

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY
ADMINISTRATIVE LAW COURT

RECEIVED
JUN 03 2024
SC Court of Appeals

RALPH K. ANDERSON III, CHIEF ADMINISTRATIVE LAW JUDGE

LEON D. CRUMP #363272 APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS RESPONDENT.

INITIAL BRIEF OF APPELLANT

LEON D. CRUMP #363272
TYRCI / 200 PRISON RD.
ENOREE, S.C. 29335
PRO SE LITIGANT

JOSEPF R. SHAKIBANASAB ESQ.
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
OFFICE OF GENERAL COUNSEL
4444 BROAD RIVER ROAD
COLUMBIA, S.C. 29221
SC BAR 102825
ATTORNEY FOR RESPONDENT

TABLE OF CONTENTS

TABLE OF CONTENTS i
TABLE OF AUTHORITIES ii, iii
STATEMENT OF ISSUES ON APPEAL 1
STATE OF CASE 2-3
STANDARD OF REVIEW 4

ARGUMENTS

1. BY LAW, THE APPELLANT IS ENTITLED TO BE DUELY COMPENSATED FOR ALL HOURLY WAGES EARNED FOR HIS WORK IN PRISON INDUSTRY ENHANCEMENT CERTIFICATE PROGRAM (P.I.E.C.P.). THE ALC ERRONEOUSLY BARRED DUE COMPENSATION BY ANCHORING POLICY OVER LAW 5- 8

11. PURSUANT TO SCACR 212(B), SCALC RULE 36(B)(2), AND SCRC RULE 402, THE APPELLANT IS ENTITLED TO SUPPLEMENT THE RECORD ON APPEAL FOR THE PURPOSE OF MAINTAINING A COMPLETE RECORD BEFORE THE COURT, AND TO SUBMIT "RELEVANT EVIDENCE" TO ISSUE 8-10

CONCLUSION 10-11

INDEX /RECORD ON APPEAL iv

TABLE OF AUTHORITIES

CASES

WICKER V. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
 360 SC 602 SE 2D 56 (2004) 5, 8
 PIATT V. McDUGALL 733 F. 2D 1032, 1036 (9TH CIR.1985) 5
 GATEWOOD V. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
 416 SC 304, 785 SE 2D 600 (2016) 5
 ABRAHAM V. PALMETTO UNIFIED SCHOOL DISTRICT NO:1
 343 SC 36, 528 SE 2D 656 (SC APP.2000) 6
 ADKINS V. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
 360 SC 413, 418, 602 SE 2D 51, 54 (2004) 6, 8
 TORRENCE V. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
 433 SC 633, 861 SE 2D 36 (2021) PASSIM
 MEDIA GENERAL COMMUNICATIONS INS. V. SOUTH CAROLINA DEPARTMENT OF REVENUE
 388 SC 138 164 SE 2D 525 81 A.L.R. 6TH 697 (2010) 8
 HODGES V. RAINEY 341 SC 79, 533 SE 2D 578 (2000) 7
 NIZ CHAVEZ V. GARLAUD, 593 U.S. 155,141 S.CT. 1474 209 L.ED. 433 (2021) . . . 8
 STATE V. JENKINS, 436 SC 362 872 SE 2D 620 (2022) 9
 SCHWIERS V. SOUTH CAROLINA DEPT. OF HEALTH AND ENVIROMENTAL CONTROL
 429 SC 43, 837 SE 2D 730 (2019) 9
 BERGSTROM V. ASSOCIATES FOR WOMEN'S HEALTH OF SOUTHERN OREGON
 283 OR. APP. 601, 388 P.3D 2141 (2017) 9
 R.F.C. V. LIGHTESY 185 F. 2D 167 (1950) 10
 STATE V. PETIT 144 SC 452, 142 SE 725 (1929) 10

STATUTES

SC CODE OF LAW 1976 SECT 24-3-310	5
SC CODE OF LAW 1976 SECT 24-3-315 . . . . .	.5,6
SC CODE OF LAW 1976 SECT 24-3-430 (D)	PASSIM
SC CODE OF LAW 1976 SECT 24-3-40 . . . . .	.5
U.S.C.A. CONST. AMEND. 14 . . . . .	.5
SC CONST. ART. 1 SECT 3	5
SC CODE OF LAW 1976 SECT 41-10-10 . . . . .	.6
SC CODE OF LAW 1976 SECT 41-10-40 . . . . .	.4,6
SC CODE OF LAW 1976 SECT 1-23-610 . . . . .	.4,10

OTHER AUTHORTIES

42 U.S.C.A. 1997, PL 96-241 (MAG 23,1980) 94 STAT. 349 SECT. 2,7;	
CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT (CRIPA)	5
JUSTICE SYSTEM IMPROVEMENT ACT 1929; PL 96-157 SEC. 827 . . . . .	.5
JUSTICE ASSISTANCE ACT 1984; PL 98-473 SEC. 819 . . . . .	.5,6
CRIME CONTROL ACT 1990; PL 101-647 . . . . .	.5
18 U.S.C. 1761 . . . . .	.PASSIM
64 FED. REG. 17000-14 . . . . .	.PASSIM
50 FED. REG. 12661-01 . . . . .	.5
29 U.S.C. 206 ET. SEQ.	5
WL 31728841 . . . . .	.6,9
TITLE 5 U.S.C. 5596	7
TITLE 5 C.F.R. SUBPART H 550.801,803,804 . . . . .	.7
SCDC ADM 15.13 SECT. 12.1	PASSIM
SCDC GA. 01.12 SECT. 13.2 . . . . .	.9

