made by the Department may, if successful, largely obviate the need for the Court to address other substantive arguments made by Appellant regarding prevailing wages, the Court will begin by addressing the Department's arguments.

A. Claims for Prevailing Wages Prior to July 1, 1995

The Department argues the prevailing wage statute, S.C. Code Ann. § 24-3-430(D), was not enacted until July 1, 1995; therefore, Appellant's claim that he was not paid a prevailing wage based on this statute prior to the enactment of this statute fails as a matter of law. The Department is correct that the prevailing wage statute was not in place prior to July 1, 1995. *See* Act. No. 7, 1995 Acts 78. Stated differently, until July 1, 1995, inmates had no statutory right to receive prevailing wages for work in PIP pursuant to section 24-3-430(D).

In response, Appellant argues that even though section 24-3-430(D) did not exist before July 1, 1995, two other statutes which predate the prevailing wage statute also required that he receive a prevailing wage. These statutes, according to Appellant, are 18 U.S.C. § 1761(c)[3] and S.C. Code Ann. § 24-3-315. Section 24-3-315 provides in pertinent part that:

> The Department of Corrections shall ensure that inmates participating in any prison industry program pursuant to the Justice Assistance Act of 1984 is on a voluntary basis. The director must determine prior to using inmate labor in a prison industry project that it will not displace employed workers, that the locality does not have a surplus of available labor for the skills, crafts, or trades that would utilize inmate labor, and that the rates of pay and other conditions of employment are not less than those paid and provided for work of similar nature in the locality in which the work is performed.

This statute was first enacted in 1987. Appellant raised this statute as a basis for relief in his initial Step 1 grievance.

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[3] Appellant's reliance upon 18 U.S.C. § 761 is misplaced. At no point did Appellant raise this statutory provision below, and Appellant cannot raise a new issue for the first time on appeal. *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) (It is axiomatic that an issue cannot be raised for the first time on appeal but must have been raised to and ruled upon by the trial judge to be preserved for appellate review.) *See also* S.C. Code Ann. § 1-23-380 (A party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review pursuant to this article and Article 1.); *Creech v. South Carolina Wildlife and Marine Resources Dep't,* 328 S.C. 24, 491 S.E.2d 571 (1997). Rule 65, discussed above, only allows consideration of additional arguments to *affirm* a decision, not to *reverse* a decision. In any event, 18 U.S.C. § 761(c) contains no language requiring that inmates receive a prevailing wage. Rather, 18 U.S.C. § 761 makes it a crime to knowingly transport, in interstate or foreign commerce, any goods or merchandise manufactured by convicts or prisoners in any penal or reformatory institution.

Appellant relies primarily on section 24-3-315's requirement that the director must determine that rates of pay are not less than those paid and provided for work of similar nature in the locality in which the work is performed. Our courts have concluded that this language obligates the Department to pay inmates prevailing wages. *See S.C. Dep't of Corr. v. Cartrette,* 387 S.C. 640, 646, 694 S.E.2d 18, 22 (Ct. App. 2010)(section 24-3-315 obligated the Department to pay overtime to inmates participating in the program, making it unnecessary to consider whether section 24-3-430(D) imposed a similar requirement).[4]

However, the Court need not determine whether additional wages are due and, if so, in what amount for periods prior to July 1, 1995, because, as discussed below, the Court concludes that Appellant's efforts to receive back pay are barred by SCDC Policy ADM-15.13 Section 12.

B. SCDC Policy ADM-15.13 Section 12

Included in the supplemental record on appeal is SCDC Policy ADM-15.13 Section 12.1. This policy is not part of the general policies governing inmate grievance procedures. The current version of this policy, which has been in effect since June 2014, provides the following:

> **12. PROBLEMS WITH PAY:**
>
> **12.1** Inmates must report any problems in their pay to their institution's inmate pay designee utilizing the Automated Request to Staff Member (ARTSM) within 15 days of the payroll date error. The inmate should maintain a record of the ARTSM reference number. The inmate pay designee will review the case and determine whether any additional pay is owed. Payroll corrections will be limited to the following:
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> - If the inmate fails to notify the Agency in writing and within 15 days, no back pay will be given.

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[4] The decision in *Cartrette* addresses section 24-3-315 in the absence of any discussion of its statutory history. Section 24-3-315 was enacted to allow the State of South Carolina to participate in the federal Prison Industry Enhancement Certification Program (PIECP), a non-profit program allowing the federal government to purchase goods manufactured by federal inmates. This program was expanded by the Justice Assistance Act of 1984. The Justice Assistance Act allowed states to sell goods and materials made by state prison inmates to federal agencies as well as state agencies, provided that the director of prisons in a particular state made certain determinations to qualify for admission into the federal program. Section 24-3-315's purpose is manifest by its own terms. It expressly refers to programs administered under the Justice Assistance Act and the determinations it requires the director to mare are the very same determinations that the PIECP program requires for admission to the program. The Court also notes that section 24-3-315 applies to a different program than does section 24-3-430(D). Section 24-3-315 governs the non-profit industry programs operated by the Department in which manufactured goods are sold at cost to state and federal agencies. Section 24-3-430(D) applies to *for profit* partnerships with private industry.

- The pay rate will be adjusted to the proper rate amount for future payrolls in accordance with these procedures.

- The inmate may receive additional pay owed for the previous two (2) pay periods only.

