

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Honorable Judge Robert L. Reibold

Grievance No. TyRCI-0231-23
ALC Case No. 23-ALJ-04-0835-AP
Appellate Case No. 2024-000665

RECEIVED
JAN 14 2025
SC Court of Appeals

Thomas Thompson #80681	Appellant,)	
)	
vs.)	RESPONSE
)	TO
South Carolina Department)	RESPONDENTS
Of Corrections	Respondent.)	MOTION
)	

This case comes back before this court as a result of Respondent's Motion to Dismiss filed on December 19, 2024. Respondent argues that the instant matter is moot. Appellant strongly disagrees with Respondent's argument. Appellant readily admits to rejecting all settlement offers. However, Appellant has not previously been presented with these wage calculations in any form. These wage calculations contain an error based on Respondent's own charts and figures of \$10,040.06. Appellant would be willing to settle this matter provided this error was corrected and he received all funds designated to be dispersed to his Cooper Trust account and his Long-term savings account.

HISTORY OF SETTLEMENT OFFERS

Respondent has made a total of four offers to Appellant as stated in their letter to this Court of September 9, 2024. Over the summer of 2024 Appellant was first offered a settlement of a \$25,000.00 lump sum payment which was rejected. Appellant was next offered a lump sum settlement of \$35,000.00 which was rejected. Respondent applied to this Court for a 60 day abeyance period to negotiate a settlement which the Court granted by Order on July 11, 2024. On September 5, 2024 Appellant was again offered a lump sum payment of \$60,000.00 which was rejected. These lump sum payment offers were presented by Tyger River Warden Nance.

On September 9, 2024 Respondent sent outside counsel to make an offer of \$67,000.00 and some odd amount of dollars. While this person quoted some figures he made no mention of long term savings and indicated this amount was the total payment to be made. Appellant rejected this offer. Appellant has not been presented an offer containing the charts and figures contained in the revised step 2 grievance.

Appellant has made three offers regarding the settlement of this matter. Following the first offer presented by Warden Nance Appellant was encouraged to submit an offer on the KIOSK system to LEGAL. Appellant first submitted an offer on the KIOSK that if General Counsel could influence the Parole Board to reconsider granting parole he would settle for \$1.00 at that time. Following the second offer Appellate became aware of a fellow PIE worker who had worked approximately 7000 hrs. receiving a \$40,000.00 settlement. Appellant then submitted an offer to settle for \$100,000.00 based on this and the approximately 19,000 working hrs. he had accumulated. Appellant reiterated this offer and the way he calculated it to outside counsel on September 9, 2024.

THE WAGE CALCULATION ERROR

Beginning on 12/2/21 the SOC Code for Appellant's job changed from 51-7042 to 49-9071. Respondent's wage calculations continue from this point based on the old SOC rather than the new SOC. This results in a \$10,040.06 shortage on the total wages figure. Appellant used the following formula to calculate this figure.

PERIOD	HOURS WORKED	+	OVERTIME	x	WAGE DIFFERENCE	=
12/2/21						
-4/30/22	157.75+445.25	+	8.75x1.5	x	\$19.77-16.78	=
	603	+	13.125	x	\$2.99	=
	616.125	x			\$2.99	= \$1,842.21
5/1/22-						
-4/30/23	1701.75	+	84.25x1.5	x	\$20.75-18.30	=
	1701.75	+	126.375	x	\$2.45	=
	1,828.125	x			\$2.45	= \$4,478.90

5/1/23-					
-4/16/24	1336.25	+ 1x1.5	x \$22.34-19.56	=	
	1337.75		x \$2.78	=	<u>\$3,718.95</u>
			TOTAL	=	\$10,040.06

NEW GROSS TOTAL

\$149,724.15
<u>\$10,040.06</u>
\$159,764.21

DEDUCTIONS

20% Victim Restitution: \$31,952.84

25% Room and Board: \$39,941.05

10% LT Savings: \$15,976.42

Net Total \$71,893.90

ARGUMENT

Appellant argues that he has used the proper mechanism for recovering his back wages owed under the prevailing wage statute. Appellant has presented facts to this Court that clearly demonstrate that he properly exhausted his remedies in the SCDC to which no challenge has been presented. Indeed Respondent in the Motion to Remand has conceded that fact without argument. Now Respondent has issued a revised step 2 grievance which while containing an error of calculation, concedes that these wages are owed to Appellant and provides a means for their calculation. All that remains is for Respondent to pay Appellant these back wages in full. Appellant argues that until such time as Respondent has paid these back wages this matter will not be moot. To force Appellant to start this process over would only delay the inevitable outcome and deprive Appellant of the earning potential of this large sum of money. Thus far Appellant has not argued for payment of interest and only asks for payment of the original amount.