STATEMENT OF ISSUES ON APPEAL

1. DID THE ADMINISTRATIVE LAW COURT (ALC) ERRONEOUSLY AND ARBITRARILY ANCHOR SCDC POLICY ADM. 15.13 SECT 12.1 - PROBLEMS WITH PAY AS CONTROLLING AUTHORITY TO BAR BACK -PAYMENT OF ALL WAGES DUE OVER FEDERAL MANDATES, ESTABLISHED CODES OF LAW, AND SUPREME COURT PRECEDENT GOVERNING SUCH BACK-PAYMENT OF WAGES?

11. DID THE ADMINISTRATIVE LAW COURT ERROR IN IT'S DISCRETION TO DENY THE APPELLANTS PROCEDURAL RIGHT TO SUPPLEMENT THE RECORD ON APPEAL WITH RELEVANT EVIDENCE TO ISSUE?

STATEMENT OF CASE

PURSUANT TO SCACR RULE 201, THIS MATTER IS BEFORE THE SOUTH CAROLINA COURT OF APPEALS ON AN APPEAL FILED BY LEON D. CRUMP (APPELLANT) AN INMATE INCARCERATED IN THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS (RESPONDENT), AND HOUSED AT THE TYGER RIVER CORRECTIONAL INSTITUTION (TYRCI).

THE APPELLANT APPEALS THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT'S FINAL DECISION REGARDING PREVAILING WAGE BACK-PAYMENT OF ALL WAGES DUE WHILE WORKING IN THE PRISON INDUSTRY ENHANCEMENT CERTIFICATE PROGRAM (P.I.E.C.P.) AT TYGER RIVER CORR. INST. PLANT NO:2.

APPELLANT FILED A AUTOMATED REQUEST TO STAFF MEMBER (ARTSM) ON NOVEMBER 21, 2022 (REF NO: 22-02900279) ASSERTING THE DEPARTMENT (SCDC) WAS PAYING HIM LESS THEN THE PREVAILING WAGE PURSUANT TO STATUTORY LAW SC. ST SECT 24-3- 430 (D).

APPELLANT FILED A STEP ONE (1) GRIEVANCE ON NOVEMBER 22, 2022 REGARDING VIOLA-
OF SC ST. SECT 24-3-430 (D) BY THE DEPARTMENT (SCDC) AND WAS ENTITLED TO BACK
PAYMENT OF PREVAILING WAGE'S DUE FOR ALL HOURS OF WORK HE PERFORMED WHILE PART-
ICIPATING IN P.I.E.C.P. (GRIEV. NO:0239-22.)

ON DECEMBER 2, 2022, THE WARDEN DENIED APPELLANT'S STEP (1) GRIEVANCE PER. SCDC POLICY ADM. 15.13, AND STATED: "THE APPELLANT WAS PAID ACCORDING TO GOVERNING AUTHORITY OF SOUTH CAROLINA".

ON DECEMBER 9, 2022, APPELLANT FILED A STEP TWO (2) GRIEVANCE IN DISAGREEMENT WITH THE WARDEN'S DECISION TO THE AGENCIES (SCDC) HEADQUARTERS, AND THE AGENCY DENIED THE STEP (2) GRIEVANCE ON JANUARY 24, 2023.

ON FEBRUARY 13, 2023, THE APPELLANT FILED A NOTICE OF APPEAL WITH THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT (SCALC). THE CASE WAS ASSIGNED ON FEBRUARY 23, 2023. APPELLANT FILED HIS INITIAL BRIEF ON MARCH 31, 2023. THE CASE WAS HELD IN ABEYANCE FOR ONE HUNDRED TWENTY (120) DAYS ON MAY 9, 2023 UPON MOTION BY THE RESPONDENT (SCDC), BUT WAS RESTORED TO THE ACTIVE DOCKET ON SEPTEMBER 6, 2023. FOR THE RECORD, ON JULY 14, 2023 APPELLANT OFFERED "NEGOTIATION AND SETTLEMENT" VIA LETTER TO THE DEPARTMENT (SCDC) WITH NO RESPONCE FROM THE AGENCY THEREAFTER, ALTHOUGH THE AGENCY HAD MADE SEVERAL OF THESE OFFERS TO OTHER INMATE CLAIMS.

ON SEPTEMBER 12, 2023, THE DEPARTMENT (SCDC) FILED MOTION FOR SCHEDULING ORDER ACCOMPANIED BY THE RECORD ON APPEAL (WHICH WAS INCOMPLETE LACKING SUPPORTIVE DOCUMENTS INITIALLY ATTACHED). ON SEPTEMBER 19, 2023, THE DEPARTMENT MOTION WAS GRANTED BY THE ALC.

