

STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Administrative Law Judge Crystal M. Rookard
ALC Case No. 23-ALJ-04-0553-AP
Appellate Case No. 2024-002004

Bernard Jackson, #210745.....APPELLANT

v,

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS.....RESPONDENT

FINAL BRIEF OF APPELLANT

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- S.C Dept of Corrs v. Mitchell, 377 S.C. 256, 258, 659 S.E.2d 233, 234 (ct.App. 2008)
- Torrence v. SCDC, 373 S.C. 586, 646 S.E.2d 866 (2007)
- Gatewood v. SC Dept. of Corr, 416 S.C. 304, 317 785 S.E.2d 600, 607 (ct.App.2016)
- Torrence v. SCDC, 433 S.C. 633, 861 S.E. 2d 36 June 30, 2021, rehearing denied Aug 4, 2022
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- Sander's Autoworld, Inc v. George Coleman Motor Co., 315 S.C. 183, 186, 434 S.E.2d. 310, 312, (Ct.App.1993)
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- Wicker v. SCDC, 360 S.C. 421, 602 S.E.2d. 56 (2005)

STATUTES:

§1-23-610 ALCR

§24-3-430 S.C. Code Ann.

§24-3-40 S.C. Code Ann

24-3-315 S.C. Code Ann.

29 U.S.C.A §16 §216 Fed Reg.

18 U.S.C.A. §1961 §1968 Fed. Law

Other Sources:

SCDC Kiosk Ref. No 24-03665573

No. 24-03679675

No. 24-03686829

ARGUMENT

The Administrative Law court did exercise an unwarranted abuse of discretion by dismissing the appeal after being notified that the parties were in continuing negotiations due to a condition precedent concerning stipulations surrounding statutory mandates of S.C. Code Ann. § 24-3-40?

In an appeal from an ALC decision, the Administrative procedures Act (APA) provides the appropriate standard of review. Kiawah Dev. Partners, ll v. S.C. Dept of Health & Env't Control, 441 S.C. 16, 28 766 S.E.2d 707, 715 (2014); S.C. Dep't of Corr. v Mitchell, 377 S.C. 256, 258, 659 S.E.2d 233, 234 (Ct. App. 2008) ("Section 1-23-610 of South Carolina Code [Supp2021] sets forth the standard of review when the Court of Appeals is sitting in review of a decision by the ALC on an appeal from an Administrative agency"); §1-23-610 (B) ("An appellate court may not substitute its judgment for the judgment of the [ALC] as to the weight of the evidence on questions of facts"); id. (stating, however, when reviewing an ALC decision, an appellate court "may reverse or modify the decision if the substantial rights of the petitioner have been prejudiced because the findings, conclusions or decision falls within one or any of the violations outlined in (a) through (f) of the statute.

This Court has also recognized that if [inmates prove true their allegations that [SCDC] removes any of the money remitted by the private industry sponsor and then disburses the percentages listed in section 24-3-40 of the South Carolina Code (Supp.2021), [SCDC] would be in violation of the plain language of the statute which directs it to disburse the money based on the gross wages, see Torrence and Ward v. SCDC, 373 S.C. 586, 646 S.E.2d. 866 (2007) (S.C. Supreme Court); Also see Gatewood v. S.C. Dep't of Corrs., 416 S.C. 304, 317, 18, 785 S.E.2d. 600, 607 (Ct.App. 2016).

The Legislature specifically authorized inmate labor via S.C. Code Ann. § 24-3-430. This statute provides that "[N]o inmate participating in the program may earn less than the prevailing wage for work of similar nature in the private sector. 24-3-430(D) (2007); see also § 24-3-315 (for a prison industry project, the D.O.C. must determine "that the rates of pay and other conditions of employment are not less than those paid and provided for work of similar nature in the locality in which the work is performed.") Moreover, section 24-3-430(H) expressly directs that "[t]he earnings of an inmate authorized to work at paid employment pursuant to this section must be paid directly to the DOC and applied as provided under section 24-3-40.