CONCLUSION

Appellant respectfully requests this Court to order Respondent to pay back wages owed to him under the prevailing wage statute. Using Respondents charts and figures for mean wages this amounts to \$71893.90 deposited into Appellant's Cooper Trust Fund account and \$15976.42 deposited into Appellant's Long Term savings account. Appellant would also ask the Court to order Respondent to pay costs in the amount of \$300.00 (\$250 Notice of Appeal filing fee plus \$50 filing fee for a Motion to Proceed).

Respectfully submitted,



Thomas Thompson #80681

Tyger River CI 10-103

200 Prison Road

Enoree, South Carolina

29335

January 9, 2025

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

Office Use Only

INMATE NAME: Thomas Thompson
SCDC NUMBER: 80681
INSTITUTION: Tyger River
HOUSING UNIT: _____
WORK ASSIGNMENT: _____

Grievance No. TYRCI-0231-23
Code: General MY/WS
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 N/A Date N/A

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE REVERSE SIDE FOR RESPONSIBLE OFFICIAL'S DECISION & REASON

Responsible Official Signature Batery Vincent Date 12-19-24

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 [Signature] Date 12-19-24

IGC Signature [Signature] Date 12/19/24

(SEE REVERSE SIDE FOR INSTRUCTIONS)

INSTRUCTIONS FOR COMPLETING STEP 2 GRIEVANCE FORM

1. Complete form in its entirety, writing only in the space provided for inmate use.
2. State your specific reason for further appeal. Do not submit any new issues for review. No additional pages will be permitted.
3. Submit this completed form with your copy of the Step 1 form by placing in the Grievance Box within five (5) days of your receipt of the Warden's decision. Do not write in the space provided for the responsible official.
4. The decision rendered by the responsible official exhausts the appeal process of the SCDC Inmate Grievance Procedure.

Thompson #80681 TYRCI-0231-24

SCDC has calculated your pay at the prevailing wage rate for your Prison Industries job code(s) from September 2009 through April 2024. Any labor performed at any other time was work not subject to the prevailing wage statute. The inmate pay statute, S.C. Code 24-3-430(D), was amended effective May 21, 2024, and it eliminated the language requiring that inmates be paid the prevailing wage going forward. Any work after May 21, 2024, is therefore not required to be calculated at the prevailing wage rate.

Our calculations from September 2009 through April 2024 resulted in the following:

Gross total: \$149,724.15

Deductions that would be taken out if SCDC paid the gross total to you as backpay consist of victim restitution, room and board, and long-term savings:

20% Victim Restitution: \$29,944.83

25% Room and Board: \$37,431.03

10% LT Savings: \$14,972.41

Net total: \$67,375.88

SCDC believes its calculations are correct. However, it is our understanding that you disagree with the calculations or the time period and have rejected all offers submitted to you, including the final offer for the full net amount. Therefore, we consider your grievance resolved. If you dispute the time period in question or the calculations, you may file an appeal. An appeal form is included with this packet.

