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**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Robert L. Reibold

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

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THOMAS THOMPSON, # 80681

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

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**INITIAL BRIEF OF RESPONDENT**

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**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 Thomas Thompson (Appellant), an inmate confined in 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. On March 12, 2024, Administrative Law Judge Robert L. Reibold issued an order dismissing the appeal due to Appellant's failure to exhaust his administrative remedies. This appeal followed, and Appellant submitted his Initial Brief in May of 2024.

In June 2024, Respondent submitted a motion to hold the appeal in abeyance pending settlement negotiations. After settlement negotiations were unsuccessful, Respondent filed a motion to remand the case back to the ALC with instructions to remand the matter back to the Department for issuance of a supplemental Step 2 response. On October 28, 2024, this Court granted the motion to remand. On December 13, 2024, the ALC issued an Order remanding the matter. On December 19, 2024, Appellant was served with the supplemental Step Two Grievance response. The Step Two response explained that the Department had performed wage calculations for Appellant's work in Prison Industries at the prevailing wage rate and provided that that if Appellant wished to dispute the Department's calculations or the time period of the calculations, he could file a new Notice of Appeal with the ALC. On September 30, 2024, Respondent submitted a motion to dismiss the appeal, arguing that the instant appeal was moot since an appealable agency decision had been issued to Appellant regarding his wage calculations. On January 21, 2025, this Court denied the motion without prejudice to arguing the issue of mootness in the briefs. On February 20, 2025, Respondent submitted a second motion to dismiss the appeal on the ground that the appeal was conclusively moot because Appellant filed a new Notice of Appeal in the ALC from the supplemental Step 2 decision and the case was proceeding in the ALC. This Brief accompanies the motion to dismiss as ordered by the Court on January 21, 2025.

## 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 Judge Robert L. Reibold which dismissed his request to be paid the prevailing wage on failure to exhaust grounds without addressing the merits of the claim. On October 28, 2024, this Court issued an Order remanding the matter to the ALC with instructions to further remand the matter to the Department of Corrections for issuance of a supplemental Step Two Grievance response. On December 13, 2024, the ALC issued an Order remanding the matter back to the Department. On December 19, 2024, Appellant was served with the supplemental Step Two Grievance response (see attached redacted grievance response packet). The Step Two response explained that the Department had performed wage calculations for Appellant's work in Prison Industries at the prevailing wage rate and noted that Appellant had rejected all settlement offers. The Step Two response also provided that that if Appellant wished to dispute the Department's calculations or the time period of the calculations, he could file a new Notice of Appeal with the ALC. On January 6, 2025, Appellant filed a Notice of Appeal in the ALC challenging his wage calculations, and the matter is currently assigned to Judge Ralph King Anderson, III and is pending under case number 2025-ALJ-04-0038-AP (see Respondent's Motion to Dismiss dated February 20, 2025 and attached Notice of Appeal and email from the ALC). If Appellant is unsatisfied with the outcome of his case in that matter, he can file an appeal to the Court of Appeals.

The issue of wage calculations cannot be addressed in this appeal because wage calculations were not before the Administrative Law Court. Judge Reibold dismissed Appellant's appeal below for failure to exhaust his administrative remedies. (See ALC Order dated March 12, 2024). 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).

The issuance and service of an appealable Final Agency Decision regarding Appellant's wage calculations, and Appellant's subsequent appeal to the ALC, has rendered this 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 and prior to Appellant's appeal to the ALC submitted January 6, 2025. 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.

The order of Judge Robert L. Reibold dismissing Appellant's ALC case for failure to exhaust is now moot since the substantive issue of Appellant's wage calculations is being litigated in the Administrative Law Court before Judge Ralph King Anderson, III, under case number 2025-ALJ-04-0038-AP. Accordingly, Respondent respectfully requests that this appeal be dismissed as moot.

**CONCLUSION**

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

Respectfully submitted,

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OF CORRECTIONS**

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February 26, 2025