

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

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

RECEIVED
MAR 10 2025
SC Court of Appeals

THOMAS THOMPSON, 80681)	APPELLANT'S RESPONSE
APPELLANT,)	TO
v.)	RESPONDENT'S MOTION
)	AND BRIEF
S.C. DEPARTMENT OF CORRECTIONS,)	
RESPONDENT.)	
_____)	

Appellant submits this response to Respondent's motion for dismissal of February 20, 2025. Respondent argues that the issue of wages was not before this court and that Appellant's appeal of the new step-2 final decision is under review in the Administrative Law Court (ALC) thus rendering this appeal moot. Appellant argues that the issue of wages is before this court and that Appellant was forced to file the ALC appeal.

THE ALC APPEAL

On a motion filed by Respondent this court remanded this case back to the ALC with instructions to remand it back to the Respondent (DOC) in order that a new step-2 final decision could be issued. The first step-2 final decision of the DOC essentially stated that no back wages were owed. The second step-2 final decision contained charts and figures used to calculate back wages owed which, albeit containing an error, was a complete reversal of the DOC position. Respondent subsequently filed a motion for dismissal which was denied by this court in its Order of January 21, 2025. On January 6, 2025 Appellant filed a Notice of Appeal in the ALC in which the Grievance No.TYRCI-0231-23, ALC No.23-ALJ-04-0835-AP and Appellate Case No. 2024-000665 were clearly marked. The ALC returned this notice with the original ALC number and the Appellate case number whited out and a new ALC number, 25-ALJ-04-0011-AP inserted. The attached memorandum stated that Appellant had not sent the notice

with an original signature. Appellant sent the original notice complete with the original numbers to the ALC. A copy of the original form, the returned altered copy and the ALC memorandum are enclosed with this response. On February 13, 2025 the ALC filed this case under the No. 25-ALJ-04-0038-AP and assigned it to Judge Anderson.

Since Appellant received the revised step-2 decision on 12/19/24 and had no way of knowing what decision this court would make on Respondent's first motion to dismiss he was forced to appeal the decision again through the ALC or risk being without a "horse to ride" if this court had granted Respondent's motion. The order denying Respondent's motion was issued on 1/21/25, two days past the 30 day deadline for filing the ALC appeal.

THE ISSUE OF WAGES

On June 24, 2024 Respondent submitted a motion to have this case placed in abeyance so that a good faith settlement could be negotiated in regard to these wages. Appellant made no objection and the motion was granted on July 11, 2024. On September 9, 2024 Respondent sent a status report on its attempts to settle the issue of wages. Appellant filed a Motion to Proceed at that time and Respondent filed a Motion to Remand which the court granted. Respondent issued the revised step-2 final decision and filed a motion to dismiss this case which the court after response and reply denied on 1/21/25.

Judge Reibold dismissed this case based on Respondents statements in the grievances. Initially the issue before this court was procedural. However Respondent has now twice filed and been granted motions based on wages. There was no need to stop the process of this case to negotiate a "settlement of wages" if the court was only considering a procedure issue. Then the case was remanded back through the ALC to the DOC in order to "recalculate wages". This in itself is a misnomer as there had been no previous calculation of wages to Appellant's knowledge. Clearly Respondent has no objection to this court ruling on the issue of wages when it serves their purpose.

COSTS


Appellant argues that he should be entitled to reimbursement of costs associated with this case in the S.C. Court of Appeals. Respondent has yet to respond regarding the dismissal on procedural issues and so is at default. Appellant is enclosing printouts of two of the three KIOSK requests he submitted in exhausting his DOC remedies. The DOC filed these as part of

the record in ALC case #23-ALJ-04-0798-AP for grievance #TYRCI-23-0270-23. Appellant argues that he is due reimbursement of costs without regard to this court's ruling on the issue of mootness. Appellant has presented clear evidence that he exhausted his DOC remedies and Respondent has clearly acknowledged that back wages are due him.

CONCLUSION

Appellant seeks payment of back wages due him under the prevailing wage statute. The Respondent has submitted a step two response containing charts necessary for the calculation of these wages. Appellant is willing to accept these figures provided the error in wage calculation between 12/2/21 and 5/16/24 is corrected. Appellant is willing to accept full payment of these back wages (money deducted for long-term savings must be deposited in Appellant's LT account) without being compensated for lost earnings/interest on this money. Continued delay by Respondent only adds to his lost earnings. The issue of payment of these wages was brought before the court by Respondent in its motions. Appellant concludes that the only moot issues are whether he exhausted his DOC remedies and whether the DOC owes him back wages. What remains is for the DOC to pay these back wages or be ordered by the court to do so promptly.

