

RECEIVED

Jan 30 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Robert L. Reibold

ALC Case No. 23-ALJ-04-0462-AP
Appellate Case No. 2024-001418

ALONZO HAWES, # 344461,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

INITIAL BRIEF OF RESPONDENT

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

Christina Catoe Bigelow
Deputy General Counsel
Office of General Counsel
South Carolina Dept. of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-8508

ATTORNEY FOR RESPONDENT

TABLE OF CONTENTS

TABLE OF AUTHORITIESii

STATEMENT OF THE ISSUE ON APPEAL1

STATEMENT OF THE CASE 2

STANDARD OF REVIEW3

ARGUMENT4

CONCLUSION.....6

TABLE OF AUTHORITIES

CASES

Hendley v. Budget & Control Bd., 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996) ..3

Mathis v. South Carolina Highway Dep't, 260 S.C. 344, 195 S.E.2d 713 (1973) ...5

Sloan v. Friends of Hunley, Inc., 369 S.C. 20, 630 S.E.2d 474 (2006)5

STATUTES AND RULES

S.C. Code § 1-23-610.....3

STATEMENT OF ISSUE ON APPEAL

SINCE AN INTERVENING OCCURRENCE HAS RENDERED THE APPEAL MOOT SUCH THAT NO JUSTICIABLE CONTROVERSY REMAINS, THE APPEAL SHOULD BE DISMISSED.

STATEMENT OF THE CASE

This matter comes before this Court pursuant to the appeal of Alonzo Hawes (Appellant), an inmate confined in the South Carolina Department of Corrections (SCDC). In 2023, Appellant submitted grievances concerning his rate of pay for his work in Prison Industries. These grievances were denied, and Appellant appealed to the Administrative Law Court in November 2023. On August 20, 2024, Administrative Law Judge Robert L. Reibold issued an order dismissing the appeal due to Appellant's failure to exhaust administrative remedies. This appeal followed.

After unsuccessfully attempting to settle this matter outside of the court system with Appellant, Respondent issued a Final Agency Decision regarding the issue of Appellant's inmate pay and Appellant was served with the Final Agency Decision on November 22, 2024. Thereafter, Respondent submitted a Motion to Dismiss Appeal as Moot. This Motion was denied on December 31, 2024, without prejudice to Respondent arguing mootness in its Brief. This Brief follows.

STANDARD OF REVIEW

S.C. Code Ann. § 1-23-610(B) provides the general standard of review for appeals from the Administrative Law Court:

The review of the administrative law judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. S.C. Code Ann. § 1-23-610(B). "Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that administrative agency reached. Hendley v. S.C. State Budget & Control Bd., 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). A reviewing court shall not substitute its own judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole. Id.

ARGUMENT

SINCE AN INTERVENING OCCURRENCE HAS RENDERED THE APPEAL MOOT SUCH THAT NO JUSTICIABLE CONTROVERSY REMAINS, THE APPEAL SHOULD BE DISMISSED.

In this case, Appellant appeals from an order from 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. (See ALC Order). In Appellant's Initial Brief, which was filed and served in October 2024, he argued that the ALC erred in dismissing his appeal and asks that the ALC decision be reversed and that his appeal be "reinstated." (See Brief of Appellant, p. 12).

After Appellant submitted his Initial Brief, Respondent unsuccessfully sought to settle this matter with Appellant. (See Motion to Dismiss Appeal as Moot filed 11/22/2024). Thereafter, in order to provide Appellant with a mechanism to appeal his wage calculations, Respondent issued a Final Agency Decision setting forth its calculations and providing an ALC appeal form. Appellant was served with the Final Agency Decision on November 22, 2024. (See Motion to Dismiss Appeal as Moot and Attachments).

The issuance and service of an appealable Final Agency Decision regarding Appellant's wage calculations in this matter has rendered the appeal moot because no justiciable controversy remains as to arguments made in Appellant's Brief, which was filed prior to the issuance and service of the Final Agency Decision. A justiciable controversy exists "when there is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute that is contingent, hypothetical, or abstract." Sloan v. Friends of Hunley, Inc., 369 S.C. 20, 25, 630 S.E.2d 474, 477 (2006) (citation omitted). "A moot case exists where a judgment rendered by the court will have no practical legal effect upon an existing controversy because an intervening event renders any

grant of effectual relief impossible for the reviewing court.” Mathis v. South Carolina State Highway Dep’t, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973). “If there is no actual controversy, this Court will not decide moot or academic questions.” Id.

Significantly, Judge Reibold dismissed Appellant’s appeal below for failure to exhaust his administrative remedies. (See ALC Order, p. 12). He did not make any ruling on the merits and therefore did not address the issue of wage calculations. Wage calculations had not been performed at that time and therefore wage calculations were not before the ALC in any fashion. Therefore, the substantive issue of Appellant’s wage calculations cannot be addressed by this Court in this appeal since it was not addressed by the lower court. See SCACR, Rule 210 (c) and (h).

Again, the issuance and service of an appealable Final Agency Decision regarding Appellant’s wage calculations in this matter has rendered the appeal moot because no justiciable controversy remains as to the rulings made by the Administrative Law Judge or the arguments made in Appellant’s Brief. Accordingly, Respondent respectfully requests that this Court dismiss the matter as moot.

CONCLUSION

For the foregoing reasons, this Court should dismiss the appeal as moot.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY: 

CHRISTINA CATOE BIGELOW

Deputy General Counsel

Office of General Counsel

S. C. Department of Corrections

Post Office Box 21787

Columbia, South Carolina 29221

(803) 896-8508

January 30, 2025