ON NOVEMBER 20, 2023, THE APPELLANT FILED A SUPPORT BRIEF FOLLOWING A MOTION FOR EXTENTION OF TIME FILED OCTOBER 19, 2023 AND GRANTED ON NOVEMBER 13, 2023. ON DECEMBER 20, 2023 THE RESPONDENT (SCDC) FILED IT'S BRIEF.

ON DECEMBER 27, 2023, APPELLANT FILED MOTION TO SUPPLEMENT THE RECORD ON APPEAL, THE MOTION WAS DENIED ON JANUARY 3, 2024 WHEN THE APPELLANT GOT ORDER OF REMAND ON JANUARY 11, 2024 from THE ALC FOR SCDC TO "CALCULATE THE ADDITIONAL PAY OWED APPELLANT UNDER THE PREVAILING WAGE FOR TWO (2) PAY PERIODS PRIOR TO NOVEMBER 21, 2022 TO SCDC POLICY ADM. 15.13 SECT 12.1" ON FEBRUARY 5, 2024, APPELLANT FILED NOTICE OF APPEAL WITH THE SC COURT OF APPEALS DISPUTING THE ALC'S DECISION.

ON FEBRUARY 12, 2024, SC COURT OF APPEALS ISSUED APPELLATE CASE NUMBER ALONG WITH CORRECTION OF DEFICIENCIES; ON FEBRUARY 20, 2024 APPELLANT FILED CORRECTIONS OF DEFICIENCIES FOR NOTICE OF APPEAL TO SC COURT OF APPEALS; ON APRIL 8, 2024 APPELLANT FILED MOTION TO COMPEL TO THE ALC AND RESPONDENT; ON APRIL 11, 2024 APPELLANT FILED MOTION TO PROCEED IN FORMA PAUPERIS TO THE SC COURT OF APPEALS; ON APRIL 16, 2024 ALC ISSUED ORDER FOR RESPONSE TO SCDC GENERAL COUNSEL FOR MOTION TO COMPEL; ON APRIL 16, 2024 APPELLANT RECEIVED LETTER OF ABEYANCE FROM SC COURT OF APPEALS; ON MAY 6, 2024 RESPONDENT FILED RESPONSE ALONG WITH OFFER OF SETTLEMENT AGREEMENT; ON MAY 9, 2024 APPELLANT RECEIVED ORDER GRANTING MOTION TO PROCEED IN FORMA PAUPERIS.

STANDARD OF REVIEW

FOR THIS CASE, APPELLATE REVIEW OF THE ADMINISTRATIVE LAW COURT (ALC) IS GOVERNED BY SC CODE ANN. SECT 1-23-610 (A) (1) (8).

PURSUANT TO THIS SECTION, THE REVIEWING COURT MUST "NOT SUBSTITUTE ITS JUDGEMENT FOR THE JUDGEMENT OF THE ADMINISTRATIVE LAW JUDGE AS THE WEIGHT OF THE EVIDENCE ON QUESTIONS OF FACT" SC CODE ANN. SECT 1-23-610 (B).

THE APPELLANT TRIBUNAL MAY REVERSE OR MODIFY THE DECISION OF THE ALC IF THE SUBSTANTIVE RIGHTS OF THE APPELLANT HAVE BEEN PREJUDICED BECAUSE THE FINDING CONCLUSION, OR DECISION IS:

- A) IN VIOLATION OF CONSTITUTIONAL OR STATUTORY PROVISIONS
- B) IN EXCESS OF THE STATUTORY AUTHORITY OF THE AGENCY
- C) MADE UPON UNLAWFUL PROCEDURES
- D) AFFECTED BY 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 UNWARRENTED EXERCISE OF DISCRETION.

ARGUMENTS

1. BY LAW, THE APPELLANT IS ENTITLED TO BE DUELY COMPENSATED FOR ALL HOURLY WAGES EARNED FOR WORK IN THE P.T.E.C.P. THE ALC ERRONEOUSLY BARRED DUE COMPENSATION BY ANCHORING POLICY OVER LAW.

THIS APPEAL INVOLVES VIOLATIONS OF THE LAWFUL STATUTORY RIGHTS FOR THE PAYMENT OF PREVAILING WAGES, AND THE BACK-PAYMENT OF ALL WAGES TO THE APPELLANT WHO PARTICIPATED IN THE PRISON INDUSTRY ENHANCEMENT CERTIFICATE PROGRAM (P.I.E.C.P.). (SEE: WICKER V. SCDC 602 SE. 2D 56 AT N.2)"[W]HERE THE STATE HAS ESTABLISHED, BY STATUTE, A RIGHT OF INMATES TO COMPENSATION FOR WORK PERFORMED FOR PRIVATE PARTIES, IT CANNOT DENY THAT RIGHT AFTER THEY EARNED THE WAGES, WITHOUT AFFORDING DUE PROCESS OF LAW". (SC ST SECT 24-3-310, SC ST SECT 24-3-315, SC ST. SECT 24-3-430(D); USCA CONST. AMEND 14; SC CONST. ART 1. SECT 3) CF. PIATT V. McDUGALL 733 F. 2D 1032, 1036 (9TH CIR. 1985)).