SOC Code	Period	Hours Worked	Overtime	Hourly rate	Federal Victim Wage	Avg Mean Wage	Difference
49-9071	05/01/2023 - 04/16/2024	1326.25		\$7.39	\$7.25	\$19.56	\$16,262.16
49-9071	OVERTIME		2.00	\$21.09	\$10.88	\$29.34	\$10.26
49-9071	05/01/2022 - 04/30/2023	1701.75		\$7.39	\$7.25	\$18.30	\$18,566.09
49-9071	OVERTIME		84.25	\$21.09	\$10.88	\$27.45	\$1,378.75
49-9071	04/15/2022 - 04/30/2022	157.75		\$7.39	\$7.25	\$16.78	\$1,481.27
49-9071	OVERTIME		0.00	\$11.09	\$10.88	\$25.17	\$0.00
51-9071	12/16/2021 - 04/01/2022	445.25		\$7.39	\$7.25	\$16.78	\$4,280.90
51-9071	OVERTIME		0.75	\$11.09	\$10.88	\$25.17	\$123.24
51-7042	05/01/2021 - 12/01/2021	1063.75		\$7.39	\$7.25	\$16.78	\$9,998.61
51-7042	OVERTIME		70.25	\$11.09	\$10.88	\$25.17	\$989.47
51-7042	05/01/2020 - 04/30/2021	1486.75		\$7.39	\$7.25	\$15.07	\$11,264.64
51-7042	OVERTIME		98.00	\$11.09	\$10.88	\$22.61	\$1,128.96
51-7042	03/16/2020 - 4/30/2020	376.75		\$7.39	\$7.25	\$14.39	\$2,637.25
51-7042	OVERTIME		15.75	\$11.09	\$10.88	\$21.59	\$168.38
51-7099	11/01/2019 - 02/28/2020	474.00		\$7.39	\$7.25	\$14.48	\$3,360.66
51-7099	OVERTIME		3.50	\$11.09	\$10.88	\$21.72	\$37.22
51-7099	11/01/2018 - 10/16/2019	1711.50		\$7.36	\$7.25	\$14.48	\$12,185.88
51-7099	OVERTIME		72.00	\$11.04	\$10.88	\$21.72	\$768.96
51-7099	11/01/2017 - 10/16/2018	1678.25		\$7.33	\$7.25	\$14.48	\$11,999.49
51-7099	OVERTIME		56.00	\$11.00	\$10.88	\$21.72	\$600.60
51-7099	11/01/2016 - 10/16/2017	1750.00		\$7.30	\$7.25	\$14.48	\$12,585.00
51-7099	OVERTIME		79.00	\$10.95	\$10.88	\$21.72	\$850.83
51-7099	07/01/2016 - 10/14/2016	513.25		\$7.25	\$7.25	\$14.48	\$3,710.80
51-7099	OVERTIME		3.75	\$10.88	\$10.88	\$21.72	\$40.67
51-7099	10/16/2014 - 12/01/2015	855.50		\$7.75	\$7.25	\$14.58	\$5,843.07
51-7099	OVERTIME		0.00	\$11.63	\$10.88	\$21.87	\$0.00
51-7099	05/01/2014 - 10/01/2014	433.75		\$7.25	\$7.25	\$14.58	\$3,179.39
51-7099	OVERTIME		0.30	\$10.88	\$10.88	\$21.87	\$0.00
51-7099	09/01/2009 - 04/30/2014	4351.75		\$7.25	\$7.25	\$13.31	\$26,371.61
51-7099	OVERTIME		2.75	\$10.88	\$10.88	\$19.97	\$25.00
	TOTAL	18316.25	495.00				\$149,724.15
	Amount Due						

DEDUCTIONS

20% Victim Restitution	\$29,944.83
25% R&B	\$37,431.03
10% LT Savings	\$14,972.41
Total Deductions	\$82,348.27
NET TOTAL	\$67,375.88

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South Carolina Occupational Average Mean Wages for SOC Codes 2024-2010

Occupation Title	SOC Code	Hourly Mean Wage														
		May 2024- April 2025	May 2023- April 2024	May 2022- April 2023	May 2021- April 2022	May 2020- April 2021	May 2019- April 2020	May 2018- April 2019	May 2017- April 2018	May 2016- April 2017	May 2015- April 2016	May 2014- April 2015	May 2013- April 2014	May 2012- April 2013	May 2011- April 2012	May 2010- April 2011
Sanitors and Cleaners, Except Maids	37-2011	not available	\$ 14.70	\$ 13.44	\$ 12.05	\$ 12.08	\$ 11.57	\$ 11.23	\$ 10.88	\$ 10.60	\$ 10.29	\$ 10.20	\$ 10.24	\$ 10.08	\$ 10.21	\$ 10.05
Office Clerks, General	43-9061	not available	\$ 17.66	\$ 16.32	\$ 15.46	\$ 14.63	\$ 13.70	\$ 13.37	\$ 13.10	\$ 13.38	\$ 13.21	\$ 13.03	\$ 12.58	\$ 12.72	\$ 12.60	\$ 12.36
Maintenance and Repair Workers, General	49-9071	not available	\$ 22.34	\$ 20.75	\$ 19.77	\$ 18.88	\$ 18.09	\$ 17.72	\$ 17.73	\$ 17.38	\$ 17.37	\$ 17.51	\$ 17.13	\$ 17.10	\$ 16.82	\$ 16.44
Knitting Machine Setters, Operators, and Tenders	51-7041	not available	\$ 18.79	\$ 17.09	\$ 16.28	\$ 15.51	\$ 15.24	\$ 14.06	\$ 13.83	\$ 13.32	\$ 13.34	\$ 12.96	\$ 12.79	\$ 13.79	\$ 13.25	\$ 12.47
Woodworking Machine Setters, Operators, and Tenders	51-7042	not available	\$ 19.56	\$ 18.30	\$ 16.78	\$ 15.07	\$ 14.39	\$ 14.12	\$ 13.79	\$ 13.66	\$ 13.36	\$ 15.11	\$ 14.49	\$ 13.94	\$ 12.25	\$ 12.28
Woodworkers, all other	51-7099	not available								\$ 14.48		\$ 14.58				\$ 13.31
Grinding and Polishing Workers, Hand	51-9022	not available	\$ 21.30	\$ 20.79	\$ 19.57	\$ 16.43	\$ 13.89	\$ 13.45	\$ 13.52	\$ 14.78	\$ 13.05	\$ 13.71	\$ 13.59	\$ 13.82	\$ 12.74	\$ 12.45
Inspectors, Testers, Sorters, Samplers, and Weighers	51-9061	not available	\$ 22.12	\$ 20.53	\$ 19.05	\$ 18.96	\$ 19.12	\$ 18.80	\$ 18.56	\$ 18.00	\$ 17.55	\$ 17.17	\$ 16.55	\$ 16.15	\$ 15.94	\$ 15.74
Industrial Truck and Tractor Operators	53-7051	not available	\$ 20.35	\$ 19.02	\$ 17.51	\$ 17.33	\$ 17.37	\$ 16.74	\$ 15.93	\$ 15.69	\$ 14.71	\$ 14.55	\$ 14.41	\$ 14.24	\$ 14.02	\$ 13.84
Production Workers, All Other	51-9199		\$ 17.19	\$ 16.70	\$ 18.43	\$ 16.76	\$ 13.84	\$ 13.83	\$ 15.70	\$ 18.64	\$ 17.56	\$ 15.00	\$ 13.59	\$ 13.13	\$ 12.45	

