STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Received
JUL 12 2024
Tyger River Mailroom

RECEIVED
JUL 16 2024
SCCourt of Appeals

TO. CLERK JENNY ABBOTT KITCHINGS.

RE: BOBBY WATSON #277427 V. SCDC
APPELLATE CASE NO: 2023-002004
ALC CASE NO. 23-ALJ-04-0054-AC

PER THE INSTRUCTIONS OF S.C. COURT OF APPEALS, AND IN COMPLIANCE WITH SCACR RULE 209, AND RULE 267, IN EFFECT WHEN I FILED MY INITIAL STEP 1 GRIEVANCE 11/30/22 - DENIED 12/02/22. I PROVIDED A COMPLETE FILE TO S.C. COURT OF APPEALS, AND SCDC GENERAL COUNSEL, AND THE S.C. ADMINISTRATIVE LAW COURT. C.C. BIGELOW.

I AM PROVIDING AN ADDITIONAL (6) SIX COPIES OF THIS CORRESPONDENCE TO ADDRESS THE REQUEST OF S.CDC GENERAL COUNSEL IN A LETTER I RECIEVED 6/14/24 THAT WAS DATED 6/10/24. AND ADDITIONAL SIX COPEES. TWO FOR S.C. CT. OF APPEALS, AN TWO FOR SCDC. GENERAL COUNSEL, AN TWO FOR S.C. ADMINISTRATIVE LAW COURT.

ATT. CHRISTINA L. BIGELOW
OFFICE OF GENERAL COUNSEL
P.O. BOX 21787, 4444 BROAD RIVER ROAD COLUMBIA S.C. 29211-1787

Bobby Watson #277427
TYRCI 07B225
200 PRISON ROAD
ENOREE S.C. 29335

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

TO: STAFF NAME:	STAFF TITLE:	DATE:
Ms. Nations	P.I Manger	11-14-22
INMATE NAME: Bobby Watson		SCDC #: 277427
INSTITUTION: Tyger River	DORM/SIDE/BED: 47/B/225	HOUSING TYPE: ☐ RHU ☐ R&E ☐ INFIRMARY ☐ SSR ☐ DEATH ROW ☐ ASSISTED LIVING UNIT (ALU) ☐ N/A

REASON FOR PAPER REQUEST: ☐ PREA ☐ MEDICAL ☐ MENTAL HEALTH ☐ DENTAL ☐ MEDICAL COPAY ☐ MEDICAL RECORDS ☐ KIOSK INACCESSIBLE (EXPLAIN):

YOU MUST USE THE KIOSK IF YOUR PAPER REQUEST DOES NOT MEET ANY OF THE CRITERIA ABOVE.

Torrence VS - SCDC court case no. 2016-000285, opinion no. 5829 June 30 2021. The SC court of appeals determined that inmates are to be paid prevailing wage (24-3-430) as determined by supreme courts interpretation of policy 24-3-430. I am asking for pre existing wage and back pay without repri

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Tyger River Mailroom

DISPOSITION BY STAFF MEMBER:

I have not heard a final decision on this. As soon as I know, I will inform everyone. Until then your wages will stay the same.

[1]

DATE: 11/22/22 STAFF SIGNATURE: M. Nations

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 1

RECEIVED
NOV 29 2022
DRC

INMATE NAME: Bobby WATSON

SCDC NUMBER: 277427 11 4 PSL

INSTITUTION: Tyger River C.I.

HOUSING UNIT: 47B 225

WORK ASSIGNMENT: P.I. 3 Haske Coordinator

OFFICE USE ONLY

Grievance No. ARDEN-S-12462-22

Code: General MH | WS

Policy

Disc. Hear.

Class.

PREA

Date Received 11/30/22

IGC Initials

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.)

Pursuent to Torrance-US-SCDC court case no. 2016-000285, opinion no. 5829 June 30, 2021 the sc court of appeals determined that inmates are to be paid prevailing wage as determined by supreme courts Interpetation of policy 24-3-430. My step one grievance falls within paragraph 13.9 of department policy GA-01.12 which provides Exception to time limit requirment will be made for grievances concerning policies The inmate grievance system, Policy fails to define either incident or policies based on the PLAIN AND ORDINARY MEANING of both of these words it is clear that an incedent would be a one time specific event and a policy would be continuose cause of action. In my present grevience it is not a one time event in wich I was not paid prevailing wage. The department continuously fails to pay me a prevailing wage there for the grievance involved is related to a policy

Bobby Watson #277427 11-24-22

Grievant Signature Date

ACTION REQUESTED: I am asking for prevailing wage 24-3-430 and back pay with out reprisal

ACTION TAKEN BY IGC: ☑ PROCESSED ☐ UNPROCESSED ☐ OTHER

See Warden's response on back.

[2]

12/2/22

IGC Signature Date

(CONTINUE ON REVERSE SIDE)

SCDC 10-5 (Rev. October 2015)

WARDEN'S DECISION AND REASON:

Watson, Bobby 277427 TYRCI-0262-22

I have reviewed your concern. In it you stated that pursuant to Torrance vs SCDC you are entitled to prevailing wages with back pay for hours worked while involved with the Prison Industries Program. You have requested to be paid the prevailing wage and back pay without reprisal. Inmates voluntarily accept services provided by Prison Industries Private Sector Programs and Prison Industries Service Programs. Pursuant to SCDC Policy ADM-15.13 Inmate Pay, it establishes criteria for determining eligibility for inmate pay and ensures proper handling of all matters pertaining thereto. An employee is designated specifically to enter inmate pay data, provided by PI, into the Inmate Pay System. Inmates entering a PI program receives pay at that program's current rate. Problems in pay must be identified within 15 days of the payroll date error. Record of electronic notification must be retained. Failure to notify the Agency in writing and within 15 days, forfeits back pay. You were provided with wages that were approved by the governing authority of South Carolina at that time and accepted as such. Any additional information that you require should be addressed to companies outside SCDC. You have failed to prove pertinent staff performed their duties inconsistent with applicable policy and procedure.

Therefore, your grievance is denied.

If you disagree with this Warden's Decision (Decision), you may file an appeal by completing SCDC Step 2 Inmate Grievance Form 10-5A, provided to you while serving you this Decision, and placing it in the Grievance Box at your local correctional institution within five (5) days of your receipt of this Decision.

12/7/2022

Warden Signature **Date**

☐ I accept the Warden's decision and consider the matter closed.

☑ I do not accept the Warden's decision and wish to appeal.

Bobby Watson 12/7/22

Grievant Signature Date

J Cruz 12/7/22

IGC Signature **Date**

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. **An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form or Kiosk reference number to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.**
2. **Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.**
3. **Only one (1) issue is to be addressed on each form.**
4. **Submit the completed form by placing it in the Grievance Box at your institution within eight (8) working days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) working days of the hearing/review. Do not write in the space provided for the Warden's response.**
5. **If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, by placing your Step 2 appeal form in the Grievance Box at your institution.**

[3]

Due Date: 12-12-22

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

Office Use Only

Grievance No. TyRCI-0262-22
Code: General J My/WS
Policy
Disc. Hear.
Class
PREA
Date Received: 12/13/22
IGC Initials:
Date Received: 12/21/23
IGA Initials:

INMATE NAME: Bobby Watson
SCDC NUMBER: 277427
INSTITUTION: Tyger River C.I.
HOUSING UNIT: U7B225
WORK ASSIGNMENT: P.I. 3 Hasko coordinator

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): Pursuant to Torrence-VS-SCDC court case # 2016-002295 Opinion No. 5829, June 30 2021, the SC court of appeals determined that inmates are to be paid the prevailing wage as determined by the courts Interpretation of policy 24-3-430. My filing of this grievance falls with in Paragraph 13.9 of policy GA-01.12 which provides exception to time limit requirement will be made for grievances concerning policies. I am asking for prevailing wage as policy 24-3-430 states. Also back pay without reprisal. This situation has been ruled on in Torrence-VS-SCDC. This program is set up to not negatively effect private sector and pay me the same wage as private sector (prevailing wage) 24-3-430

Grievant Signature Bobby Watson Date 12/7/22

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE REVERSE SIDE

Responsible Official Signature [signature] Date 1-24-23

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Bobby Watson 2/3/23
Grievant Signature Date

[signature] 2/3/23
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

SCDC 10-5A (Rev May 2015)

[4]

INSTRUCTIONS FOR COMPLETING STEP 2 GRIEVANCE FORM

1. Complete form in its entirety, writing only in the space provided for inmate use.

2. State your specific reason for further appeal. Do not submit any new issues for review. No additional pages will be permitted.

3. Submit this completed form ~~with your copy of the Step-1 form.~~ by placing in the Grievance Box within five (5) days of your receipt of the Warden's decision. Do not write in the space provided for the responsible official.

4. The decision rendered by the responsible official exhausts the appeal process of the SCDC Inmate Grievance Procedure.

Watson, Bobby 277427 **TYRCI-0262-22**

I have reviewed your concern. In your grievance you stated that pursuant to Torrence v. SCDC a court determined that inmates be paid the prevailing wages as determined by the Supreme Court's interpretation of policy 24-3-430. You state that SC Department of Corrections continuously fails to pay you a prevailing wage. You request that you be paid a prevailing wage and back pay which you are entitled to be paid to you without reprisal.

The Warden responded to your concern on SCDC Step 1 Inmate Grievance Form 10-5 dated 12/2/22. I concur with the warden's denial of your grievance, and I conclude SCDC paid you the proper hourly rate of pay for the labor you voluntarily /provided to the prison industries project in which you participated. In concurring with the warden's denial, I further conclude that except for any "training wages" you may have been paid, SCDC paid you at an hourly rate that conformed to all applicable state and federal statutes.

I further conclude SCDC paid you at an hourly rate that conform to the federal guideline applicable to the prison industries project in which you participated, specifically the guidelines established by the federal government, specifically the United States Department of Justice's Bureau of Justice Administration (known as "BJA"). BJA published guidelines applicable to the prison industries project in which you participated in the Federal Register, specifically 64 FR 17000, et seq. The recent decision by the South Carolina Court of Appeals upon which you relied in your grievance, Torrence v. S.C. Dep't of Corr., 2021 WL 2678920 (S.C. Ct. App. June 30, 2021), is not yet final. Your demands for treble damages and attorneys' fees under S.C. Code Ann. 41-10-80(c), known as the South Carolina Payment of Wages Act, are negated by the South Carolina Supreme Court's decision in Williams, et al., v. S.C. Dep't of Corr., et al., 641 S.E.2d 885 (S.C. 2007), as well as our Court of Appeals' decision in S.C. Dep't of Corr. v. Cartette, 694 S.E.2d 18 (S.C. Ct. App. 2010).

To the extent you claim or assert you were "employed by" or otherwise worked for the private industry sponsor involved in the prison industries project in which you participated, the South Carolina Supreme Court's decision in Williams, as well as the South Carolina Court of Appeals' decision in Cartrette negates such a claim or assertion. Finally, to the extent you previously filed a grievance concerning your prison industries pay and you either failed to appeal SCDC's denial of your grievance or SCDC's denial of your grievance was affirmed by the South Carolina Administrative Law Court, any circuit court in South Carolina, the South Carolina Court of Appeals, and/or the South Carolina Supreme Court, your current grievance is barred by the doctrines of res judicata and/or collateral estoppel.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

[5]

STATE OF SOUTH CAROLINA)	IN THE ADMINISTRATIVE LAW COURT
BOBBY WATSON #277427)	Case No: 23-ALJ-04-0054-AP
Appellant,)	
vs.)	INITIAL BRIEF OF APPELLANT
)	
South Carolina Dept. of)	
Corrections,)	
Respondent)	
)	

RECEIVED
JUL 16 2024
SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a Notice of Appeal filed by BOBBY WATSON #277427, (Appellant), an inmate incarcerated with South Carolina Department of Corrections, (Department of Respondent). Appellant appeals the Departments Final Decision denying his Step 2 Grievance because the Respondent does not include in its calculation of wages pursuant to S.C. Code § 24-3-430 (d), the OCC (Occupational Code) of the Department of Employment and Workforce, as required by law, for inmates in the Prison Industries Program.

BACKGROUND

On 11/24/2022, the Appellant filed a Step 1 Grievance contending that he was denied wages pursuant to the Respondent's failure to calculate his rate of pay pursuant to S.C. Code § 24-3-430 (d), which is based upon the Federal Minimal Wage, that South Carolina has no "Prevailing Wage". Appellant filed a Step 2 Grievance on 12/07/2022, appealing that which was denied on 12/02/2022. Thereafter the Appellant filed his Notice of Appeal with this Honorable Court.

JURISDICTION

The Courts jurisdiction to review the Departments final decision in a non-collateral of administrative matter stems from Al-Shabazz v. State, 338 S.C. 345, 527 S.E. 2d 742 (2000). Typically, these matters arise in two ways: 1.) when an inmate believes prison officials have erroneously calculated his sentence, sentence related credit, or custody status. Id. At 369, 527 S.E. 2d 750. Pose Al-Shabazz decisions have determined that a matter is reviewable by the ALC where an inmate's appeal implicates a state created liberty interest or property interest. Howard v. S.C. Dept. of Corr., 399 S.C. 618, 630, 733 S.E. 2d 211, 218 (2012); Also, Wicker v. S.C. Dept. of Corr., 360 S.C. 421, 424, 602 S.E. 2d 56, 57-58 (2004)

Legal Analysis

Statutory Language § 24-3-430 (d) states:

"no inmate participating in the program may earn less than prevailing wage for work of a similar nature in the private sector

Section § 24-3-430 (d) is the controlling authority, as it directly addresses the rate of inmate wages. Burning v S.C. of Health and Environment Control, 418 S.C. 537, 545, 795 S.E. 2d 290, 294 (2016) "Generally [a] specific statutory provisions prevails over a more general one". Precedent has primarily addressed inmate wages within the context of § 24-3-430 (d). S.C. Dept. of Corr. V. Cartrette, 387 S.C. 640, 646, 694 S.E. 2d 18, 21 (2010); "finding § 24-3-430 (d), compels the Department to ensure inmate workers who are employed under this section receive the same rate and employment conditions as non-inmate peers". Based on the language of section § 24-3-430 (d), and its legislative intent to determine the prevailing, the mean average, for an occupation at issue using records and data from the Department of Employment and Workforce; Torrence v. South Carolina Department of Corrections, 433 S.C. 633, 861 S.E. 2d 36 (2021).

