

STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Administrative law Judge Deborah Brooks Durden

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ALC Case NO. 23-ALJ-04-0683-AP  
Appellate case NO. 2024-001892

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**RECEIVED**  
MAR 25 2025  
SC Court of Appeals

Darren G. Scott, #233182,

Appellant,

v.

South Carolina Department of Corrections,

Respondent

ORIGINAL RECORD ON APPEAL

Darren G. Scott #233182  
Allendale Correctional Inst.  
HAB-057  
1057 Revolutionary Trail  
Fairfax, South Carolina  
29827

This 12<sup>th</sup> Day of March 2025

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

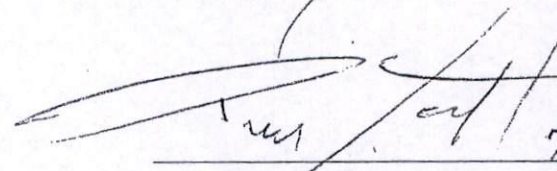
Inmate Copy

STEP 1

INMATE NAME: <u>Darren Jerome Scott</u>	OFFICE USE ONLY
SCDC NUMBER: <u>233182</u>	Grievance No. <u>23-03168057-23</u>
INSTITUTION: <u>Allendale Correctional Inst.</u>	Code: General <u>MY/WS</u>
HOUSING UNIT: <u>Hampton F-3 Room # 23</u>	Policy _____
WORK ASSIGNMENT: <u>Dorm-Worker</u>	Disc. Hear. _____
	Class. _____
	PREA _____
	Date Received <u>7/10/23</u>
	IGC Initials <u>IC</u>

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.)

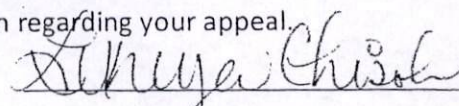
Please see → Request to Staff and Kiosk # 23-03168057 - Author - 067394 To Legal-Financial Accounting.  
 Do to the recent decision in Torrence vs. South Carolina Dep't of Correctional, I would like to apply for my Prevailing wages for participating in the (PI) or (PIP) at Lieber Correctional; to be calculated by the (PI) (PIP) guidelines of the (ESC), (DEV), or the (OES) code, under the legislature policy on Inmate pay Id. at 420, 782 S.E. 2d at 261 under 24-3-430(D) to my calculations I participated Between 2011-2018 with overtime I hope that you can help me in this matter.

Respectfully  
  
 Grievant Signature Date 7-7-23

ACTION REQUESTED: To be payed prevailing wages from 08-1-2011 to 11-27-2018

ACTION TAKEN BY IGC:  PROCESSED  UNPROCESSED  OTHER

Due to the nature of your appeal, it has been forwarded to the Step 2 level of appeal process. Please refer to the attached Prevailing Wage Memo provided by SCDC Office of General Counsel/Inmate Grievance Branch for additional information regarding your appeal.

  
 IGC Signature Date 7/10/23

(CONTINUE ON REVERSE SIDE)

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
OFFICE OF GENERAL COUNSEL | INMATE GRIEVANCE BRANCH  
INMATE GRIEVANCE APPEAL**

INMATE: Darren Gerome Scott | SCDC No. 233182

FROM: Office of General Counsel | Inmate Grievance Branch

SUBJECT: Prevailing Wage Appeal | Grievance No. ACI-0197-23

DATE: July 10, 2023

The Office of General Counsel - Inmate Grievance Branch is in receipt of your prevailing wage appeal. Pursuant to SCDC Policy GA-01.12 Inmate Grievance System, the South Carolina Department of Corrections advocates timely and efficient resolution of complaints and grievances brought to the attention of administrators by inmates. To this end, the Department will develop, administer, and implement an inmate grievance system accessible to all inmates.

The appeal of your grievance requires further investigation and evaluation. However, due to the volume of incoming prevailing wage grievances and the extenuating nature of your appeal, additional time is needed to process your grievance. Consequently, it will be held in abeyance while the authorized personnel complete their investigation and evaluation of your grievance. Upon the conclusion of this investigation and evaluation, your grievance will be processed in accordance with applicable policies and procedures.

**Cc: SCDC Inmate Grievance Branch**

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INMATE GRIEVANCE FORM  
STEP 2

Office Use Only

INMATE NAME: DARREN SCOTT  
SCDC NUMBER: 233182  
INSTITUTION: HCI  
HOUSING UNIT: \_\_\_\_\_  
WORK ASSIGNMENT: \_\_\_\_\_

Grievance No. ACZ-0197-23  
Code: General my/lws  
Policy \_\_\_\_\_  
Disc. Hear. \_\_\_\_\_  
Class \_\_\_\_\_  
PREA \_\_\_\_\_  
Date Received: \_\_\_\_\_  
IGC Initials: \_\_\_\_\_  
Date Received: msda3  
IGA Initials: JGR

**RECEIVED**  
JUL 20 2023  
INMATE GRIEVANCE

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

In accordance with SCDC Policy GA-01.12, "Inmate Grievance System," due to the nature of allegations you have raised in your Grievance, it has been forwarded to the Inmate Grievance Branch Central Office and Office of General Counsel for a response. Inmate's signature has been adopted from SCDC 10-5, Step 1 Inmate Grievance Form.

Grievant Signature \_\_\_\_\_ Date \_\_\_\_\_

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

**SEE REVERSE SIDE FOR RESPONSIBLE OFFICIAL'S DECISION & REASON**

Responsible Official Signature Bart J. Vincent Date 10-25-23

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Grievant Signature \_\_\_\_\_ Date 10-31-23

IGC Signature \_\_\_\_\_ Date 10/31/23

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Darren G. Scott #233182, )

Appellant, )

vs. )

South Carolina Department of Corrections, )

Respondent. )

**NOTICE OF APPEAL**

DOCKET NO. ALJ-04- -

GRIEVANCE NO.: ACT-0197-23

Notice is hereby given that Darren G. Scott #233182 does hereby appeal the final decision of the South Carolina Department of Corrections dated 10-25-23 and received on 10-31-23, a copy of which is attached. A general statement of the grounds for appeal is (See S.C. Code Ann. § 1-23-380(A)(6)):

The SEDC or Department failed to pay prevailing wages →  
The final decision of SEDC/Agency was on 10-25-2023, was in  
excess of Constitutional Statutory authority, and is a  
clear error of law, it is arbitrary, capricious, and it also  
deprived me/Appellant of due process, and interest of my  
property rights. My Grievance fails within the paragraph of  
13.9- which provides exceptions with policies/procedures.  
SEDC/the Agency's actions also fails within Malfeasance,  
Misfeasance, and Nonfeasance.

Darren G. Scott #233182  
Appellant's Name

Signed

1057 Revolutionary Trail  
Mailing Address

Dated

11-19-23

Fairfax South Carolina 29827  
City, State, Zip Code

**CERTIFICATE OF SERVICE**

I hereby certify that I Darren Scott (your name), on the 20<sup>th</sup> day of NOV., 2023, in Fairfax, (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, or in the mail room of the undersigned's institution and addressed as follows:

Name of person/Agency served: clerk of Court / South Carolina Administrative Law court

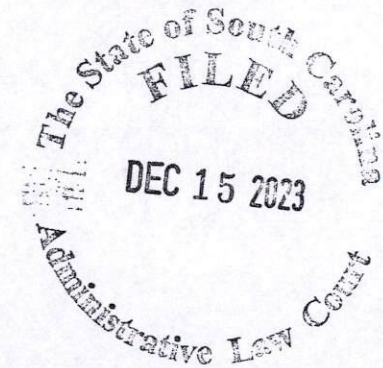
Address: 1205 Pendleton Street, Suite 224

City, State, Zip Code: Columbia, South Carolina 29201

Darren G. Scott  
Print your name Sign your name  
(See reverse side for instructions)

Below is information regarding your case which has been filed with the ALC. Please refer to the Rules of Procedure (enclosed) for the time frames on filing briefs and other matters.