Respectfully submitted,



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

29335

March 6, 2025

STATE OF SOUTH CAROLINA ADMINISTRATIVE LAW COURT



Memorandum

To: Appellant/Appellant's Attorney
From: Clerk's Office, Administrative Law Court
Date: January 15, 2025
Re: Compliance with ALC Rules

The Administrative Law Court (ALC) received a letter from you on January 13, 2025. According to SCALC Rule 59:

Any notice of appeal which is incomplete or not in compliance with this rule or Rule 71 will not be assigned to an administrative law judge until all required information is received and any applicable filing fee is processed.

Accordingly, your case will not be assigned until the following information is received:

_____ You must use the Notice of Appeal form required pursuant to SCALC Rule 57 and 59. A copy of the form is attached for your convenience.

_____ A copy of the final decision which is the subject of the appeal (i.e., Step 2 Grievance Form from the DOC or the final decision from PPS) pursuant to SCALC Rule 59(C).

_____ The Notice of Appeal form you submitted must be signed and dated.

_____ Filing Fee of \$25 in accordance with SCALC Rule 71 for your 4th and subsequent appeal this calendar year.

_____ Your documents are being returned to you. The ALC does not handle Post Conviction Relief (PCR) matters.

✓
_____ Other: Your documents are being returned to you. You must return the Notice of Appeal form with an original signature.

_____ Please return the appropriate information within 10 days of the date of this Memorandum or your case will be returned to you unprocessed.

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

B

Thomas Thompson 80681,)
Appellant,)
vs.)
South Carolina Department of Corrections.)
Respondent.)

DOCKET NO. 23-ALJ-04-0835-AP

GRIEVANCE NO: Tyrci-0231-23

Appellate Case No. 2024-000665

NOTICE OF APPEAL

Notice is hereby given that Thomas Thompson 80681 appeals the final decision of the South Carolina Department of Corrections dated 12-19-24 and received on 12-19-24, a copy of which is attached. In accordance with Rule 59(B) of the Rules of Procedure for the South Carolina Administrative Law Court (SCALC Rules) please provide a brief factual basis for each expressly and specifically asserted constitutional violation:

My SOC code changed from 51-7042 to 49-9071 on 12-16-21 but the SCDC continued to pay wages under the 51-7042 code. This is an error of \$10,040.00. The SCDC is not depositing the long term savings into inmate accounts but is showing it as a deduction from the gross total. I have incurred \$300.00 in costs in the SC Court of Appeals.

Thomas Thompson 80681
Appellant's Name Tyrci 10-103
200 Prison Road
Mailing Address
ENOKEE, S.C. 29335
City, State, Zip Code

[Signature]
Signed
1-6-25
Dated

CERTIFICATE OF SERVICE

I hereby certify that I, Thomas Thompson (your name), on the 6 day of January, 2025, in Spartanburg (city), South Carolina, served a copy of the foregoing Notice of Appeal on all parties to this matter by depositing the same in the United States Mail, postage paid, and addressed as follows:

Name of person/Agency served: General Counsel, SCDC
Address: 4444 Beard River Road, Post Office Box 20787
City, State, Zip Code: Columbia, S.C. 29221

Thomas Thompson
Print your name
(See reverse side for instructions)

[Signature]
Sign your name

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Thomas Thompson 80681,)

Appellant,)

vs.)

South Carolina Department of Corrections.)

Respondent.)

DOCKET NO. 25-ALJ-04-0011-AP

)80681

GRIEVANCE NO: TYRC1 0231-23

NOTICE OF APPEAL

Notice is hereby given that Thomas Thompson 80681 appeals the final decision of the South Carolina Department of Corrections dated 12-19-24 and received on 12-19-24, a copy of which is attached. In accordance with Rule 59(B) of the Rules of Procedure for the South Carolina Administrative Law Court (SCALC Rules) please provide a brief factual basis for each expressly and specifically asserted constitutional violation:

My SOC code changed from 51-7042 to 49-9071 on 12-16-21 but the SCDC continued to pay wages under the 51-7042 code. This is an error of \$110,040.00. The SCDC is not depositing the long term savings into inmate accounts but is shaving it as a deduction from the gross total. I have incurred \$300.00 in costs in the SC. Court of Appeals.