The Department is not authorize under the statutory scheme to pay a wage less than "prevailing wage" as provided by section24-3-43 (d),

(holding that inmates have a right to procedural due process in matters involving a state created right to property such as the State's mandate that inmates be paid the prevailing wage)

In Torrence v. South Carolina Department of Corrections, 373 S.C. 586, 646 S.E. 2d 866, (2007), our Supreme Court held: "Legislature specifically authorized inmate labor in private industry via S.C. Code § 24-3-430. The stature provides no inmate participating in the program may earn less than the prevailing wage for work similar in nature in the private sector.

See S.C. Code § 24-3-430 (d), see also § 24-3-315 (for a prison industry project, the DOC must determine "that rates of pay and other conditions of employment are not less than those paid and provided for work similar in nature in the locality in which the work is performed).

Based upon Torrence, therefore, Appellants claim that the Department has not paid his prevailing wage that includes calculation of the data of the Department of Employment and Workforce occupational codes within the locality of similar work performed in the private sector is properly before this Court and is not subject do dismissal.

Wicker v. South Carolina Department of Corrections, 360 S.C. 425, 602 S.E. 2d 58 (2004). The Department labels all inmates who participate in the program under contract with Shaw Industries as Machine Operators, pays each inmate a federal minimal wage of $7.25/hour, however, doesn't include the data of occupational codes for the locality of the private sector from the Department of Employment and Workforce in its calculating of inmates wages, while billing Shaw Industries $10.03/hour for each hour of inmate labor performed. This present scheme of payment is contrary to the plain language of S.C. Code § 24-3-430 (d), as determined in Torrence, Supra.

Conclusion

Appellant asserts that he has worked a pay rate and wage less than the prevailing wage from 2013 thru present date, under the present scheme of payment that is contrary to S.C. Code § 24-3-430 (d), and that the Department must include in its calculation of his hourly wages the mean average pay for his locality that incorporates this data for machine operators in accordance to Torrence v. South Carolina Department of Corrections, 433 S.C. 633, 864 S.E. 2d 36 (2021).

Further, that he entitled to back wages from 2013 thru present date for work performed that did not include the calculations of

the Department of Employment and Workforce occupational code for machine operators in determining a prevailing was as required by S.C. Code 24-3-43 (d).

Wherefore, the Appellant prays this Honorable Court Grant relief by ordering the Department to include in its calculation of Appellants wage rate the Department of Employment and Workforce data and occupational Code for locality and hourly wage for machine operator, and further order to pay for work performed that did not include the prevailing wage rate as required by S.C. Code § 24-3-430 (d).

S/ Dobby Watson #277437

STATE OF SOUTH CAROLINA	)	
BOBBY WATSON, #277427 Appellant	)	IN THE ADMINISTRATIVE LAW COURT
Vs.	)	CASE NO.
South Carolina Dept. of Corrections,	)	CERTIFICATE OF SERVICE
Respondent	)	

I, BOBBY WATSON #277427, hereby certify that I have served the Respondent with Appellant's initial Brief filed by placing it in the United States Mail Postage Prepaid this 1 day of MAY 2024 addressed as follows:

Clerk of Court
Administrative Law Building
Edgar A Brown Building
1205 Pendleton Street, Suite 224
Columbia, SC 29201

Respectfully Submitted
Bobby Watson #277427

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Bobby Watson, #277427, Appellant, vs. South Carolina Department of Corrections, Respondent.	Docket No. 23-ALJ-04-0054-AP **FINAL ORDER**

STATEMENT OF THE CASE

This matter is pending before the South Carolina Administrative Law Court (the ALC or the Court) pursuant to an appeal filed by Bobby Watson (Appellant), an inmate incarcerated by the South Carolina Department of Corrections (SCDC or the Department). In the present appeal, Appellant asserts that the Department is not paying him a prevailing wage,[1] and he is seeking "back pay without reprisal." 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 November 24, 2022. In that grievance, he asserts that "[t]he department continuously fails to pay me a prevailing wage there for[*sic*] the grievance involved is related to a policy" as contemplated in S.C. Code § 24-3-430 (2007) and *Torrence v. S.C. Department of Corrections*, 433 S.C. 633, 861 S.E.2d 36 (Ct. App. 2021) *reh'g denied* (Aug. 4, 2021), *cert. denied* (Aug. 3, 2022). Elaborating on his position, Appellant explains that the inmate grievance system policy fails to define incident or policy and that his grievance is not a one-time event of not being paid a prevailing wage. He further asserts

[1] Appellant has clearly and consistently associated his claim for prevailing wages with S.C. Code Ann. § 24-3-430 (2007).

FILED
10/23/
SC Ad

his policy claim falls under the *Torrence* exception to the time limits of the Department's Inmate Grievance System Policy GA-01.12[2], section 13.9.[3]

The Department denied the Step 1 grievance on December 2, 2022. In denying the Appellant's grievance, the Warden responded:

> I have reviewed your concern. In it you stated that pursuant to Torrance vs SCDC you are entitled to prevailing wages with back pay for hours worked while involved with the Prison Industries Program. You have requested to be paid the prevailing wage and back pay without reprisal. Inmates voluntarily accept services provided by Prison Industries Private Sector Programs and Prison Industries Service Programs. Pursuant to SCDC Policy ADM-15.13 Inmate Pay, it establishes criteria for determining eligibility for inmate pay and ensures proper handling of all matters pertaining thereto. An employee is designated specifically to enter inmate pay data, provided by PI, into the Inmate Pay System. Inmates entering a PI program receives pay at that program's current rate. Problems in pay must be identified within 15 days of the payroll date error. Record of electronic notification must be retained. Failure to notify the Agency in writing and within 15 days, forfeits back pay. You were provided with wages that were approved by the governing authority of South Carolina at that time and accepted as such. Any additional information that you require should be addressed to companies outside SCDC. You have failed to prove pertinent staff performed their duties inconsistent with applicable policy and procedure.

No specific periods of employment or types of work were discussed by the Appellant or Warden. Appellant received the Warden's denial on December 7, 2022.

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[2] Although the Department policies were not included in the record, the Court may take judicial notice of Department policy GA-01.12, Inmate Grievance System (issue date: May 12, 2014)(subsequently modified on September 1, 2023) and ADM-15.13, "Inmate Pay" (issue dates: June 3, 2014, June 1, 2007, April 1, 2004, January 1, 2002, and January 20, 1998). *Martin v. Bay*, 400 S.C. 140, 153, 732 S.E.2d 667, 674 (Ct. App. 2012) (affirming judicial notice taken by lower court of agency rules and regulations (citing *Massey v. War Emergency Co–op. Ass'n*, 209 S.C. 292, 299, 39 S.E.2d 907, 912 (1946)); *see also Jones v. Anderson Cotton Mills*, 205 S.C. 247, 31 S.E.2d 447, 449 (1944) (demonstrating judicial notice by appellate court of agency rule).

[3] Appellant references Section 13.9 as the policy exception provision. However, the substance of Section 13.9 in prior versions of the policy is now designated as Section 13.10 and has been modified since *Torrence*. Currently, Section 13.10 of the Inmate Grievance System policy GA-01.12 (issue date: May 12, 2014) provides:
13.10 Exceptions to the eight (8) working day time limit requirement will be made for grievances concerning policies/procedures, and PREA allegations. Exceptions may also be made for incident grievances, provided that the inmate can show reasonable cause, i.e., inmate physically unable to initiate grievance due to hospitalization, court appearance, etc. All exceptions will be determined by the Branch Chief/Designee of the Inmate Grievance Branch.

Appellant submitted a Step 2 grievance on December 7, 2022. Appellant reiterated his position that his claim falls within the *Torrence* policy exception for the time limits of "section 13.9" of the Department's grievance policy. In his Step 2 grievance, Appellant neither mentions Policy ADM-15.13 Inmate Pay nor indicates a wage claim was made to the Department under that policy. The responsible official denied this grievance on January 24, 2023. The responsible official concurred with the Warden's decision and further explained the denial utilizing a standard Department response[4]. No specific periods of employment or types of work were discussed by the Appellant or responsible official. Appellant received the responsible official's denial on February 3, 2023.

Appellant filed a notice of appeal with the Administrative Law Court on February 7, 2023. Appellant again asserted that the Department is not paying him a prevailing wage in compliance with section 24-3-430. Like his step 2 grievance, Appellant's notice of appeal does not mention Policy ADM-15.13 Inmate Pay or indicate that a wage claim was made to the Department under that policy. Again, no specific periods of employment or types of work were discussed by the Appellant.

This appeal was assigned to the undersigned on February 24, 2023. Appellant filed his initial brief on May 1, 2023. On May 3, 2023, the Department filed a motion to stay the case to provide time for the Department to evaluate the claim and attempt settlement. The Court granted the stay on May 31, 2023 with a modified schedule for briefing. Department filed the record on appeal with the Court on September 6, 2023. The record consists of a November 14, 2022 request to staff with the Department staff's response and the Step 1 and 2 grievances with the Department's responses. In the November 14, 2022 request, Appellant asked for prevailing wages under section 24-3-430 and *Torrence* and the Department's response was "I have not heard a final decision on this. As soon as I know, I will inform everyone. Until then your wages will stay the same." The Department filed its brief on September 28, 2023. Appellant filed, on October 6, 2023, an "Appellant's Response to Respondent's Motion for Remand and Partial Motion to Dismiss" and a copy of a "Service or PIE Inmate Agreement". The Department has not filed such a motion, and,

[4] Curiously, the responsible official states that as of January 24, 2023 *Torrence* "is not yet final." However, *certiorari* was denied August 3, 2022 and no further appeal was indicated.

accordingly, Appellant's filing is misnamed. The Court will construe the filing as Appellant's reply brief.[5]

ISSUES ON APPEAL

Appellant's brief did not contain a specifically designated statement of issues on appeal. However, the initial paragraph of his brief provides:

> Appellant appeals the Departments Final Decision denying his Step 2 Grievance because the Respondent does not include in its calculation of wages pursuant to S.C. Code § 24-3-430(d), the OCC (Occupational Code) of the Department of Employment and Workforce, as required by law, for inmates in the Prison Industries Program.[*sic*]

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 v. S.C. Dep't of Corr.*, 360 S.C. 421, 423-25, 602 S.E.2d 56, 57-58 (2004) (stating the ALC was authorized to review the Department's failure to pay the prevailing wage); *Adkins,* 360 S.C. 413, 419, 602 S.E.2d 51, 55 (stating inmates

[5] Although accepting the filing as a reply brief, the Court is limited in considering the content which is couched as being responsive to motions the Department does not seem to have filed and otherwise raising new arguments that are not responsive to the Department's brief. *See ABB, Inc. v. Integrated Recycling Group of SC, LLC*, 432 S.C. 545, 553, 854 S.E.2d 171, 175 (Ct. App. 2021) (a party cannot raise an issue for the first time in an appellate reply brief).

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;
>
> (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

As set forth in Appellant's initial brief, he disagrees with the Department's calculation and denial of his claim for prevailing wages. Appellant fundamentally claims that he is due a higher wage than what he has been paid. The Department asserts in response that Policy ADM-15.13 Inmate Pay forecloses Appellant's claims because he did not report any problems with his pay under that policy. 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.

I. Inmate Grievance System and Inmate Pay Policy

The threshold question relevant to this appeal is determining the relationship between the Department's general grievance policy, GA-01.12, Inmate Grievance System, and the more specific ADM-15.13, Inmate Pay policy. Appellant asserts primarily that his grievance is not time-barred under *Torrence* because the prevailing wage claim relates to a policy implemented by the Department rather than a specific incident or occurrence. The Department accurately states in response that *Torrence* does not address or analyze the application of ADM-15.13. According to the Department, the ADM-15-13 inmate pay policy establishes a mandatory prerequisite for a prevailing wage claim. The Department argues the Appellant was required to submit any wage dispute through the ADM-15.13 policy framework and has failed to do so.[6]

The current version of ADM-15.13 Section 12, which has been in effect since June 3, 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:
>
> - If the inmate fails to notify the Agency in writing and within 15 days, no back pay will be given.

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

- 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.

This policy has been in place at the Department since January 20, 1998.[7]

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 Department takes the position that an inmate must submit a grievance under the ADM-15.13 policy to initiate a wage dispute. The Court does not find this construction to be arbitrary, capricious, or manifestly contrary to statutory authority. The policy statement clearly refers to employment under the Prison Industries Program (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.

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.

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[7] The 1998 and 2002 versions of "Problems with Pay" policy were in subsection 11 rather than 12.1. The 1998, 2002, 2004, and 2007 versions provided for submission of written complaints about pay rather than submission of complaints using the Department's Automated Request to Staff Member system. Otherwise, this policy has been substantively identical from 1998 to the current version of the policy.

Next, 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.

Although the Warden's denial of the Step 1 grievance clearly relied on Policy ADM-15.13, Appellant's brief does not reference Policy ADM-15.13 or assert in any way that Appellant submitted a claim under that policy. Appellant remained silent in the face of the Department's argument and did not dispute the Department's assertion that he had failed to submit such a claim. In his brief, Appellant does not even mention GA-01.12. Appellant did previously assert that GA-01.12 is controlling.