Case Type	Case Number	Filing Date	Date Assigned	Judge Last	Case Title (Appellant v. Respondent)	Grievance No
DOC 04 Appeal	23C0683	11/21/2023	12/15/2023	Durden	Darren Scott #233182 v. SC DOC	ACI 0197-23



You must file all original documents and correspondence regarding this case directly with the above-named Judge and serve a copy on the Dept. of General Counsel, S.C. Dept. of Corrections, PO Box 21787, Columbia, SC 29221.

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Darren Gerome Scott,  
# 233182,  
Appellant,

vs.,

with Carolina Department,  
of Corrections,  
Respondents.

Docket # 23-00683  
Grievance # ALC-0197-23

The Honorable Deborah Brooks Durden  
Appellant's Original  
Brief

~~KEEP~~

Appellant - Pro-se  
Darren G. Scott # 233182  
Allendale Correctional Inst  
1057 Revolutionary Trail  
Fairfax, South Carolina  
29827

Cover Page

EXHIBIT #

0

CASE # 2024-001892 - Scott, v. SCDC

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STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Darren Berome Scott,  
Appellant.  
vs.  
South Carolina Department  
of Corrections,  
Respondents.

Docket # 23-00683  
Grievance # ~~ALC~~ 0197-23  
Honorable Deborah Brooks Durden  
Appellant's Original  
Brief

This matter is before the South Carolina Administrative Law Court (ALC) or (court) pursuant to the Notice of Appeal, of Darren Berome Scott (Appellant) an inmate incarcerated with the South Carolina Department of Corrections (SCDC or Respondents).  
At this time Appellant respectfully submits this Original Brief, on matters contain in the notice of Appeal.

STATEMENT OF THE ISSUES ON APPEAL

Can the Department/Respondents continue to violate nearly component of the guidelines legislative intent behind the statutes governing (PI) (PPI) Prison Industries 24-3-430(D), by failing to pay Appellant prevailing wages?

Was the Department/Respondents final decision in excess of Constitutional Statutory Authority, clear error of law & arbitrary capricious?

Did the Respondents deprived Appellant of his due-process, interest of property rights by failure to pay prevailing wages for service rendered?

Can Appellant's Grievance fall within the (2) two fold exceptions?

Can the Actions from the Respondents fall under Malfeasance, Misfeasance, and Nonfeasance?

## STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court (ALC) pursuant to Request to Staff/Kiosk request to legal # 23-03168059 on July 06, 2023, response from Authority # 067394 on July 07, 2023, Directing Appellant to submit a (1) one step Grievance to the Grievance Office, which was submitted on July 07, 2023 Received in Grievance office on July 10, 2023. Please Note: There was no Warden's response on the step (1) Grievance. The respondent opted to submit a memo on July 10, 2023, stating that "due to the nature of your appeal, it has been forwarded to the step (2) two level of appeal process. Please refer to the attached prevailing wage Memo provided by SCDC's office of General Counsel/Inmate Grievance Branch, for additional information regarding your appeal. see → (Ex. #23-94)

However, Appellant properly served his Notice of Appeal that is before the (ALC) According to the South Carolina Supreme Court in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2008) an "inmate must file and serve a notice of appeal upon specific parties within thirty days of receipt of written notice of Department's final decision" Id. at 377, 527 S.E.2d at 754, SCALC Rule 59 further provides that the notice of appeal from the final decision to be heard by the Administrative Law Court shall be filed with the court and a copy served on each party, including the agency, within thirty (30) days of receipt of the decision from which the appeal is taken. SCDC's Respondent's Final Decision was on Oct. 25, 2023, and, received by Appellant on Oct. 31, 2023. On Nov. 19, 2023 Appellant sent the notice of Appeal to the following by placing said Documents Notice of Appeal to: Ms. Cheron Hess, the Administrative Coordinator/Agency-Office of General Counsel (SCDC) 444-Broad River Road, Columbia, South Carolina 29221, with a copy of the Final Decision attached. The Clerk's office, the South Carolina Administrative Law Court, 1205 Pendleton Street, # 224 Columbia, SC, 29201, with a copy of the Final Decision attached Postage pre-paid, therefore this court has Jurisdiction to hear Appellant's appeal.

# ARGUMENT A

Can the Department / Respondent Continue to Violate nearly every component of the guidelines legislative intent behind the Statutes governing (PI) (PPI) Prison Industries 24-3-430(D) by failing to pay Appellant prevailing wages?

The legislature Created this section, 24-3-430-24-3-430(D) as a safeguard to prevent inmates from becoming a cheaper alternative to their counterparts in the private realm.

The primary rule of Statutory Construction is to ascertain and give effect to the intent of the General Assembly, see → Anderson v. South Carolina Election Comm., 397 S.C. 551, 556, 725 S.E.2d 704, 707 (2012), see → Beaufort Cnty v. S.C. State Election Comm. 395 S.C. 366, 718 S.E.2d 432 (2011), Hedges v. Rainey, 341 S.C. 79 533 S.E.2d 578 (2000) and Auto Auction of Lexington, Inc. v. Altman, 324 S.C. 65 476 S.E.2d 690 (1996).

Summary of personal work / participation, History, to briefly outline the details:

Between August 2011 to November 2018 Appellant participated in the (PI) (PPI) Prison Industries program / service operated at Lieber Correctional Institution.

During this time Appellant performed work / Labor for the private sector "Caterpillar - Transmissions Heavy equipment" & "Carolina Textile - Rag Plant" also at Lieber Corrections Inst. Appellant performed functions as an Electrical-helper, Forklift Operator, as well as other functions.

Appellant's pay was (40¢) an hour, see ex-# 23-209, when the prevailing rate / wage was \$11.19 for Forklift operators, and \$13.27 for Electrical helpers in (2011).

This was an regrettable abdication of the Controlling statutes that refer to Ann 24-3-430(D) (emphasis added) as it directly address the rate / wage of inmate wages.

Please see Torrence v. South Carolina Dept. of Corrections, (2021) wage required by law. The States Certiorari was denied Aug. 3, 2022 posted Aug. 4, 2022 requiring the respondents to determine the prevailing wage for the remaining years of Torrence's labor. Also see Appellant's Certificates #25-cc #23-1

There are several separate precedent that has addressed inmate wage claims within the context of Section 24-3-430(D) see → South Carolina Dept of Corr. v. Carretle, 387 S.C. 640, 646, S.E.2d 18, 21 (let. App. 2016) finding Sections 24-3-315 &

and 24-3-430(D) Compel the Department / Respondents to ensure inmates workers who are employed / participate under these sections receive the same pay-rate and employment conditions as their non-inmate peers.

Appellant's pay-rate of 40¢ created an impermissible and

ARGUMENT (A) CONTINUES...

unfair advantage for Appellant, and Violated the Components of the guidelines legislative intent behind the statutory-statutes of 24-3-430. Anderson, state (in construing statutory language, the statute must be read as a whole and sections which are a part of the same general statute law must be construed together and each one given effect") Note 24-3-430 has (8) components A, B, C, D, E, F, G, and H. The respondent has complied with most of the components of the statute except (D) (D), as for (D) 24-3-430-D subsection 1 section provides, "No inmate participating in the program may earn less than the prevailing wages for work of a similar nature in the private sector."

Please note that, Respondent also took out for room & board, victims fund, see Exhibit # 23-101

## ARGUMENT B

Was the Department's / Respondents Final Decision in excess of Constitutional Statutory Authority, clear error of law & arbitrary Capricious?

The Fundamental legal principle clearly embodied in the law was not followed in this case, also the Department's / Respondents Final decision, was not proportionate to the rules, and in violation of policy, they have erroneously ignored the issue of prevailing wages.