The Record on Appeal demonstrates that Appellant tentatively entered into a settlement with SCDC on September 9, 2024 for gross wages earned while participating in a Prison Industry Program at Perry Correctional Institution and now Tyger River Correctional Institution. See ROA Pg. 31-35. The settlement offer by SCDC came after Appellant submitted a Step 1 grievance pursuant to this Court's holding in Torrence v. SCDC, 433 S.C. 633, 861 S.E.2d. 36. June 30, 2021. Rehearing denied August 4, 2022. ROA Pg. 92 to end. Appellant was assured by Attorney A. Todd Darwin representing SCDC that he would receive stated amount of \$17,137.23 dollars as a result of all deductions tallied by SCDC for the gross amount of \$38,000 dollars. Appellant asked about the Long-term savings portions that was deducted as well per statute § 24-3-40. Attorney A. Todd Darwin assured Appellant that he would get all the money owed to him. Appellant then signed the stipulation of dismissal and statement of settlement. See ROA Pg. 31-35.

On September 25, 2024, Appellant received the amount of \$17,137.23 dollars, but was referred to the contract when request was submitted concerning deposits to appellant's Long Term Savings Account. SCDC Kiosk Ref. No. 24-03665573, response dated

Oct. 8, 2024.¹ Appellant submitted another request explaining the mandatory statutory deductions that was subtracted and his entitlement to ten (10) percent thus making the settlement agreement void, or voidable and unenforceable because attorney A. Todd Darwin mistakenly misrepresented a statutory mandate through undue influence, or fraud which caused appellant's true reality of consent to be lacking. Ref. Kiosk #24-03677675 dated October 9, 2024.² Appellant submitted a motion objecting to the stipulation of dismissal on October 10, 2024 to the Administrative Law Court before an Order became final in the ALC. See ROA Pg.36-39.

On October 14, 2024, SCDC responded to Appellant's request dated Oct. 9th stating that the negotiated settlement and all claims are final and they owe appellant no monies. In Appellant's returned and reply explaining that if the arbitrary interpretation of §24-3-40 is correct then there would be no need for due-process, Courts of law and fair dealings. Kiosk Ref. #24-03686829, dated October 16, 2024.³ Subsequently on the same day, SCDC agreed to update and calculate my original settlement. Kiosk Ref. #24-03686829.

Appellant submitted a Motion to Stay Proceeding due condition precedent and the renegotiations with SCDC. ROA Pg. 42-45. However, the ALC had already dismissed Appellant's case without reviewing his objections to the stipulations. ROA Pg. 40-41. Appellant appealed. ROA Pg. 46-51.

In his Initial Brief, Appellant raised the question of whether the ALC decision constituted an unwarranted abuse of discretion by dismissing the appeal after being notified timely that the parties were in continuing negotiations due to a

1.2.3. Appellant could not obtain printout of RTSM submitted to SCDC officials. It is electronically filed Appellant's tablet usage.

condition precedent concerning stipulations surrounding statutory mandates of § 24-3-40. Appellant articulated the facts and circumstances aforementioned in his brief and asked the court to either reverse the ALC decision or modify it by Order to allow SCDC to correct stipulations by means of depositing approximately \$3,800 into his escrow account within 10 days of the Order or allow for full briefing and oral argument on the merits of these claims. ROA Pg. 52-66.

In the Respondent's initial Brief, attorney Christina C. Bigelow identified and invoked the correct governing legal standard for this appeal but claims the ALC properly dismissed the case because of a signed settlement agreement and stipulation of dismissal agreeing to dismiss the case. Ms. Bigelow further advocated that the ALC is not the court or appropriate forum for litigating a contract dispute, and the amount paid as settlement funds are not subject to the statutory deductions outlined in S.C. Code §24-3-40. ROA. Pg. 67-77.

In reply, appellant cited and relied on the Fair Labor Standards Act 29 U.S.C.A. § 216 and the 4th Cir. Court of Appeals holdings in Guess v. Montague in 1943 to support his position that in cases where minimum wage and overtime compensation required by statute have ^{not} been paid, it is void and appellant may recover not only the balance of the wages due to him after deduction of the amount paid on the settlement, but also the original amount of liquidated damages to which he is entitled. ROA Pg. 78-88.

Appellant also reasserts his position that the ALC is the appropriate forum for litigating his claims because his case was not a lawsuit to recover damages as the Respondents would lead this Court to believe, but rather, this is a matter where the procedure by which the ALC fashioned its ruling was imbued with evidentiary error because the ALC erroneously found the Final Release of all claims and Settlement statement and Stipulation of dismissal to be the only evidence after being notified by timely motion that a condition precedent has arose and that the parties were in renegotiations met the burden mandated by our Supreme

Cout's holding in Torrence v. S.C.D.C., 373 S.C. 586, 594 n.4. (2007).