SINCE EMPLOYMENT/ASSIGNMENT TO THE P.I.E.C.P., THE APPELLANT SIMPLY ASSERTS TO BE RIGHTFULLY COMPENSATED FOR ALL HOURLY WAGES EARNED. (SEE: GATEWOOD V. SCDC 785 SE 2D 600 AT N. 14)"[I]N MATES RIGHTS BECAME VESTED AS SOON AS HE EARNED THAT WAGE". (SC. ST SECT 24-3-40(A)).

THE P.I.E.C.P. IS FEDERALLY MANDATED UNDER THE JUSTICE SYSTEM IMPROVEMENT ACT AND CODIFIED EXPANSIONS AT 18 U.S.C. SECT 1761(ID). WHEREIN ITS MANDATORY GUIDELINES (SEE 64. FED. REG. 17000-14 AT 111 PROG. GUIDENCE (2)(D), (2)(E), (G); SEE ALSO 50 FED. REG. 12661-01 (1985) AT (1)(B)(5)... REQUIRE THAT STATE DEPARTMENT OF CORRECTIONS (DOC) PARTICIPANTS ARE RESPONSIBLE FOR ESTABLISHING A REASONABLE PREVAILING WAGE THAT CANNOT BE SET BELOW THE FEDERAL MINIMUM WAGE STANDARD OF THE FAIR LABOR STANDARDS ACT (29 USC 206 et. SEQ.)

THE FORMENTIONED GUIDELINES (ID) STATE: "[P]AYMENT OF MINIMUM WAGES DOES NOT AUTOMATICALLY ACHIEVE COMPLIANCE WITH THE PREVAILING WAGE REQUIREMENT UNLESS THE PREVAILING WAGE FOR THE COMPARABLE PRIVATE-SECTOR INDUSTRIES IS IN FACT THE FEDERAL MINIMUM WAGE."

THE SAME WAS ACKNOWLEDGED IN 2002 BY THE SOUTH CAROLINA ASSISTANT ATTORNEY GENERAL (SCDC) ROBERT D. COOK. "[T]HE PROGRAM (P.I.E.C.P.) AT 18 USC SECT 1761(C)(1); REQUIRES THAT INMATES BE PAID AT LEAST THE

PREVAILING LOCAL RATE FOR THEIR WORK, WITH THE FLSA MINIMUM WAGE AS A FLOOR. " (WL31728841).

IN 1995, THE SOUTH CAROLINA GENERAL ASSEMBLY ENACTED AND CODIFIED SC CODE OF LAWS SECT 24-3-315, AND 24-3-430 FOR THE AUTHORIZATION TO PARTICIPATE IN THE P.I.E.C.P., AND TO COMPLY WITH THE BUREAU OF JUSTICE ASSISTANCE (BJA) COMPLIANCE GUIDELINES (ID) WHERE THE LANGUAGE OF THE STATUTES (ID) COLLECTIVELY MIRROR THOSE IN THE GUIDELINES THAT UNAMBIGUOUSLY STATE: "[T]HE DEPARTMENT OF CORRECTIONS PARTICIPANTS SHALL ENSURE THAT INMATES PARTICIPATING IN ANY P.I. PROGRAM PURSUANT TO THE JUSTICE ASSISTANCE ACT OF 1984 (ID)... THAT RATES OF PAY AND CONDITION OF EMPLOYMENT ARE NOT LESS THAN THOSE PAID AND PROVIDED FOR WORK OF SIMILAR NATURE IN THE LOCALITY IN WHICH THE WORK IS PERFORMED... IN THE PRIVATE SECTOR" (SC ST SECT 24-3-430(D)).

THE "RATES OF PAY" AND OTHER "CONDITIONS OF EMPLOYMENT" APPLICABLE TO THE APPELLANT CLAIMS ARE CLEARLY IDENTIFIED AND DEFINED IN THE SOUTH CAROLINA PAYMENT OF WAGES ACT (SCPWA) AT SC ST SECT 41-10-10 (2)., AND SC ST SECT 41-10-40(A); "[W]AGES ARE ALL AMOUNTS (EMPHASIS ADDED) AT WHICH LABOR RENDERED IS RECOMPENCED.. AND WHICH ARE DUE UNDER POLICY ANY EMPLOYER POLICY OR EMPLOYMENT CONTRACT;" [E]VERY EMPLOYER IN THE STATE SHALL PAY ALL WAGES DUE" (EMPHASISED).

THE PURPOSE OF THE ACT (SCPWA) IS TO PROVIDE EFFECTIVE COLLECTION OF WAGE PAYMENTS BY LABOR IN SOUTH CAROLINA.. "[P]AYMENT OF WAGES ACT IS ...REMEDIAL LEGISLATION DESIGNED TO PROTECT WORKING PEOPLE AND ASSIST THEM IN COLLECTING COMPENSATION WRONGFULLY WITHHELD." (ABRAHAM V. PALMETTO UNIFIED SCHOOL DIST. NO:1 343 SC 36, 528 SE 2D 656 SC APP. 2000).