The Court disagrees. It does not construe the inmate pay policy (ADM-15.13) and the inmate grievance system (GA-01.12) as mutually exclusive alternatives. Department rules and policies are ordinarily construed in the same manner as statutes. *Converse Power Corp. v. S.C. Dep't of Health & Envtl. Control*, 350 S.C. 39, 47–48, 564 S.E.2d 341, 346 (Ct.App.2002) (employing the rules of statutory construction to discern the meaning of a regulation); *see also, 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). The Court is therefore required to harmonize the inmate pay policy with the internal grievance system if possible. *Hodges v. Rainey*, 341 S.C. 79, 88–89, 533 S.E.2d 578, 583 (2000). Consequently, the inmate pay policy can be construed so that it and the inmate grievance system are effective. Section 12.1 of the inmate pay policy requires that inmates who question their rate of pay must report the issue through the Automated Request to Staff Member (ARTSM) within fifteen days of the payroll date error. If, after doing so, the Department does not take proper corrective action as outlined in the inmate pay policy, then the inmate may resort to the grievance system to address

the Department's violation of the inmate pay policy. Both policies may be given effect in this manner.

II. Appellant's Claims for Prevailing Wages

Having concluded that the inmate pay policy ADM-15.13 applies 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 current policy became effective on June 3, 2014 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. The fifteen-day reporting limit also existed in prior versions first adopted January 20, 1998.

In his brief, Appellant alleges he is due compensation for work from October 1, 2013 forward although there is no underlying documentation in the record substantiating this claim.[8] In his "reply brief" filed on October 6, 2023, he references employment starting in June of 2018. For purposes of the Court's consideration of the Appellant's claim, his claim will be viewed as generously as possible to be a claim for wages from October 1, 2013.

Here, Appellant did not assert his claims for an improper pay rate as required by the policy. The record does not reflect that the Appellant filed a complaint about his pay through the automated system as required by the inmate pay policy. The Warden's response to the Step 1 grievance stated in part: "Problems in pay must be identified within 15 days of the payroll date error. Record of electronic notification must be retained. Failure to notify the Agency in writing and within 15 days, forfeits back pay." By not submitting <u>any</u> claims under the inmate pay policy, Appellant has not properly initiated a claim for back pay or wage adjustment at the time he filed his Step 1 grievance. The timing exception contained in section 13.10[9] of the inmate grievance system also does not apply to the inmate pay policy. The exception was contained in the inmate grievance system policy and related to filing deadlines for grievances. The inmate pay policy is a

---

[8] The record provides limited factual background in this appeal because 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"). Furthermore, SCALC Rules 58 and 61 prescribe the contents of a record on appeal. Therefore, the record is limited to the information filed by the Department on September 6, 2023. Consequently, the submission of new factual information by Appellant and Department which is not contained in the record cannot be considered by the Court in this appeal. However, for purposes of evaluating the Appellant's claims set forth in his brief, the court will consider the dates of Appellant's alleged employment for temporal context.

[9] As noted above, although Appellant made reference to section 13.9 of the GA-01.12, the current designation is 13.10.

distinct policy and imposes separate requirements upon inmates who believe that their rate of pay was incorrect. Finally, the timing exception to the inmate grievance system at issue in *Torrence* and *Ackerman v. S.C. Department of Corrections,* 415 S.C. 412, 414, 782 S.E.2d 757, 758 (Ct. App. 2016) was substantially revised in the 2014 version applicable to this appeal, thus drawing into question the continued vitality of these cases.[10] Therefore, the Department's denial of the Appellant's claims do not offend or fail the standard of review set forth in section 1-23-380(5).

Even if Appellant had timely and appropriately submitted a claim under the inmate pay policy, the scope of that claim would be limited to the preceding two pay periods pursuant to subsection 12.1 and could not afford relief from October 1, 2013 forward.

The Department's denial was appropriate under the inmate pay policy and is supported by the record before the Court. Having reached this conclusion, further consideration of Appellant's arguments related to the inmate grievance system (GA-01.12) would be premature and unwarranted.[11]

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 23, 2023
Columbia, South Carolina

[10] Previously, SCDC Policy GA-01.12 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. Section 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).

[11] *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (stating an appellate court need not review remaining issues when its determination of a prior issue is dispositive of the appeal).

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, 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 23, 2023
Columbia, South Carolina

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
ADMINISTRATIVE LAW COURT JUDGE ROBERT L. REIBOLD
ALC CASE NO. 23-ALJ-04-0054-AP
APPELLATE CASE NO. 2023-002004

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, RESPONDENT

V.

BOBBY WATSON #277427, APPELLANT.

RECORD ON APPEAL

BOBBY WATSON #277427 (PRO-SE)
TYGER RIVER C.I. U-7B225
200 PRISON ROAD
ENOREE S.C. 29335

CHRISTINA L. BIGELOW ESQUIRE
OFFICE OF GENERAL COUNSEL
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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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ADMINISTRATIVE LAW JUDGE ROBERT L. REIBOLD.

ALC CASE NO. 23-ALJ-04-0054-AP
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BOBBY WATSON #277427, APPELLANT.

INDEX

APPELLANT SUBMITS THAT THE FOLLOWING SHOULD BE INCLUDED IN THE RECORD ON APPEAL:

(1) REQUEST TO STAFF'S TO MARY NATIONS PI 3. MANAGER.
(2) STEP 1 AND STEP 2 GRIEVANCES FORMS.
(3) FINAL ORDER OF THE ALC (10/23/23).
(4) INITIAL BRIEF OF APPELLANT
(5) REPLY TO RESPONDENT'S BRIEF
(6) FINAL BRIEF OF APPELLANT.

THE UNDERSIGNED HEREBY CERTIFIES THIS DESIGNATION CONTAINS NO MATTER IRRELEVANT TO THIS APPEAL.

Bobby Watson #277427

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STATE OF SOUTH CAROLINA
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ADMINISTRATIVE LAW JUDGE ROBERT L. REIBOLD
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(4) REPLY TO RESPONDENT'S BRIEF.
(5) FINAL BRIEF OF APPELCANT.

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Bobby Watson #277427
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[26](2)

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, RESPONDENT

V.

BOBBY WATSON #277427, APPELLANT

CERTIFICATE OF APPELLANT

THE APPELLANT HEREBY CERTIFIES THAT ALL MATERIAL IN THIS RECORD IS RELEVANT TO THIS APPEAL.

Bobby Watson #277427

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, RESPONDENT

V.

BOBBY WATSON #277427 APPELLANT

CERTIFICATE OF SERVICE

THE UNDERSIGNED APPELLANT HEREBY CERTIFIES THAT ON TODAY'S DATE 7/12/24 HE MAILED A COPY OF THE RECORD ON APPEAL TO ALL PARTIES RELEVANT TO THIS APPEAL BY PLACING COPIES IN U.S. MAIL POSTAGE PAID.

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STATE OF SOUTH CAROLINA
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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, RESPONDENT

V.

BOBBY WATSON #277427, APPELLANT

CERTIFICATE OF PRO-SE

THE UNDERSIGNED HEREBY CERTIFIES THAT THIS RECORD ON APPEAL CONTAINS ALL MATTER PROPOSED TO BE INCLUDED BY THE APPELLANT AND NO MATERIAL IRRELEVANT TO THIS APPEAL.

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STATE OF SOUTH CAROLINA
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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS RESPONDENT.

PROOF OF SERVICE

I CERTIFY THAT I HAVE SERVED THE RECORD ON APPEAL ON THE SOUTH CAROLINA COURT OF APPEALS. ADDRESSED TO. SOUTH CAROLINA COURT OF APPEALS, JENNY A. KITCHINGS, CLERK. POST OFFICE BOX 11629 COLUMBIA. SOUTH CAROLINA 29211.

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STATE OF SOUTH CAROLINA
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I CERTIFY THAT I HAVE SERVED THE RECORD ON APPEAL ON THE SOUTH CARDLINA DEPARTMENT OF CORRECTIONS. ADDRESSED TO.
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[31](G)

STATE OF SOUTH CAROLINA
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RESPONDENT.

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I CERTIFY THAT I HAVE SERVED THE RECORD ON APPEAL ON THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT ADDRESSED TO.

SOUTH CAROLINA ADMINISTRATIVE LAW COURT, CLERK OF COURT, EDGAR A. BROWN BUILDING, 1205 PENDLETON STREET, SUITE 224 COLUMBIA SOUTH CAROLINA 29201.

Bobby Watson #277427

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STATE OF SOUTH CAROLINA
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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS. RESPONDENT.

INITIAL BRIEF

APPELLANT SEEKS TO REVERSE AND REMAND THE FINAL ORDER OF THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT (DOCKET NO. 23-ALJ-04-0054-AP) ATTACHED. THE FINAL ORDER STARTS OUT ON R.P.2 WITH AN ERROR ACCORDING TO 1-23-380. THE STEP 1 GRIEVANCE REPLY IS QUOTED THEN THE COURT STATES: "NO SPECIFIC PERIODS OF EMPLOYMENT OR TYPES OF WORK WERE DISCUSSED BY THE APPELLANT OR WARDEN;" THIS IS ERRONEOUS AND AN ERROR OF 1-23-380(E) AND (F). ON ALL S.C.D.C. GRIEVANCES THERE IS A

BOX THAT REQUIRES THE INMATE TO PROVIDE "INMATE NAME" "SCDC NUMBER" "INSTITUTION" "HOUSING UNIT" " AND WORK ASSIGNMENT". APPELLANT WROTE "PI3 HASKO COORDINATOR". WORKS ON PART OF THE MANUFACTURING LINE THAT CUTS THE BOARDS AND PLACES THE GROOVE IN THEM FOR THE TONGUE AND GROOVE ASSEMBLY.

IN PARAGRAPH ONE ON PAGE 3 THE ADMINISTRATIVE COURT ENDORSES THE 15 DAY TIME LIMIT THAT THE SOUTH CAROLINA COURT OF APPEALS HAS HELD IS EXCEPTED FOR WAGE DISPUTES. APPELLANT IS DISPUTING THE POLICY AND PROCEDURE THAT S.C.D.C. IS ERRONEOUSLY ENFORCING

THIS RULING IS CLEARLY ERRONEOUS, AND AN ABUSE OF DISCRETION. THE ALJ FURTHER REVISITS THE ISSUE OF "NO SPECIFIC PERIODS OF EMPLOYMENT OR TYPES OF WORK WERE DISCUSSED BY THE APPELLANT OR RESPONSIBLE OFFICIAL." THIS ALSO IS CLEARLY ERRONEOUS AND IS IN VIOLATION OF

1-23-380-(5)(E) AND (F).

THE FINAL DECISION MISCONSTRUES THE ISSUE ON APPEAL SUCH THAT IT VIOLATES 1-23-380(5)(A) AND DIVERTS ATTENTION FROM THE TRUE ISSUE AT HAND. SEE: TORRENCE V. SCDC. 373 S.C. 586. 646 S.E 2d. 866 (2007) AND ACKERMAN V. SCDC 415 S.C. 412 Rehearing Denied. CERT. DENIED. APPELLANT CONSISTENTLY EMPHASIZED THAT HE WAS NOT BEING PAID CORRECTLY AND THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS KNEW THAT TO BE TRUE (SEE: 2002 WL 31728841). S.C.D.C. HAS KNOWN THEY WERE PAYING LESS THAN THE REQUIRED AMOUNT FOR MORE THAN 21 YEARS.

THE ADMINISTRATIVE LAW COURT CONTINUALLY REVISITS PROVISIONS OF ADM 15.13 AND ATTEMPTS TO SUPPLANT STATUTE § 24-3-430 WITH POLICY.

THIS IS A VIOLATION OF 1-23-380(5)(E) AND (F) AND DUE PROCESS RIGHTS GUARANTEED UNDER THE U.S. AND SOUTH

CAROLINA CONSTITUTION. THE ADMINISTRATIVE COURT ON PAGE 9 PARAGRAPH II STATES "HAVING CONCLUDED..." regarding ADM 15.13 AND APPLYING ANTI-TORRENCE EXCEPTIONS. THE COURT "PRECLUDES" THE INMATE FROM RECEIVING BACK PAY. IT APPEARS THAT THE PRO-SE APPELLANT IS BEING HELD TO AN UNACCEPTABLE HIGH STANDARD. THE COURT SHOULD SEE AND KNOW THE TRUE INTENT OF THE PRO SE APPELLANT AND NOT MAKE AN UNFAIR AND UNJUST STANDARD (SEE: HAINES V. KERNER 404 US 519. 92 US S. CT. P. 594 (1972). THE PRO SE APPELLANT SHOULD BE HELD TO A LESS STRINGENT STANDARD.

CONCLUSION

THE COURT SHOULD REVERSE AND REMAND JUDGE REIBOLD'S DECISION TO THE ADMINISTRATIVE COURT.

Respectfully Submitted
BOBBY WATSON #277427
TYRCI U7-225
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ENOREE S.C. 29335

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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(2) STEP 1 AND STEP 2 GRIEVANCES.
(3) INITIAL BRIEF

I CERTIFY THAT THIS DESIGNATION CONTAIN NO MATTER IRRELEVANT TO THIS APPEAL.

Bobby Watson #277427

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[37] (4)

STATE OF SOUTH CAROLINA
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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, CHRISTINA C. BIGELOW. OFFICE OF GENERAL COUNSEL. P.O. BOX 21787, 4444 BROAD RIVER ROAD COLUMBIA SOUTH CAROLINA 29211-1787

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BOBBY WATSON #277427
TYRCI U-7B225
200 PRISON ROAD
ENOREE S.C 29335

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
ADMINISTRATIVE LAW COURT JUDGE ROBERT L. REIBOLD

ALC CASE NO. 23-ALJ-04-0054-AP
APPELLATE CASE NO. 2023-002004

BOBBY WATSON #277427, APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, RESPONDENT.

PROOF OF SERVICE

I CERTIFY THAT I HAVE SERVED THE NOTICE OF APPEAL ON THE SOUTH CAROLINA COURT OF APPEALS. ADDRESS TO.