SCDC Policy ADM-15.13(12.1) (Issue Date June 3, 2014). This policy has been in place at the Department since January 20, 1998.[5]

The Department argues that this policy encompasses complaints about an inmate's rate of pay in PIP, and accordingly, applies to Appellant's claim for prevailing wages in this case. Moreover, the Department argues that because Appellant failed to report a problem with pay, including his rate of pay, at any time prior to the filing of his initial grievance, he is barred from recovering back pay except for the fifteen-day period immediately prior to the filing of his 2011 grievance.[6]

This Court is required to defer to the Department's construction of its own policy unless there is a compelling reason to reject it. *See Kiawah Dev. Partners, II v. S.C. Dep't of Health & Env't Control*, 411 S.C. 16, 33, 766 S.E.2d 707, 717 (2014); *CFRE, LLC v. Greenville Cnty. Assessor*, 395 S.C. 67, 77, 716 S.E.2d 877, 882 (2011); *Buist v. Huggins,* 367 S.C. 268, 276, 625 S.E.2d 636, 640 (2006); *Brown v. S.C. Dep't of Health & Env't Control*, 348 S.C. 507, 515, 560 S.E.2d 410, 414 (2002); *Glover by Cauthen v. Suitt Constr. Co.,* 318 S.C. 465, 469, 458 S.E.2d 535, 537 (1995); *Faile v. S.C. Emp. Sec. Comm'n*, 267 S.C. 536, 540, 230 S.E.2d 219, 222 (1976) (explaining an agency's interpretation will not be overruled "without cogent reasons"); *Hadden v. S.C. Tax Comm'n*, 183 S.C. 38, 48, 190 S.E. 249, 253 (1937) (an agency's interpretation "will not be overruled without cogent reasons").

The Court does not find this construction to be arbitrary, capricious, or manifestly contrary to statute. The policy statement clearly refers to employment under PIP, under which inmates are required to be paid a prevailing wage. If the Court were to construe this policy as *inapplicable* to wages paid under PIP, inmates employed under this program would be deprived of a means of redress for pay related issues.

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[5] The January 1998 version of this policy was codified at subsection 11.1 rather than 12.1 and provided for submission of written complaints about pay rather than submission of complaints using the Department's automated system. Otherwise, the January 1998 version of the policy is substantively identical to the current version of the policy.

[6] The application of this policy to claims for prevailing wages does not appear to have been previously addressed by higher courts.

Moreover, the policy, by its own terms, applies to instances in which an inmate claims an entitlement to a higher rate of pay. The policy specifically addresses remedies for issues with the "pay rate." It provides that if an inmate does not timely notify the Department of an issue regarding pay, no back pay will be given but "[t]he pay rate will be adjusted to the proper amount for future payrolls." SCDC Policy ADM-15.13(12.1). The "pay rate" is of course a reference to the appropriate hourly wage.

Finally, the Department has a legitimate interest in handling matters involving inmate pay in a timely manner. Pay records may be lost with the passage of time. Allowing claims for inmate pay to be raised long after the pay period in which the incorrect pay rate was used would require the Department to pay larger lump sum awards and will hamper the Department's annual ability to budget for expected expenses. Additionally, records and information necessary to compute a correct prevailing wage may be lost over time. Finally, the Department's ability to recoup back wages from the entity which contracted with the Department for inmate labor under PIP may be compromised with the passage of time, leaving the Department financially responsible for a loss which may have been born by another.

Appellant argues that he was not required to comply with SCDC Policy ADM-15.13 for two reasons: (1) because, according to Appellant, section 15.13 does not apply to inmates participating in the prison industries program; and (2) our courts have previously determined that an inmate "must" pursue a claim for prevailing wages by filing an internal grievance with the Department. Each of these arguments is discussed below.

Appellant states that participants in the prison industries program are specifically excluded from section 15.13; however, Appellant neither cites to nor identifies any language supporting this contention. Moreover, the Court's own review of the policy finds no support for Appellant's position. The policy contains express references to the prison industries program. *E.g.,* SCDC Policy ADM-15.13 Policy Statement (referring to the Prison Industries Private Sector Program); SCDC Policy ADM-15.13 Policy Directives (4) (noting that inmates convicted of major disciplinary or criminal offense are not eligible for the prison industries private sector or services program). Neither subsection 12.1 nor its 1998 predecessor refer in any way to the prison industries private sector program.

The Court assumes Appellant relies on Policy Directive 5, which provides that:

> [t]he only exceptions to this policy are the Community Work Program, Prison Industries Private Sector Program and Prison Industries Service Program. Inmates entering one of these programs will receive pay at that program's current rate of pay regardless of their previous pay status.

SCDC Policy ADM-15.13 Policy Directives (5). This section, taken out of context, could lead one to believe that the prison industries private sector program is excepted from section 15.13. Taken in context, however, that interpretation is clearly misplaced.