THE SC SUPREME COURT HELD: "[T]HAT AN INMATE WHO CLAIMS NOT TO HAVE BEEN PAID THE PREVAILING WAGE IS ENTITLED TO PROCEED UNDER THE SOUTH CAROLINA PAYMENT OF WAGES ACT." (SEE ADKINS V. SCDC 360 SC 413, 418 602 SE 2D 51,54 (2004) AT *420(10)).

FURTHER SUPPORTIVE EXAMPLES OF THE APPELLATES CLAIMS TO ADEQUATE BACK-PAY ARE TITLE 5 U.S.C.A. 5596, AND 5 CFR SUBPART H THAT ADDITIONALLY PROVIDE THE CLEARIFICATION IN ITS DEFINITIONS OF AGENCY AT 5 CFR 550.803.. "AGENCY" MEAN AN EXECUTIVE AGENCY, AND IN ITS APPLICABILITY AT 5 CFR 550.801. "[T]HERE ARE ASPECTS OF APPLICABILITY THAT

ARISE IN ALC DECISIONS. THE ALC IS PART OF THE EXECUTIVE BRANCH. THE ALC RESOLVES DISPUTES FROM STATE AGENCIES WHICH ARE, OF COURSE, EXECUTIVE BRANCH AGENCIES "(SEE TORRENCE V. SCDC 433 SC 224, 857 SE 2D 549 AT N.1 (2021)).

IN THIS CONTEXT, THE EXECUTIVE AGENCY REQUIREMENTS TO EMPLOYEE'S CLAIMS FOR ALL AMOUNT DUE IN BACK-PAY COMPENSATION IS AFFIRMED IN 5 USCA 5596 AT (B)(1), (A)(1) THAT STATE IN PART "[A]N EMPLOYEE OF AN AGENCY WHO ON THE BASIS OF A TIMELY APPEAL OR ON ADMINISTRATIVE DETERMINATION (INCLUDING A DECISION RELATING TO AN UNFAIR LABOR PRACTICE OR A GRIEVANCE) IS FOUND BY APPROPRIATE AUTHORITY UNDER APPLICABLE LAW.. TO RECEIVE FOR THE PERIOD THE ACTION WAS IN EFFECT AN AMOUNT EQUAL TO ALL OR ANY PART OF THE PAY WHICH THE EMPLOYEE NORMALLY WOULD HAVE EARNED OR RECEIVED".

DETERMINING ENTITLEMENT TO APPROPRIATE BACK-PAY OUTLINED HERE IS PARALLELED IN THE BJA COMPLIANCE GUIDE 1 (ID) AT PART 19- 'BACK WAGE CALCULATIONS AND PAYMENTS' WHICH STATE: "[B]ACK WAGES SHOULD BE CALCULATED FOR EVERY PAYROLL PERIOD (EMPHASIS ADDED) FALLING WITHIN THE PERIOD OF NON-COMPLIANCE." BE IT FOUND, THAT NOWHERE IN THIS TEXT LANGUAGE DOES IT STATE "FOR TWO (2) PAY PERIOD ONLY." *(SEE SCDCADM. 15.13 SECT 12.1 PG 68, 69 CASE RECORD). HOWEVER, WITH A CLEARLY ERRONEOUS VIEW OF THE RELIABLE, PROBATIVE, AND SUBSTANTIAL EVIDENCE OF THE WHOLE RECORD THAT WAS SUPPORTED BY STATUTE (SUPRA), AND PRECEDENT LANGUAGE, THE ALC PROCEEDED TO NARROWLY MISINTERPRET TORRENCE (SUPRA) AND SCD POLICY. (*SEE ALC ORDER PG. 68 AT N.6), CASE RECORD) 1,¹¹ WHERE THE LANGUAGE IS PLAIN AND UNAMBIGUOUS, AND CONVEYS A CLEAR AND DEFINITE MEANING, RULES OF STATUTORY INTERPRETATION ARE NOT NEEDED, AND THE COURTS HAS NO RIGHT TO IMPOSE ANOTHER MEANING." (HODGES V. RAINEY 341 SC 79, 533 SE 2D 578 (2000) AT N.3).

IN ITS INTERPRETATION, THE ALC ARBITRARILY ANCHORED SCDC POLICY ADM. 15.13 SECT 12.1 AS THE "CONTROLLING AUTHORITY" (1) TO BAR ADEQUATE BACK-PAY COMPENSATION OVER THE "STATUTORY COMMANDS" (2) OF FEDERAL MANDATES, CODES OF LAW, AND SUPREME COURT PRECEDENT.

(1) "[S]TATUTE PROVIDING THAT NO INMATE PARTICIPATING IN A PRISON INDUSTRY PROGRAM MAY EARN LESS THEN THE PREVAILING WAGE FOR WORK OF

1. MEDIA GENERAL COMMUNICATIONS INS. V. SOUTH CAROLINA DEPARTMENT OF REVENUE 388 SC 138 694 SE 2D 525 81 A.L.R. 6TH 697 (2010).