The Final decision was done without concern for what is fair or right. The Respondents have never tried to compensate, negotiate, settle, prevent, or compromise in this action, the respondents known or should have known that they have been, and still are violating statutory Authority, in their decision not to pay Appellant his prevailing wages, 24-3-450(D).

It is a cardinal rule of statutory construction that the primary purpose in interpreting statutes is to ascertain the intent of the legislature. Hodges v. Rainey, 341 S.C. 79, 85, 538 S.E. 2d 578, 581 (2000), State v. Martin, 293 S.C. 46, 358 S.E. 2d 697 (1987). When a statute's terms are clear and unambiguous on their face, there is no room for statutory construction and a court must apply the statute according to its literal meaning, see Carolina Power & Light Co. v. City of Bennettville, 314 S.C. 137, 139, 442 S.E. 2d 177, 179 (1994) and words must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation, Bryant v. City of Charleston, 295 S.C. 408, 368 S.E. 2d 899 (1998).

Therefore, recognizing the Constitutional Statutory Authority requirement set forth in 24-3-430(D) Mandating that the respondent's pay Appellant prevailing wages.

It becomes apparent that the respondents has utilized an unlawful mode of procedure / policy not allowed under Section 24-3-430(D).

Therefore, the respondents Final decision is in excess of Constitutional Statutory Authority, and is a clear error of law, & arbitrary Capricious.

## ARGUMENT (C)

Did the Respondents deprive Appellant of his due-process, interest of property rights by failure to pay prevailing wages for services rendered?

Appellant states that the respondents denial of paying prevailing wages, and money owed for services rendered, has created a liberty interests of his property rights, there was no due-process, for respondents failure in accordance with the statutes of 24-3-430 A-H.

The Respondents have never heeded the warning of the statute of 24-3-430, A-H, they continued operations, that, (1) the respondents promulgated, created, implemented or possessed responsibility for continued operation of 24-3-430, knowingly or should have known that (2) caused the Appellant Constitutional harm and (3) acted with the state of mind required to establish the alleged Constitutional deprivation.

Respondents failure to pay Appellant prevailing wages has created a statutory right.

Appellant performed duties / Labor as an Electrician helper and Forklift-operator to whom in a private sector would make more than "40¢" an hour, without question. Please see exhibit # 23-209. This is far from being in accordance with the prevailing wage statute for participating in the (PI) (PPI) prison industries Services / program.

Statute 24-3-430 - section (D) provides "No inmate participating in the (PI) program may earn less than the prevailing wage for work of a similar nature in the private sector."

Please note that section (D) is for the benefit of the inmate / Appellant.

## ARGUMENT (D)

Can Appellant's Grievance Fall within the (2) Two Folds of exceptions?

The 1<sup>st</sup> First Fold. Appellant's grievance falls within the fold of Adkins v. South Carolina Dept. of Corrections, 360 S.C. 413, 602 S.E. 2d 51 (2004), 24-1-295, 24-3-430, and 24-3-315.

It states, we hold inmates may file an inmate grievance to protest Doc's failure to pay wages in accordance with the Companion case - Wicker v. South Carolina Dept. of Corrections, 365 S.C. 421, 602 S.E. 2d 56 (2004), WL 1877944 (2004) also see Torrence v. South Carolina Dept. of Corrections, 433 S.C. 633, 861 S.E. 2d 36 (2001).

However, The Respondent's stated on the 2<sup>nd</sup> step grievance that it was untimely, under the (2) year new policy that came into effect Sept. 1, 2023, please see 1<sup>st</sup> step grievance dated July 7, 2023.

In any event, the respondent's can not just make rules, orders, or procedure, that can take precedent over Statutory Law, 24-3-430, which is always controlling. See → S.C. Constitution Article 1, 4, and State v Cottingham, 77 S.E. 2d 897, 224 S.C. 181 (1953).

The Second Fold. Respondent's reviewing the (15) day payroll issue, under paragraph 13.1 Id. at 418-20, 782 S.E. 2d at 760-61. However Appellant's grievance applies to the challenging of State policy and procedures invoking the prevailing wage statute involve a topic governed by statute and thus, an expression of the legislature's policy on inmate pay, Id. at 420, 782 S.E. 2d at 761. Also see - Torrence v. S.C. Dept. of Corrections, 433 S.C. 633, 861 S.E. 2d 36 (2001).

# ARGUMENT (E)

Can the Actions from the Respondents fall under Malfeasance, Misfeasance, and Non-feasance?

On October 17, 2002 Assistant Deputy Attorney General Mr. Robert D. Cook, sent a Letter to the Honorable Mike Fair, Chairman of the Corrections & Penology Committee the Senate of South Carolina, as his letter states that "The General Counsel for SCDC realized that the agency was operating outside the authority and requirements of S.C. Code 24-3-430 in that inmates were being paid less than the prevailing wages for work performed for private companies. Several binding contracts were in place, which would require renegotiation in order to meet the Code." Please see WL-31728841 (S.C.A.G.) Oct. 17, 2002. Accordingly, both Federal and State law make this wage requirement mandatory.

Furthermore, failure to pay Appellant prevailing wages constitutes "Malfeasance". The Commission as by a public official of a wrongful or unlawful act involving or affecting the performance of one's duties.

"Misfeasance". The performance of a lawful action in an illegal or improper manner, or "Nonfeasance" failure to act, failure to perform their job/duties, of what the legislative intent behind the Statutes governing (PII) Prison Industries Services programs 24-3-430. As the Department, Staff, Official & Respondents are mandated to carry out these legislative policies, Statutes and procedures.

## Conclusion

The Appellant would ask that this court would hold the respondents in this case liable for prevailing wages, their actions in this case, to hold their agents, insurers, successors, their insurance reserve fund, their heirs, executors, administrators, employers, employees, of the South Carolina Department of Corrections (SCDC) / (Agency), principals, liability, actions, causes of actions, claims, demands, damages costs, loss of services, loss of tax wages, loss of wages, expenses and compensation in any way growing out of services rendered or prevailing wages from 08-01-2011 to 05-03-2019 for participation in (PI) (PPI) (PI) prison industries service program, any and all known and unknown loss of wages of every kind and nature sustained by or hereafter resulting to the respondents or any person or persons for whom the respondents is acting as executor, insurers, administrators, or guardian from the incident which occurred on or about 08-01-2011 to 05-03-2019 being set forth more fully in this case # 23-CO683, Docket Grievance # ALC-0197-23, styled as Darren Gerome Scott 233182, vs. South Carolina Department of Corrections (SCDC), any and all damage, loss of wages of any and all kind connection with this case.

WHEREFORE, Appellant respectfully Request that this court would remand this case back to the respondents and ordering them to calculate by the ESC, DEW, or OES prevailing wages in accordance - For / Pay to Appellant, for service rendered.

This 7<sup>th</sup> day of Jan. 2024  
Fairfax, South Carolina

~~Respectfully Submitted~~

~~Darren G. Scott~~  
Appellant Prose

(9)

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Darren Gerome Scott,  
Appellant.

vs.

South Carolina Department  
of Corrections,  
Respondents.

Certificate  
of  
Service

Docket # 23-00683  
Grievance # ALC-017-23

I, Appellant, Darren G. Scott scide # 233182, do hereby certify that a copy & original-copy of the foregoing documents, Appellant's original Brief, with exhibits attached, was, this date, served upon the following individuals by placing a copy of the same in the institution's mail room to his or her last known address, postage prepared, as follows:

Original copy:

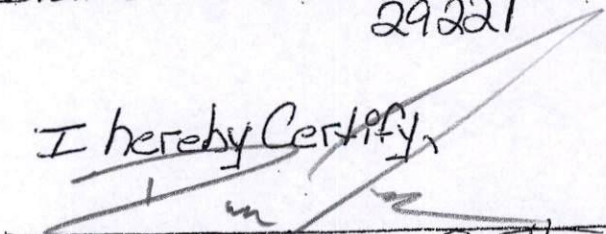
The Honorable Deborah Brooks Durden  
Administrative Law Court  
1205 Pendleton Street, # 224  
Columbia, South Carolina  
29201

copy:

Ms. Cheron Hess Administrative  
Coordinator for Agency  
Office of General Counsel (scdc)  
4444 Broad River Road  
Columbia, South Carolina  
29221

This 2<sup>th</sup> day of Jan. 2024  
County of Fairfax SC.