The complete set of policy directives is set forth below:

> 1. Inmates deemed eligible for receipt of inmate pay who have their rate of pay reduced or eliminated for reasons such as failure to work, transfer to a lesser paying job. disciplinary action, etc., will continue to receive inmate pay at the reduced amount or will not be eligible for inmate pay for the remainder of their incarceration period.
>
> 2. Should an inmate deemed eligible for receipt of inmate pay have his/her pay discontinued for such reasons as failure to work, major disciplinary action, commission of a criminal offense, termination from a job assignment, etc., s/he will not be eligible for inmate pay for the remainder of his/her incarceration period.
>
> 3. In compliance with applicable American Correctional Association Standards and applicable state, federal and case law, inmates who are determined to be indigent will be provided adequate hygiene products, writing supplies and postage on a monthly basis (3-ACRS-4D-10, 3-ACRS-SC-02, 3-4324, 3-4431)
>
> 4. Inmates who were convicted of a major disciplinary infraction or a criminal offense or who were terminated from a prior job will not be eligible for the Community Work Program, Prison Industries Private Sector Program, or Prison Industries Service Program.
>
> 5. The only exceptions to this policy are the Community Work Program, Prison Industries Private Sector Program and Prison Industries Service Program. Inmates entering one of these programs will receive pay at that program's current rate of pay regardless of their previous pay status.

SCDC Policy ADM-15.13 Policy Directives.

Taken together, these policy directives outline situations in which an inmate's pay may be reduced or suspended or an inmate will become ineligible for participation in certain employment programs. What Directive 5 does is to except inmates participating in the Community Work

Program, Prison Industries Private Sector Program and Prison Industries Service Program from having their rate of pay reduced for certain violations. The last sentence of Directive 5 makes this construction clear. It provides that "[i]nmates entering one of these programs will receive pay at that program's current rate of pay regardless of their previous pay status." In the Court's view, Directive 5 does not exempt participants in the private industries program from section 15.13 as a whole.

Appellant fares no better with his additional argument that section 15.13 is not a barrier to his claim because inmates are required to utilize the grievance system to address claims involving prevailing wages. First, the cases on which Appellant relies hold only that although the prevailing wage act does not provide inmates with a private civil cause of action, inmates may still utilize the inmate grievance system. *See, e.g., Adkins,* 360 S.C. at 419, 602 S.E.2d at 55 ("we hold inmates may file an inmate grievance to protest DOC's failure to pay wages in accordance with the mandatory statutory provisions"). These decisions are not phrased in mandatory terms which dictate that an inmate *must* use the grievance system in lieu of all other alternatives. Additionally, despite the fact that a number of cases involving prevailing wages have reached South Carolina's appellate courts, none of these appellate decisions addressed the importance of section 15.13. It does not appear that the effect of section 15.13 was ever argued in published appellate decisions to date. These cases are therefore distinguishable.

In any event, the Court does not construe section 15.13 and the inmate grievance system as mutually exclusive alternatives. Department rules and policies are ordinarily construed in the same manner as statutes. *See, e.g., Vector Marketing Corp. v. New Hampshire Dept. of Revenue Admin.*, 942 A.2d 1261, 1263 (N.H. 2008) ("We use the same principles of construction in interpreting administrative rules as we use with statutes"); *Lewis v. Jacksonville Bldg. & Loan Ass'n*, 540 S.W.2d 307, 310 (Tex. 1976); *State ex rel. Staples v. Young,* 142 Wis.2d 348, 353, 418 N.W.2d 333, 336 (Ct.App.1987). The Court is therefore required to harmonize section 15.13 with the internal grievance system if possible. *Hodges v. Rainey*, 341 S.C. 79, 88–89, 533 S.E.2d 578, 583 (2000).

Section 15.13 can be construed so that both are effective. Section 15.13(12.1) requires that inmates who question their rate of pay must report the issue through the Automated Request to Staff Member (ARTSM) within 15 days of the payroll date error. If, after doing so, the Department does not take proper corrective action as outlined in section 15.13, then the inmate may resort to

the grievance system to address the Department's violation of section 15.13. Both policies may be given effect in this manner. Were the Court to accept Appellant's position, section 15.13 would simply cease to exist for cases involving the prevailing wage act.

Having concluded that Policy ADM-15.3(12.1) and its predecessors apply to claims when an inmate has not been paid the prevailing wage for the inmate's position, the Court now turns to the question of what effect the policy has on Appellant's claims in this case. The policy became effective on January 20, 1998, and for claims arising after that time, provided that an inmate's failure to timely submit a claim involving the inmate's pay rate would preclude the inmate from receiving back pay.

Here, Appellant did not timely assert his claims for an improper pay rate as required by the policy. Appellant ceased working in PIP in October of 2011, at which time he filed the Step 1 grievance in this case. Appellant, however, never filed the complaint about his pay through the automated system as required by section 15.13. The consequence of this failure is clear for the time period after January 20, 1998, the effective date of the payroll error reporting policy, and that date of Appellant's grievance. Appellant cannot receive backpay for that period. Additionally, because Appellant is no longer employed in the program, his rate of pay cannot be adjusted going forward. The Court cannot therefore afford Appellant relief for the period between January of 1998 and October of 2011.

This conclusion still leaves unresolved Appellant's claim for back pay for pay periods between July 1, 1995, the effective of date of the prevailing wage statute, and January 20, 1998, the effective date of Policy ADM-15.13(12.1) and its predecessors (the "Gap Period"). Prior to January 20, 1998, there was no time limit under which an inmate was required to submit a complaint about the inmate's rate of pay in PIP. The Department imposed a fifteen-day time limit after January 20, 1998. Stated differently, after January 20, 1998, the Department shortened the amount of time in which an inmate could file a complaint about the inmate's pay to 15 days after the date of the payroll error. What effect, if any, does the shortening of the claim period after January 1998 have upon a claim for prevailing wages arising during the Gap Period?