SOUTH CAROLINA COURT OF APPEALS, JENNY A. KITCHINGS, CLERK FOR COURT OF APPEALS, SOUTH CAROLINA COURT OF APPEALS, POST OFFICE BOX 11629 COLUMBIA, SOUTH CAROLINA 29211.

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, CHRISTINA L. BIGELOW, OFFICE OF GENERAL COUNSEL, P.O. BOX 21787, 4444 BROAD RIVER ROAD COLUMBIA SOUTH CAROLINA 29211-1787

Bobby Watson #277427

BOBBY WATSON #277427
TYRCI U-7B 225
200 PRISON ROAD
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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SOUTH CAROLINA ADMINISTRATIVE LAW COURT CLERK OF COURT. FOR ADMINISTRATIVE LAW COURT EDGAR A. BROWN BUILDING, 1205 PENDLETON STREET, SUITE 224 COLUMBIA, SOUTH CAROLINA 29201.

Bobby Watson #277427

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Bobby Watson #277427

BOBBY WATSON #277427
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200 PRISON ROAD
ENOREE S.C. 29335

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM

THE ADMINISTRATIVE LAW COURT

JUDGE: ROBERT L. REIBOLD

CASE NO: 23-ALJ-04-0054-AP

APPELLATE CASE NO: 2023-002004

BOBBY WATSON #277427, APPELLANT,

V.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS RESPONDENT.

APPELLANT REPLY BRIEF

PRO-SE
BOBBY WATSON #277427
TYRCI U-7-B22
200 PRISON Rd.
ENOREE S.C. 29335

REPLY BRIEF OF APPELLANT

BOBBY L. WATSON #277427 PRO-SE
TYRCI U-7-B225
200 PRISON Rd.
ENOREE, S.C. 29335

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FACTS

APPELLANT FILED STEP 1 AND STEP 2 GRIEVANCES WITH THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS (SCDC) REGARDING PREVAILING WAGE. APPELLANT PURSUED AN APPEAL WITH THE ADMINISTRATIVE LAW COURT FEB. 7, 2023. THE ALJ ISSUED AND ORDER AFFIRMING THE SCDC DECISION OCT. 23, 2023. APPELLANT APPEALED TO THE SOUTH CAROLINA COURT OF APPEALS AND RESPONDENT ANSWERED APRIL 18, 2024 THIS IS IN REPLY TO RESPONDENTS ANSWER.

ARGUMENT

THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS HAS INTIMATED THROUGH COUNSEL THAT IT IS CORRECT AND APPELLANT IS NOT PROPERLY EXPLAINING HIS APPEAL. APPELLANT AGREES THAT HE IS NOT EXPLAINING AS A TRAINED ATTORNEY WOULD BECAUSE HE IS NOT AN ATTORNEY. HOWEVER SCDC IS FULLY AWARE THAT APPELLANT IS BEING TRUTHFULL IN HIS STATEMENT REGARDING HIS EMPLOYMENT IN THE PRISON INDUSTRIES PROGRAM. HIS RECEIVING FEDERAL MINIMUM WAGE WHEN §24-3-430 REQUIRES PREVAILING WAGE AS NOTED IN THE S.C. DEPT. OF EMPLOYMENT AND WORKFORCE DATA. AND THAT MANY PREVIOUS CASES INVOLVING INMATES EMPLOYED IN THE SAME PRISON INDUSTRIES WITH THE SAME PAY ISSUE HAVE BEEN BEFORE THE COURT. SEE: TORRENCE V. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, 433 S.C. 633 861 S.E2d. 36. ALSO: ACKERMAN V. S.C.D.C. 415 S.C. 412 782 S.E2d. 757 ALSO: THE HONORABLE MIKE FAIR 2002 WL 31728841. SEE: MITTAG V. S.C.D.C. 2022 WL 6881830

THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS HAS PREVIOUSLY BEEN CHALLENGED UNDER § 24-3-430 AND THE S.C. ADMINISTRATIVE LAW COURT HAS HEARD NUMEROUS CASES UNDER THAT LAW. APPELLANT ARGUES § 24-3-430 IN HIS GRIEVANCE AND IN THE S.C. ADMINISTRATIVE LAW COURT APPEAL. LEGISLATIVE INTENT WAS DISREGARDED IN VIOLATION OF S.C. CODE § 1-23-610(B). THE RULING WAS AN ERROR OF LAW, IN VIOLATION OF STATUTORY PROVISIONS, AND AN ABUSE OF DISCRETION. SEE: GATEWOOD V. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS 416 SC 304 785 S.E.2d 600. THEREFORE, A REASONABLE MIND COULD NOT REACH THE SAME CONCLUSION AS S.C.D.C. AND THE HONORABLE ROBERT L. REIBOLD. THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS AND THE ALJ DO NOT ARGUE THAT § 24-3-430 IS NOT APPLICABLE, THEY DO NOT ARGUE THAT LEGISLATIVE INTENT IS AMBIGUOUS. THEY ARE MERELY IGNORING THAT ASPECT OF THIS CASE IN ORDER TO SUPPLANT THEIR WILL FOR THE WILL OF THE LAW.

CONCLUSION

FOR THE AFORMENTIONED REASONS, SOUTH CAROLINA AND UNITED STATES LAW, AND FACTS ON RECORD, THE FINAL DECISION OF JUDGE ROBERT L. REIBOLD AND THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT SHOULD BE REVERSED AND REMANDED.

RESPECTFULLY SUBMITTED,

BOBBY L. WATSON #277427
TYRCI U-7-B 225
200 PRISON RD.
ENOREE S.C. 29335

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
ADMINISTRATIVE LAW JUDGE: ROBERT L. REIBOLD

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APPELLATE CASE NO: 2023-002004

BOBBY L. WATSON #277427. APPELLANT

V.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS. RESPONDENT.

CERTIFICATE OF SERVICE

I, BOBBY L. WATSON #277427 APPELLANT, HEREBY CERTIFIES THAT ON 5/1/24 DATE. I MAILED A COPY OF THE APPELLANT'S REPLY BRIEF, IN RESPONSE TO RESPONDENT'S INITIAL BRIEF. BY DEPOSITING COPIES TO ALL PARTIES IN THE U.S. MAIL POSTAGE PAID. TO THE HONORABLE JENNY A. KITCHINGS CLERK OF COURT, SOUTH CAROLINA COURT OF APPEALS. POST OFFICE BOX 11629 COLUMBIA. SOUTH CAROLINA 29211

[52](7)

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
ADMINISTRATIVE LAW JUDGE: ROBERT L. REIBOLD

ALC CASE NO: 23-ALJ-04-0054-AP
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BOBBY L. WATSON #277427, APPELLANT

V.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,
RESPONDENT.

CERTIFICATE OF SERVICE

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STATE OF SOUTH CAROLINA
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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
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BOBBY WATSON #277427, APPELLANT.

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS. RESPONDENT.

CERTIFICATE OF SERVICE

THE UNDERSIGNED APPELLANT HEREBY CERTIFIES THAT ON TODAY'S DATE 7/12/24 HE MAILED A COPY OF APPELLANT'S REPLY BRIEF ON ALL THE RELEVANT PARTIES TO THIS APPEAL, BY U.S. MAIL.

Bobby Watson #277427

BOBBY WATSON #277427
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200 PRISON ROAD
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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
ADMINISTRATIVE JUDGE ROBERT L. REIBOLD
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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,
RESPONDENT,

V.

BOBBY WATSON #277427
APPELLANT

APPELLANT'S FINAL BRIEF

Bobby WATSON #277427
BOBBY WATSON #277427
TYGER RIVER C.I. U-7-225
200 PRISON ROAD
ENOREE S.C. 29335

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STATEMENT OF ISSUE ON APPEAL

THE LOWER COURT'S DECISION WAS FLAWED AND CONTRARY TO PREVIOUS SOUTH CAROLINA COURT RULINGS. THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS IS ATTEMPTING TO USE A LOWER COURT RULING TO UNDO PREVIOUS RULINGS BY THE SOUTH CAROLINA COURT OF APPEALS AND THE SOUTH CAROLINA SUPREME COURT.

STATEMENT OF THE CASE

THIS MATTER COMES BEFORE THIS COURT PURSUANT TO THE APPEAL OF BOBBY WATSON (APPELLANT), AN INMATE IN THE CUSTODY OF THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS (SCDC). APPELLANT FILED A STEP 1 GRIEVANCE WITH SCDC NOVEMBER 24, 2022. SCDC DENIED THIS GRIEVANCE DECEMBER 2, 2022. APPELLANT SUBMITTED A STEP 2 GRIEVANCE ON DECEMBER 7, 2022. S.C.D.C. DENIED THE STEP 2 GRIEVANCE ON JANUARY 24, 2023. APPELLANT FILED A NOTICE OF APPEAL WITH THE ADMINISTRATIVE LAW COURT ON FEBRUARY 7, 2023. THE ADMINISTRATE LAW COURT ISSUED AN ORDER DENYING THE APPEAL ON OCTOBER 23, 2023. THIS APPEAL FOLLOWS.

ARGUMENT

THE LOWER COURT'S DECISION IS CONTRARY TO THE LAW AND PRIOR DECISIONS OF THE IN THE STATE OF SOUTH CAROLINA AND SHOULD BE REVERSED AND REMANDED.

THE ADMINISTRATIVE LAW COURT IN JUDGE REIBOLD'S "FINAL ORDER" ON THIS CASE (P.6) USES SOUTH CAROLINA DEPARTMENT OF CORRECTIONS (SCDC) POLICIES GA-01.12 AND ADM-15-13 TO ESTABLISH A BASIS FOR DENYING APPELLANT'S CASE. SOUTH CAROLINA LAW LOOKS UPON THESE POLICIES AS REGULATIONS NOT LAW. (SEE § 1-23-10 (4). APPELLANT HAS CONSISTENTLY ARGUED THAT THE LAWS OF THE STATE OF SOUTH CAROLINA § 24-3-430, 24-3-40, 41-10 AND THE LAWS OF THE UNITED STATES § 18 U.S.C.A. 1761 ARE OF PARAMOUNT IMPORTANCE. APPELLANT ARGUED THAT S.C.D.C. SHOULD HAVE BEEN AWARE OF THE UNDER PAYMENT OF INMATES BECAUSE THESE LAWS MAKE IT VERY CLEAR. INMATES WITH HIGH SCHOOL EDUCATION OR LESS, ARE HAVING TO OPPOSE THE AGENCY THAT

CLAIMS TO "PROTECT THE PUBLIC SAFETY. HOWEVER. IF THE COURT WILL NOTE - BOTH THE SOUTH CAROLINA AND THE UNITED STATES GOVERNMENT HAVE CRIMINAL PENALTIES ATTACHED TO THE AFOREMENTIONED STATUTES, FOR DOING EXACTLY WHAT THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS IS DOING IN THIS MATTER AND OPPOSING COUNSEL IS ATTEMPTING TO PERPETUATE. 18 U.S.C.A. § 1761 "STATES THAT INMATES HAVE IN CONNECTION WITH SUCH WORK, RECEIVED WAGES AT A RATE WHICH IS NOT LESS THAN THAT PAID FOR WORK OF A SIMILAR NATURE IN THE LOCALITY IN WHICH THE WORK WAS PERFORMED..." THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS SHOULD BE FULLY AWARE OF THE LAW SINCE THIS LAW ALLOWS THE STATES TO OPERATE "PRISON INDUSTRIES" PROGRAMS IN THE FIRST PLACE. THE LAW ALLOWS FOR A PENALTY OF A FINE OR IMPRISONMENT

UP TO TWO YEARS OR BOTH. APPROXIMATELY 400 INMATES ARE EMPLOYED AT THE TYGER RIVER FACILITY. AND PAID EVERY TWO WEEKS. THEREFORE, IS IT POSSIBLE THAT THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS OFFICIALS THAT ARE RESPONSIBLE FOR THIS UNDERPAYMENT COULD BE FACING 800 YEARS OF FEDERAL TIME EVERY TWO WEEKS? THE CHAIRMAN OF THE SENATE CORRECTIONS COMMITTE IN 2002. SEN. MIKE FAIR RECEIVED AN OPINION ON PREVAILING WAGE (SEE: 2002 WL 31728841 (SCAG). THIS LETTER PLAINLY SPELLS OUT WHAT THE LAW IS REGARDING PREVAILING WAGE AND THE NEED TO COMPLY WITH THE PROVISIONS REGARDING PREVAILING WAGE. IF THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS WAS TO CLAIM IGNORANCE OF THIS THEN THEY CERTAINLY CANNOT AFTER

THIS HONORABLE COURT DECIDED TORRENCE V. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS. 433 S.C. 633 IN AUGUST OF 2022. THE ISSUE THAT THE ALC HIGHLIGHTS IN THE DENIAL OF APPELLANTS APPEAL (FINAL ORDER) IS A 15 DAY LIMIT ON INMATE PAY DISPUTES PER POLICY ADM 15-13 (12.1) THIS COURT PREVIOUSLY HELD THAT ." WAGE GRIEVANCE WERE EXCEPTED FROM SCDC'S GRIEVANCE SYSTEM POLICY'S 15-DAY FILING DEADLINE. ACKERMAN V. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS 415 S.C. 412. THE ALC'S DECISION IS CLEARLY IN VIOLATION OF S.C. CODE § 1-23-610(B) (A)(D)(F). THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS ALSO ATTEMPTS TO SHIFT THE BURDEN OF SUPPLYING RECORDS TO APPELLANT. APPELLANT IS IN THE CUSTODY OF RESPONDENT AND ALL RECORDS REGARDING EMPLOYMENT OF APPELLANT ARE IN THE CUSTODY AND CONTROL

OF RESPONDENT. THE ALC USES A 2014 REVISION (P. 10) OF S.C.D.C's POLICY TO QUESTION "THE CONTINUED VITALITY OF THESE CASES" REFERRING TO ACKERMAN V. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS AND TORRENCE. THIS IS ODD SINCE THOSE NAMED CASES WERE BEFORE THIS COURT IN 2017 AND 2022 RESPECTIVELY. SOME 3 TO 8 YEARS AFTER THE REVISION STATED. THEREFORE, THE ALC ABUSED ITS DISCRETION AND MADE A CLEARLY ERRONEOUS DECISION.

