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SEP 12 2024
SC Court of Appeals

State of South Carolina
In the Court of Appeals

Kenny Raley, #273456
Appellant

Lee County
DKT. No.

V.
South Carolina Dept. of
Correction
Respondent

ACTION
Notice of Appeal

Sat below: Hon. Ralph
King Anderson, III
DKT. NO. below: 23-ALJ-04-
0744-AP

Please Take Notice, that Appellant,
Kenny Raley appeal the dismissal of
his claim decided on August 15, 2024
the Administrative Law Court, Hon. Ralph
King Anderson, III.

Dated: 9-9-24

Kenny Raley

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SC Court of Appeals

The State of South Carolina
In the Court of Appeals
(In the Supreme Court)

Case No. below:

Sat below: Hon. Ralph K. Anderson, III

Kenny Raley, Jr. Appellant,

v.

South Carolina Dept. of Correction Respondent.

Record on Appeal

Attorney For Appellant
Kenny Raley # 273456
Lee Correctional Inst.
990 Wisacky Hwy
Bishopville, S.C. 29010

Attorney For Respondent
Malone, Thompson & Summers LLC
339 Heyward Street, Suite 200
Columbia, S.C. 29201

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Statement of the Issue

1. Did the Administrative Law Court err when dismissing Appellant's Prevailing Wage Claim on the grounds of being untimely filed?

Statement of Facts

Appellant initiated an informal resolution concerning SCDC's failure to adhere to S.C. Code 24-3-430. The same was initiated on or about May 3, 2023. In response, Appellant was informed to file/submit a Step One Grievance. A Step One Grievance was filed on May 3, 2023. The same was held in abeyance and forward to Step 2, which was denied November 14, 2023.

Appellant filed a Notice of Appeal to the Administrative Law Court and the case was assigned to Hon. Ralph K. Anderson, III.

On April 22, 2024, Respondent (SCDC) filed a motion to dismiss on the grounds that Appellant failed to exhaust his administrative remedies. Respondent's Motion was denied May 14, 2024.

On June 3, 2024, Respondent filed the Record on Appeal. Respondent never filed a brief with the Court.

On August 15, 2024, the Administrative Law Court dismissed Appellant's appeal on

the grounds that Appellant's Claim did not meet the 15-day deadline under SCDC Policy ADM-15-13, Section 12.1.

This appeal follows.

LEGAL ARGUMENT

Point One

THE Administrative Law Court Erred When Affirming SCDC's Denial of Appellant's Grievance

The Court below erroneously dismissed Appellant's Claim on the grounds that Appellant initiated his Claim untimely. Essentially, the Court below affirmed SCDC's denial of Appellant's Step 2 Grievance on the grounds that Appellant failed to meet the 15-day deadline outlined in SCDC's Policy ADM-15.13, Section 12.1. In Pertinent Part, SCDC Policy ADM-15.13, Section 12.1 reads:

"An inmate must report any problems in their pay to their inmate pay designee within 15-days of the payroll date error."

Appellant asserts that the Court below completely ignored this Court's ruling in *Ackerman v. South Carolina Department of Correction*, 415 S.C. 412 (2016).

In *Ackerman*, *Supra*, Appellant filed a Step

2 Grievance alleging that he was not Paid the Prevailing Wages in accordance to S.C. Code 24-3-430. The Department of Correction denied APPellant's Grievance on the grounds that APPellant failed to meet the 15-day deadline. Ackerman (APPellant) appealed and the Administrative Law Court affirmed SCDC's denial. APPellant appealed the Administrative Law Court decision and the Court of Appeals reversed on the grounds that SCDC's 15-day Policy did not apply to APPellant's Claim because APPellant's Claim did not concern an incident, rather concerned the Department's Policy and Procedures, which are exempt from the filing deadline.

