

THE STATE OF SOUTH CAROLINA  
APPEAL FROM RICHLAND COUNTY  
IN THE COURT OF APPEALS

RECEIVED

DEC 02 2024

SG Court of Appeals

APPEAL FROM RICHLAND COUNTY  
ADMINISTRATIVE LAW COURT DIVISION  
Hon. Ralph King Anderson, III, Chief Administrative Judge

Case No. # 24-ALJ-04-0131-AP

Charles Nemon Vandross, ..... Appellant,

V.

South Carolina Department of Corrections, ..... Respondent.

NOTICE OF APPEAL

Charles Nemon Vandross appeals the order, rendered on October 18, 2024, and signed by the Honorable Ralph King Anderson, III, Chief Administrative Law Judge, in Richland County, South Carolina. Appellant received written notice of entry of this order on October 24, 2024.

Date: 22 November 2024

Charles N Vandross

Charles Nemon Vandross  
Appellant, Pro Se

Allendale Correction Institution  
1057 Revolutionary Trail  
Fairfax, SC 29827

Other Counsel of Record:

Lake E. Summers  
Malone, Thompson & Summers LLC  
339 Heyward Street, Suite 100  
Columbia, SC 29201

STATEMENT OF FACTS:

Attached hereto is a copy of the final decision and order which is the subject of the appeal, which was received by the Appellant on October 24, 2024. Moreover, and in furtherance hereof, Appellant avers the following brief factual basis for each asserted constitutional violation:

CONSTITUTIONAL VIOLATIONS:

- I. Due Process Clauses of Both the Constitution of the United States and of the State of South Carolina;
- II. Obligations of Contracts/Impairment of Contracts Clauses of Both the Constitution of the United States and of the State of South Carolina;
- III. Supremacy Clause Clause of the Constitution of the United States;

FACTS:

Appellant is an inmate incarcerated with the South Carolina Department of Corrections. Appellant appeals the final decision of the Department of Corrections, (Department), denying his claim for the prevailing wage for work performed in the prison industry program, under the authority of the enactments of the United States Congress, and titled, "Prison Industry Enhancement (PIE) Program through the Justice System Improvement Act of 1979, Pub. L. 96-157, § 827. The Act was amended in 1984. The State of South Carolina's General Assembly enacted code section §24-3-430(D), South Carolina Code of Laws, Annot. , providing that certain service work be performed for the private sector entities if certain conditions are met. Among those conditions is the requirement that inmates be paid no less than the prevailing wage for work of a similar nature in the private sector. §24-3-430(D) mirrors the language of the PIE enactments.

Appellant filed an Automated Request To Staff (ARTSM) on August 18, 2023, requesting the prevailing wages due to him for

the time he worked in the prison industries program at McCormick Correction Institution from the year 2006 through 2008 or 2009. Following the Department's response from his Step 1 Grievance, wherein he asserted that he made \$0.10 cent per hour rather than the prevailing wage required by Federal and State law, on August 29, 2023, the Department elevated the Step 1 Grievance to a Step 2 Grievance. On December 19, 2023, the Department denied Appellant's Step 2 Grievance on the ground that it was untimely, despite provisions in the Department's own policy to the contrary, and several rulings of the South Carolina Supreme Court specifically holding that such grievance was timely, and no time limit was applicable.

Appellant filed a Notice of Appeal on January 25, 2024 to the Administrative Law Court. The case was assigned on February 16, 2024. Appellant filed his initial brief on March 14, 2024. The Department filed a Motion to Extend Time to file the Record on April 26, 2024. On May 7, 2024, the Administrative Law Judge denied the motion but nonetheless gave the department thirty days to file the Record on Appeal. On June 6, 2024, the Department filed the Record on Appeal.

On July 5, Appellant requested a complete Record on Appeal, including omitted hourly-wage printouts. The Administrative Law Judge conceded the Record on Appeal was devoid of these materials, and ordered the Department to supply them. On August 5, 2024, the Department provided a copy of Appellant's hourly wage log.

Finally, as of the date of the Administrative Law Judge's final order, the Department had not filed a brief in the matter, abandoned, and otherwise waived any defenses, arguments or contentions. The Administrative Law Judge, specifically noted that the Department's brief was due at the latest on August 5, 2024, and made special note: "I nevertheless note the Department's failure to file a brief is becoming a theme in the Department's cases." The Administrative Law Judge proceeded to hear the case, and sua sponte raised defenses and arguments on behalf of the Department, who made no such arguments, nor filed a

brief when the opportunity was available; and commenced upon a search of the record for reasons to affirm, and thereafter, did affirm the Department's denial of Appellant's grievances.

Date: 22 November 2024  
Fairfax, South Carolina.

Charles N Vandross  
Charles Nemon Vandross  
Appellant, Pro Se  
Allendale Correction Institution  
1057 Revolutionary Trail  
Fairfax, SC 29827

Other Counsel of Record:  
Lake E. Summers  
Malene, Thompson & Summers LLC  
339 Heyward Street, Suite 100  
Columbia, SC 29201

Attorney for Respondent

CERTIFICATE OF SERVICE BY MAIL

I, **Charles Nemon Vandross**, hereby certify that I have this 22<sup>nd</sup> Day of November, 2024, served a true copy of the **NOTICE OF APPEAL**, in the foregoing matter, upon the below listed party, by depositing a copy of same in the United States Mail, first-class postage affixed thereto, and addressed to:

Lake E. Summers  
Malone, Thompson & Summers LLC  
339 Heyward Street, Suite 100  
Columbia, SC 29201

Fairfax, South Carolina.

Charles N Vandross

Charles Nemon Vandross  
Appellant, Pro Se  
Allendale Correction Institution  
1057 Revolutionary Trail  
Fairfax, SC 29827

**RECEIVED**

DEC 02 2024

SC Court of Appeals

Charles N. Vandross, #316095  
Allendale Correction Institution  
1057 Revolutionary Trail  
Fairfax, SC 29827

Att: Clerk's Office  
Administrative Law Court  
Edgar A. Brown Building  
1205 Pendleton Street, Suite 224  
Columbia, SC 29201

RECEIVED

DEC 02 2024  
SC Court of Appeals

Att: Clerk's Office  
South Carolina Court  
of Appeals  
1015 Sumter Street, P.O. Box 11629  
Columbia, SC 29211

Date: 22 November 2024

**Re: Enclosures for Filing Purposes  
Notice of Appeal  
Vandross v. SCDC, 24-ALJ-04-0131-AP**

**To Whom It Concerns:**

Please find enclosed for filing purposes, on behalf of the Appellant in the above-referenced matter:

1. Notice of Appeal;
2. Attached Order, dated October 18, 2024, signed by Hon. Ralph King Anderson, III;
3. Certificate of Service

Please file with the Court Record, and I respectfully request the enclosed extra-copy hereof be returned to me clocked-stamped/typed.

**Kindest Regards,**

*Charles N. Vandross*  
**Charles Nemon Vandross**  
**Appellant, Pro Se**

CNV/

Enclosures

CC: File

Lake E. Summers, Esquire

Charles N. Vandross, #316095  
Allendale Correction Institution  
1057 Revolutionary Trail  
Fairfax, SC 29827



US POSTAGE<sup>SM</sup> PITNEY BOWES



ZIP 29210 \$ 001.53<sup>0</sup>  
02 4W  
0000378725 NOV 26 2024

RECEIVED

DEC 02 2024

SC Court of Appeals

Attn: Clerk's Office  
South Carolina Court  
of Appeals  
1015 Sumter Street, P.O. Box 11629  
Columbia, SC 29211

LEGAL MAIL

inter-dept