

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Jonathan Wayne Goad, #216638,)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)
 _____)

Docket No. 23-ALJ-04-0740-AP

ORDER

RECEIVED
SEP 16 2024
SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (Court or ALC) on an appeal filed by Jonathan Wayne Goad (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department). Appellant appeals the Department’s final decision finding that his claim for back pay for work performed in the prison industry program is untimely under SCDC Policy ADM-15.13, Section 12.1.

PROCEDURAL HISTORY

Appellant filed an Automated Request to Staff Member (ARTSM) on May 2, 2023 asserting the Department was paying him less than the prevailing wage required.¹ Following the staff’s response, Appellant filed a Step 1 Grievance on May 4, 2023 asserting similar claims. The Department elevated Appellant’s Step 1 Grievance to a Step 2 Grievance. On November 14, 2023, the Department denied Appellant’s Step 2 Grievance because it was untimely pursuant to SCDC Policy ADM-15.13, Section 12.1.

Appellant filed a Notice of Appeal on December 12, 2023. The case was assigned on January 5, 2024. Appellant filed his brief on February 6, 2024. The Department filed a Motion to Extend Time to file the Record on March 13, 2024. The Court granted the Motion to Extend on March 21, 2024. Then, on April 22, 2024, the Department filed a Motion to Dismiss (Motion)

¹ “In 1995, the South Carolina legislature enacted section 24-3-430 of the South Carolina Code (2007) to authorize the expansion of the Prison Industries program into the private sector. This expansion allowed qualified private entities to use inmate labor but required the wages for participating inmates to be no less than ‘the prevailing wage for work of [a] similar nature in the private sector.’ Act No. 7, 1995 S.C. Acts 78. Section 24-3-430 became effective on July 1, 1995. *Id.* at 102.” *Gatewood v. S.C. Dep’t of Corr.*, 416 S.C. 304, 309, 785 S.E.2d 600, 603 (Ct. App. 2016); see also *Torrence v. South Carolina 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) (affirming inmates are entitled to the prevailing wage and explaining, for the first time, how to calculate the prevailing wage).



asserting Appellant had failed to exhaust his administrative remedies, which the Court denied on May 14, 2024. The Court also specified the timeframes for filing the record on appeal and briefs.

On June 3, 2024, the Department filed the Record on Appeal. On August 12, 2024, the day the Department's brief was due, the Department filed a motion for a 20-day extension to file its brief (Motion) due to counsel's workload. Specifically, Department's counsel explained that he serves as counsel for the South Carolina Law Enforcement Officers' Association and, in his capacity as counsel, has had conflicts on July 25, July 30, and other dates in August. He further explained that he has "many briefs and records due in other appeals pending before the Court." As of the date of this Order, Appellant has not filed a response to the motion.² In addition, as of the date of this Order, the Department has not filed its brief.³

ISSUE ON APPEAL

Did the Department err in denying Appellant's prevailing wage claim on the ground that it was untimely?

JURISDICTION

The Court's jurisdiction to hear this matter is derived from the South Carolina Supreme Court's decision in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000) and *Furtick v. South Carolina Department of Probation, Parole and Pardon Services*, 352 S.C. 594, 576 S.E.2d 146 (2003). In *Al-Shabazz*, the Supreme Court set forth that the ALC has jurisdiction to review inmate appeals involving state-created liberty interests in which an inmate contends that prison officials have erroneously calculated his or her sentence. *Id.* The Court reviews these matters in "an appellate capacity." *Id.* at 388, 527 S.E.2d at 754. Furthermore, in *Wicker v. South Carolina*

² Although the Court understands the difficulty in juggling multiple clients and cases, the Department hired private counsel to specifically assist in handling these inmate prevailing wage cases and work towards resolving them. However, the Department's newly retained counsel has filed motion after motion to delay the proceedings. In fact, the Department's brief was originally due on April 24, 2024, or one hundred and ten days (110) after the Notice of Assignment was filed. Yet, as of the date of this Order, the Department has had an additional three months to prepare its brief. Accordingly, the Department has not sufficiently explained why this is an exceptional event that demonstrates good cause to extend the time to file the brief. SCALC Rule 59. Therefore, I find that an extension of 20 days to file its brief is not justified. Furthermore, because this Order disposes this case, the Department's motion is rendered moot. *Byrd v. Irmo High Sch.*, 321 S.C. 426, 431, 468 S.E.2d 861, 864 (1996) ("Mootness has been defined as follows: 'A case becomes moot when judgment, if rendered, will have no practical legal effect upon existing controversy. This is true when some event occurs making it impossible for [the] reviewing Court to grant effectual relief.'" (quoting *Mathis v. South Carolina State Highway Dep't*, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973))).

³ Importantly, the filing of the Department's motion for extension of time did not stay the timeframe for filing its brief. SCALC Rule 59 ("The filing of a motion other than a motion to dismiss shall not stay any time limits imposed by these Rules.").

Department of Corrections, the South Carolina Supreme Court held this Court has jurisdiction to review inmate wage claim grievances in the limited circumstance where the state has created a statutory right to that wage. 360 S.C. 421, 423–24, 602 S.E.2d 56, 57 (2004) (“We find that where, as here, the state has created a statutory right to the payment of a prevailing wage, it cannot thereafter deny that right without affording due process of law.”).

