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SEP 12 2024

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

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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

Kemmy Raley

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
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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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