I hereby Certify,

  
Darren Gerome Scott 233182  
Allendale Correctional Inst.  
1057 Revolutionary Trail  
Fairfax, South Carolina  
29827

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Darren Gerome Scott,  
Appellant,  
vs.  
South Carolina Department  
of Corrections,  
Respondents.

Docket # 23-0683  
Grievance # AIC-0197-23  
Hon. Deborah B. Durden  
Appellant's Motion for  
the Respondents to  
Supplement the Record

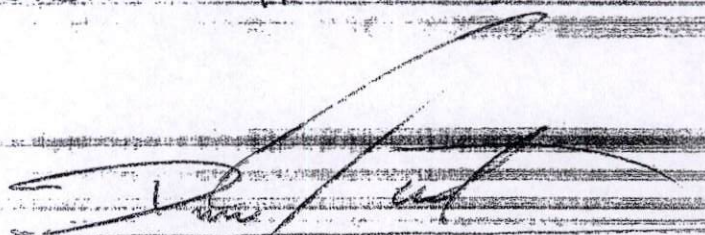
This matter is before the South Carolina Administrative Law Court (ALC) pursuant to a Notice of Appeal filed by Darren Gerome Scott (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (SCDC or Respondents).

Appellant Appeals (SCDC's) Decision in the step (2) two Grievance in a matter concerning his prevailing wages. However, due to the circumstances surrounding prevailing wages, Appellant at this time is respectfully requesting that the Respondents Supplement the record to make it complete, by adding the following from the respondents:

- A. Prevailing wage rate for labor performed.
- B. Pay rates during participation by week or bi-weekly.
- C. Rate of Deductions.
- D. Verification of Prevailing wage rate by the (Daw) (Department of Employment and Workforce).
- (ESE) Employment Security Commission.
- (OES) Occupational Employment Statistics.
- E. Private Sector Contract - from Caterpillar Transmissions, heavy equipment & Carolina Textile (Bag Plant).
- F. Any and All overtime performed.

Based on the foregoing, the Appellant respectfully request this Honorable Court to Grant this Motion to Supplement the record.

This 7<sup>th</sup> day of January 2024

  
Darren Gerome Scott #233182  
Appellant

Allendale Correctional Inst.  
1057 Revolutionary Trail  
Fairfax, SC 29827

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Darren Gerome Scott # 233182,

Appellant,

vs.

South Carolina Department

of Corrections,

Respondent.

Certificate of Service

Docket # 23-60683

Honorable Deborah B. Durden

I hereby certify that a copy of the foregoing motion to supplement the Record, the Certificate of Service was served upon the following individuals by placing a copy of the same in the institution mail box postage prepaid to the last known address as follows:

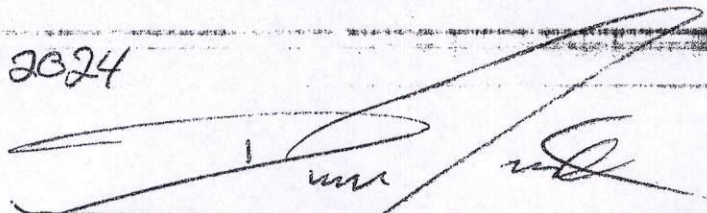
(copy to)

Cheron Hess Administrative Coordinator  
Office of General Counsel (SCDC)  
4444 Broad River Road  
Columbia, SC. 29221-1787

(Original copy to)

The Honorable Deborah Brooks Durden, Judge  
Administrative Law Court  
Edgar A. Brown Building  
1205 Pendleton Street, Suite 224  
Columbia, South Carolina 29201

This 7<sup>th</sup> day of January 2024



Darren G. Scott 233182

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Darren G. Scott, #233182,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

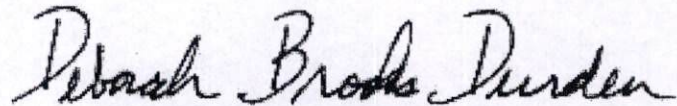
Docket No. 23-ALJ-04-0683-AP  
Grievance No. ACI 0297-23

**ORDER GRANTING APPELLANT'S  
MOTION FOR RESPONDENT TO  
SUPPLEMENT THE RECORD**

This matter is before the South Carolina Administrative Law Court (ALC) pursuant to the Notice of Appeal filed November 21, 2023, by Appellant Darren G. Scott (Appellant). On January 8, 2024, Appellant filed a motion for Respondent South Carolina Department of Corrections (DOC) to supplement the record with the following: Prevailing wage rate for labor performed; Pay rates during participation by week or by-weekly; Verification of prevailing wage rate by the Department of Employment and Workforce, Employment Security Commission, and Occupational Employment Statistics; Private Sector Contract from Caterpillar Transmissions, Heavy Equipment & Carolina Textile (Rag-Plant); and any and all overtime performed. This Court did not receive any response to the motion. On January 23, 2024, Appellant filed his Appellant's brief with this Court. The deadline for filing the Record on Appeal is February 23, 2024. As of today, Respondent has not filed the Record on Appeal.

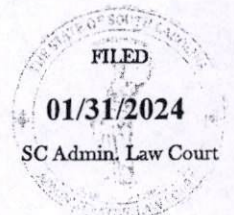
**IT IS HEREBY ORDERED** that Appellant's Motion for Respondent to Supplement the Record is **GRANTED**, and Respondent shall include in the Record the Prevailing wage rate for labor performed; Pay rates during participation by week or by-weekly; Verification of prevailing wage rate by the Department of Employment and Workforce, Employment Security Commission, and Occupational Employment Statistics; Private Sector Contract from Caterpillar Transmissions, Heavy Equipment & Carolina Textile (Rag-Plant); and any and all overtime performed.

**AND IT IS SO ORDERED.**



Deborah Brooks Durden, Judge  
S.C. Administrative Law Court

January 31, 2024  
Columbia, South Carolina



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STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Darren G. Scott, #233182,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

Docket No. 23-ALJ-04-0683-AP

Grievance No. ACI 0297-23

**ORDER GRANTING RESPONDENT'S  
MOTION TO EXTEND TIME  
TO FILE THE RECORD**

This matter is before the South Carolina Administrative Law Court (ALC) pursuant to the Notice of Appeal filed November 21, 2023, by Appellant Darren G. Scott (Appellant). Appellant's grievance concerned his wages. On January 23, 2024, Appellant filed an initial brief with this Court. On January 31, 2024, this Court issued an Order granting Appellant's motion for Respondent South Carolina Department of Corrections (Respondent) to supplement the record. On February 23, 2024, Respondent filed a Motion to Extend Time to File the Record. Respondent is requesting an additional 30 days from the date of this Order to file the record. This Court did not receive any opposition to the motion.

This Court will grant Respondent 30 days additional time to file the record.

**IT IS THEREFORE ORDERED** that the Record shall be due thirty (30) days from the date of this order. If he so chooses, Appellant may file a renewed brief twenty days from the date the Record is filed. Respondent shall have twenty days from the date Appellant's brief is due to submit a brief. Any reply brief must be filed within ten days from the date Respondent's brief is filed.

**AND IT IS SO ORDERED.**

*Deborah Brooks Durden*

Deborah Brooks Durden, Judge  
S.C. Administrative Law Court

March 13, 2024  
Columbia, South Carolina



STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Darren G. Scott,  
Appellant,  
VS.  
South Carolina Department  
of Corrections,  
Respondents.