In the Present Case, the facts and legal issues involved are identical to those in Ackerman, *Supra*. APPellant's Claim alleges that SCDC failed to pay him the prevailing wages in accordance to S.C. Code 24-3-40. As outlined in APPellant's amended brief filed with the Court below, APPellant challenges the specific pay rate in the contract made with the private sector, Nephron. The

at hand is governed by statute and, as in the Case of Ackerman, Supra, is an expression of the legislature's Policy on inmate Pay. As Such, Appellant's Claim is not subject to SCDC's 15-day deadline. Appellant's Claim has nothing to do with a Pay-roll error, rather, has to do with SCDC's day to day unlawful Practices, in Violation of S.C. Code 24-3-430.

For these reasons, Appellant's Claim should not have been dismissed on the grounds that Appellant failed to meet the 15-day deadline.

CONCLUSION

For reasons outlined above, the decision below should be reversed.

Dated: 9-9-24

Kenny Raley

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 1

INMATE NAME: <u>Kennedy William Raley</u>	OFFICE USE ONLY
SCDC NUMBER: <u>273456</u>	Grievance No. <u>Lee CI 099-23</u>
INSTITUTION: <u>LEE</u> MAY 04 2023 - AMW	Code: General <u>MY/MS</u>
HOUSING UNIT: <u>F6-A-2116</u>	Policy _____
WORK ASSIGNMENT: <u>PRISON INDUSTRIES</u>	Disc. Hear. _____
	Class. _____
	PREA _____
	Date Received <u>5-8-23</u>
	IGC Initials <u>RW</u>

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.)

The SC Dept. of Corrections paid me less than the prevailing wage, while working for Neptun Pharmaceuticals Inc. through the Prison Industries Program. I know that this is an Illegal Act, therefore I am requesting legal help with this small, but serious matter. Thank You! God Bless!!! Sincerely
 Kerry Raley

Ref # 2303099550

Kennedy W. Raley 5-3-23
 Grievant Signature Date

ACTION REQUESTED: I would like to be compensated for the funds that were stolen from me.

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

Due to the nature of your appeal, it has been forwarded to the Step 2 Level for further review. This grievance will be held in abeyance until a Decision has been rendered at the Step 2 Level. RW 5-9-23

K. Chepulis 11/29/23
 IGC Signature Date

(CONTINUE ON REVERSE SIDE)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Baley, Kenny
SCDC NUMBER: 273456
INSTITUTION: Lee
HOUSING UNIT: _____
WORK ASSIGNMENT: _____

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MAY 16 2023

INMATE GRIEVANCE

Office Use Only
Grievance No. Lee-019423
Code: General my/lws
Policy _____
Disc. Hear. _____
Class. _____
Date Received _____
IGC Initials _____

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

In accordance with SCDC Policy GA-01.12, "Inmate Grievance System," due to the nature of allegations you have raised in your Grievance, it has been forwarded to the Inmate Grievance Branch Central Office and Office of General Counsel for a response. Inmate's signature has been adopted from SCDC 10-5, Step 1 Inmate Grievance Form.

Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE REVERSE SIDE FOR RESPONSIBLE OFFICIAL'S DECISION & REASON

Bart Vincent 11-14-23
Signature Date

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.

Grievant Signature Date IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

Proof of Service

I, Kenny Raley, , Certify that I did mail one original copy of my Notice of Appeal and brief in support of appeal to the South Carolina Court of Appeals, P.O. Box 11629, Columbia, S.C. 29211. A copy was also forward to the address below:

TO: Malone, Thompson, Summers & Ort, LLC
339 Heyward Street, Suite 200
Columbia, S.C. 29201

I, Kenny Raley, , Certify that the statements made by me are true. I am aware that if any statements made by me are willfully false, I am subject to punishment.

Dated: 9-9-24

Kenny Raley

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SEP 12 2024

SC Court of Appeals

Kenny Raley # 275954
FG-A/Cert 2116
Lee Correctional Inst.
990 Wisacky Hwy
Bishopville, S.C. 29010

LEE CI INMATE



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