CONCLUSION

WHERE THE ALC HAS ERRED IN ITS RULING AND DENIED APPELLANT PROPER RESOLUTION ACCORDING TO STATUTE AND PRECEDENT. APPELLANT PRAYS THIS COURT TO REVERSE AND REMAND.

PRO-SE APPELLANT

Bobby Watson #277427

BOBBY WATSON #277427
TYGER RIVER C.I. U-7-225
200 PRISON ROAD
ENOREE S.C. 29335

DATE 6/20/24

STATE OF SOUTH CAROLINA
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Bobby Watson #277427

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Bobby Watson #277427

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200 PRISON ROAD
ENOREE S.C. 29335

[70](12)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

TO: STAFF NAME:	STAFF TITLE:	DATE:
Ms. Nations	P.I Manger	11-14-22
INMATE NAME: Bobby Watson		SCDC #: 277427
INSTITUTION: Tyger River	DORM/SIDE/BED: 47/B/225	HOUSING TYPE: ☐ RHU ☐ R&E ☐ INFIRMARY ☐ SSR ☐ DEATH ROW ☐ ASSISTED LIVING UNIT (ALU) ☐ N/A

REASON FOR PAPER REQUEST: ☐ PREA ☐ MEDICAL ☐ MENTAL HEALTH ☐ DENTAL ☐ MEDICAL COPAY ☐ MEDICAL RECORDS ☐ KIOSK INACCESSIBLE (EXPLAIN):

YOU MUST USE THE KIOSK IF YOUR PAPER REQUEST DOES NOT MEET ANY OF THE CRITERIA ABOVE.

Torrence VS - SCDC court case no. 2016-000285, opinion no. 5829 June 30 2021. The SC court of Appeals determined that inmates are to be paid prevailing wage (24-3-430) as determined by supreme courts interpertation of policy 24-3-430. I am asking for prevailing wage and back pay without reprisal

DISPOSITION BY STAFF MEMBER:

I have not heard a final decision on this. As soon as I know, I will inform everyone. Until then your wages will stay the same.

[1]

DATE: 11/22/22 STAFF SIGNATURE: M. Nations

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 1

RECEIVED NOV 29 2022

INMATE NAME: Bobby WATSON

SCDC NUMBER: 277427 11 4 PCR

INSTITUTION: Tyger River C.I.

HOUSING UNIT: 47B 225

WORK ASSIGNMENT: P.I. 3 Hasko Coordinator

OFFICE USE ONLY

Grievance No. ARDE-1-S-0216-22

Code: General M4 / WS

Policy

Disc. Hear.

Class.

PREA

Date Received 11/30/22

IGC Initials

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.)

Pursuent to Torrance-US-SCDC court case no. 2016-000285, opinion No. 5829 June 30, 2021 the SC court of Appeals determined that inmates are to be paid prevailing wage as determined by supreme courts Interpetation of policy 24-3-430. My step one grievance falls with in paragraph 13.9 of department policy GA-01.12 which provides Exception to time limit requirment will be made for grievances concerning policies The inmate grievance system, Policy fails to define either incident or policies based on the PLAIN AND ORDINARY MEANING of both of these words it is clear that an incedent would be a one time specific event and a policy would be continuose cause of action. In my present grievance it is not a one time event in wich I was not paid prevailing wage. The department continuously fails to pay me a prevailing wage there for the grievance invoved is related to a policy

Bobby Watson #277427 11-24-22

Grievant Signature Date

ACTION REQUESTED: I am asking for prevailing wage 24-3-430 and back pay with out reprisal

ACTION TAKEN BY IGC: ☑ PROCESSED ☐ UNPROCESSED ☐ OTHER

See Warden's response on back.

[2]

12/2/22

IGC Signature Date

(CONTINUE ON REVERSE SIDE)

SCDC 10-5 (Rev. October 2013)

WARDEN'S DECISION AND REASON:

Watson, Bobby 277427 TYRCI-0262-22

I have reviewed your concern. In it you stated that pursuant to Torrance vs SCDC you are entitled to prevailing wages with back pay for hours worked while involved with the Prison Industries Program. You have requested to be paid the prevailing wage and back pay without reprisal. Inmates voluntarily accept services provided by Prison Industries Private Sector Programs and Prison Industries Service Programs. Pursuant to SCDC Policy ADM-15.13 Inmate Pay, it establishes criteria for determining eligibility for inmate pay and ensures proper handling of all matters pertaining thereto. An employee is designated specifically to enter inmate pay data, provided by PI, into the Inmate Pay System. Inmates entering a PI program receives pay at that program's current rate. Problems in pay must be identified within 15 days of the payroll date error. Record of electronic notification must be retained. Failure to notify the Agency in writing and within 15 days, forfeits back pay. You were provided with wages that were approved by the governing authority of South Carolina at that time and accepted as such. Any additional information that you require should be addressed to companies outside SCDC. You have failed to prove pertinent staff performed their duties inconsistent with applicable policy and procedure.

Therefore, your grievance is denied.

If you disagree with this Warden's Decision (Decision), you may file an appeal by completing SCDC Step 2 Inmate Grievance Form 10-5A, provided to you while serving you this Decision, and placing it in the Grievance Box at your local correctional institution within five (5) days of your receipt of this Decision.

Warden Signature — Date: 12/7/2022

☐ I accept the Warden's decision and consider the matter closed.

☑ I do not accept the Warden's decision and wish to appeal.

Bobby Watson 12/7/22
Grievant Signature — Date

IGC Signature — Date: 12/7/22

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form or Kiosk reference number to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form by placing it in the Grievance Box at your institution within eight (8) working days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) working days of the hearing/review. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, by placing your Step 2 appeal form in the Grievance Box at your institution.

[3]

Due Date: 12-12-22

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

Office Use Only

Grievance No. TyRCI-0262-22
Code: General J My/WS
Policy
Disc. Hear.
Class
PREA
Date Received: 12/13/22
IGC Initials:
Date Received: 12/21/22
IGA Initials:

INMATE NAME: Bobby Watson
SCDC NUMBER: 277427
INSTITUTION: Tyger River C.I.
HOUSING UNIT: 47B 225
WORK ASSIGNMENT: P.I. 3 Hasko coordinator

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): Pursuant to Torrence-vs-SCDC court case # 2016-002295 Opinion No. 5829, June 30 2021, the SC court of appeals determined that inmates are to be paid the prevailing wage as determined by the courts Interpretation of policy 24-3-430. My filing of this grievance falls with in Paragraph 13.9 of policy GA 01.12 which provides exception to time limit requirement will be made for grievances concerning policies. I am asking for prevailing wage as policy 24-3-430 states. Also back pay with out reprisal. This situation has been ruled on in Torrence-vs-SCDC. This program is set up to not negatively affect private sector and pay me the same wage as private sector (prevailing wage) 24-3-430

Grievant Signature Bobby Watson Date 12/7/22

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE REVERSE SIDE

Responsible Official Signature Willie Nolan Date 1-24-23

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Bobby Watson 2/3/23
Grievant Signature Date

IGC Signature 2/3/23
Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

SCDC 10-5A (Rev May 2015)

[4]

INSTRUCTIONS FOR COMPLETING STEP 2 GRIEVANCE FORM

1. Complete form in its entirety, writing only in the space provided for inmate use.

2. State your specific reason for further appeal. Do not submit any new issues for review. No additional pages will be permitted.

3. Submit this completed form ~~with your copy of the Step 1 form.~~ by placing in the Grievance Box within five (5) days of your receipt of the Warden's decision. Do not write in the space provided for the responsible official.

4. The decision rendered by the responsible official exhausts the appeal process of the SCDC Inmate Grievance Procedure.

Watson, Bobby 277427 **TYRCI-0262-22**

I have reviewed your concern. In your grievance you stated that pursuant to Torrence v. SCDC a court determined that inmates be paid the prevailing wages as determined by the Supreme Court's interpretation of policy 24-3-430. You state that SC Department of Corrections continuously fails to pay you a prevailing wage. You request that you be paid a prevailing wage and back pay which you are entitled to be paid to you without reprisal.

The Warden responded to your concern on SCDC Step 1 Inmate Grievance Form 10-5 dated 12/2/22. I concur with the warden's denial of your grievance, and I conclude SCDC paid you the proper hourly rate of pay for the labor you voluntarily /provided to the prison industries project in which you participated. In concurring with the warden's denial, I further conclude that except for any "training wages" you may have been paid, SCDC paid you at an hourly rate that conformed to all applicable state and federal statutes.

I further conclude SCDC paid you at an hourly rate that conform to the federal guideline applicable to the prison industries project in which you participated, specifically the guidelines established by the federal government, specifically the United States Department of Justice's Bureau of Justice Administration (known as "BJA"). BJA published guidelines applicable to the prison industries project in which you participated in the Federal Register, specifically 64 FR 17000, et seq. The recent decision by the South Carolina Court of Appeals upon which you relied in your grievance, Torrence v. S.C. Dep't of Corr., 2021 WL 2678920 (S.C. Ct. App. June 30, 2021), is not yet final. Your demands for treble damages and attorneys' fees under S.C. Code Ann. 41-10-80(c), known as the South Carolina Payment of Wages Act, are negated by the South Carolina Supreme Court's decision in Williams, et al., v. S.C. Dep't of Corr., et al., 641 S.E.2d 885 (S.C. 2007), as well as our Court of Appeals' decision in S.C. Dep't of Corr. v. Cartrette, 694 S.E.2d 18 (S.C. Ct. App. 2010).

To the extent you claim or assert you were "employed by" or otherwise worked for the private industry sponsor involved in the prison industries project in which you participated, the South Carolina Supreme Court's decision in Williams, as well as the South Carolina Court of Appeals' decision in Cartrette negates such a claim or assertion. Finally, to the extent you previously filed a grievance concerning your prison industries pay and you either failed to appeal SCDC's denial of your grievance or SCDC's denial of your grievance was affirmed by the South Carolina Administrative Law Court, any circuit court in South Carolina, the South Carolina Court of Appeals, and/or the South Carolina Supreme Court, your current grievance is barred by the doctrines of res judicata and/or collateral estoppel.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

[5]

STATE OF SOUTH CAROLINA)	IN THE ADMINISTRATIVE LAW COURT
BOBBY WATSON #277427)	Case No: 23-ALJ-04-0054-AP
Appellant,)	
vs.)	INITIAL BRIEF OF APPELLANT
)	
South Carolina Dept. of)	
Corrections,)	
Respondent)	
)	

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a Notice of Appeal filed by BOBBY WATSON #277427, (Appellant), an inmate incarcerated with South Carolina Department of Corrections, (Department of Respondent). Appellant appeals the Departments Final Decision denying his Step 2 Grievance because the Respondent does not include in its calculation of wages pursuant to S.C. Code § 24-3-430 (d), the OCC (Occupational Code) of the Department of Employment and Workforce, as required by law, for inmates in the Prison Industries Program.

BACKGROUND

On NOVEMBER 24,2022, the Appellant filed a Step 1 Grievance contending that he was denied wages pursuant to the Respondent's failure to calculate his rate of pay pursuant to S.C. Code § 24-3-430 (d), which is based upon the Federal Minimal Wage, that South Carolina has no "Prevailing Wage". Appellant filed a Step 2 Grievance on 12/07/2022, appealing that which was denied on 12/02/2022. Thereafter the Appellant filed his Notice of Appeal with this Honorable Court.

JURISDICTION

The Courts jurisdiction to review the Departments final decision in a non-collateral of administrative matter stems from Al-Shabazz v. State, 338 S.C. 345, 527 S.E. 2d 742 (2000). Typically, these matters arise in two ways: 1.) when an inmate believes prison officials have erroneously calculated his sentence, sentence related credit, or custody status. Id. At 369, 527 S.E. 2d 750. Pose Al-Shabazz decisions have determined that a matter is reviewable by the ALC where an inmate's appeal implicates a state created liberty interest or property interest. Howard v. S.C. Dept. of Corr., 399 S.C. 618, 630, 733 S.E. 2d 211, 218 (2012); Also, Wicker v. S.C. Dept. of Corr., 360 S.C. 421, 424, 602 S.E. 2d 56, 57-58 (2004)

Legal Analysis

Statutory Language § 24-3-430 (d) states:

"no inmate participating in the program may earn less than prevailing wage for work of a similar nature in the private sector

Section § 24-3-430 (d) is the controlling authority, as it directly addresses the rate of inmate wages. Burning v S.C. of Health and Environment Control, 418 S.C. 537, 545, 795 S.E. 2d 290, 294 (2016) "Generally [a] specific statutory provisions prevails over a more general one". Precedent has primarily addressed inmate wages within the context of § 24-3-430 (d). S.C. Dept. of Corr. V. Cartrette, 387 S.C. 640, 646, 694 S.E. 2d 18, 21 (2010); "finding § 24-3-430 (d), compels the Department to ensure inmate workers who are employed under this section receive the same rate and employment conditions as non-inmate peers". Based on the language of section § 24-3-430 (d), and its legislative intent to determine the prevailing, the mean average, for an occupation at issue using records and data from the Department of Employment and Workforce; Torrence v. South Carolina Department of Corrections, 433 S.C. 633, 861 S.E. 2d 36 (2021).

The Department is not authorize under the statutory scheme to pay a wage less than "prevailing wage" as provided by section24-3-43 (d),

(holding that inmates have a right to procedural due process in matters involving a state created right to property such as the State's mandate that inmates be paid the prevailing wage)

In Torrence v. South Carolina Department of Corrections, 373 S.C. 586, 646 S.E. 2d 866, (2007), our Supreme Court held: "Legislature specifically authorized inmate labor in private industry via S.C. Code § 24-3-430. The stature provides no inmate participating in the program may earn less than the prevailing wage for work similar in nature in the private sector.