Docket No. 23-ALJ-04-0683-AP  
Grievance No. ACI-0277-23  
The Honorable Deborah B. Durden  
"MOTION TO ENFORCE COMPLIANCE"  
TO THE COURT'S ORDER DATE  
JANUARY 31, 2024:  
Supplement the Record

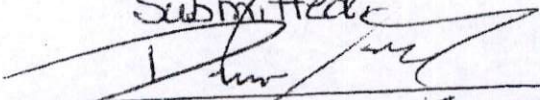
This matter is before the South Carolina Administrative Law Court [ALC] pursuant to the MOTION filed by Darren G. Scott Appellant, to Supplement the record. Appellant is an inmate incarcerated with the South Carolina Department of Corrections, SCDC or Respondents. At this time Appellant will respectfully request from this court to enforce compliance to this court's order dated January 31, 2024. Respectfully in Appellant's motion requested to make the record complete by adding [A-F] from the respondents.

On February 23, 2024 Respondents requested an extend of time of (30) days, there was no opposition by Appellant to the extend of time motion.

On March 13, 2024 this honorable court granted Respondents motion for extend of time (30) days. April 12, 2024 Respondents filed to the record some (41) page documents, but fail to reply to Appellant's brief filed January 23, 2024, or to fully comply to the motion to Supplement the record. Respondents only provided Appellant with the [E] element of the motion to Supplement the record.

[Private Sector contracts]. This play/tactic of non-compliance is understood to Appellant as a means to prolong this case. In any event, Appellant is respectfully requesting this court to enforce compliance to this court's order, or in alternative grant Appellant a motion to put/place in the record documents of facts pertaining to wages, and any other reason this court deems just and proper.

Respectfully Requested &  
Submitted



This 26<sup>th</sup> day of April 2024  
Darren Gerome Scott # 233152 - Appellant  
Allendale Correctional Inst.  
1057 Revolutionary Trail  
Fairfax South Carolina  
29827

State of South Carolina  
FILED  
APR 29 2024  
Administrative Law Court

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Darren Gerome Scott,  
Appellant,  
VS.  
South Carolina Department  
of Corrections,  
Respondents.

Docket # NO. 23-ALJ-04-6683 AP  
Grievance NO. ACI-0397-23  
Honorable Deborah Brooks Durden  
Certificate  
of  
Service

That I the Appellant in this case Darren G. Scott, do hereby certify that a copy & original copy of the foregoing documents, Motion to enforce compliance and the Certificate of Service, was this date served upon the following individuals by placing a copy of the same in the institution's mail room/box, to his or her last known address, postage prepared/prepaid as follows:

[Original-copy]

The Honorable Deborah Brooks Durden  
Administrative Law Court  
1205 Pendleton Street # 224  
Columbia, South Carolina  
29201

&

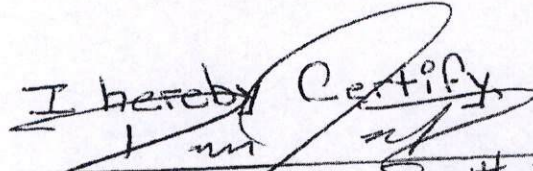
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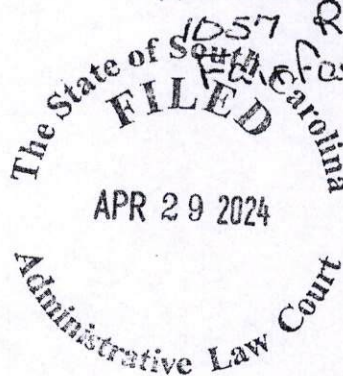
Ms. Cheran Hess Administrative  
Coordinator for Agency  
Office of General Counsel (S&D)  
4444 Broad River Road  
Columbia, South Carolina  
29221

This 26<sup>th</sup> day of April 2024

CC: General Counsel  
Mr. Joseph Shakibanasab

I hereby Certify

  
Darren Gerome Scott 233182  
Allendale Correctional Inst.  
1057 Revolutionary Trail  
#1116 Fax, South Carolina  
29827



**STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT**

Darren G. Scott, #233182,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

Docket No. 23-ALJ-04-0683-AP

Grievance No. ACI 0297-23

**ORDER**

This matter is before the South Carolina Administrative Law Court (ALC) pursuant to the Notice of Appeal filed November 21, 2023, by Appellant Darren G. Scott (Appellant). Appellant's grievance with Respondent South Carolina Department of Corrections (SCDC) concerned his wages. On January 31, 2024, this Court issued an Order Granting Appellant's Motion for Respondent to Supplement the Record. In that motion, Appellant requested the following documents: Prevailing wage rate for labor performed; Pay rates during participation by week or by-weekly; Verification of prevailing wage rate by the Department of Employment and Workforce, Employment Security Commission, and Occupational Employment Statistics; Private Sector Contract from Caterpillar Transmissions, Heavy Equipment & Carolina Textile (Rag-Plant); and any and all overtime performed. On April 29, 2024, Appellant wrote a letter to this Court stating that the Record on Appeal, filed April 12, 2024, only included "[E] element of the motion to Supplement the record. [Private Sector contracts]" Appellant is seeking SCDC's full compliance with the January 31, 2024 Order. Therefore,

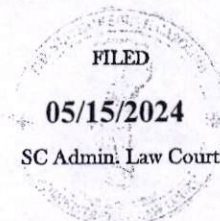
**IT IS ORDERED** that SCDC file a return to Appellant's April 29, 2024 letter, enclosed, advising this Court of its position concerning Appellant's request.

**AND IT IS SO ORDERED.**

*Deborah Brooks Durden*

Deborah Brooks Durden, Judge  
S.C. Administrative Law Court

May 15, 2024  
Columbia, South Carolina



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ADMINISTRATIVE LAW COURT

Darren Berame Scott,  
Appellant,  
vs.

South Carolina Department  
of Correctional,  
Respondents.

Docket NO. 23-ALJ-0683-AP  
Grievance NO ACI-0297-23  
Honorable Deborah Brooks Durden

RENEWED BRIEF  
BY APPELLANT

Appellant - Pro-se  
Darren G. Scott # 233182  
Allendale Correctional Inst  
1057 Revolutionary Trail  
Fairfax, South Carolina  
29827

EXHIBIT # \_\_\_\_\_ CASE # 2024-001892 - Scott, V. SCDC

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Darren G. Scott 233182,  
Appellant.  
Vs.  
South Carolina Department  
of Correctional,  
Respondents.

Docket No. 23-ALJ-0683-7  
Grievance NO. ACI-0297-23  
Honorable Deborah B. Durr  
"RENEWED BRIEF"  
BY APPELLANT

NOW COMES, the Appellant, Darren G. Scott scdc# 233182, at this time would respectfully submit this RENEWED BRIEF. Do to the Respondents filling to the record on April 12, 2024 Appellant received the filling of the record on April 19, 2024. This Honorable Court has given Appellant (20) days to respond. PLEASE NOTE: Respectfully this renewed brief in no way is to displace or disregard Appellant's original brief. Appellant is in full opposition, and has issues with the concept of the respondents filling to the record. Because the issue raised in this renewed brief is a factual one, their maybe little or no citation to authority is needed.

[STATEMENT OF RENEWED ISSUES]

- \* Can the Respondents/Department continue to characterized Caterpillar Reman powertrain Services Inc, or Carolina Textiles as Traditional or Service programs when they are not state entities?
- \* Has the Respondents Created a (2) two edged-sword for inmates, by Characterizing inmate labor as service or Traditional?
- \* Is 24-3-430 and 24-3-315 still Governs Prison Industry?

Can the Department/Respondents Continue to Characterized Caterpillar Reman powertrain Services in or Carolina Textiles as traditional or service programs when they are not state entities?

