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SC Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM ADMINISTRATIVE LAW COURT  
RALPH KING ANDERSON, III, ADMINISTRATIVE LAW JUDGE

DOCKET No. 23-ALJ-04-0527-AP

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DALE CASSIDY FERNANDEZ, 275710

APPELLANT

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

RESPONDENT

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INITIAL BRIEF OF APPELLANT

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TABLE OF AUTHORITIES

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS POLICY ADM-15.13.....

ISSUE ON APPEAL

DID THE ADMINISTRATIVE LAW JUDGE ERR IN HIS FINDINGS THAT HE LACKED JURISDICTION TO ADJUDICATE THIS MATTER DUE TO APPELLANT'S FAILURE TO EXHAUST HIS ADMINISTRATIVE REMEDIES?

STATEMENT OF CASE

This matter appeared before the South Carolina Administrative Law Court pursuant to an appeal filed by Dale Cassidy Fernandez (Appellant), an inmate incarcerated in the South Carolina Department of Corrections(SCDC). Appellant appealed the Department's final decision finding he was correctly paid the statutory prevailing wage working in the Prison Industry Program (PIP) out of Livesay Correctional Institution.

On June 21,2023, Appellant initiated a complaint concerning his back-pay for prevailing wages by contacting the "Inmate Finances" designation on the institutional kiosk machine. On June 23,2023, the Inmate Finance coordinator responded by stating that, "Financial account does not make this determination. You must contact General Counsel directly to research you claim."see Kiosk Number 23-03151501. On July 3,2023, Appellant filed a step 1 grievance alleging the same. On July 3,2023, the step 1 grievance was denied. On July 11,2023, Appellant filed a step 2 grievance. On October 25,2023, the step 2 grievance was denied. On November 3,2023, Appellant filed a notice of appeal with the Administrative Law Court, which was assigned to the Honorable Ralph King Anderson,III. On April 29,2024, the Administrative Law

Judge dismissed the appeal for lack of jurisdiction based upon Appellant's failure to properly exhaust his administrative remedies. This appeal follows.

#### RELEVANT FACTS

The Department denied Appellant's grievance as untimely pursuant to SCDC Policy ADM-15.13 stating that, "the grievance was untimely...because it was filed one year and seven months after the Court of Appeals issued its opinion in Torrence v. SCDC,(2021), and failure to inform the Department in writing within 15 days of a payroll error, in compliance with SCDC Policy ADM-15.13 section 12.1". That Policy requires each warden to designate at least one inmate payroll office for a correctional facility. The office is responsible for entering inmate pay data into the inmate pay system.Id.

In his Order, Judge Anderson states that, "Based upon Appellant's failure to follow the proper procedure for submitting a wage claim under SCDC Policy ADM-15.13,section 12.1, I find Appellant has failed to exhaust his administrative remedies, and this matter is not ripe for this court's review."see ORDER OF DISMISSAL, PAGE 3, DATED APRIL 29, 2024.

#### DISCUSSION

Appellant contends that judge Anderson erred in his findings that Appellant failed to exhaust his administrative remedies by failing to initiate his prevailing wages complaint by utilizing the automated kiosk machine. Appellant first initiated his claim by going on the institutional kiosk machine and writhing "Inmate Finances" which is the only designation on the kiosk machine for dealing with inmate finances.

In his initial complaint, filed on 6-21-2023, Appellant stated that, "I would like to know why I did not receive my prevailing wages from PI. What must I do for them.". A response was sent by the Inmate Finance Coordinator dated 6-22-2023, stating that, "Financial account does not make this determination. You must contact General Counsel Directly to research your claim."see AUTOMATED KIOSK MESSAGE NUMBER 23-03151501.

Clearly, Appellant did follow the proper procedure for initiating his prevailing wages claim. The Administrative Law Judge's findings that he did not is clearly wrong.

CONCLUSION

The Administrative Law Judge's Order should be vacated and this matter remanded back down for a ruling on the merits.

This 14 day of May 2024,

BY: DAVE FERNANDEZ  
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SC Court of Appeals

CERTIFICATE OF SERVICE

I, Dale Cassidy Fernandez (Appellant), do hereby certify that I did serve the "INITIAL BRIEF OF APPELLANT" on the Respondent by depositing one copy of the same in the U.S. mail, postage prepaid, and addressed as follows:

GENERAL COUNSEL  
4444 BROADRIVER ROAD/P.O.BOX 21787  
COLUMBIA, SOUTH CAROLINA 29221-1787

This 14 day of May 2024,

BY: Dale Fernandez  
PRO SE  
POST OFFICE BOX 580  
UNA, S.C. 29378

CERTIFICATE OF SERVICE

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JAN 25 1957

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TO:CLERK OF COURT  
FROM:DALE CASSIDY FERNANDEZ  
275710

MAY 15,2024

Dear Clerk,

Please find enclosed one "NOTICE OF APPEAL", one "INITIAL BRIEF OF APPELLANT", and one "DESIGNATION OF MATTER", to be filed in your office.

Truly