See S.C. Code § 24-3-430 (d), see also § 24-3-315 (for a prison industry project, the DOC must determine "that rates of pay and other conditions of employment are not less than those paid and provided for work similar in nature in the locality in which the work is performed).

Based upon Torrence, therefore, Appellants claim that the Department has not paid his prevailing wage that includes calculation of the data of the Department of Employment and Workforce occupational codes within the locality of similar work performed in the private sector is properly before this Court and is not subject do dismissal.

Wicker v. South Carolina Department of Corrections, 360 S.C. 425, 602 S.E. 2d 58 (2004). The Department labels all inmates who participate in the program under contract with Shaw Industries as Machine Operators, pays each inmate a federal minimal wage of $7.25/hour, however, doesn't include the data of occupational codes for the locality of the private sector from the Department of Employment and Workforce in its calculating of inmates wages, while billing Shaw Industries $10.03/hour for each hour of inmate labor performed. This present scheme of payment is contrary to the plain language of S.C. Code § 24-3-430 (d), as determined in Torrence, Supra.

Conclusion

Appellant asserts that he has worked a pay rate and wage less than the prevailing wage from 2013 thru present date, under the present scheme of payment that is contrary to S.C. Code § 24-3-430 (d), and that the Department must include in its calculation of his hourly wages the mean average pay for his locality that incorporates this data for machine operators in accordance to Torrence v. South Carolina Department of Corrections, 433 S.C. 633, 864 S.E. 2d 36 (2021).

Further, that he entitled to back wages from 2013 thru present date for work performed that did not include the calculations of

the Department of Employment and Workforce occupational code for machine operators in determining a prevailing was as required by S.C. Code 24-3-43 (d).

Wherefore, the Appellant prays this Honorable Court Grant relief by ordering the Department to include in its calculation of Appellants wage rate the Department of Employment and Workforce data and occupational Code for locality and hourly wage for machine operator, and further order to pay for work performed that did not include the prevailing wage rate as required by S.C. Code § 24-3-430 (d).

S/ Bobby Watts #277427

STATE OF SOUTH CAROLINA	)	
BOBBY WATSON, #277427 Appellant	)	IN THE ADMINISTRATIVE LAW COURT
	)	CASE NO.
Vs.	)	
South Carolina Dept. of Corrections,	)	CERTIFICATE OF SERVICE
Respondent	)	

I, BOBBY WATSON #277427, hereby certify that I have served the Respondent with Appellant's initial Brief filed by placing it in the United States Mail Postage Prepaid this 1 day of MAY 2023 addressed as follows:

Clerk of Court
Administrative Law Building
Edgar A Brown Building
1205 Pendleton Street, Suite 224
Columbia, SC 29201

Respectfully Submitted
Bobby Watson #277427
BOBBY WATSON #277427
TYRCI 47B225
200 PRISON ROAD
ENOREE S.C. 29335

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Bobby Watson, #277427, Appellant, vs. South Carolina Department of Corrections, Respondent.	Docket No. 23-ALJ-04-0054-AP **FINAL ORDER**

STATEMENT OF THE CASE

This matter is pending before the South Carolina Administrative Law Court (the ALC or the Court) pursuant to an appeal filed by Bobby Watson (Appellant), an inmate incarcerated by the South Carolina Department of Corrections (SCDC or the Department). In the present appeal, Appellant asserts that the Department is not paying him a prevailing wage,[1] and he is seeking "back pay without reprisal." 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 November 24, 2022. In that grievance, he asserts that "[t]he department continuously fails to pay me a prevailing wage there for[*sic*] the grievance involved is related to a policy" as contemplated in S.C. Code § 24-3-430 (2007) and *Torrence v. S.C. Department of Corrections*, 433 S.C. 633, 861 S.E.2d 36 (Ct. App. 2021) *reh'g denied* (Aug. 4, 2021), *cert. denied* (Aug. 3, 2022). Elaborating on his position, Appellant explains that the inmate grievance system policy fails to define incident or policy and that his grievance is not a one-time event of not being paid a prevailing wage. He further asserts

[1] Appellant has clearly and consistently associated his claim for prevailing wages with S.C. Code Ann. § 24-3-430 (2007).

[13]

FILED
10/23/
SCAd

his policy claim falls under the *Torrence* exception to the time limits of the Department's Inmate Grievance System Policy GA-01.12[2], section 13.9.[3]

The Department denied the Step 1 grievance on December 2, 2022. In denying the Appellant's grievance, the Warden responded:

> I have reviewed your concern. In it you stated that pursuant to Torrance vs SCDC you are entitled to prevailing wages with back pay for hours worked while involved with the Prison Industries Program. You have requested to be paid the prevailing wage and back pay without reprisal. Inmates voluntarily accept services provided by Prison Industries Private Sector Programs and Prison Industries Service Programs. Pursuant to SCDC Policy ADM-15.13 Inmate Pay, it establishes criteria for determining eligibility for inmate pay and ensures proper handling of all matters pertaining thereto. An employee is designated specifically to enter inmate pay data, provided by PI, into the Inmate Pay System. Inmates entering a PI program receives pay at that program's current rate. Problems in pay must be identified within 15 days of the payroll date error. Record of electronic notification must be retained. Failure to notify the Agency in writing and within 15 days, forfeits back pay. You were provided with wages that were approved by the governing authority of South Carolina at that time and accepted as such. Any additional information that you require should be addressed to companies outside SCDC. You have failed to prove pertinent staff performed their duties inconsistent with applicable policy and procedure.

No specific periods of employment or types of work were discussed by the Appellant or Warden. Appellant received the Warden's denial on December 7, 2022.

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[2] Although the Department policies were not included in the record, the Court may take judicial notice of Department policy GA-01.12, Inmate Grievance System (issue date: May 12, 2014)(subsequently modified on September 1, 2023) and ADM-15.13, "Inmate Pay" (issue dates: June 3, 2014, June 1, 2007, April 1, 2004, January 1, 2002, and January 20, 1998). *Martin v. Bay*, 400 S.C. 140, 153, 732 S.E.2d 667, 674 (Ct. App. 2012) (affirming judicial notice taken by lower court of agency rules and regulations (citing *Massey v. War Emergency Co–op. Ass'n*, 209 S.C. 292, 299, 39 S.E.2d 907, 912 (1946)); *see also Jones v. Anderson Cotton Mills*, 205 S.C. 247, 31 S.E.2d 447, 449 (1944) (demonstrating judicial notice by appellate court of agency rule).

[3] Appellant references Section 13.9 as the policy exception provision. However, the substance of Section 13.9 in prior versions of the policy is now designated as Section 13.10 and has been modified since *Torrence*. Currently, Section 13.10 of the Inmate Grievance System policy GA-01.12 (issue date: May 12, 2014) provides:
13.10 Exceptions to the eight (8) working day time limit requirement will be made for grievances concerning policies/procedures, and PREA allegations. Exceptions may also be made for incident grievances, provided that the inmate can show reasonable cause, i.e., inmate physically unable to initiate grievance due to hospitalization, court appearance, etc. All exceptions will be determined by the Branch Chief/Designee of the Inmate Grievance Branch.

Appellant submitted a Step 2 grievance on December 7, 2022. Appellant reiterated his position that his claim falls within the *Torrence* policy exception for the time limits of "section 13.9" of the Department's grievance policy. In his Step 2 grievance, Appellant neither mentions Policy ADM-15.13 Inmate Pay nor indicates a wage claim was made to the Department under that policy. The responsible official denied this grievance on January 24, 2023. The responsible official concurred with the Warden's decision and further explained the denial utilizing a standard Department response[4]. No specific periods of employment or types of work were discussed by the Appellant or responsible official. Appellant received the responsible official's denial on February 3, 2023.

Appellant filed a notice of appeal with the Administrative Law Court on February 7, 2023. Appellant again asserted that the Department is not paying him a prevailing wage in compliance with section 24-3-430. Like his step 2 grievance, Appellant's notice of appeal does not mention Policy ADM-15.13 Inmate Pay or indicate that a wage claim was made to the Department under that policy. Again, no specific periods of employment or types of work were discussed by the Appellant.

This appeal was assigned to the undersigned on February 24, 2023. Appellant filed his initial brief on May 1, 2023. On May 3, 2023, the Department filed a motion to stay the case to provide time for the Department to evaluate the claim and attempt settlement. The Court granted the stay on May 31, 2023 with a modified schedule for briefing. Department filed the record on appeal with the Court on September 6, 2023. The record consists of a November 14, 2022 request to staff with the Department staff's response and the Step 1 and 2 grievances with the Department's responses. In the November 14, 2022 request, Appellant asked for prevailing wages under section 24-3-430 and *Torrence* and the Department's response was "I have not heard a final decision on this. As soon as I know, I will inform everyone. Until then your wages will stay the same." The Department filed its brief on September 28, 2023. Appellant filed, on October 6, 2023, an "Appellant's Response to Respondent's Motion for Remand and Partial Motion to Dismiss" and a copy of a "Service or PIE Inmate Agreement". The Department has not filed such a motion, and,

[4] Curiously, the responsible official states that as of January 24, 2023 *Torrence* "is not yet final." However, *certiorari* was denied August 3, 2022 and no further appeal was indicated.

accordingly, Appellant's filing is misnamed. The Court will construe the filing as Appellant's reply brief.[5]

ISSUES ON APPEAL

Appellant's brief did not contain a specifically designated statement of issues on appeal. However, the initial paragraph of his brief provides:

> Appellant appeals the Departments Final Decision denying his Step 2 Grievance because the Respondent does not include in its calculation of wages pursuant to S.C. Code § 24-3-430(d), the OCC (Occupational Code) of the Department of Employment and Workforce, as required by law, for inmates in the Prison Industries Program.[*sic*]

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 v. S.C. Dep't of Corr.*, 360 S.C. 421, 423-25, 602 S.E.2d 56, 57-58 (2004) (stating the ALC was authorized to review the Department's failure to pay the prevailing wage); *Adkins,* 360 S.C. 413, 419, 602 S.E.2d 51, 55 (stating inmates

[5] Although accepting the filing as a reply brief, the Court is limited in considering the content which is couched as being responsive to motions the Department does not seem to have filed and otherwise raising new arguments that are not responsive to the Department's brief. *See ABB, Inc. v. Integrated Recycling Group of SC, LLC*, 432 S.C. 545, 553, 854 S.E.2d 171, 175 (Ct. App. 2021) (a party cannot raise an issue for the first time in an appellate reply brief).

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;
>
> (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

As set forth in Appellant's initial brief, he disagrees with the Department's calculation and denial of his claim for prevailing wages. Appellant fundamentally claims that he is due a higher wage than what he has been paid. The Department asserts in response that Policy ADM-15.13 Inmate Pay forecloses Appellant's claims because he did not report any problems with his pay under that policy. 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.

I. Inmate Grievance System and Inmate Pay Policy

The threshold question relevant to this appeal is determining the relationship between the Department's general grievance policy, GA-01.12, Inmate Grievance System, and the more specific ADM-15.13, Inmate Pay policy. Appellant asserts primarily that his grievance is not time-barred under *Torrence* because the prevailing wage claim relates to a policy implemented by the Department rather than a specific incident or occurrence. The Department accurately states in response that *Torrence* does not address or analyze the application of ADM-15.13. According to the Department, the ADM-15-13 inmate pay policy establishes a mandatory prerequisite for a prevailing wage claim. The Department argues the Appellant was required to submit any wage dispute through the ADM-15.13 policy framework and has failed to do so.[6]

The current version of ADM-15.13 Section 12, which has been in effect since June 3, 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:
>
> - If the inmate fails to notify the Agency in writing and within 15 days, no back pay will be given.

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

- 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.

This policy has been in place at the Department since January 20, 1998.[7]

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 Department takes the position that an inmate must submit a grievance under the ADM-15.13 policy to initiate a wage dispute. The Court does not find this construction to be arbitrary, capricious, or manifestly contrary to statutory authority. The policy statement clearly refers to employment under the Prison Industries Program (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.

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.

---

[7] The 1998 and 2002 versions of "Problems with Pay" policy were in subsection 11 rather than 12.1. The 1998, 2002, 2004, and 2007 versions provided for submission of written complaints about pay rather than submission of complaints using the Department's Automated Request to Staff Member system. Otherwise, this policy has been substantively identical from 1998 to the current version of the policy.

Next, 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.

Although the Warden's denial of the Step 1 grievance clearly relied on Policy ADM-15.13, Appellant's brief does not reference Policy ADM-15.13 or assert in any way that Appellant submitted a claim under that policy. Appellant remained silent in the face of the Department's argument and did not dispute the Department's assertion that he had failed to submit such a claim. In his brief, Appellant does not even mention GA-01.12. Appellant did previously assert that GA-01.12 is controlling.

The Court disagrees. It does not construe the inmate pay policy (ADM-15.13) and the inmate grievance system (GA-01.12) as mutually exclusive alternatives. Department rules and policies are ordinarily construed in the same manner as statutes. *Converse Power Corp. v. S.C. Dep't of Health & Envtl. Control*, 350 S.C. 39, 47–48, 564 S.E.2d 341, 346 (Ct.App.2002) (employing the rules of statutory construction to discern the meaning of a regulation); s*ee also, 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). The Court is therefore required to harmonize the inmate pay policy with the internal grievance system if possible. *Hodges v. Rainey*, 341 S.C. 79, 88–89, 533 S.E.2d 578, 583 (2000). Consequently, the inmate pay policy can be construed so that it and the inmate grievance system are effective. Section 12.1 of the inmate pay policy requires that inmates who question their rate of pay must report the issue through the Automated Request to Staff Member (ARTSM) within fifteen days of the payroll date error. If, after doing so, the Department does not take proper corrective action as outlined in the inmate pay policy, then the inmate may resort to the grievance system to address

the Department's violation of the inmate pay policy. Both policies may be given effect in this manner.