Moreover, the issue is not per say a contract dispute at all. The issue concerns statutory mandates pursuant to § 24-3-40, how deductions are made from the total gross wages through selected means by SCDC and their refusal to pay it and/or comply with all of the provisions of a statutory mandate. Mittag v. SCDC, 2022 WL 6881830, October 12, 2022, citing Mitchell, Torrence, and Gatewood, respectively. It is Appellant who must show both error and prejudice in order for an appellate court to reverse a court's ruling. Synder's Auto World Inc. v. George Coleman Motor Co., 315 S.C. 183, 186, 434 S.E.2d. 310, 312 (Ct.App. 1993).

As the facts demonstrate, SCDC has by and through its conduct conceded that pursuant to Torrence v. SCDC, 2021, §24-3-430 is the controlling authority in prevailing wage claims by inmates who participate or have participated in Prison Industries private sector program and that previous calculations by SCDC was in error. See Atkins v. SCDC, 360 S.C. 413, 602 S.E.2d. 51 (2004), Wicker v. SCDC, 360 S.C. 421, 602 S.E.2d. 56 (2004), and that as a remedy to these statutory authorities, SCDC devised a plan to compensate any and all inmates who filed a prevailing wage claim by means of a settlement agreement in one lump sum with stipulations that would all but circumvent mandatory obligations by statute as a negotiation within the terms of an agreement. This was a further waste of the judicial economy and efficiency after being ordered to pay because SCDC used selective interpretations of other statutes that are to be read and applied harmoniously with § 24-3-430 to include 24-3-40 and 24-3-315 respectively. SCDC would tell this court that it isn't the appropriate forum for this claim and to ask this court to dismiss this appeal based upon an otherwise potentially void or voidable settlement agreement that is rooted in deceit, misrepresentations, undue influence and an unwarranted exercise of discretion and/or abuse is to ask this court to overlook clear error of law and compromise the integrity of court system and its

jurisprudence on how enacted legislation is interpreted and applied to all citizens and non-citizens alike who falls under the protections of this state's Constitutional and Statutory provisions.

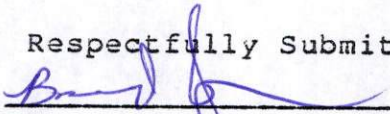
Let the evidentiary facts show how several people, although [inmates], have been taken advantage of by this state agency [SCDC] to racketeer, (18 U.S.C.A. §§ 1961-1968 under the Racketeer Influenced and Corrupt Organizations Act), obstruct the process by withholding documents that will show wage mediums that was paid as opposed to what should have been paid by perverting the course of justice by the intimidating position of a government agency over convicted felons as means to tie up Legal proceedings even in the Administrative Law court (ROA Pg. 2-18) in hopes of lessening its obligations to do their duty in paying [inmates] what they rightfully earned by statutory mandates.

Appellant avers the Administrative Law Court has already circum to the weight and power of SCDC as every ruling in this matter favored SCDC no matter Appellant's position or what the law required throughout the Administrative process. (ROA Pg.8-30). If this Court affirms the ALC's decision, it would reinforce the arbitrary, and unreasonable methods that prejudices prisoner's state protected liberty to be free from unfair labor practices, unlawful wage disparities and modern day forms of slavery shielded by indentured servitude as a convicted felon.

It is appellant's hope that this reviewing court will not revert to stare decisis concerning what is apparently a miscarriage of the administration of justice because of the capacity in which the appellant brings this claim. Appellant believes that the proper operation of the judicial machinery will shine through to protect its own integrity that has stood longer than any correctional Institutions whose sole responsibility is to administer fairly what the law has intended it to carry out.

CONCLUSION

Finally, Appellant prays that this Court consider all the merits that surround this appeal, its competing interest and corresponding effect it will have on the people immediately affected thereby to loss of property and Liberty as well as the confidence to stand in alligence with this state's laws and orders of justice. Appellant also prays this court Orders each request ~~asked~~ asked of in his Initial and Reply Brief, and any other remedy this court deems appropriate.

Respectfully Submitted,
/s/ 
Bernard Jackson, #210745
Pro-se Litigant

February 26, 2025