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Oct 30 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Ralph King Anderson, III

ALC Case No. 23-ALJ-04-0544-AP
Appellate Case No. 2024-000718

JAMES A. TUCKER, # 260993,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

REPLY TO APPELLANT’S OBJECTION TO THE MOTION TO DISMISS

Appellant served an Objection to Respondent’s Motion to Dismiss Appeal on October 21, 2024. Appellant’s objection, however, illustrates exactly why the motion to dismiss the appeal should be granted. In Appellant’s Objection, he asks this Court to “order the department (SCDC) to provide the court and Appellant with a complete record of James A. Tucker # 256638, and the data of Occupational Employment Statistics (OES) or OCC by ESC/DEW.” None of this material was before the lower court, and therefore none of this material can be considered by this Court under the Appellate Court Rules. See Rule 210 (c), SCACR (stating that the record shall not include matter that was not presented to the lower court); see Rule 210(h), SCACR (the appellate court will not consider matter not contained in the record on

appeal).

The proper remedy for Appellant at this juncture is to appeal from the Step 2 Final Agency Decision that was issued to him on October 9, 2024. If he does that, he can address all issues related to his Prison Industries pay and have them properly ruled upon in the Administrative Law Court (ALC). He can address his working location(s), hours worked, and wage calculations, and if he is unhappy with the ruling of the ALC, he can then appeal to this Court.

As stated in the Motion to Dismiss Appeal, this appeal is now moot due to the remand and issuance of a new Final Agency Decision from which Appellant can appeal. Therefore, Respondent respectfully requests that the appeal be dismissed.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY:



CHRISTINA C. BIGELOW

Deputy General Counsel
Office of General Counsel
S.C. Department of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-8508

ATTORNEY FOR RESPONDENT

October 30, 2024

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RESPONDENT.

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on this date, she mailed a copy of the **Reply to Appellant's Objection to the Motion to Dismiss** to Appellant, addressed as follows:

**James Tucker, # 260993
Allendale Correctional Institution
HAA-0012
1057 Revolutionary Trail
Fairfax, South Carolina 29827**



Christina Catoe Bigelow
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S. C. Department of Corrections
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October 30, 2024



SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Division of Legal Counsel & Compliance

HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

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SC Court of Appeals

October 30, 2024

The Honorable Jenny A. Kitchings
Clerk of Court, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: James A. Tucker, # 260993 v. South Carolina Department of Corrections
Appellate Case No. 2024-000718

Dear Ms. Kitchings:

Enclosed please find Respondent's **Reply to Appellant's Objection to the Motion to Dismiss** in the above referenced matter, along with **Proof of Service**. A copy of the same is being mailed to Appellant today.

Thank you for your attention to this matter, and please do not hesitate to contact me should there be any questions or concerns.

Sincerely,

Christina Catoe Bigelow
Deputy General Counsel
South Carolina Department of Corrections
S.C. Bar No. 73562

cc: James A. Tucker, # 260993
Allendale Correctional Institution
HAA-0012
1057 Revolutionary Trail
Fairfax, South Carolina 29827