To answer this question, the Court finds law addressing amendment of statutes of limitation instructive. It is well settled that the Legislature may amend statutes of limitation to include reducing the period of time in which a claim may be maintained. *Gillespie v. Pickens County*, 197 S.C. 217, 14 S.E.2d 900, 905-06 (1941). The only restriction upon the Legislature's power to do

so is that the new limitation must allow a reasonable time for commencement of any existing claim affected by the limitation. *Id.*; *see also Peloquin v. State*, 321 S.C. 468, 470, 469 S.E.2d 606, 607 (1996) ("The legislature may reduce the period in which actions may be brought and may make such reduction applicable to existing causes of action; however, no new limitation shall be made to affect existing claims without allowing a reasonable time for parties to bring actions before their claims are absolutely barred by a new enactment."); 26 S.C. Jur. *Limitation of Actions* § 12 (May 2023 Update).

In *Peloquin*, for example, our supreme court addressed the effect of section 17-27-45 of the South Carolina Code (2014), which created a new one-year time period in which an application for post-conviction relief (PCR) could be filed. *Id.* at 469-70, 469 S.E.2d at 607. The petitioner in that case pled guilty in September 1993 or approximately 18 months before section 17-27-45 became effective. *Id.* at 470, 469 S.E.2d at 607. He filed his PCR application on July 10, 1995, shortly *after* the new limitation became effective. *Id.* The PCR judge dismissed the application because it was not filed within one year of the petitioner's original plea. *Id.*

Our supreme court reversed the PCR judge. It explained:

> The legislature may reduce the period in which actions may be brought and may make such reduction applicable to existing causes of action; however, no new limitation shall be made to affect existing claims without allowing a reasonable time for parties to bring actions before their claims are absolutely barred by a new enactment.
>
> In this case, the legislature did not provide for a period of time in which applications which would otherwise be barred by the one year statute of limitations could be brought. Accordingly, in our opinion, all those convicted prior to the effective date of the statute should be allowed one year after its effective date to file an application.

Id. (internal citations omitted). Pursuant to *Peloquin,* the Court concludes that Appellant here should have been permitted to file claims regarding his rate of pay for years in PIP during the Gap Period for a reasonable period of time following the issuance of SCDC Policy AMD-15.3(12.1).

Our supreme court in *Peloquin* selected one year as the appropriate period of time in which to permit filing of existing claims affected by the newly shortened filing period. While the Court

believes a one-year period would be similarly appropriate here,[7] the Court need not specifically set an arbitrary limit. A given case might involve other circumstances or facts which would impact what constitutes a reasonable time. It is sufficient to say that the Court determines that Appellant did not assert claims regarding his rate of pay in the Gap Period in a reasonable period of time following the issuance of the SCDC policy. Appellant waited more than *thirteen years* after the policy's effective date to assert any claim with the Department. The Court finds this delay to be unreasonable as a matter of law. As a result, the policy bars Appellant's claims for back pay during the Gap Period as well his claims for back pay following the Gap Period.[8]

Neither *Ackerman* nor *Torrence* dictates a contrary result. *Ackerman v. S.C. Dep't of Corr.*, 415 S.C. 412, 782 S.E.2d 757 (Ct. App. 2016); *Torrence v. S.C. Dep't of Corr.*, 433 S.C. 633, 861 S.E.2d 36 (Ct. App. 2021), reh'g denied (Aug. 4, 2021), cert. denied (Aug. 3, 2022). While decided in 2016, *Ackerman* arose from an inmate grievance filed in 2004 and involved the application SCDC Policy GA-01.12(13.9), which provided an exception to the fifteen-day time limit in which an inmate could file a grievance. The court in *Ackerman* concluded that the exception applied because a claim for prevailing wages was considered a claim involving a policy or procedure rather than a claim related to a specific incident. Because the exception applied, the inmate was not required to comply with the fifteen-day deadline.

Torrence arose from an inmate grievance filed in May 2007. While the decision in *Torrence* was not limited to application of the exception to the fifteen-day filing grievance filing deadline in paragraph 13.9 of SCDC Policy GA-01.12, that issue was thoroughly discussed. Our court of appeals in *Torrence* adopted the reasoning set forth in *Ackerman*, finding that the exception to the filing deadline in paragraph 13.9 applied to a prevailing wage claim and that, accordingly, the filing deadline did not bar the inmate's claim.

Both *Ackerman* and *Torrence* are readily distinguishable. Neither case reached nor even considered the application of SCDC Policy ADM-15.3. Additionally, the exception contained in SCDC Policy GA-01.12(13.9) does not apply to SCDC Policy ADM-15.3. The exception was contained in the Department's internal grievance policy and related to filing deadlines for

---

[7] *Peloquin*, like this case, involved a claim by a prisoner. The one-year period selected in *Peloquin* therefore took into account difficulties prisoners may experience in asserting their rights by virtue of their incarceration.

