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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-04-0526-AP
Appellate Case No. 2024-001076

BOBBY GIBSON, JR., # 171440,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

INITIAL BRIEF OF RESPONDENT

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

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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 Bobby Gibson, Jr., (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 June 13, 2024, Administrative Law Judge Ralph King Anderson, III, issued an order dismissing the majority of the claims made in the appeal due to Appellant's failure to exhaust administrative remedies.¹ 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 December 4, 2024. Thereafter, Respondent submitted a Motion to Dismiss Appeal as Moot. This Motion was denied on January 14, 2025, without prejudice to Respondent arguing mootness in its Brief. This Brief follows.

¹ The ALC granted relief to Appellant as to the two pay periods prior to prior to June 28, 2023, since the ALC concluded that Appellant timely requested backpay for those two periods. (See Order dated June 13,

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.

Appellant filed an appeal challenging an order of the Administrative Law Court (ALC) which dismissed the majority of his claims to be paid the prevailing wage for his work in Prison Industries.² The ALC dismissed those claims on the ground that Appellant failed to exhaust his administrative remedies. (See ALC Order). Appellant submitted his Initial Brief in this matter in July 2024. In that brief, he argued that the ALC erred in dismissing his appeal on exhaustion grounds and asserted that the Department should be required to pay Appellant all back pay. (See Initial Brief of Appellant).

Thereafter, Respondent sent two settlement offers to Appellant regarding his inmate pay, but Appellant rejected both offers. (See Motion to Dismiss filed December 12, 2024 and attachments). Consequently, on December 4, 2024, Appellant was served with the Department's Final Agency Decision setting forth its wage calculations (to include a spreadsheet showing how the calculations were performed) and providing him with the opportunity to appeal the time period and/or calculations (See Motion to Dismiss filed December 12, 2024 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

² Again, the ALC granted relief to Appellant as to the two pay periods prior to prior to June 28, 2023, since the ALC concluded that Appellant timely requested backpay for those two periods. (See Order dated June 13,

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 Anderson dismissed Appellant’s appeal (with the exception of the two pay periods mentioned previously) below for failure to exhaust his administrative remedies. (See ALC Order dated June 13, 2024). He did not make any ruling on the merits of Appellant’s claims for all time periods worked and therefore did not address the issue of all wage calculations. Indeed, wage calculations had not been performed when Judge Anderson issued his order, and therefore the substantive issue of Appellant’s wage calculations was 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**

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