A SIMILAR NATURE IN THE PRIVATE SECTOR IS "CONTROLLING AUTHORITY" FOR INMATES WAGES EARNED THROUGH SUCH A PROGRAM" (TORRENCE SUPAR. JUNE 30, 2021). (2) [I]N CONSTRUING A STATUTE, NO AMOUNT OF POLICY TALK CAN OVERCOME A PLAIN "STATUTORY COMMAND". (NIZ CHAVEZ V. GARLAND 593 US 155, 141 S.CT. 1474 209 L.ED. 2D 433 (2021) AT N.16).

IN CLOSING, THE DEPARTMENT'S (SCDC) HISTORICAL FOOTPRINT OF NON-COMPLIANCE TO STATUTES (SECT 24-3-430 (D)) AND MANDATES (18USC SECT 1761) WAS FIRST ACKNOWLEDGED...AND ADDRESSED IN THE LAW/ANALYSIS OF (SCAG) ROBERT D. COOK (SUPRA).. "[I]N REVIEWING THE OPERATIONS OF SCDC P.I. LAST YEAR (2001). THE GENERAL COUNSEL FOR SCDC REALIZED THAT THE AGENCY WAS OPERATING OUTSIDE THE AUTHORITY AND REQUIREMENTS OF S.C. CODE ANN. SECT 24-3-430, IN THAT INMATES WERE BEING PAID LESS THEN THE PREVAILING WAGE FOR WORK PERFORMED FOR PRIVATE COMPANIES" (SEE WL: 31728814; MEMORANDUM BY DEPT GENERAL COUNSEL (MARCH 23, 2001) ADVISORY TO SCDC1-4).

NOW THE DEPARTMENT SEEKS TO CAPRICIOUSLY RELY UPON A "POLICY" (ID) TO CIRCUMVENT LAW AND TO SERVE ITS CONTINUED INTEREST OF BARRING/WITHHOLDING INMATES CLAIMS TO EARNED BACK WAGES. THIS POLICY HAS EXISTED (IN CONTEX) SINCE 1998 AND WAS NEVER CITED OR REFERENCED IN THE YEARS OF EXTENSIVE LITIGATION OF NEARLY IDENTICAL CLAIM IN PREVIOUS CASES UNTIL NOW.

SCDC POLICY ADM.15.13 DOES NOT PURPORT TO CONSTRUE OR ELUCIDATE THE PREVAILING WAGE STATUTE, AND IS ANOTHER EGREGIOUS LEGAL TACTIC OF THE DEPARTMENT TO CONVOLUTE THE PRONOUNCED PROCEDURES OF SCDC POLICY GA 01.12 SECTION 13.2 INMATE GRIEVANCE SYSTEM AS A SPECIFIED REMEDY. (SEE WICKER AT 57 N,1; ADKINS AT 55 N.8, AND TORRENCE AT 594 N.4; POINT OF LAW 310K273).

11. PURSUANT TO SCACR RULE 212(B), SCALC RULE 36(B)(2), AND SCRE RULE 402, THE APPELLANT IS ENTITLED TO SUPPLEMENT THE RECORD ON APPEAL FOR THE PURPOSE OF MAINTAINING A COMPLETE RECORD BEFORE THE COURT AND TO SUBMIT "RELEVANT EVIDENCE" TO ISSUE.

PURSUANT TO SC ADMIN. LAW CT RULE 46, THE POWERS OF AN ADMINISTRATIVE LAW JUDGE "MUST BE CONSISTANT WITH LAW AND DO ALL THINGS NECESSARY AND PROPER TO THE PERFORMANCE OF JUSTICE AND FAIRNESS". ALTHOUGH THE POWER OF DISCRETION IS BROAD IN REGARDS TO ADMISSIBILITY OF EVIDENCE, STILL, "[T]HE ADMISSIBILITY OF ANY EVIDENCE BEGINS WITH THE BASIC

PREMIS THAT ALL EVIDENCE IS ADMISSIBLE". (STATE V. JENKINS 438 SC 362 827 SE 2D 620 (2022) AT N.18 CF. SCRE 402).

THERE REMAINS A THIN LINE BETWEEN "JUST AND FAIR" DISCRETION AND "CLEARLY UNWARRENTED EXERCISE OF DISCRETION" (3) FOR THE SUPPLEMENTATION OF "RELEVANT EVIDENCE" (4) TO THE RECORD ON APPEAL.

(3) SC CODE ANN SECTION 1-23-610(B)

"[C]OURT OF APPEALS CAN REVERSE THE ADMINISTRATIVE LAW COURT (ALC) DECISION IF ITS FINDING ARE AFFECTED BY ERROR OF LAW, NOT SUPPORTED BY SUBSTANTIAL EVIDENCE, OR ARE CHARACTERIZED BY ABUSE OF DISCRETION OR CLEARLY UNWARRENTED EXERCISE OF DISCRETION". (SCHWIERS V. SOUTH CAROLINA DEPT OF HEALTH AND ENVIROMENTAL CONTROL 429 SC 43, 837 SE 2D 730 (2019) AT N.1).

