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SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Docket No. 23-ALJ-04-0835-AP

Appellate Case No. 2024-000665

Thomas Thompson #80681

Appellant,

vs

South Carolina Department  
of Corrections

Respondent.

BRIEF OF APPELLANT

Thomas Thompson #80681  
Pro Se Litigant  
Tyger River CI U2-102  
200 Prison Road  
Enoree, South Carolina  
29335

## TABLE OF AUTHORITIES CASES

Torrence v SCDC (2007), 373 S.C. @ 594 n8, 646 S.E. 2d @ 970	-	3
Torrence v SCDC (2021), 433 S.C. 633, 861 S.E. 2d 36	-	3
Gatwood v SCDC (2016), 416 S.C. 304, 317 n8, 785 S.E. 2d 600	-	3
Mitrag v SCDC (2022) WL 6881830	-	3
Sanders v SCDC ALC - Judge D.B. Durdan 3-26-24	-	3

## STATUTES

S.C. Code Ann 24-3-40	-	1
S.C. Code Ann 24-3-430(b)	-	1

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## STATEMENT OF ISSUES ON APPEAL

- 1.- Did Appellant Thompson exhaust his Agency Remedies?
  
- 2.- Is Appellant Thompson due back wages for all his time worked in the PIE program?

## STATEMENT OF THE CASE

Appellant, Thomas Thompson, an inmate incarcerated in the South Carolina Department of Corrections (SCDC) appeals the Order of Dismissal by the Administrative Law Court (ALC) of his appeal of a grievance seeking back wages for work in the Prison Industries Employment (PIE) program. Thompson contends that the SCDC dispensed his wages under section 24-3-40 based on a lower gross wage than that paid by the industry sponsor. Thompson also contends that the SCDC failed to contract with the industry to pay the prevailing wage for work in the PIE program in accordance with section 24-3-430(D).

## HISTORY

Prior to filing the grievance in question Thompson's initial grievance was returned with instructions to comply with SCDC Policy ADM 15.13. On April 11, 2023 Thompson submitted an automated request to staff member (ARTSM) on the KIOSK to Inmate Finance (#23-03074299) stating that the wages he received on April 2, 2023 were not proper. On April 19, 2023 Thompson received a response saying that HQ had stated that all inmates were paid proper wages according to S.C. state law. Thompson submitted two additional ARTSMs on this issue (#23-03095406 and #23-03103676) while filing a grievance asking that his current pay be adjusted to comply with section 24-3-40 and section 24-3-430(D) (T4RC1 0270-23)

Thompson started work in the SCDC PIE program at Kershaw CI from 2009 through 2015. Thompson worked in the hardwood flooring industry for RM Design and was paid the minimum wage, \$7.25 until receiving a 50¢ raise in the later part of 2014. Thompson transferred to Tyger River CI and worked in the hardwood flooring industry for Shaw Industries from June 2016 until March 2024. Thompson was paid minimum wage, \$7.25 and received a 5¢ raise after 90 days and a 3¢ raise in 2017, 2018, and 2019. Both of these industry sponsors were paying the SCDC a higher hourly gross wage than that dispensed by the SCDC under section 24-3-40. Thompson has no knowledge of the prevailing wage for these jobs and time periods but is aware that the SCDC is currently making settlements with inmates based on a prevailing wage of \$16.36.

## ARGUMENT

On April 17, 2023 Thompson filed grievance TYRCI 0-230-23 seeking back wages for the entire time he worked in the SCDC PIE program. SCDC Policy 15.13 does not provide a remedy beyond two pay periods. However since the SCDC prohibits duplicate ARTSMs, the April 11, 2023 ARTSM should establish exhaustion of Agency remedies in both grievances (TYRCI 0231-23 and 070-23). The

ALC has issued an order ruling that the SCDC cannot use ADM 15.13 to deny inmate grievances regarding PIE wages. ALC Judge Deborah Brooks Dueden ruled in Sanders v SCDC that ADM 15.13 is a statement of Agency Policy without force of law. Judge Dueden ruled that an Agency cannot contradict a statute by regulation, only supplement it.

The COA and the Supreme Court have clearly ruled that the SCDC is required to disburse inmate PIE wages under section 24-3-40 based on the gross hourly wage remitted by the industry and not the lesser amount. The courts have also ruled that the SCDC was required to contract with these industries to pay the prevailing wage according to the South Carolina Department of Employment and Workforce. These cases are Torrence I (2007), Torrence II (2021), Gatewood (2016), and Mittag (2022) et al.

## CONCLUSION

Thompson has exhausted all available agency remedies. The SCDC is liable for failing to pay proper wages in the PIE program. Thompson should receive all due back wages for his work in the PIE programs.

MAY 23, 2024

  
Thomas Thompson #80681

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APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Robert L. REIBOLD, Administrative Law Judge

Appellate Case No. 2024-000665

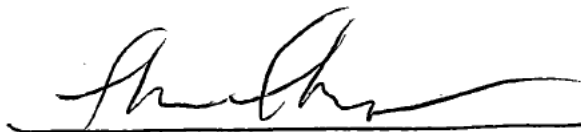
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Respondent. }

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I, Thomas Thompson #80681, do hereby certify that I have served a copy of Appellants Brief and the Designation of Matter to be Included in Record on Appeal on Respondent by depositing a copy of same in the US Mail on this day, May 23, 2024, postage prepaid, addressed as follows.

General Counsel, SCDC  
Post Office Box 21787  
Columbia, S.C. 29221

  
Thomas Thompson #80681  
Tyger River Ct  
200 Prison Road  
Enoree, S.C. 29335

May 23, 2024

Thomas Thompson #80681  
Tyger River CL 42-102  
200 PRISON ROAD  
ENOREE, S.C. 29335

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South Carolina Court of Appeals

Jenny Abbott Kitchings, Clerk

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Columbia, S.C.

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