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**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
OFFICE OF GENERAL COUNSEL
INMATE CORRESPONDENCE**

FOR SETTLEMENT PURPOSES ONLY

TO: Thomas Thompson

SCDC #: 80681

INSTITUTION: Tyger River – 10A-0103

FROM: Office of General Counsel

DATE: September 5, 2024

RE: Settlement Offer for PI Pay Issues

Dear Mr. Thompson:

The Office of General Counsel would like to extend a final offer to you to settle all issues related to your inmate pay complaints. **Please be advised that we can only offer a monetary settlement – we do not have any influence over the parole board, and this Office is not involved with housing or placement decisions.** Enclosed is a Final Release and Settlement Agreement. Please review and, if you agree with it, sign the Final Release and Settlement Agreement on both pages and return the original. Once the Final Release and Settlement Agreement is fully executed, a copy will be sent to you for your records. SCDC will then request a check from the State Treasurer's Office. It will take up to thirty days for the check to be issued. Once we receive the check, we will send it to you for endorsement. Once endorsed, you will need to send the check back to be deposited into your account. Alternatively, you could have the check sent elsewhere for deposit if you so choose. **The deductions for victim restitution, room and board, and long-term savings have already been subtracted from the total amount we are offering and will NOT be taken out of these funds if you choose to have the funds deposited into your E.H. Cooper Account. The settlement amount listed in the Final Release and Settlement Agreement is the total amount you will receive, and no additional funds will be placed into long-term savings.** The only deductions not taken are any applicable taxes, for which you will be responsible.

If you have any questions, concerns, or comments, please send a request to the Legal workflow on the tablet or kiosk. Thank you for your attention to this matter.

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FINAL SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

I, Thomas Thompson, # 80681, hereby voluntarily enter into this Final Release of All Claims.

Thomas Thompson, # 80681, (hereinafter "Inmate") for and in consideration of the promise and agreement hereby made on behalf of the South Carolina Department of Corrections ("SCDC") to pay a total of \$60,000.00 to Inmate, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Inmate does hereby release, acquit, and forever discharge SCDC, its agents, successors and assigns, current and former employees, current and former elected officials, or attorneys and any and all other firms, persons, associations, corporations, or entities, whether herein named or referred to or not, from any and all claims, grievances, Administrative Law Court cases, appeals, demands, causes of actions, actions or suits of any kind or nature whatsoever, including, but not limited to, all claims, known or unknown, up to and including the date of this Release relating in any way to the monies of any kind paid to Inmate, including but not limited to claims that inmate was not paid the "prevailing wage" pursuant to S.C. Code Ann. § 24-3-430 (d). This Release specifically includes any claim relating to remittances of monies, back payment of wages, and any other damages of any kind whatsoever, whether in tort or contract or any other basis, on account of or arising out of or in any way relating to Inmate's participation in the Prison Industries Program, including any Prison Industries Enhancement Program ("PIE" or "PIECP") while incarcerated at the South Carolina Department of Corrections. This Release specifically includes any matters currently pending in any South Carolina or Federal court, including any appellate court. Inmate agrees that any pending court matter shall be ended and/or dismissed with prejudice and Inmate shall sign any necessary documents to effectuate dismissal.