(4) ORS SECTION 40.150; CF. SCRE 402

"[T]O BE RELEVANT, THERE MUST BE SOME RATIONAL RELATIONSHIP BETWEEN THE ITEM OF EVIDENCE OFFERED BY A LITIGANT AND THE SUBSTANTIVE ISSUES PROPERLY PROVABLE IN THE CASE". (BERGSTROM V. ASSOCIATES FOR WOMEN'S HEALTH OF SOUTHERN OREGON 283 OR. APP. 601 388 P. 3D 1241 (2017) AT N. 5).

AS SUCH, THE REFERENCED DOCUMENTS/RECORDS ARE ESSENTIAL TO THE DETERMINATION AND CORRECT CALCULATION OF PREVAILING WAGES DUE PER. THE P.I.E.C.P. GUIDELINES (SUPRA) THAT STATE: "[P]REVAILING WAGE VARIFICATION MUST BE OBTAINED BY THE APPROPRIATE STATE AGENCY WHICH DETERMINES WAGE RATES (USUALLY THE DEPARTMENT OF ECONMIC SECURITY)", OR IN THIS CASE THE DEPARTMENT OF EMPLOYMENT/WORKFORCE (DEW).

THE ATTACHED DEW AND SHAW IND. PAY SCALE DOCUMENTS (*SEE EXHIBITS A, B AT PG.3,4, OF CASE RECORD). SUPPORTIVE OF THE APPELLANTS STEP ONE (1) GRIEVANCE THAT WERE QUESTIONABLY AND PURPOSELY OMITTED OR WITHHELD BY THE INMATE GRIEVANCE COORDINATOR (IGC), WHICH AS A RESULT, WERE NOT INCLUDED IN THE RECORD ON APPEAL THAT WAS SUBMITTED WITH THE MOTION FOR SCHEDULING ORDER BY THE RESPONDENT (SCDC) ON SEPTEMBER 12, 2023.(SEE PG. 25-31 CASE RECORD).

FURTHERMORE, THE REFERENCED DOCUMENTS/RECORDS IN THE APPELLANT'S SUPPLEMENT (*SEE PG.60,61 OF CASE RECORD). WERE NOT PROCEDURALLY REQUESTED FOR OR DISCLOSED PURSUANT TO SCR. ADMIN. LAW CT RULE 21(A) BY THE RESPONDENT TO THE APPELLANT UPON "NOTICE OF ASSIGNMENT" OF THIS

CASE , WHEREAS, FAILURE TO ACQUIRE AND DISCLOSE DISCOVERY MATERIALS ARE PREJUDICIAL TO THE APPELLANT AND THE REVIEWING COURT.

THE APPELLANT CONTENDS, THAT SUCH RELEVANT DOCUMENTS/RECORDS ARE NOT IMMATERIAL, BUT RATHER MATERIAL IN FACT FOR THE ALC JUDGES TRUTH SEEKING PROCESS OF RENDERING A JUST AND FAIR "DECISION, AND SHOULD NOT HAVE BEEN DEEMED NOT NECESSARY" IN HIS REVIEW. (SEE* ALC ORDER PG. 66 AT N.3 CASE RECORD).

HEREIN, ITS APPARENT THE ALC JUDGE HAS PRE-DETERMINDED HIS DECISION IN HIS ACTION TO NEGATE ADEQUATE COMPENSATIVE RELIEF TO THE APPELLANT BY OMITTING THESE MATERIAL FACTS, WHERE AS, THE ACTIONS QUESTION THE CONCLUSIVENESS OF ITS FINAL ORDER. "[A]DMINISTRATIVE ACTION IS CONCLUSIVE ON REVIEW UNLESS SUCH ACTION IS NOT IN ACCORDANCE WITH LAW, IS UNSUPPORTED BY COMPETENT MATERIAL AND SUBSTANTIAL EVIDENCE, OR IS ARBITRARY OR CAPRICIOUS." (R.F.C. V. LIGHTSEY 185 F. 2D 167 (1950) AT N. 4).

THE ALC ACKNOWLEDGED THAT "THE DEPARTMENT HAS NOT FILED A RESPONSE TO THE MOTION AS OF THE DATE OF THIS ORDER" (ID). PURSUANT TO SCR ADMIN LAW CT RULE 63, THE RESPONDENT HAD TEN (10) DAYS TO RESPOND TO THE MOTION FILED ON DECEMBER 27, 2023 AND DID NOT DO SO. THIS FAILURE IS DEFAULTIVE AND SHOULD NOT HAVE GIVEN CAUSE FOR THE ALC TO DENY THE SUPPLEMENT FROM BEING ALLOWED. GIVEN THE FACTS PRESENTED, THE ALC ERRORED IN ITS DISCRETION TO DENY THE APPELLANTS PROCEDURAL RIGHT TO SUPPLEMENT THE RECORD ON APPEAL PURSUANT TO SCACR 212(B), SCALC RULE 36(A)(2), AND SCRE RULE 402? "[E]VIDENCE WHICH ASSIST IN GETTING AT TRUTH OF ISSUE IS RELEVANT" AND ADMISSIBLE, UNLESS INCOMPETENT". SEE: (STATE V. PETIT 144 SC 452, 142 , SE 725 (1928) AT N.9; POINT OF LAW 110K338).