[8] This same rationale is an additional and alternative reason that Appellant cannot recover back pay for periods of time prior to July 1, 1995. After the policy became effective, Appellant had an obligation to timely present such claims and did not.

grievances. ADM-15.3 is not part of the Department's internal grievance procedures and imposes a separate and distinct requirement upon inmates who believe that their rate of pay was incorrect. Finally, the exception in paragraph 13.9 of SCDC Policy GA-01.12 at issue in *Ackerman* and *Torrence* was substantially revised in 2014 drawing into question the continued vitality of these cases.[9]

C. Access to Escrowed Wages

Section 24-3-40 contains two provisions addressing escrowed wages. They are subsections (A)(5) and (B)(2). Subsection A(5): provides in pertinent part that:

> The Director of the Department of Corrections, or the local detention or correctional facility manager, if applicable, shall deduct the following amounts from the gross wages of the prisoner: . . .
>
> (5) Ten percent must be held in an interest bearing escrow account for the benefit of the prisoner.

S.C. Code Ann. § 24-3-40(A)(5). Subsection (B)(2) states that "[a] prisoner serving life in prison or sentenced to death shall be given the option of having his escrowed wages included in his estate or distributed to the persons or entities of his choice." S.C. Code Ann. § 24-3-40(B)(2).

Appellant contends that because the escrowed funds are set aside for the benefit of the prisoner the Department erred in denying him access to the escrowed portion of his wages. He acknowledges that he is serving a life sentence but argues that he should have had the option of having escrowed funds distributed to persons or entities of his choice during his lifetime. Appellant made this argument in his brief in 2016. Our Court of Appeals has since adopted Appellant's reasoning. *Torrence v. S.C. Dep't of Corr.*, 433 S.C. 633, 650, 861 S.E.2d 36, 46 (Ct. App. 2021), *reh'g denied* (Aug. 4, 2021), *cert. denied* (Aug. 3, 2022) (under subsection (B)(2), because an inmate serving a life sentence will never receive the benefit of monies held in escrow

---

[9] Previously, SCDC Policy GA-0.12 provided that inmates filing grievances were to submit their grievances on Form 10-5 to the internal grievance coordinator with 15 days of the incident or conviction involved. Paragraph 13.9 in turn provided that exceptions to the 15-day time limit will be made for grievances concerning policies/procedures. On May 12, 2014, however, the Department amended Policy GA-01.12. The current policy provides, as did the prior policy, that inmates must make an effort to informally resolve a grievance, but the new policy imposes a deadline of eight (8) working days in which to utilize informal grievance resolution. If for some reason informal grievance procedures are not available, then an inmate must complete Form 10-5 within five business days of the alleged incident. The new policy does not purport to impose a deadline for filing of a grievance if informal resolution is unsuccessful. Most importantly, the exception so central to *Ackerman* and *Torrence* now provides that *"[e]xceptions to the eight (8) day working time limit"* requirement will be made for grievances concerning policies/procedures. SCDC Policy GA-01.12(13.10) (emphasis added).

outside the prison, such an inmate has the option of designating persons or entities for immediate distribution of escrowed wages).

The Department counters that Appellant's arguments regarding access to his long-term savings account are moot because the account was disbursed to Appellant in 2019. The private sector account summary contained in the supplemental record on appeal verifies that the account balance was in fact distributed to Appellant or at his direction on October 29, 2019. Appellant does not contest this fact in his reply brief.

Mootness has been defined as follows: "A case becomes moot when judgment, if rendered, will have no practical legal effect upon existing controversy. This is true when some event occurs making it impossible for the reviewing Court to grant effectual relief." *Mathis v. S.C. State Highway Dep't,* 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973). An appellate court will not pass on moot and academic questions or make an adjudication where there remains no actual controversy. *Curtis v. State,* 345 S.C. 557, 567, 549 S.E.2d 591, 596 (2001). Because the account balance has already been distributed, there is no relief which the Court could grant Appellant regarding access to money in his escrow account. The Court therefore agrees with the Department that this portion of the appeal is moot.

II. Interest on Escrowed Wages

As noted above, section 24-3-40 provides that ten percent of an inmate's wages "must be held in an interest bearing escrow account for the benefit of the prisoner." S.C. Code Ann. § 24-3-40(A)(5). Appellant concedes that his escrowed funds were held in commercial checking account maintained by the South Carolina Treasurer's office which bore interest at a rate determined by the Treasurer. However, he argues that the rate of interest paid is not a "fair" rate, and that the Department has therefore violated its fiduciary duty to him.

The Department makes several arguments in response. First, it contends that his argument is moot because the contents of the account were distributed in 2019. Second, it argues that it cannot be considered to have breached a fiduciary duty to Appellant because the Department has no control over funds in an account operated by the South Carolina Treasurer. Finally, the Department notes that the statute specifies only that funds must be held in an interest bearing account and that Appellant has not shown he is entitled to a higher interest rate than that which was paid. Appellant did not respond to these arguments in his reply brief.

The Court's first response to Appellant's argument is that the Court lacks jurisdiction to entertain it. Appellant's claim is a claim at law for breach of fiduciary duty. Appellant claims that by virtue of the Department's statutory role as an escrow agent, the Department owes Appellant a fiduciary duty, and that the Department breached this duty by not ensuring he received an appropriate interest rate on the money in his account. He seeks an award of money damages from the Court.