“A reviewing court will not disturb findings of [an administrative agency] if its findings are supported by substantial evidence on the record as a whole.” *Pearson v. JPS Converter & Indus. Corp.*, 327 S.C. 393, 397, 489 S.E.2d 219, 220 (Ct. App. 1997). A decision is supported by “substantial evidence” when the record as a whole allows reasonable minds to reach the same conclusion as the agency. *Friends of the Earth v. Pub Serv. Comm’n of S.C.*, 387 S.C. 360, 366, 692 S.E.2d 910, 913 (2010). The fact that the record presents the possibility of drawing two inconsistent conclusions from the evidence does not prevent the agency’s findings from being supported by substantial evidence. *Waters v. S.C. Land Res. Conservation Comm’n*, 321 S.C. 219, 226, 467 S.E.2d 913, 917 (1996). Furthermore “the party challenging a[n administrative agency’s] order bears the burden of convincingly proving that the decision is clearly erroneous, or arbitrary or capricious, or an abuse of discretion, in view of the substantial evidence on the whole record.” *Porter v. S.C. Pub. Serv. Comm’n*, 333 S.C. 12, 20, 507 S.E.2d 328, 332 (1998).

DISCUSSION

Appellant requests to be paid the prevailing wage for his work in the prison industry program until September 16, 2022.⁴

There is no dispute that Appellant is entitled to the statutory prevailing wage under section 24-3-430(D) of the South Carolina Code as it was defined in *Torrence* for his work going forward. *Torrence*, 433 S.C. 633, 861 S.E.2d 36 (Ct. App. 2021), *reh’g denied* (Aug. 4, 2021), *cert. denied* (Aug. 3, 2022) (affirming inmates are entitled to the prevailing wage and explaining, for the first time, how to calculate the prevailing wage). Rather, the question is whether Appellant can claim reimbursement for any difference between what he was paid and the prevailing wage for the time period claim in his grievances or whether all or some of his claim is barred under SCDC policies.

⁴ In his ARTSM and grievances filed with the Department, as well as his notice of appeal and briefs filed with this Court, Appellant did not specifically request backpay for a certain period of time. However, according to the Record on Appeal, Appellant received his last pay deposit on September 16, 2022.

SCDC Policy ADM-15.13, Section 12.1, sets forth the Department's general policies governing inmate disputes with pay. The current version of this policy, which was in effect during the time period at issue, states:

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.
- 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.

SCDC Policy ADM-15.13, Section 12.1 (June 3, 2014).⁵ Under this policy, the first step an inmate "must" take to correct an issue with their pay is to report the problem "to their institution's inmate pay designee utilizing the Automated Request to Staff Member (ARTSM) within 15 days of the payroll date error." *Id.*

In this case, the Department denied Appellant's Step 2 Grievance on the ground that Appellant's claim for back pay was foreclosed because Appellant failed to notify the Department of any problems with his prison industries pay within fifteen days.⁶

Pursuant to SCDC Policy ADM-15.13, Appellant was required to notify SCDC through the ARTSM of any problems with his prison industry's pay within fifteen days of the payroll error. Within the time period at issue, Appellant received his last pay deposit from the Department on November 1, 2021. Appellant did not use the ARTSM to notify SCDC of a problem with his

⁵ This policy has applied to all forms of inmate pay, including wages earned through PIECP, and has been in place since January 20, 1998. See SCDC Policy ADM-15.13 Policy Statement. Although this policy has been amended multiple times, the pertinent language in the fifteen-day provision has remained the same. See SCDC Policy ADM-15.13, Section 12.1 (2014).

⁶ Although the Department argues that the fifteen-day period runs from the date *Torrence* was decided, and, thus, Appellant's claims are completely foreclosed, the Court disagrees. The policy specifically states that it runs from the date of the "payroll date error." SCDC Policy ADM 15.13, Section 12.1 (providing that "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**" (emphasis added)). In addition, if the Department's interpretation was correct, every inmate would be foreclosed from reporting any pay roll error as each claim would be well past the fifteen-day timeframe. This interpretation would render the policy meaningless and is therefore absurd.

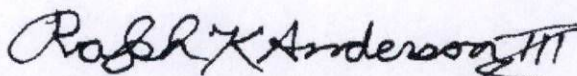
prison industry pay until May 31, 2023, much more than fifteen days later. Therefore, although Appellant followed the proper procedure for submitting a wage claim by submitting an ARTSM before filing his Step 1 and Step 2 Grievances, his submission was untimely. Consequently, under the applicable versions of Policy ADM- 15.13, Section 12.1, he is foreclosed from receiving back pay for any work participated in the program during the time period at issue. SCDC Policy ADM-15.13, § 12.1.

In sum, Appellant failed to carry his burden to show the Department erred, and the Department's decision must be affirmed. *See Porter*, 333 S.C. at 20, 507 S.E.2d at 332 (holding "the party challenging [an administrative agency's] order bears the burden of convincingly proving that the decision is clearly erroneous, or arbitrary or capricious, or an abuse of discretion, in view of the substantial evidence on the whole record").⁷

ORDER

For the reasons set forth in this Order,

IT IS HEREBY ORDERED that the Department's final agency decision is **AFFIRMED**.
AND IT IS SO ORDERED.



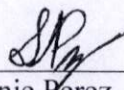
Ralph King Anderson, III
Chief Administrative Law Judge

August 22, 2024
Columbia, South Carolina

⁷ Although I affirm the Department's decision, I nevertheless note the Department's failure to file a brief is becoming a theme in the Department's cases.

CERTIFICATE OF SERVICE

I, Stephanie Perez, hereby certify that I have 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).



Stephanie Perez
Judicial Law Clerk

August 22, 2024
Columbia, South Carolina