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SEP 19 2024

SC Court of Appeals

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

Case No. below: 23-ALJ-04-0750-AP

Sat below: Hon. Ralph K. Anderson, III

Tommy Taylor, F. [REDACTED] Appellant.

v.

South Carolina Dept. of Correction Respondent.

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Record on Appeal

Attorney For Appellant

Tommy Taylor, # 331974

Lee Correctional Inst.

990 Wisacky Hwy

Bishopville, S.C. 29010

Attorney For Respondent

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339 Heyward Street, Suite 200

Columbia, S.C. 29201

Dated: 9-11-24

Tommy Taylor

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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.<sup>1</sup>

On June 14, 2024, the Department filed the Record on Appeal. To date, respondent has not filed a brief with the Court below.

On August 22, 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.

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<sup>1</sup> Appellant's brief in support of notice of appeal was filed December 12, 2023.

## 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

A 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: 9-11-24

Tommy Taylor

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS**

**INMATE GRIEVANCE FORM**

**STEP 1**

INMATE NAME: <u>Tommy Taylor</u> SCDC NUMBER: <u># 331974</u> INSTITUTION: <u>Lee</u> <u>MAY 05 2023 -Xmw</u> HOUSING UNIT: <u>F6-B-1215</u> WORK ASSIGNMENT: <u>Prison Industries</u>	<p align="center"><b>OFFICE USE ONLY</b></p> Grievance No. <u>Lee CI 223-23</u> Code: General <u>M4 115</u> Policy _____ Disc. Hear. _____ Class. _____ PREA _____ Date Received <u>5-8-23</u> IGC Initials <u>RW</u>
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**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.)

23-03100808

The S.C. Dept. of Corrections Paid Me Less Than The Prevailing wage while working for Nephron Pharmaceuticals Inc. Through The Prison Industries Program.

Tommy Taylor      5-4-2023  
 Grievant Signature      Date

**ACTION REQUESTED:** Requesting The Immediate Payment of all unpaid wages owed to me resulting from me having been paid less than The Prevailing Wage.

**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 5-4-23

\_\_\_\_\_  
 IGC Signature      Date

(CONTINUE ON REVERSE SIDE)

Da I

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INMATE GRIEVANCE FORM  
STEP 2

Office Use Only

INMATE NAME: Tommy Taylor  
SCDC NUMBER: 331974  
INSTITUTION: L23  
HOUSING UNIT: \_\_\_\_\_  
WORK ASSIGNMENT: \_\_\_\_\_

**RECEIVED**  
MAY 16 2023  
INMATE GRIEVANCE

Grievance No. LEPCI-0223-23  
Code: General mytus  
Policy \_\_\_\_\_  
Disc. Hear. \_\_\_\_\_  
Class \_\_\_\_\_  
PREA \_\_\_\_\_  
Date Received: \_\_\_\_\_  
IGC Initials: \_\_\_\_\_  
Date Received: \_\_\_\_\_  
IGA 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**

Responsible Official Signature Bate Vincent Date 11-14-23

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.

Grievant Signature \_\_\_\_\_ Date \_\_\_\_\_

IGC Signature \_\_\_\_\_ Date \_\_\_\_\_

(SEE REVERSE SIDE FOR INSTRUCTIONS)