This matter comes to the Court in the posture of an appeal. The Administrative Procedures Act governs the relief which may be granted in such an appeal. Specifically, the Court may "affirm the decision of the agency or remand the case for further proceedings." S.C. Code Ann. § 1-23-380(5). It may also reverse or modify the decision if substantial rights of any appellant have been prejudiced. *Id.* These remedies notably do not include the ability to award monetary damages. The Court has only the authority provided to it by statute, and therefore lacks jurisdiction to maintain a claim at law for damages for breach of fiduciary duty. *See generally Responsible Econ. Dev. v. S.C. Dep't of Health & Envtl. Control*, 371 S.C. 547, 553, 641 S.E.2d 425, 428 (2007) ("[R]egulatory bodies ... have only the authority granted them by the legislature."); *see also* Randolf R. Lowell, *South Carolina Administrative Practice and Procedure*, 152 (2d ed. 2008) ("The ALC has no authority to decide civil matters or to award monetary damages in cases.").

Even if the Court were able to entertain Appellant's claim, the Court would conclude that Appellant has no entitlement to relief. While an escrow agent is a type of fiduciary, the duties of an escrow agent are limited to those imposed by the terms of the escrow arrangement. *See* 30A C.J.S. Escrows § 20 (August 2023 Update) ("[e]crow instructions constitute the full measure of an agent's obligations'). The only instructions applicable to the Department in this case are those found in section 24-3-40(A)(5). That section states that "[t]en percent must be held in an interest-bearing escrow account for the benefit of the prisoner." *Id.* Accordingly, the only obligation placed upon the Department is to hold the funds in an interest-bearing account. The statute does not specify that inmate funds be held in an account bearing a "fair" rate of interest, and the Court will not add to the statute under the guise of construction.

III. Interest on Backpay

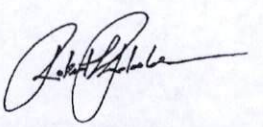
Appellant argues that he should receive interest on any back pay award. The Court disagrees for two reasons. As discussed above, the Court lacks jurisdiction over claims for money

damages. Second, and in any event, the Court has concluded that no back pay award will be made, mooting the question of whether interest on such an award should be made.

ORDER

IT IS THEREFORE ORDERED that the Department's decision is **AFFIRMED**.

AND IT IS SO ORDERED.



The Honorable Robert L. Reibold
Administrative Law Judge

October 6, 2023
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Van Whitehead, hereby certify that I have on this date served this order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).

Van Whitehead

Van Whitehead
Judicial Law Clerk

October 6, 2023
Columbia, South Carolina

The South Carolina Court of Appeals

Willie M. Knox, #153719, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2023-001881

ORDER

This appeal arises out of the Administrative Law Court (ALC). The appellant indicated he received the decision of the ALC on October 10, 2023. The notice of appeal was served on the respondent and the clerk of the ALC on January 12, 2024. Accordingly, this appeal is dismissed due to the failure to timely serve the notice of appeal. *See* Rule 203(b)(6), SCACR (requiring service on the agency and the ALC within 30 days after receipt of the decision); *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004) (noting the requirement of timely service of the notice of appeal is jurisdictional). The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

Columbia, South Carolina

cc:
Willie M. Knox, 00153719
Joseph R Shakibanasab, Esquire

FILED
Feb 23 2024

THE STATE OF SOUTH CAROLINA
In the Court of Appeals
APPEAL FROM THE ADMINISTRATIVE LAW COURT
Robert L. Reibold, Administrative Law Judge
Case No. 16-ALJ-04-0378-AP

South Carolina Department of Corrections, Respondents.

V.

Willie M. Knox #153719

NOTICE OF APPEAL

Willie M Knox appeals the Final Order of the Honorable Robert L. Reibold dated October 6, 2023. Appellant received a copy of this decision on October 10, 2023.

November 3, 2023

Willie Knox

Willie M. Knox #153719
Allendale Corr Inst F4A-
1057 Revolutionary Trail
Fairfax, SC 29827

Appellant, pro se

Other Counsel of Record:

Joseph R. Shakibanasb
office of General Counsel
S.C. Department of Corrections
4444 Broad River Rd
P.O. Box 29221-1787
Columbia, SC 29221

THE STATE OF SOUTH CAROLINA
In the Court Of Appeals
APPEAL FROM THE ADMINISTRTIVE LAW COURT

Robert L. Reibold, Administrative Law Judge

16-ALJ-04-0378-AP

South Carolina Department of Corrections Respondent,

V.

Willie M. Knox, #153719 Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the South Carolina Department of Corrections by depositing a copy in the U.S. Mail, postage prepaid, on November 3, 2023, addressed to iit attorney of record, Joseph R. Shakibanasab, 4444 Broad River Road, Columbia, SC 29221; and the Honorable Jana E. Cox Shealy, Clerk, S.C. Administrative Law Court at 1205 Pendleton St., sste 244, Columbia, SC 29201.

November 3, 2023

Willie Knox

Willie M. Knox #153719
Allendale Corr Inst F4A-
1057 Revolutionary Trail
Fairfax, SC 29827

Appellant, pro se

Other Counsel of Record:

Joseph R. Shakibanasab
Office of General Counsel
S.C. Department of Corrections
4444 Broad River Rd
P.O. Box 29221-1787
Columbia, SC 29221

November 3, 2023

The Honorable Jenny Abbott Kitchings
Clerk S.C. Court of Appeals
P.O. Box 11624
Columbia, SC 29211

Re: South Carolina Department of Corrections, Respondent v. Willie M. Knox, #153719,Appellant, ALJ Docket No, 16-ALJ-04-0378-AP

Dear Ms. Kitchings,

Enclosed for filing is a notic of appeal in the above case. Also enclosed are the following:

1) Proof of Service of the Notice of Appeal on Respondent.

