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Dec 23 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Crystal M. Rookard

ALC Case No. 23-ALJ-04-0602-AP
Appellate Case No. 2024-001913

GARY WOODSIDE, # 265980,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

MOTION TO DISMISS APPEAL

In this case, Appellant appeals from an order of the Administrative Law Court (ALC) denying his request to be paid the prevailing wage for his work in the Prison Industries program in SCDC. The ALC dismissed the case in the ground that Appellant failed to exhaust his administrative remedies. In Appellant’s Initial Brief to this Court, he argues that the ALC erred in dismissing his appeal and that the ALC should “order SCDC to pay Appellant all of the back pay to the present date.” (Brief of Appellant, page 5).

On October 17, 2024, Appellant was paid all of the backpay owed to him for his work in Prison Industries, as calculated by SCDC. On December 23, 2024, Appellant was served with a Final Agency Decision explaining the payment and providing him with the opportunity to appeal the time period calculated or the amount he was paid. (See attached Final Agency Decision packet.) ALC appeal paperwork was included in the Final Agency Decision packet. As such, the instant appeal is now moot. Appellant has been paid his backpay, and if he disagrees with the amount or the time period, he can appeal the matter to the proper court.¹ Accordingly, Respondent respectfully requests that this matter be dismissed as moot.

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

December 23, 2024

¹ The Court of Appeals is not the appropriate court to address the calculations of Appellant's backpay because those calculations were not part of the record below. As such, they could not be considered by this Court. See SCACR, Rule 210 (c) and (h).

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
OFFICE OF GENERAL COUNSEL
MEMORANDUM

TO: Gary Woodside, # 265980

INSTITUTION: Tyger River – 10B-0117

FROM: Office of General Counsel

DATE: December 23, 2024

RE: Prison Industries Payment **FINAL AGENCY DECISION**

Dear Mr. Woodside:

SCDC attempted to settle with you regarding your Prison Industries backpay, but you refused to meet with our outside counsel and stated that you would let the courts decide your case. Accordingly, we calculated your backpay at the prevailing wage rate for your Prison Industries job codes from March 2022 through May 21, 2024, and paid you the gross amount on October 17, 2024. Please note that the calculations stopped on May 21, 2024 because that is the date that the prevailing wage statute (S.C. Code 24-3-430(D)) was amended to remove the requirement that inmates be paid the prevailing wage going forward. A copy of this statute is attached.

Therefore, we consider your inmate pay issues resolved, and this Memorandum serves as the **FINAL AGENCY DECISION** in the matter of your inmate pay for all work in Prison Industries. **If you dispute the time period in question or the amount you were paid, you may file an appeal. An ALC appeal form is being provided as a part of this packet. If you decide to appeal, you will note that the form asks for your grievance number. In that space, simply write "Final Agency Decision dated 12/23/2024." The time period for filing an appeal begins on the date you are served with this Final Agency Decision.**

This Final Agency Decision was served on Gary Woodside, #265980 on

5 copies
12/23/24
Cap M [Signature]

Code of Laws of South Carolina 1976 Annotated
Title 24. Corrections, Jails, Probations, Pardons and Paroles
Chapter 3. State Prison System
Article 3. Prison Industries

Code 1976 § 24-3-430

§ 24-3-430. Inmate labor in private industry authorized; requirements and conditions.

Effective: May 21, 2024
Currentness

(A) The Director of the Department of Corrections may establish a program involving the use of inmate labor by a nonprofit organization or in private industry for the manufacturing and processing of goods, wares, or merchandise or the provision of services or another business or commercial enterprise considered by the director to enhance the general welfare of South Carolina. No violent offender shall be afforded the opportunity to perform labor for nonprofit organizations if such labor is outside the confines of a correctional institution. Inmates participating in such labor shall not benefit in any manner contradictory to existing statutes.

(B) The director may enter into contracts necessary to implement this program. The contractual agreements may include rental or lease agreements for state buildings or portions of them on the grounds of an institution or a facility of the Department of Corrections and provide for reasonable access to and egress from the building to establish and operate a facility.

(C) An inmate may participate in the program established pursuant to this section only on a voluntary basis and only after he has been informed of the conditions of his employment.

(D) No inmate participating in the program may earn less than an hourly rate equal to the federal minimum wage for work of similar nature in the private sector.

(E) Inmate participation in the program may not result in the displacement of employed workers in the State of South Carolina and may not impair existing contracts for services.

(F) Nothing contained in this section restores, in whole or in part, the civil rights of an inmate. No inmate compensated for participation in the program is considered an employee of the State.

(G) No inmate who participates in a project designated by the Director of the Bureau of Justice Assistance pursuant to Public Law 90-351 is eligible for unemployment compensation upon termination from the program.

§ 24-3-430. Inmate labor in private industry authorized;.... SC ST § 24-3-430

(H) The earnings of an inmate authorized to work at paid employment pursuant to this section must be paid directly to the Department of Corrections and applied as provided under Section 24 3 40.

Credits

HISTORY: 1995 Act No. 7, Part II, § 43; 1998 Act No. 355, § 1; 2024 Act No. 192 (S.1001), § 1, eff May 21, 2024

Editors' Notes

FEDERAL ASPECTS

Public Law 90-351 sec, 42 U.S.C.A. 3711 et seq.

Code 1976 § 24-3-430, SC ST § 24-3-430

Current through 2024 Act No. 225, except for Act No. 224, subject to final approval by the Legislative Council, technical revisions by the Code Commissioner, and publication in the Official Code of Laws.

End of Document

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Instructions for filing an appeal of the final agency decision from the South Carolina Department of Corrections:

- 1) **You must complete the Notice of Appeal on the reverse side of these instructions and mail it to the Administrative Law Court at the following address:**

**Clerk's Office
South Carolina Administrative Law Court
1205 Pendleton Street, Suite 224
Columbia, SC 29201**

A copy of the Notice of Appeal must also be forwarded to the Office of General Counsel at the Department of Corrections.

- 2) **In order for your case to be processed by the ALC, a copy of the final decision from the Department of Corrections must be attached to the Notice of Appeal.**

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GARY WOODSIDE, # 265980,

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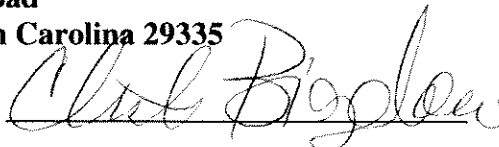
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

CERTIFICATE OF SERVICE

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

Gary Woodside, # 265980
Tyger River Correctional Institution
10B-0117
200 Prison Road
Enoree, South Carolina 29335



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

December 23, 2024



SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Division of Legal Counsel & Compliance

HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

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

RE: Gary Woodside, # 265980 v. South Carolina Department of Corrections
Appellate Case No. 2024-001913

Dear Ms. Kitchings:

Enclosed please find Respondent's **Motion to Dismiss Appeal** 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: Gary Woodside, # 265980
Tyger River Correctional Institution
10B-0117
200 Prison Road
Enoree, South Carolina 29335