Thomas Thompson 80681

Appellant's Name Tyrc1 10-103

200 Prison Road

Mailing Address

ENOLEE, S.C. 29335

City, State, Zip Code

[Signature]

Signed

1-6-25

Dated

CERTIFICATE OF SERVICE

I hereby certify that I, Thomas Thompson (your name), on the 6 day of January, 2025, in Spriateburg (city), South Carolina, served a copy of the foregoing Notice of Appeal on all parties to this matter by depositing the same in the United States Mail, postage paid, and addressed as follows:

Name of person/Agency served: General Counsel, SCDC

Address: 4444 Broad River Road, Post Office Box 21787

City, State, Zip Code: Columbia, S.C. 29221

Thomas Thompson

Print your name

(See reverse side for instructions)

[Signature]

Sign your name

Inmate Request - General

Today's Date: 5/24/2024 16:27


Name: THOMPSON, THOMAS NEIL
Booking #: 080681
Permanent #: 080681

Reference #: 23-03074299
Date Requested: 04/11/23 06:00
Request Type: Inmate Financial
Requested By: Kiosk

Request Details: I wish to dspute the wages I received on my last PIE paycheck. The Administrative Law Court has ruled, and been affirmed by the SC Court of Appeals, that the percentages distributed according to SC statute 24-3-40 should be based on the gross hourly wage which the industry (Shaw) pays the SCDC and not the lesser wage based on the minimum wage as has been the case. Thank you for your asstance.

Disposition: Complete
Officer:
Disposition Date: 04/19/23 08:36

Request Responses

Date	Author	Note
04/19/23 08:36		According to HQ, all inmates have been paid the proper wages according to SC State Law.

Inmate Request - General

Today's Date: 5/24/2024 16:28



Name: THOMPSON, THOMAS NEIL
Booking #: 080681
Permanent #: 080681

Reference #: 23-03095406
Date Requested: 04/28/23 23:14
Request Type: Inmate Financial
Requested By: Kiosk

Request Details: I am disputing the wages I received on 4-17-23 from PI as being incorrect. The SCDC dispensed these wages according to SC statute 24-3-40 based on a gross hourly wage of \$7.39. The Administrative Law Court has ruled that the correct gross hourly wage is the amount the industry (Shaw) pays the SCDC. I wish to be considered as being in dispute of all future wages which do not comply with the ruling of the ALC. Thank you.

Disposition: Complete
Officer:
Disposition Date: 05/05/23 07:52

Request Responses

Date	Author	Note
05/02/23 07:52		Sending to HQ
05/05/23 15:21		You must speak with your plant manager to dispute any hours they have entered as you working.

SOUTH CAROLINA COURT OF APPEALS
Jenny Abbott Kitchings, Clerk
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED
MAR 10 2025
SC Court of Appeals

RE: Thompson #80681 v. SCDC
Appellate Case No. 2024-000665

Dear Ms. Kitchings,

Please find enclosed for filing **Appellant's Response to Respondent's Motion and Brief**. A Certificate of Service is enclosed. Also enclosed are the documents which Appellant requests be added to the Record on Appeal.

- A- The ALC Memorandum
- B- The original Notice of Appeal to the ALC
- C- The returned whited-out Notice of Appeal in the ALC
- D- KIOSK request 23-03074299
- E- KIOSK request 23-03095406

Thank you for your assistance.

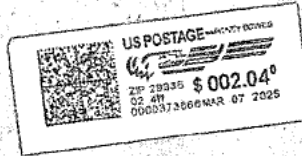
Sincerely,



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

March 6, 2025

Thomas Thompson #80681
Tyger River Ct 10-103
200 Prison Road
Enoree, S.C. 29335



RECEIVED
MAR 10 2025
SC Court of Appeals

RECEIVED
MAR 07 2025
TYGER RIVER MAILROOM

South Carolina Court of Appeals
Jenny Abbott Kitching, Clerk
Post Office Box 11629
Columbia, South Carolina
29211

LEGAL