II. Appellant's Claims for Prevailing Wages

Having concluded that the inmate pay policy ADM-15.13 applies 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 current policy became effective on June 3, 2014 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. The fifteen-day reporting limit also existed in prior versions first adopted January 20, 1998.

In his brief, Appellant alleges he is due compensation for work from October 1, 2013 forward although there is no underlying documentation in the record substantiating this claim.[8] In his "reply brief" filed on October 6, 2023, he references employment starting in June of 2018. For purposes of the Court's consideration of the Appellant's claim, his claim will be viewed as generously as possible to be a claim for wages from October 1, 2013.

Here, Appellant did not assert his claims for an improper pay rate as required by the policy. The record does not reflect that the Appellant filed a complaint about his pay through the automated system as required by the inmate pay policy. The Warden's response to the Step 1 grievance stated in part: "Problems in pay must be identified within 15 days of the payroll date error. Record of electronic notification must be retained. Failure to notify the Agency in writing and within 15 days, forfeits back pay." By not submitting <u>any</u> claims under the inmate pay policy, Appellant has not properly initiated a claim for back pay or wage adjustment at the time he filed his Step 1 grievance. The timing exception contained in section 13.10[9] of the inmate grievance system also does not apply to the inmate pay policy. The exception was contained in the inmate grievance system policy and related to filing deadlines for grievances. The inmate pay policy is a

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[8] The record provides limited factual background in this appeal because 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"). Furthermore, SCALC Rules 58 and 61 prescribe the contents of a record on appeal. Therefore, the record is limited to the information filed by the Department on September 6, 2023. Consequently, the submission of new factual information by Appellant and Department which is not contained in the record cannot be considered by the Court in this appeal. However, for purposes of evaluating the Appellant's claims set forth in his brief, the court will consider the dates of Appellant's alleged employment for temporal context.

[9] As noted above, although Appellant made reference to section 13.9 of the GA-01.12, the current designation is 13.10.

distinct policy and imposes separate requirements upon inmates who believe that their rate of pay was incorrect. Finally, the timing exception to the inmate grievance system at issue in *Torrence* and *Ackerman v. S.C. Department of Corrections,* 415 S.C. 412, 414, 782 S.E.2d 757, 758 (Ct. App. 2016) was substantially revised in the 2014 version applicable to this appeal, thus drawing into question the continued vitality of these cases.[10] Therefore, the Department's denial of the Appellant's claims do not offend or fail the standard of review set forth in section 1-23-380(5).

Even if Appellant had timely and appropriately submitted a claim under the inmate pay policy, the scope of that claim would be limited to the preceding two pay periods pursuant to subsection 12.1 and could not afford relief from October 1, 2013 forward.

The Department's denial was appropriate under the inmate pay policy and is supported by the record before the Court. Having reached this conclusion, further consideration of Appellant's arguments related to the inmate grievance system (GA-01.12) would be premature and unwarranted.[11]

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 23, 2023
Columbia, South Carolina

[10] Previously, SCDC Policy GA-01.12 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. Section 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).

[11] *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (stating an appellate court need not review remaining issues when its determination of a prior issue is dispositive of the appeal).

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, 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 23, 2023
Columbia, South Carolina

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
ADMINISTRATIVE LAW JUDGE ROBERT L. REIBOLD
ALC CASE NO. 23-ALJ-04-0054-AP
APPELLATE CASE NO. 2023-002004

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,
RESPONDENT,

V.

BOBBY WATSON #277427,
APPELLANT.

RECORD ON APPEAL

BOBBY WATSON #277427
TYGER RIVER C.I U-7-225
200 PRISON ROAD
ENOREE S.C. 29335
(PRO-SE) APPELLANT

CHRISTINA CATOE BIGELOW, ESQUIRE
OFFICE OF GENERAL COUNSEL
S.C DEPARTMENT OF CORRECTIONS
POST OFFICE BOX 21787
COLUMBIA S.C. 29221

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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BOBBY WATSON #277427, APPELLANT.

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APPELLANT SUBMIT THAT THE FOLLOWING SHOULD BE INCLUDED IN THE RECORD ON APPEAL:

(1) REQUEST TO STAFF'S TO MARY NATIONS PI 3 MANAGER.
(2) STEP 1 AND STEP 2 GRIEVANCES FORMS
(3) FINAL ORDER OF THE ALC (10/23/23).
(4) INITIAL BRIEF OF APPELLANT
(5) REPLY TO RESPONDENT'S BRIEF
(6) FINAL BRIEF OF APPELLANT

THE UNDERSIGNED HEREBY CERTIFIES THIS DESIGNATION CONTAINS NO MATTER IRRELEVANT TO THIS APPEAL.

Bobby Watson #277427

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STATE OF SOUTH CAROLINA
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BOBBY WATSON #277427, APPELLANT.

APPELLANT'S DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL

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(3) INITIAL BRIEF OF APPELLANT
(4) REPLY TO RESPONDENT'S BRIEF.
(5) FINAL BRIEF OF APPELCANT.

THE UNDERSIGNED HEREBY CERTIFIES THIS DESIGNATION CONTAINS NO MATTER THAT IS IRRELEVANT TO THIS APPEAL.

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STATE OF SOUTH CAROLINA
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V.

BOBBY WATSON #277427,
APPELLANT,

CERTIFICATE OF APPELLANT

THE APPELLANT HEREBY CERTIFIES THAT ALL MATERIAL IN THIS RECORD IS RELEVANT TO THIS APPEAL.

Bobby Watson #277427

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STATE OF SOUTH CAROLINA
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v.

BOBBY WATSON #277427, APPELLANT,

CERTIFICATE OF SERVICE

THE UNDERSIGNED APPELLANT HEREBY CERTIFIES THAT ON TODAY'S DATE 7/12/24 HE MAILED A COPY OF THE RECORD ON APPEAL TO ALL PARTIES RELEVANT TO THIS APPEAL BY PLACING COPIES IN U.S. MAIL POSTAGE PAID.

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STATE OF SOUTH CAROLINA
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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,
RESPONDENT,

V.

BOBBY WATSON #277427,
APPELLANT.

CERTIFICATE OF PRO-SE

THE UNDERSIGNED HEREBY CERTIFIES THAT THIS RECORD ON APPEAL CONTAINS ALL MATTER PROPOSED TO BE INCLUDED BY THE APPELLANT AND NO MATERIAL IRRELEVANT TO THIS APPEAL.

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STATE OF SOUTH CAROLINA
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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, RESPONDENT.

PROOF OF SERVICE

I CERTIFY THAT I HAVE SERVED THE RECORD ON APPEAL ON THE SOUTH CAROLINA COURT OF APPEALS. ADDRESS TO.

SOUTH CAROLINA COURT OF APPEALS, JENNY. A. KITCHINGS, CLERK FOR COURT OF APPEALS.. SOUTH CAROLINA COURT OF APPEALS. POST OFFICE BOX 11629 COLUMBIA. SOUTH CAROLINA 29211.

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, RESPONDENT.

PROOF OF SERVICE

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SOUTH CAROLINA ADMINISTRATIVE LAW COURT CLERK OF COURT FOR SOUTH CAROLINA ADMINISTRATIVE LAW COURT. EDGAR A. BROWN BUILDING. 1205 PENDLETON STREET, SUITE 224 COLUMBIA. SOUTH CAROLINA 29201

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STATE OF SOUTH CAROLINA
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BOBBY WATSON #277427, APPELLANT,

V.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,
RESPONDENT.

INITIAL BRIEF

APPELLANT SEEKS TO REVERSE AND REMAND THE FINAL ORDER OF THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT (DOCKET NO. 23-ALJ-04-0054-AP). ATTACHED. THE FINAL ORDER STARTS OUT ON R.P. 2 WITH AN ERROR ACCORDING TO 1-23-380. THE STEP 1 GRIEVANCE REPLY IS QUOTED THEN THE COURT STATES: "NO SPECIFIC PERIODS OF EMPLOYMENT OR TYPES OF WORK WERE DISCUSSED BY THE APPELLANT OR WARDEN." THIS IS ERRONEOUS AND AN ERROR OF 1-23-380(E) AND(F). ON ALL S.C.D.C. GRIEVANCES THERE IS A

BOX THAT REQUIRES THE INMATE TO PROVIDE "INMATE NAME" "SCDC NUMBER" "INSTITUTION" "HOUSING UNIT" "AND WORK ASSIGNMENT". APPELLANT WROTE "P.I 3 HASKO COORDINATOR". WORKS ON PART OF THE MANUFACTURING LINE THAT CUTS THE BOARDS AND PLACES THE GROOVE IN THEM FOR THE TONGUE AND GROOVE ASSEMBLY.

IN PARAGRAPH ONE ON PAGE 3 THE ADMINISTRATIVE COURT ENDORSES THE 15 DAY TIME LIMIT THAT THE SOUTH CAROLINA COURT OF APPEALS HAS HELD IS EXCEPTED FOR WAGE DISPUTES. APPELLANT IS DISPUTING THE POLICY AND PROCEDURE THAT S.C.D.C. IS ERRONEOUSLY ENFORCING

THIS RULING IS CLEARLY ERRONEOUS, AND AN ABUSE OF DISCRETION. THE ALJ FURTHER REVISITS THE ISSUE OF "NO SPECIFIC PERIODS OF EMPLOYMENT OR TYPES OF WORK WERE DISCUSSED BY THE APPELLANT OR RESPONSIBLE OFFICIAL." THIS ALSO IS CLEARLY ERRONEOUS AND IS IN VIOLATION OF

1-23-380-(5)(E) AND (F).

THE FINAL DECISION MISCONSTRUES THE ISSUE ON APPEAL SUCH THAT IT VIOLATES 1-23-380(5)(A) AND DIVERTS ATTENTION FROM THE TRUE ISSUE AT HAND. SEE: TORRENCE V. SCDC. 373 S.C. 586, 646 SE 2d. 866 (2007) AND ACKERMAN V. SCDC 415 S.C. 412 Rehearing Denied, CERT. DENIED. APPELLANT CONSISTENTLY EMPHASIZED THAT HE WAS NOT BEING PAID CORRECTLY AND THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS KNEW THAT TO BE TRUE (SEE: 2002 WL 31728841). S.C.D.C. HAS KNOWN THEY WERE PAYING LESS THAN THE REQUIRED AMOUNT FOR MORE THAN 21 YEARS.

THE ADMINISTRATIVE LAW COURT CONTINUALLY REVISITS PROVISIONS OF ADM 15.13 AND ATTEMPTS TO SUPPLANT STATUTE § 24-3-430 WITH POLICY.

THIS IS A VIOLATION OF 1-23-380(5)(E) AND (F) AND DUE PROCESS RIGHTS GUARANTEED UNDER THE U.S. AND SOUTH

CAROLINA CONSTITUTION. THE ADMINISTRATIVE COURT ON PAGE 9 PARAGRAPH II STATES "HAVING CONCLUDED..." regarding ADM 15.13 AND APPLYING ANTI-TORRENCE EXCEPTIONS. THE COURT "PRECLUDES" THE INMATE FROM RECEIVING BACK PAY. IT APPEARS THAT THE PRO-SE APPELLANT IS BEING HELD TO AN UNACCEPTABLE HIGH STANDARD. THE COURT SHOULD SEE AND KNOW THE TRUE INTENT OF THE PRO SE APPELLANT AND NOT MAKE AN UNFAIR AND UNJUST STANDARD (SEE: HAINES V. KERNER 404 US 519. 92 US S. CT. P. 594 (1972). THE PRO SE APPELLANT SHOULD BE HELD TO A LESS STRINGENT STANDARD.

CONCLUSION

THE COURT SHOULD REVERSE AND REMAND JUDGE REIBOLD'S DECISION TO THE ADMINISTRATIVE COURT.

Respectfully submitted
BOBBY WATSON #277427
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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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(3) INITIAL BRIEF

I CERTIFY THAT THIS DESIGNATION CONTAIN NO MATTER IRRELEVANT TO THIS APPEAL.

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STATE OF SOUTH CAROLINA
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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS. CHRISTINA C. BIGELOW, OFFICE OF GENERAL COUNSEL, P.O. BOX 21787, 4444 BROAD RIVER ROAD COLUMBIA, SOUTH CAROLINA 29211-1787

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STATE OF SOUTH CAROLINA
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ADMINISTRATIVE LAW COURT JUDGE ROBERT L. REIBOLD

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APPELLATE CASE NO. 2023-002604

BOBBY WATSON #277427, APPELLANT,

V.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS. RESPONDENT

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STATE OF SOUTH CAROLINA
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SOUTH CAROLINA ADMINISTRATIVE LAW COURT.
CLERK OF COURT. EDGAR A. BROWN BUILDING
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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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ADMINISTRATIVE LAW COURT JUDGE ROBERT L. REIBOLD
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APPELLATE CASE NO. 2023-002064

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, RESPONDENT,

V.

BOBBY WATSON #277427 APPELLANT.

CERTIFICATE OF SERVICE

THE UNDERSIGNED APPELLANT HEREBY CERTIFIES THAT ON TODAY'S DATE 7/12/24 HE MAILED A COPY OF THE APPELLANT'S INITIAL BRIEF ON ALL PARTIES RELEVANT TO THIS APPEAL BY PLACING COPIES IN U.S. MAIL POSTAGE PAID.

Bobby Watson #277427

BOBBY WATSON #277427
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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM

THE ADMINISTRATIVE LAW COURT

JUDGE: ROBERT L. REIBOLD

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BOBBY WATSON #277427 APPELLANT

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS RESPONDENT.

