

State of South Carolina
In the Court of Appeals

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Appeal from Administrative Law Court
Honorable Judge Reibold, Law Judge

JUL 22 2024

SC Court of Appeals

Walker Hughes.....Appellant,

V.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2024-000486

Brief of Appellant

Walker Hughes
Perry Corr.Inst.
430 Oaklawn Rd.
Pelzer, SC 29669

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Question Presented

Whether the Administrative Law Court erred in finding the Appellant did not exhaust his administrative remedies for prevailing wages, where the Court asserted that it did not have jurisdiction to decide the matter?

Statement of the Case

The Appellant worked in the program P.I. at Kershaw Correctional Institution from 5-23-03 through 12-17-03 approximately 45 hours per week, elevated to supervisor of the screen printing operation very early in his employment. Appellant was paid a wage of \$1.00 per hour plus an additional \$1.00 per hour for each hour overtime beyond 40 hours per week. The S.C. Department of Corrections contracted with Magla Co. for the labor of the Appellant at approximately \$7.95 per hour. After the decision in Torrence v. SCDC, 433 S.C. 633,861 S.E.2d 36 (2021), Appellant wrote to the Inmate Financial Accounting Department at Perry Correctional Institution on 8-4-23, utilizing the automated kiosk system in the dorm requesting that the monies owed to him after calculating prevailing wages be placed in inmate E.H. Cooper trust account. The Department responded on 8-7-23, that Financial Accounting does not make this determination. You must submit a grievance form for your claim to be researched. Appellant filed a step 1 grievance on the same day, 8-7-23, citing his attempt at informal resolution by kiosk request Ref No.23-03199357 in the body of the grievance as required, claiming to be similiary situated to Torrence. The grievance was recieved in the Perry Corr.Inst. Grievance Office on 8-8-23, processed as PCI-0586-23 (see exhibit 1) elevated to a step 2 grievance by that office, then returned to Appellant with a copy of a memo from SCDC Office of General Counsel and the SCDC Inmate Grievance Branch Office (see exhibit 2) quoting

the text of SCDC policy GA 01.12, and stating that the Appellants grievance required further investigation and evaluation and would be held in abeyance while this was accomplished. The Responsible Official denied the step 2 grievance on 10-25-23, claiming SCDC policy ADM 15.13. The Appellant then appealed to the Administrative Law Court, where the ALC dismissed Appellant's appeal finding Appellant failed to exhaust his administrative remedies, and then asserting that the Court did not have jurisdiction to review and decide this matter. The ALC Judge Reibold signed the order to dismiss on 3-14-24, and the record on appeal was not yet filed with the Court.

Argument

The Administrative Law Court erred in finding the Appellant did not exhaust his administrative remedies for prevailing wages where the Court asserted that it did not have jurisdiction to decide the matter.

The Administrative Law Court erred in finding Appellant failed to exhaust his administrative remedies and not reviewing the merits of Appellant's prevailing wage claim. The Appellant believes that his claim for prevailing wages is in fact similarly to *Torrence v. SCDC*, 433 S.C. 633 (2021), and that the ALC erred by asserting it did not have jurisdiction to review the matter. Here, Appellant points out that the order of dismissal by the ALC cites *Wicker v. S.C. Dept. of Corrections*, 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 v. S.C. Dept. of Corrections*, 360 S.C. 413 (stating inmates could seek remedy for unfair pay by filing an inmate grievance).

S.C. Code Ann. §24-3-430 (D) provides, "No inmate participating in the program may earn less than the prevailing wage for work of a similar nature in a private sector." Section 24-3-430 (D) addresses the rate of inmate wages. Furthermore, S.C. Code Ann. §24-3-315 and §24-3-430 (D) compel the Department of Corrections to ensure inmate workers who are employed under those sections receive the same pay rates and employment


conditions as their non-inmate peers." Wicker, 360 S.C. at 425, 602 S.E.2d at 58 (holding "there is simply nothing in the PIP statutory scheme authorizing the Department to pay Wicker a training wage less than the prevailing wage" as provided by section 24-3-430).

The Appellant believes he is in fact similarly situated to Torrence, that this matter has been settled beyond return, that he is entitled to relief, and that SCDC is in contempt of the law by continuing to attempt to thwart and stymie those entitled to relief under Torrence.

"Conclusion"

The Appellant respectfully ask this Court to reverse and remand the decision of the ALC, to return to the ALC for a prompt decision on the merits of his case, or consider the Appellant's case and provide relief in the form of monies owed.

Dated: 7.17.24

s/ 
Walker M. Hughes

Dear Clerk,

I am filing an Appellant Brief and a certificate of service with your office. I thank you for your help and time with this matter.

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JUL 22 2024

SC Court of Appeals

sincerely,

Dated: 7.17.24

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286186

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Certificate of Service

I, Walker Hughes, hereby certify that on this day, that I mailed a copy of the Initial Brief on the General Counsel's Office at P.O. Box 21757, Columbia, SC, 29221, through the U.S. Postal Service and the Perry Correctional Legal Mail System.

~~Sworn and subscribed to before me~~

This 17th day of JULY 2024

~~Notary: _____~~

~~Expires: _____~~

s/ Walker Hughes
Walker Hughes
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Pelzer, SC 29669

W.H.

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THE SOUTH CAROLINA COURT OF APPEALS

JUL 22 2024

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