Inmate hereby declares that the terms of this Final Release have been completely read, fully understood, and voluntarily accepted for the purpose of making a full and final compromise and settlement of any and all claims and or losses against SCDC and any and all firms, persons, or corporations liable or who might be claimed to be liable. Inmate understands that the express purpose of this Release is to forever preclude any further or additional claims by or on behalf of Inmate arising out of or in any way related to Inmate's participation in the Prison Industries Program, including any Prison Industries Enhancement Program ("PIE" or "PIECP"), and it is further understood and agreed that this Final Release may be plead as a bar to any claim of any kind whatsoever which may be asserted by Inmate or on his behalf in connection with the aforementioned participation in the Prison Industries Program.

This Final Release of All Claims shall be interpreted and governed in accordance with the laws of the State of South Carolina.

Inmate agrees that he has not assigned, transferred, or conveyed in any manner all or any part of his legal claims or legal rights against the other in connection with the matters described above related to claims related to Prison Industries or pay.

Inmate understands that SCDC is not withholding any amount or paying any amount on behalf of Inmate for taxes because this is a settlement agreement. Inmate specifically agrees that,

X 3

to the extent any tax liability (state, federal or otherwise) may now or hereafter become due because of the payment of any sums pursuant to this Agreement or claims against SCDC, such liabilities shall be his sole responsibility, and he shall pay any taxes, penalties or interest which may be due and payable. Moreover, if, for any reason, at any time, a claim is made against SCDC for taxes of any kind on the payments made hereunder, Inmate agrees within thirty (30) days of being notified of such claim(s) to indemnify SCDC, its officers, directors, and/or agents and to hold them harmless against such claims, including any penalties and/or interest.

In consideration of the above payment, the undersigned also agree(s) that this settlement is the compromise of a disputed claim and that the payment made in settlement thereof is not to be construed as an admission of liability on the part of SCDC and SCDC denies liability of any nature or kind to Inmate. **The above stated amount represents the total settlement which will be placed in Inmate's E.H. Cooper Inmate Account. The required statutory deductions have already been subtracted and no additional funds will be deducted from the above stated amount. The above stated amount is the total settlement and no additional funds will be placed into long-term savings.**

The undersigned further declares and represents that no promise, inducement, or agreement not herein expressed has been made to the undersigned and that this release contains the entire agreement between the parties hereto, and the terms of this release are contractual and not a mere recital.

I HAVE READ THE FOREGOING RELEASE.

Thomas Thompson, # 80681

Signature for SCDC (to be completed at Headquarters)

Date:

Date:



SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Safety, Service, and Stewardship

HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

September 9, 2024


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

RE: Thomas Thompson, # 80681, v. South Carolina Department of Corrections
Appellate Case No. 2024-000665
STATUS UPDATE

Dear Ms. Kitchings:

Pursuant to this Court's Order dated July 11, 2024, Respondent is hereby providing a status update in this matter. Respondent sent offers to Appellant over the summer that were rejected. Respondent sent an offer to Appellant last week that was rejected. Respondent sent outside counsel to meet with Appellant personally this morning to discuss another offer. Appellant rejected that offer. Respondent will continue to try to work toward settlement in this matter and will provide the Court with updates as they are available, but no later than every sixty (60) days.

Sincerely,


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

cc: Thomas Thompson, # 80681
Tyger River Correctional Institution
10A-0103
200 Prison Road
Enoree, South Carolina 29335

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

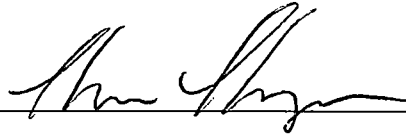
Thompson v SCDC
Appellate Case No. 2024-000665

RECEIVED
JAN 14 2025
SC Court of Appeals

Dear Ms. Kitchings,

Please find enclosed for filing in regard to the above case the following;

- 1- Appellants Response to Respondents Motion.
- 2- A copy of the revised step 2 grievance response and accompanying charts.
- 3- A copy of the settlement agreement offered by Warden Nance on September 5, 2024.
- 4- A copy of Respondents letter of September 9, 2024.



Thomas Thompson #80681
Tyger River CI 10-103
200 Prison Road
Enoree, South Carolina
29335

January 9, 2025

Thomas Thompson #80681
Tiger River Ct 10-103
200 Prison Road
Enoree, South Carolina
29335



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

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RECEIVED
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TYGER RIVER MAILROOM

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