---

Accordingly, the Respondents are trying to Characterize participating within the program at Lieber Correctional Inst. as traditional or service work, when we participated with the parameters of (P.I.E.C.P.) known as the Prison Industry Enhancement Certification Program - please see request from Ms. Katherine Klein, dated Wednesday April 10, 2024 12:05 PM sent to Mr. Joseph Shakibancasab - page (7-of-41) of the Respondents response to the record.

I will first briefly outline [ # 1 ] Caterpillar Reman Powertrain Services Inc. This is a manufacture company on the street as well as a private sector.

Working at Caterpillar [ # 1 ] there was 30-to-50 inmates working at one time, each shift. According to the records each inmate was characterized as a mechanic helper. For financial reasons, to pay the service wages. The Duties consist of

welders, machine operators, forklift drivers, order pickers, material handlers, Quality Control, shift leaders, mechanics and their were others. as for me Appellant, I was a certified forklift operator through [ OSHA ] The Occupational Safety and Health Administration, from January 2012 through May 2012. I have located some of the licenses please see exhibit No. 2

07-22 these are for Caterpillar as well as Caroline textile. # 2 private sector # 2 Caroline textile had the following: Material handlers, machine operators, forklift operators, balers, cutters, and mechanics.

Accordingly, it would be hard to imagine there being (50) Fifty mechanic helpers on company # 1 or company # 2.

By the respondents characterizing every inmate as mechanic helpers, is just the respondents digging another Rabbit hole for other inmates to try to litigate at another date and time.

Therefore, recognizing that ~~that~~ respondents/Department trying to shelter underneath 24-3-320 and 24-3-310 traditional prison or services to not pay inmates wages as to 24-3-430D and 24-3-315 to what the courts have realistically found that the respondents/Department are to ensure inmates workers who are employed under those sections receive the same pay rate and employment conditions, as there non-inmate peers.

Can the Department Continue . . . . .

The more equitable approach would be the beneficial for the long term prospects of the inmate.

If we look at the traditional prison industry, before the state respondents went to Congress requesting for permission to allow private sectors to enter the state prison system the prisoners were manufacturing producing products for the state, such as traffic signs, stop signs, license plates, inmate clothes, and hobby craft, all that was beneficial to the state. Caterpillar - nor - Carolina textile is/was in no way a state entity, thus would/should not be characterize as a traditional or service entity, to whom falls under the private sector team, of 24-3-430.

Has the Respondents Created a two edged-Sword  
by Characterizing inmate labor as services or Traditional ?

Has the respondents Created a (2) edged-sword by Characterizing inmate labor as Service or traditional and cutting them (2) way  
The first cut by the sword/respondents it becomes apparent that the respondents has utilized an unlawful mode of procedure and or policy in relation to the contract with the private sector Caterpillar and Carolina textile, to avoid paying wages under 24-3-430(d) Prevailing wages, was this done Directly or indirectly, it has yet to be determined. Failure to pay prevailing wages as the state & Federal Statutes require respondents to do, has (cut) thousands of inmates to the C... for inmates that has participated in the (P.I.) program had the common knowledge and experience that the respondents, or the presumption that the respondents would not only pay the appropriate wage rate, but also pay the appropriate state and Federal taxes from the numerous of hours of hard work, to be placed into the our Social Security safety net, so upon release and/or retirement they can enjoy the benefits or their family could do so. This failure to pay the full amount that is equivalent to prevailing wages, has (cut) inmates and put at risk thousands of inmates that may never qualify for the Social Security safety net; upon their release nor will they ever qualify for benefit as a result of the exclusion of taxes to be paid for the numerous of hours and years of not being paid do to the respondents Characterizing the labour as Service or traditional. 24-3-310 refers to inmates Service, or the product manufacturing of items sold on the open market by the respondents (SCDC), 24-3-320 refers to services of inmates for manufacture or production of such articles or products as may be needed for the construction, Note: no products was made for (SCDC/Respondents) at the (P.I.'s) of Caterpillar or Carolina textile. Note: Here in the Contract with both private sectors the Contract refers to Section 24-3-310 that states "Declaration of Intent" code 1976 Effective June 11, 2010 - In this interpretation there is no direct or indirect statement

Has the respondents Created Continue . . . .

not to pay prevailing wages see Contract page  
also see 24-3-310.

The traditional and historical concerns of free labor competition and inmate exploitation associated with private sector involvement in prison industry by treating the convict laborer the same as a free worker. Pay offender the prevailing wage in the free market or the minimum wage, whichever is higher - goods, wares, or merchandise manufactured, produced or mined by convicts or prisoners see → 18:U.S.C.A. 1761(c) The respondents has severely (cut) the inmates with the (2) edged-sword and severely undermined the contracts with the private sector in the case. As stated Appellants family member found that the Standard Occupational Classification [SOC] code for Forklift operators was unable to be found. Using analyst experience the occupation most closely related was determined to be is [53-7051] Industrial truck and tractor operators and used for data purposes [Forklift] [Operators] range from \$ 13.94, \$ 14.66 and \$ 18.13.

Is 24-3-430 and 24-3-315 Still Governs (P.I.)  
Prison Industry ?

---

As I may explain more fully 24-3-430 and 24-3-315 still governs prison industry services, the other sections 24-3-320, 24-3-310, 24-1-275, 24-3-40 and Article 3

are conditions related to inmates work and activities to inmate pay or to show that inmates are entitled to the prevailing wage rate.

Despite what SEDCI Respondents may characterized our Appellant's work under 24-3-315, relating to prison industry project pursuant to the Justice Assistance Act of 1984 - which governs prison Ind. Industries Services.

Accordingly, 24-3-315 as in the respondents Agreement/Contractor see page

(P.I.) program to provide for employment of convicts and utilize their labor for self-maintenance and reimbursement of expenses. please see Justice-Waller Statement "there is simply nothing in the statutory scheme authorizing the respondents/Department to pay Appellant less than the prevailing wage.

Also see Wicker - or Hodges v Rainey

**STATE OF SOUTH CAROLINA  
IN THE ADMINISTRATIVE LAW COURT**

Darren Scott, #233182,	)	Docket No.: 23-ALJ-04-0683-AP
	)	[ <u>Grievance No.: ACI 197-23</u> ]
Appellant,	)	
	)	<i>Hon. Deborah Brooks Durden</i>
v.	)	
	)	
South Carolina Department of Corrections,	)	<b>RESPONDENT'S MOTION TO</b>
	)	<b>DISMISS</b>
Respondent.	)	
_____	)	

**STATEMENT OF THE CASE**

This matter is before the Administrative Law Court (“ALC” or “Court”) pursuant to the appeal of Darren Scott (“Appellant”), an inmate incarcerated with the South Carolina Department of Corrections (“SCDC” or “Department”). On July 7, 2023, Appellant filed a Step One Grievance seeking to be paid pursuant to the prevailing wage statute, *i.e.* S.C. Code Ann. § 24-3-430(d), for work performed in two Prison Industries Service Projects operated at Lieber Correctional Institution in which Carolina Textiles Inc. (“Carolina Textiles”) and Caterpillar Reman Powertrain Services Inc. (“Caterpillar”) served as the contracting company. This grievance was elevated to the Step Two Level and denied on October 25, 2023. This appeal followed.

Respondent now moves to dismiss this case, because Appellant’s claim does not implicate a state-created liberty or property interest, because Appellant never worked for a Prison Industries Enhancement Certification Program (“PIECP”) subject to the prevailing wage statute.

**STANDARD OF REVIEW**

The ALC’s jurisdiction to hear this matter is derived entirely from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000).