2) A copy of the Order which is to be challenged on Appeal.

A filing fee is not enclosed as Appellant is indigent and this case is a matter of the denial of due process and property rights and affects the rights of many similarly situated individuals, Appellant will submit leave to proceed in forma pauperis in conformity with Rule 240, SCACR, within Seven (7) days of this of this Notice of Appeal.

If any part of these pleadings do not compart with court rules, please notify me so I may correct the defect immediately.

Sincerely,

Willie M. Knox #153719

Allendale, Corrt Inst F4A-55
1057 Revolutionary Trail
Fairfax SC 29827
Appellant, pro se

Cc:
Joseph R Shakibanasab
Counsel For Respondents.

November 3,2023

The Honorable Jana E. Cox Shealy
Clerk, Administrative Law Court
1205 Pendelton street, ste 224
Columbia, SC 29201

Re:South Carolina Department of Corrections, Respondent v. Willie M. Knox #153719, Appellant,ALJ Docket NO.16-ALJ-04-0378-AP

Dear, Ms Cox Shealy,

Enclosed for filing is a notice of appeal in the above case.

Sincerely,

Willie Knox

Willie M. Knox,#153719
Allendale Corr Inst F4A-
1057 Revolutionary Trail
Fairfax, SC 29827

55

Cc:
Joseph R Shakibanasab
Counsel For Respondents.

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211

1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

December 15, 2023

Willie M. Knox, 00153719
Allendale Correctional Institution
P. O. Box 1151, Hwy 47
Fairfax SC 29827

Re: Willie M. Knox, #153719 v. SCDC
Appellate Case No. 2023-001881

Dear Mr. Knox:

Upon reviewing your documents, the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or this matter will be dismissed:

- The notice of appeal is not accompanied by a copy of the order(s) and/or judgment(s) challenged on appeal.
- The required filing fee has not been submitted. The correct filing fee is $250.00.
- A proof of service has not been provided. You must file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR. You must provide proof of service on Joseph R. Shakibanasab, Esq. and the Administrative Law Court.
- You must provide a notice of appeal in the format shown by Form 6 in Appendix C to Part II of the SCACR.

Very truly yours,

Catherine Harrison, deputy

CLERK

cc: Joseph R Shakibanasab, Esquire

Willie M. Knox
#153719
Allendale Corr. Inst. F4A-55
1057 Revoluntionary Trail
Fairfax, S.C. 29827

December 27, 2023

Honorable Catherine S. Harrison
Chief Deputy Clerk of Court
S.C. Court of Appeals
Post Office Box 11629
Columbia, S.C. 29211

Re: Willie M. Knox, #153719, Appellant v. S.C. Dept. of Corrections, Respondent
Appellate Case No. 2023-001881

Dear Ms. Harrison,

I am in receipt of your two (2) pieces of correspondence dated December 15, 2023 and received by me on December 19, 2023/ Please note that due to the structure of state holidays, December 21st was the last day of business until December 27, 2023, so as not to believe I have not been diligent in responding. Please allow me to address each in turn:

First, I have received your notice of the case name and appellate case number and I have read Rule 267, SCACR. I am a layman but do my best to respect court rules and the office.

Second, your office noticed me with a letter of pleading deficiency(ies):

1) The notice of appeal, in the format of Form 6, was accompanied by a copy of the October 6, 2023 Final Order of Administrative Law Judge Robert L. Reibold, dated November 3, 2023.

2) A copy of all notice of appeal documents required by the SCACR filed with your office was sent via U.S. Mail to counsel for Respondent and the Clerk of the Administrative Law Court; to include a copy of the final order, certificate of service (dated November 3, 2023), and required correspondence to each party set forth in the rules.

3) In regards to the filing fee, I have submitted the original and six (6) copies of Appellant's Motion for Leave to Proceed <u>In Forma Pauperis</u> in the instant appeal. I believe the only deficiency to the Motion for Leave is that it was filed prior to the assignment of the case number.

Has your office not received these documents or are you instructing me to refile the complete notice of appeal package and motion for leave to proceed IFP? If you have not received the documents, I only have the originals left and will have to apply for copy service. It is my intent to properly pursue this appeal with all diligence in the correct format. Thank you for your assistance.

Sincerely,

Willie M. Knox
Pro Se Appellant

Cc: Joseph Shakibanasab
Counsel for Respondent Dept of Corrections

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211

1220 SENATE STREET
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TELEPHONE: (803) 734-1890
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January 04, 2024

Willie M. Knox, 00153719
Allendale Correctional Institution
P. O. Box 1151, Hwy 47
Fairfax SC 29827

Re: Willie M. Knox, #153719 v. SCDC
Appellate Case No. 2023-001881

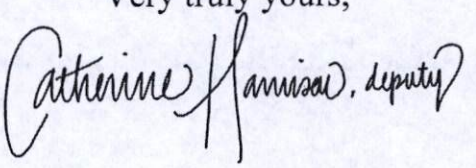
Dear Mr. Knox:

The Court received your letter dated December 27, 2023. In response, we have not received a notice of appeal in this matter. You must provide the following within ten (10) days of the date of this letter:

- The notice of appeal is not accompanied by a copy of the order(s) and/or judgment(s) challenged on appeal.
- A proof of service has not been provided. You must file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR. You must provide proof of service on Joseph R. Shakibanasab, Esq. and the Administrative Law Court.
- You must provide a notice of appeal in the format shown by Form 6 in Appendix C to Part II of the SCACR.