CONCLUSION

THE APPELLANT POSITION IS SIMPLE, BY ESTABLISHED LAW, THE APPELLANT (LEON D. CRUMP) SHOULD BE APPROPRIATELY AND IMMEDIATELY COMPENSATED BY A CORRECT CALCULATION UNDER THE PREVAILING WAGE (MEAN AVG. WAGE) FOR ALL HOURLY WAGES EARNED (INCLUDING INTEREST) FOR HIS WORK BEGINNING FROM THE DATE OF HIS EMPLOYMENT/ASSIGNMENT TO THE P.I.E.C.P. AT TYGER RIVER C.I. IN THE SC DEPARTMENT OF CORRECTIONS.

THE ADMINISTRATIVE LAW COURT (ALC) JUDGE ERRONEOUSLY AND ARBITRARILY ANCHORED HIS DECISION TO BAR APPROPRIATE COMPENSATION ON A STATEMENT OF POLICY WITHOUT FORCE OF LAW, OF WHICH, CLEARLY LACKS THE POWER AS AN INTERPRETATION OF THE STATUTORY SCHEME SUPPORTING THE P.I.E.C.P.

THEREFORE, GIVEN THE MERITORIUS FACTS AND LEGAL BASIS PRESENTED, AND WHERE ADEQUATE RELIEF IS THE INTERGRAL PART OF STATUTORY EQUITABLE REMEDIES.

I (APPELLANT) RESPECTFULLY ASK THIS HONORABLE COURT TO REVERSE THE ALC DECISION AND ORDER THE DEPARTMENT (SCDC) TO IMMEDIATELY COMPENSATE ME FOR ALL HOURS WORKED UNDER THE PREVAILING WAGE INCLUDING ACCUMILATED INTEREST FOR WHICH I WAS IMPROPERLY PAID.

RESPECTFULLY SUBMITTED,

DATE: May 28 2024

S/ Leon D Crump

LEON D. CRUMP #363272

TYGER RIVER C.I. U-6-46A

200 PRISON RD.

ENOREE, S.C. 29335

PRO SE LITIGANT

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Received

MAY 29 2024

APPEAL FROM RICHLAND COUNTY
ADMINISTRATIVE LAW COURT

Tyger River Mailroom

RALPH K. ANDERSON III, CHIEF ADMINISTRATIVE LAW COURT

CASE NO: 2024-000173

RECEIVED

JUN 03 2024

SC Court of Appeals

LEON D. CRUMP # 363272 APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS RESPONENT.

PROOF OF SERVICE

I HEREBY CERTIFY THAT I HAVE SERVED THE INITIAL BRIEF OF APPELLANT TO THE SOUTH CAROLINA COURT OF APPEALS BY PLACING AN EXACT COPY IN THE UNITED STATE MAIL, POSTAGE PAID, ON THIS DAY OF May 29, 2024, ADDRESSED TO THE SC COURT OF APPEALS, P.O. BOX 11629, COLUMBIA, S.C. 29211.

RESPECTFULLY SUBMITTED,

DATE: May 29, 2024

S/ [Signature]
LEON D. CRUMP #363272
200 PRISON RD./TYRCI
ENOREE, S.C. 29335
PRO SE LITIGANT

MAY 28 2024

THE HONORABLE CATHRINE S. HARRISON
CHIEF DEPUTY CLERK, SC COURT OF APPEALS
P.O. BOX 11629
COLUMBAI, SOUTH CAROLINA 29211

RECEIVED
JUN 03 2024
SC Court of Appeals

RE: LEON D. CRUMP #363272 V. SCDC
APPELLATE CASE NO: 2024-000173

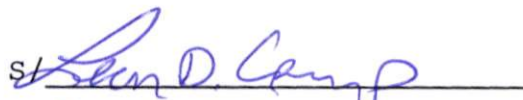
DEAR MS. HARRISON,

ENCLOSED IS THE ORIGINAL AND ONE COPY OF THE INITIAL BRIEF OF APPELLANT ALONG WITH PROOF OF SERVICE IN THE ABOVE-REFERENCED APPEAL. PLEASE FILE THE ENCLOSED ACCORDINGLY AND RETURN A FILE-STAMPED COPY TO ME, USING THE ENCLOSED, SELF ADDRESSED STAMPED ENVELOPE.

I GENUINELY APPRECIATE YOUR ASSISTANCE IN THIS REGARD.

RESPECTFULLY,

CC: JOSEPH R. SHAKIBANASAB ESQ.
SC BAR NO: 102825
ATTORNEY FOR RESPONDENT


LEON D. CRUMP #363272
TYGER RIVER C.I. U-6-46A
200 PRISON RD.
ENOREE, S.C. 29335
PRO SE LITIGANT

LEON D. CRUMP # 363272
T4RC.I. U-6-46A
200 PRISON Rd.
EWING, S.C. 29335



Received
MAY 29 2024
Tyger River Mailroom

South Carolina Court of Appeals
c/o Chief Deputy Clerk
P.O. Box 11629
Columbia, SC. 29211

RECEIVED
JUN 03 2024
SC Court of Appeals

Legal mail