<sup>1</sup> Darren Scott Docket No.: 23-ALJ-04-0683-AP

When reviewing SCDC's decisions in inmate grievance matters, the ALC sits in an appellate capacity. *Id.* at 377, 527 S.E.2d at 754. Recently the South Carolina Supreme Court clarified the Administrative Law Court's jurisdiction as:

[t]hat the ALC has subject matter jurisdiction over inmate grievance appeals that have been properly filed. (*Internal citations omitted*) . . . [h]owever, the ALC is not required to hold a hearing in every matter and may summarily dismiss an inmate's grievance if it does not implicate a state-created liberty or property interest sufficient to trigger procedural due process guarantees. The ALC may not grant an inmate relief from an erroneous administrative decision by SCDC, however, unless the inmate demonstrates the error deprived him of due process... (*internal citations omitted*)

*Allen vs. S.C. Dep't of Corr.*, 439 S.C. 164, 170-71, 886 S.E.2d 671, 674 (2023).

"The requirements of procedural due process apply only to the deprivation of interests encompassed by the Fourteenth Amendment's protection of liberty and property." *Al-Shabazz*, 338 S.C. at 369, 527 S.E.2d at 750 (*quoting Board of Regents of State Colleges. v. Roth*, 408 U.S. 564, 569, 92 S.Ct. 2701, 2705 (1972)). SCDC interprets *Slezak* as encouraging, for the sake of judicial economy, the ALC to summarily dismiss inmate cases that do not involve a state-created liberty or property interest. *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E.2d 506 (2004) (holding that the ALC "may summarily dismiss those appeals that do not implicate an inmate's *state created* liberty or property interest") (*emphasis added*). SCDC interprets *Slezak* to mean that where a state-created liberty interest is not implicated in a prisoner appeal, a judge of the ALC "should" dismiss the appeal. *Skipper v. S.C. Dep't of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (Ct. App. 2006).

### ARGUMENT

#### **NO STATE-CREATED LIBERTY OR PROPERTY INTEREST IS IMPLICATED IN THIS CASE BECAUSE APPELLANT DID NOT WORK FOR A PIE PROJECT.**

This case should be dismissed in accordance with *Slezak* and *Skipper* because Appellant never worked for a Prison Industries Enhancement Certification Program ("PIE or PIECP").

There are three types of prison industries programs: (1) Prison Industries Enhancement Certification Programs (commonly referred to as “PIE or PIECP”); (2) Prison Industries Service Projects; and (3) Traditional Prison Industries. Only “PIE” or “PIECP” programs are subject to the prevailing wage statute, *i.e.*, S.C. Code 24-3-430(d) and implicate a state-created liberty interest. *See Wicker v. S.C. Dep’t of Corr.*, 360 S.C. 421, 424, 602 S.E.2d 56, 58 n. 1 (2004) (the Court also stated that this was a “very limited circumstance” and the “holding [ ] is extremely limited and is not to be viewed as expanding the jurisdiction of the ALJ in any other circumstances”). Appellant however, never worked for a PIECP and therefore he has no state-created liberty or property interest in being paid a prevailing wage.

Appellant acknowledges that his participation with Prison Industries was in Service Projects. *See* Appellant’s Brief p. 3 (“Between August 2011 to November 2018 Appellant participated in the [ . . . ] Prison Industries program/ service operated at Lieber Correctional Institution.”); *see also* Appellant’s Brief p. 9 (“from 08-01-2011 to 05-03-2019 for participation in [ . . . ] prison Industries service/program.”). Consistent with working in Prison Industries Service Projects, the pay stubs marked as Exhibit 23-29 to Appellant’s Brief show a base pay rate of \$0.40. Additionally, Appellant does not have a private industry account. *See* Rec. at p. 8. All of these facts are indicative that Appellant did not work for a PIE or PIECP. Additionally, during the time periods Appellant worked, Lieber Correctional Institution did not have a PIE or PIECP. *See* Rec. at p. 7.

The Carolina Textiles project was a prison industries service project. Appellant did not specify what years he participated in the Carolina Textile Project, however the contracts dated January 8, 2011 and February 14, 2013 are included in the record. *See* Rec. pp. 10-30. Both Carolina Textiles contracts state in the recitals on the first page, “WHEREAS ... engage in the business of cutting fabric component...” Rec. pp. 9 & 21. Both contracts further provide in

section 2 of Article 3.1, that the contractor shall provide “component parts for cutting wiping rags from *scrap material*...” (emphasis added). *See* Rec. pp. 12 & 22. Lastly, both contracts are production-based contracts. *See* Rec. 14 & 24. The cutting of rags from scrap materials is recycling work which falls within the definition of service work and therefore the prevailing wage statute does not apply. *See* S.C. Code Ann. § 24-1-295.

Appellant claims to have worked for Caterpillar. Appellant does not specify the dates he alleges to have worked for Caterpillar project, however the contract dated September 30, 2008, is included in the record. *See* pp 32-42. The Caterpillar program was not a PIE or PIECP program. *See* Rec. 7. The Caterpillar project was a prison industries service project. This was a repair operation. *See* Rec. p. 31 (“[Caterpillar] intends to engage in the business of disassembly and/or remanufacturing of its product lines at Lieber Correctional Institution...”); Rec. p. 33 (“training of inmates in the disassembly and/or remanufacturing of its product lines...”; “will disassemble and/or remanufacture CRPSI’s product lines ...”).

Appellant does not specify what he did for each project or the dates of participation for each project, but he states his participation included acting as a forklift operator and serving as an electrical assistant. *See* Appellant’s Brief p. 4. Appellant did not manufacture anything; he provided a service which is consistent with statute which authorizes service work. *See* S.C. Code Ann. § 24-1-295 (“[s]ervice work is defined as any work that includes **repair, replacement of original manufactured items, . . . or similar work that is not original equipment manufacturing**...” (emphasis added)).

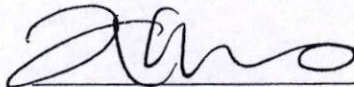
Appellant’s labor was not subject to the prevailing wage statute because he never worked for a PIE or PIECP; therefore, he has no state created liberty or property interest in being paid a prevailing wage. Without a state-created liberty or property interest, Appellant’s allegations do not trigger due process guarantees and this Court should dismiss this appeal.

**CONCLUSION**

WHEREFORE, the Respondent respectfully requests that this Court dismiss this appeal for the above stated reasons.

Respectfully Submitted,

**SOUTH CAROLINA DEPARTMENT  
OF CORRECTIONS**



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Kensey Evans  
S.C. Department of Corrections  
4444 Broad River Road  
Columbia, South Carolina 29221  
Phone: (803) 896-8508

May 28, 2024  
Columbia, South Carolina

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Darren G. Scott #233182,  
Appellant,

VS:

South Carolina Department  
of Corrections,  
Respondents.

Docket NO. 23-ALJ-0683-AD

Grievance NO. ACI-0297-23

Honorable Deborah Brooks Durden

STATEMENT OF THE CASE

This matter is before the Administrative Law Court (ALJ-courts) pursuant to the appeal of Darren Scott (Appellant) an inmate incarcerated with the South Carolina Department of Corrections (S.C.D.C. or Department). On May 15, 2024 this Honorable Court (ALJ), The Honorable Deborah Brooks Durden issued an order requesting that the respondents file a return on Appellant April 29, 2024 letter, advising the court of its position concerning Appellant request. If this court would please take note, that Appellant did not receive a copy of this court order until May 29, 2024 some (14) days later. On May 28, 2024 the Respondents motion to Dismiss, Appellant received this motion May 30, 2024.

Appellant now MOVES, to stay this case/action for the following reasons: Appellant has stated a claim that implicates a state-created liberty or property interest, Appellant participated in the (PIP) under the controlling contract/Agreement of 24-3-310, that the courts have deem to be subject to the mandate of Section 24-3-430(D) prevailing wage.

Appellant would Respectfull Request that this court would not Dismiss this case/action but whether make a decision on the merits of whether the hourly wage paid to appellant conform to the prevailing wage mandate of Section 24-3-430(D).

## STANDARD OF REVIEW

The ALC's Jurisdiction to hear this matter is derived entirely from the decision of the South Carolina Supreme Court in Al-Shabazz v. State, 338 S.C. 354, 527 S.E. 2d 742 (2000).