Failure to correct these deficiencies will result in dismissal of your appeal.

Very truly yours,



CLERK

cc: Joseph R Shakibanasab, Esquire

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Robert L. Reibold, Administrative Law Judge

Case No. 16-ALJ-04-0378-AP
Appellate Case No. 2023-001881

South Carolina Department of Corrections, Respondent,

v.

Willie M. Knox, #153719, Appellant.

NOTICE OF APPEAL

Willie M. Knox appeals the final order of the Honorable Robert L. Reibold dated October 6, 2023. Appellant received written notice of entry of this order on October 10, 2023.

January 11, 2024

Willie M. Knox
#153719
Allendale Corr. Inst. F4A-55
1057 Revoluntionary Trail
Fairfax, S.C. 29827

Pro Se Appellant

Other Counsel of Record:

Joseph R. Shakibanasab
Office of General Counsel
S.C. Department of Corrections
4444 Broad River Road / P.O. Box 21787
Columbia, S.C. 29221-1787
(803) 896-3922

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Robert L. Reibold, Administrative Law Judge

Case No. 16-ALJ-04-0378-AP
Appellate Case No. 2023-001881

South Carolina Department of Corrections, Respondent,

v.

Willie M. Knox, #153719, Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Counsel for Respondent, Joseph R. Shakibanasab at S.C. Dept. of Corrections, P.O. Box 21787, Columbia, SC 29221-1787; and on the Honorable Jana Cox Shealy, Clerk of the S.C. Administrative Law Court at 1205 Pendleton Street, Suite 224, Columbia, S.C. 29201, by depositing a copy in the U.S. Mail, postage prepaid, on January 12, 2024.

January 12, 2024

Willie M. Knox
#153719
Allendale Corr. Inst. F4A-55
1057 Revoluntionary Trail
Fairfax, S.C. 29827

Pro Se Appellant

Wilie M. Knox
#153719
Allendale Corr. Inst. F4A-55
1057 Revoluntionary Trail
Fairfax, S.C. 29827

January 11, 2024

Honorable Catherine S. Harrison
Chief Deputy Clerk of Court
S.C. Court of Appeals
Post Office Box 11629
Columbia, S.C. 29211

Re: Willie M. Knox, #153719 v. SCDC
Appellate Case No. 2023-001881

Dear Ms. Harrison,

I am in receipt of your January 4, 2024 correspondence regarding the deficiencies in the filing of my Notice of Appeal.

Please find enclosed for filing:

1) Notice of Appeal;
2) Copy of the October 6, 2023 Final Order of the ALC; and
3) Proof of Service of same on Counsel for Respondent and the Clerk of the Administrative Law Court.

I hope these pleadings comport to your directions for filing.

Sincerely,

Willie Knox

Willie M. Knox
Pro Se Appellant

Cc: Joseph R. Shakibanasab
Counsel for Respondent Dept of Corrections

Willie M. Knox
#153719
Allendale Corr. Inst. F4A-55
1057 Revoluntionary Trail
Fairfax, S.C. 29827

January 11, 2024

Honorable Jana E. Cox Shealy
Clerk of Court
S.C. Administrative Law Court
1205 Pendleton Street, Suite 224
Columbia, S.C. 29201

Re: Willie M. Knox #153719 v. SCDC
ALC Docket No. 16-ALJ-04-0378-AP
Appellate Case No. 2023-0011881

Dear Ms. Cox Shealy,

Please find enclosed a copy of the Notice of Appeal, the October 6, 2023 Final Order, and Proof of Service in the above referenced final agency decision appeal.

Sincerely,

Willie Knox

Willie M. Knox
Appellant, Pro se

Cc: Honorable Catherine S. Harrison
Chief Deputy Clerk, Court of Appeals

Joseph R. Shakibanasab, Esq.
Counsel for Respondent

Willie M. Knox
#153719
Allendale Corr. Inst. F1A-19
1057 Revoluntionary Trail
Fairfax, S.C. 29472

March 4, 2024

Honorable Catherine S. Harrison
Chief Deputy Clerk of Court
S.C. Court of Appeals
Post Office Box 11629
Columbia, S.C. 29211

Re: Willie M. Knox, #153719 v. SCDC
Appellate Case No. 2023-001881

Dear Ms. Harrison,

I am in receipt of the Court's February 23, 2024 Order of Dismissal.

Please find enclosed for filing the original and six (6) copies of the below pursuant to Rules 240 and 260, SCACR:

1) APPELLANT'S MOTION TO REINSTATE APPEAL,
2) AFFIDAVIT IN SUPPORT THEREOF, and
3) APPENDIX.

Also enclosed is a Certificate of Service on Counsel for Respondent.

Please advise if this pleading does not comply with court rules.

Sincerely,

Willie M. Knox
Pro Se Appellant

Cc: Joseph Shakibanasab
Counsel for Respondent SCDC

Inner Dept.

Willie M. Knox
153719
Allendale C.I. FIA-19
1057 Revolutionary Trail
Fairfax, SC 29827

Honorable Catherine Harrison
Chief Deputy Clerk
S.C. Court of Appeals
P.O. Box 11629
Columbia, SC 29211