APPELLANT REPLY BRIEF

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REPLY BRIEF OF APPELLANT

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FACTS

APPELLANT FILED STEP 1 AND STEP 2 GRIEVANCES WITH THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS (SCDC) REGARDING PREVAILING WAGE. APPELLANT PURSUED AN APPEAL WITH THE ADMINISTRATIVE LAW COURT FEB. 7, 2023. THE ALJ ISSUED AND ORDER AFFIRMING THE SCDC DECISION OCT. 23, 2023. APPELLANT APPEALED TO THE SOUTH CAROLINA COURT OF APPEALS AND RESPONDENT ANSWERED APRIL 18, 2024 THIS IS IN REPLY TO RESPONDENTS ANSWER.

ARGUMENT

THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS HAS INTIMATED THROUGH COUNSEL THAT IT IS CORRECT AND APPELLANT IS NOT PROPERLY EXPLAINING HIS APPEAL. APPELLANT AGREES THAT HE IS NOT EXPLAINING AS A TRAINED ATTORNEY WOULD BECAUSE HE IS NOT AN ATTORNEY. HOWEVER SCDC IS FULLY AWARE THAT APPELLANT IS BEING TRUTHFULL IN HIS STATEMENT REGARDING HIS EMPLOYMENT IN THE PRISON INDUSTRIES PROGRAM. HIS RECEIVING FEDERAL MINIMUM WAGE WHEN §24-3-430 REQUIRES PREVAILING WAGE AS NOTED IN THE S.C. DEPT. OF EMPLOYMENT AND WORKFORCE DATA. AND THAT MANY PREVIOUS CASES INVOLVING INMATES EMPLOYED IN THE SAME PRISON INDUSTRIES WITH THE SAME PAY ISSUE HAVE BEEN BEFORE THE COURT. SEE: TORRENCE V. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, 433 S.C. 633 861 S.E2d. 36. ALSO: ACKERMAN V. S.C.D.C 45 S.C. 412 782 S.E2d. 757 ALSO: THE HONORABLE MIKE FAIR 2002 WL 31728841. SEE: MITTAG V. S.C.D.C. 2022 WL 6881830

THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS HAS PREVIOUSLY BEEN CHALLENGED UNDER § 24-3-430 AND THE S.C. ADMINISTRATIVE LAW COURT HAS HEARD NUMEROUS CASES UNDER THAT LAW. APPELLANT ARGUES § 24-3-430 IN HIS GRIEVANCE AND IN THE S.C. ADMINISTRATIVE LAW COURT APPEAL. LEGISLATIVE INTENT WAS DISREGARDED IN VIOLATION OF S.C. CODE § 1-23-610(B). THE RULING WAS AN ERROR OF LAW, IN VIOLATION OF STATUTORY PROVISIONS, AND AN ABUSE OF DISCRETION. SEE: GATEWOOD V. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS 416 SC 304 785 S.E.2d 600. THEREFORE, A REASONABLE MIND COULD NOT REACH THE SAME CONCLUSION AS S.C.D.C. AND THE HONORABLE ROBERT L. REIBOLD. THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS AND THE ALJ DO NOT ARGUE THAT § 24-3-430 IS NOT APPLICABLE, THEY DO NOT ARGUE THAT LEGISLATIVE INTENT IS AMBIGUOUS. THEY ARE MERELY IGNORING THAT ASPECT OF THIS CASE IN ORDER TO SUPPLANT THEIR WILL FOR THE WILL OF THE LAW.

CONCLUSION

FOR THE AFORMENTIONED REASONS, SOUTH CAROLINA AND UNITED STATES LAW, AND FACTS ON RECORD, THE FINAL DECISION OF JUDGE ROBERT L. REIBOLD AND THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT SHOULD BE REVERSED AND REMANDED.

RESPECTFULLY SUBMITTED,

BOBBY L. WATSON #277427
TYRCI U-7-B 225
200 PRISON RD.
ENOREE S.C. 29335

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
ADMINISTRATIVE LAW JUDGE: ROBERT L. REIBOLD

ALC CASE NO: 23-ALJ-04-0054-AP
APPELLATE CASE NO: 2023-002004

BOBBY L. WATSON #277427, APPELLANT

V.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, RESPONDENT.

CERTIFICATE OF SERVICE

I, BOBBY L. WATSON #277427 APPELLANT, HEREBY CERTIFIES THAT ON 5/1/24 DATE. I MAILED A COPY OF THE APPELLANT'S REPLY BRIEF, IN RESPONSE TO RESPONDENT'S INITIAL BRIEF. BY DEPOSITING COPIES TO ALL PARTIES IN THE U.S. MAIL POSTAGE PAID. TO THE HONORABLE JENNY A. KITCHINGS CLERK OF COURT, SOUTH CAROLINA COURT OF APPEALS. POST OFFICE BOX 11629 COLUMBIA. SOUTH CAROLINA 29211

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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ADMINISTRATIVE LAW JUDGE: ROBERT L. REIBOLD

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
ADMINISTRATIVE LAW COURT JUDGE ROBERT L. REIBOLD
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BOBBY WATSON #277427 APPELLANT,

V.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS. RESPONDENT.

CERTIFICATE OF SERVICE

THE UNDERSIGNED APPELLANT HEREBY CERTIFIES THAT ON TODAY'S DATE 7/12/24 HE MAILED A COPY OF APPELLANT'S REPLY BRIEF ON ALL RELEVANT PARTIES TO THIS APPEAL BY U.S. MAIL.

Bobby Watson #277427

BOBBY WATSON #277427
TYRCI UNIT 225
200 PRISON ROAD
ENOREE S.C. 29335

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
ADMINISTRATIVE JUDGE ROBERT L. REIBOLD
ALC CASE NO. 23-ALJ-04-0054-AP
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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,
RESPONDENT,

V.

BOBBY WATSON #277427
APPELLANT

APPELLANT'S FINAL BRIEF

Bobby WATSON #277427
BOBBY WATSON #277427
TYGER RIVER C.I. U-7-225
200 PRISON ROAD
ENOREE S.C. 29335

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STATEMENT OF ISSUE ON APPEAL

THE LOWER COURT'S DECISION WAS FLAWED AND CONTRARY TO PREVIOUS SOUTH CAROLINA COURT RULINGS. THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS IS ATTEMPTING TO USE A LOWER COURT RULING TO UNDO PREVIOUS RULINGS BY THE SOUTH CAROLINA COURT OF APPEALS AND THE SOUTH CAROLINA SUPREME COURT.

STATEMENT OF THE CASE

THIS MATTER COMES BEFORE THIS COURT PURSUANT TO THE APPEAL OF BOBBY WATSON (APPELLANT), AN INMATE IN THE CUSTODY OF THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS (SCDC). APPELLANT FILED A STEP 1 GRIEVANCE WITH SCDC NOVEMBER 24, 2022. SCDC DENIED THIS GRIEVANCE DECEMBER 2, 2022. APPELLANT SUBMITTED A STEP 2 GRIEVANCE ON DECEMBER 7, 2022. S.C.D.C. DENIED THE STEP 2 GRIEVANCE ON JANUARY 24, 2023. APPELLANT FILED A NOTICE OF APPEAL WITH THE ADMINISTRATIVE LAW COURT ON FEBRUARY 7, 2023. THE ADMINISTRATE LAW COURT ISSUED AN ORDER DENYING THE APPEAL ON OCTOBER 23, 2023. THIS APPEAL FOLLOWS.

ARGUMENT

THE LOWER COURT'S DECISION IS CONTRARY TO THE LAW AND PRIOR DECISIONS OF THE IN THE STATE OF SOUTH CAROLINA AND SHOULD BE REVERSED AND REMANDED.

THE ADMINISTRATIVE LAW COURT IN JUDGE REIBOLD'S "FINAL ORDER" ON THIS CASE (P. 6) USES SOUTH CAROLINA DEPARTMENT OF CORRECTIONS (SCDC) POLICIES GA-01.12 AND ADM-15-13 TO ESTABLISH A BASIS FOR DENYING APPELLANT'S CASE. SOUTH CAROLINA LAW LOOKS UPON THESE POLICIES AS REGULATIONS NOT LAW. (SEE § 1-23-10 (4). APPELLANT HAS CONSISTENTLY ARGUED THAT THE LAWS OF THE STATE OF SOUTH CAROLINA § 24-3-430, 24-3-40, 41-10 AND THE LAWS OF THE UNITED STATES § 18 U.S.C.A. 1761 ARE OF PARAMOUNT IMPORTANCE. APPELLANT ARGUED THAT S.C.D.C. SHOULD HAVE BEEN AWARE OF THE UNDER PAYMENT OF INMATES BECAUSE THESE LAWS MAKE IT VERY CLEAR. INMATES WITH HIGH SCHOOL EDUCATION OR LESS, ARE HAVING TO OPPOSE THE AGENCY THAT

CLAIMS TO "PROTECT THE PUBLIC SAFETY. HOWEVER, IF THE COURT WILL NOTE - BOTH THE SOUTH CAROLINA AND THE UNITED STATES GOVERNMENT HAVE CRIMINAL PENALTIES ATTACHED TO THE AFOREMENTIONED STATUTES, FOR DOING EXACTLY WHAT THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS IS DOING IN THIS MATTER AND OPPOSING COUNSEL IS ATTEMPTING TO PERPETUATE. 18 U.S.C.A. § 1761 "STATES THAT INMATES HAVE IN CONNECTION WITH SUCH WORK, RECEIVED WAGES AT A RATE WHICH IS NOT LESS THAN THAT PAID FOR WORK OF A SIMILAR NATURE IN THE LOCALITY IN WHICH THE WORK WAS PERFORMED..." THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS SHOULD BE FULLY AWARE OF THE LAW SINCE THIS LAW ALLOWS THE STATES TO OPERATE "PRISON INDUSTRIES" PROGRAMS IN THE FIRST PLACE. THE LAW ALLOWS FOR A PENALTY OF A FINE OR IMPRISONMENT

UP TO TWO YEARS OR BOTH. APPROXIMATELY 400 INMATES ARE EMPLOYED AT THE TYGER RIVER FACILITY. AND PAID EVERY TWO WEEKS. THEREFORE, IS IT POSSIBLE THAT THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS OFFICIALS THAT ARE RESPONSIBLE FOR THIS UNDERPAYMENT COULD BE FACING 800 YEARS OF FEDERAL TIME EVERY TWO WEEKS? THE CHAIRMAN OF THE SENATE CORRECTIONS COMMITTE IN 2002. SEN. MIKE FAIR RECEIVED AN OPINION ON PREVAILING WAGE (SEE: 2002 WL 31728841 (SCAG). THIS LETTER PLAINLY SPELLS OUT WHAT THE LAW IS REGARDING PREVAILING WAGE AND THE NEED TO COMPLY WITH THE PROVISIONS REGARDING PREVAILING WAGE. IF THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS WAS TO CLAIM IGNORANCE OF THIS THEN THEY CERTAINLY CANNOT AFTER

THIS HONORABLE COURT DECIDED TORRENCE V. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, 433 S.C. 633 IN AUGUST OF 2022. THE ISSUE THAT THE ALC HIGHLIGHTS IN THE DENIAL OF APPELLANTS APPEAL (FINAL ORDER) IS A 15 DAY LIMIT ON INMATE PAY DISPUTES PER POLICY ADM 15-13 (12.1) THIS COURT PREVIOUSLY HELD THAT ..." WAGE GRIEVANCE WERE EXCEPTED FROM S.C.D.C.'S GRIEVANCE SYSTEM POLICY'S 15-DAY FILING DEADLINE. ACKERMAN V. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS 415 S.C. 412. THE ALC'S DECISION IS CLEARLY IN VIOLATION OF S.C. CODE § 1-23-610(B) (A)(D)(F). THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS ALSO ATTEMPTS TO SHIFT THE BURDEN OF SUPPLYING RECORDS TO APPELLANT. APPELLANT IS IN THE CUSTODY OF RESPONDENT AND ALL RECORDS REGARDING EMPLOYMENT OF APPELLANT ARE IN THE CUSTODY AND CONTROL

OF RESPONDENT. THE ALC USES A 2014 REVISION (P. 10) OF S.C.D.C's POLICY TO QUESTION "THE CONTINUED VITALITY OF THESE CASES" REFERRING TO ACKERMAN V. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS AND TORRENCE. THIS IS ODD SINCE THOSE NAMED CASES WERE BEFORE THIS COURT IN 2017 AND 2022 RESPECTIVELY. SOME 3 TO 8 YEARS AFTER THE REVISION STATED. THEREFORE, THE ALC ABUSED ITS DISCRETION AND MADE A CLEARLY ERRONEOUS DECISION.

CONCLUSION

WHERE THE ALC HAS ERRED IN ITS RULING AND DENIED APPELLANT PROPER RESOLUTION ACCORDING TO STATUTE AND PRECEDENT, APPELLANT PRAYS THIS COURT TO REVERSE AND REMAND.

PRO-SE APPELLANT

Bobby Watson #277427

BOBBY WATSON #277427
TYGER RIVER C.I. U-7-225
200 PRISON ROAD
ENOREE S.C. 29335

DATE 6/20/24

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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ADMINISTRATIVE LAW COURT JUDGE ROBERT L. REIBOLD
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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, RESPONDENT

v.

BOBBY WATSON #277427, APPELLANT.

PROOF OF SERVICE

THE UNDERSIGNED APPELLANT CERTIFIES THAT HE SERVED THE APPELLANT'S FINAL BRIEF ON THE SOUTH CAROLINA COURT OF APPEALS. TO.

SOUTH CAROLINA COURT OF APPEALS, JENNY A. KITCHINGS, CLERK, POST OFFICE BOX 11629 COLUMBIA, SOUTH CAROLINA 29211.

Bobby Watson #277427

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SOUTH CAROLINA ADMINISTRATIVE LAW COURT, CLERK OF COURT. EDGAR A. BROWN BUILDING, 1205 PENDLETON STREET, SUITE 224 COLUMBIA, SOUTH CAROLINA 29201.

Bobby Watson #277427

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STATE OF SOUTH CAROLINA
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BOBBY WATSON #277427 / UTB225
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