Hears. In this case the Respondents would have this Court believe that Appellant has not stated or demonstrated an error deprived him of deprivation of interests encompassed by the (14) Fourteenth Amendment's protection of liberty and property.

In this case Appellant has stated his deprivation of his wages from the start of his appeal. Appellant's Original Brief, & his Renewed brief see Org. brief Pg. #6 also see → Notice of appeal

## ARGUMENT

STATE-CREATED LIBERTY OR PROPERTY INTEREST IS IMPLICATED IN THIS CASE BECAUSE APPELLANT PARTICIPATED AND PERFORMED LABOR UNDER SECTION - STATUTE 24-3-430, ALSO THE CONTROLLING STATUTE OF 24-3-310.

This case action should not be dismissed in accordance with Slezak-Skipper, because Appellant never stated he worked for (PIECP) is that he participated in the (PI and/or PIP) Prison industry Services to whom are I has been subject to the prevailing wage statute.

Appellant has participated and performed labor at Lieber Correctional Inst. It was promulgated and operated pursuant to section 24-3-310.

Please see the following Agreements and Contracts from both (PI's) Exhibits # 24-19, # 24-20 & # 24-21 All showing section 24-3-310

As the Respondents states in the motion to dismiss there are (3) three types of prison industries programs. However, Appellant acknowledges that he participated in the prison industries, as Bennie Wicker, under the same Controlling Contract of 24-3-310, that the Supreme Court states that is subject to the prevailing wage statute of 24-3-430.(D)

If we stop and look at the whole Agreement/contract there is ~~no~~ language of service work. If we look at section 24-3-310 Declaration of Intent effective June 11, 2010 - nothing in the statutory scheme creating prison industries program authorized the Respondents/Department to pay a wage less than the prevailing wage.

The legislative intent must prevail in this case section 24-3-310, 24-3-315, and 24-3-430(D) are controlling authority for prison labor, and for this case citing Smith v. Tiffany, 799 S.E. 2d 479 (SC 2017) (statute or language) also see Bennie Wicker, 360 S.C. 421 602 S.E. 2d 56 Decided Aug. 23, 2004.

The Respondents would have you to look at 24-1-295 the language of service work, to what is not in the Agreement/contract with both Carolina Textiles or Caterpillar Reman Services.

If we look at the legislative intent for what started prison industry service, all (3) three types of prison industry/industries programs are subject to the mandatory section of 24-3-430.

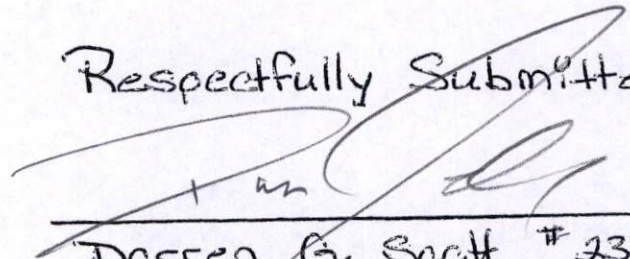
Appellant has stated and implemented several times of his participation with both private sector. Appellant started with private sector Caterpillar on \_\_\_\_\_ until the contract ran out in Dec. 2014 - private sector Carolina Textiles came in the last week of 2014 Appellant never stop working until 5-01-2019. Please see Recovery worksheets "Exhibits" →

In view of what should be noted, that all the other requirements of 24-3-430 were met, the legislature intends that the requirements of Service Contracts as well as the 24-3-430(D) element be met, and thus all persons/inmates be paid prevailing wages, for the inmates who toil, or those to whom have sacrificed a full measure of their time and talents to the use and profit of others,

## CONCLUSION

WHEREFORE, Respectfully, Appellant would ask this court not to dismiss this case, but whether make a decision on the merits of whether the hourly wage paid to Appellant conform to the prevailing wage mandate of section 24-3-430(D) and whether Appellant participated within the contract of 24-3-310 with both private sectors.

Respectfully Submitted,




Darren G. Scott # 233182  
Allendale Correctional Inst.  
1057 - Revolutionary Trail  
Fairfax, South Carolina  
29827


This 9<sup>th</sup> day of June 2024

(Appellant)


**DRIVER'S LICENSE**  
 SCOTT, DARREN is authorized to  
 operate powered industrial trucks at LCI-PI.  
 Certification expires on: 8/30/19  
 Driver Signature  
 Supervisor Signature



**DRIVER'S LICENSE**  
 SCOTT, DARREN is authorized to  
 operate powered industrial trucks at LCI-PI.  
 Certification expires on: 10/18/13.  
 Driver Signature  
 Supervisor Signature



**DRIVER'S LICENSE**  
 SCOTT, DARREN is authorized to operate  
 powered industrial trucks at WTI-LCI PI.  
 Effective until 10/1/2014  
 Driver Signature  
 Supervisor Signature







Warren Scott 2010  
 LCI - Caterpillar Reman  
 Forklift-Operator

Recovery Worksheet

January TO December 2013

Pay Period	Hours Worked	Prevailing Wage Rate	Rate Paid	Difference	X's The Hours	Difference Between Amounts Previously Paid
01-14-2013	50.07	\$	-.90¢	=	X	=\$
01-28-2013	51.67	\$	-.90¢	=	X	=\$
02-12-2013	67.77	\$	-.90¢	=	X	=\$
02-25-2013	39.09	\$	-.90¢	=	X	=\$
03-11-2013	22.23	\$	-.90¢	=	X	=\$
03-26-2013	74.02	\$	-.90¢	=	X	=\$
04-09-2013	81.18	\$	-.90¢	=	X	=\$
04-23-2013	74.48	\$	-.90¢	=	X	=\$
05-02-2013	73.23	\$	-.90¢	=	X	=\$
05-21-2013	81.02	\$	-.90¢	=	X	=\$
06-04-2013	62.20	\$	-.90¢	=	X	=\$
06-18-2013	71.73	\$	-.90¢	=	X	=\$
07-03-2013	71.07	\$	-1.00	=	X	=\$
07-16-2013	60.55	\$	-1.00	=	X	=\$
07-30-2013	41.40	\$	-1.00	=	X	=\$
08-13-2013	68.96	\$	-1.05	=	X	=\$
08-27-2013	49.60	\$	-1.05	=	X	=\$
09-10-2013	44.72	\$	-1.05	=	X	=\$
09-24-2013	59.60	\$	-1.05	=	X	=\$
10-08-2013	53.10	\$	-1.05	=	X	=\$
10-22-2013	49.83	\$	-1.05	=	X	=\$
11-05-2013	60.40	\$	-1.05	=	X	=\$
11-19-2013	47.27	\$	-1.05	=	X	=\$
12-03-2013	41.09	\$	-1.05	=	X	=\$
12-17-2013	49.62	\$	-1.05	=	X	=\$
12-31-2013	39.18	\$	-1.05	=	X	=\$
		\$	-\$	=	X	=\$
		\$	-\$	=	X	=\$
		\$	-\$	=	X	=\$
		\$	-\$	=	X	=\$

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Recovery Worksheet

Darren Scott #33182  
 LCI - Forklift operator  
 Carolina Textiles

January TO December 2014

Pay Period	Hours Worked	Prevailing Wage Rate	Rate Paid	Difference	X's The Hours	Difference Between Amounts Previously Paid
01-07-14	62.19	\$	-\$ 2.00	=	X	=\$
01-21-14	39.24	\$	-\$ 2.00	=	X	=\$
02-04-14	44.39	\$	-\$ 2.00	=	X	=\$
02-18-14	78.64	\$	-\$ 2.00	=	X	=\$
03-11-14	56.14	\$	-\$ 2.00	=	X	=\$
03-25-14	59.31	\$	-\$ 2.00	=	X	=\$
04-08-14	73.21	\$	-\$ 2.00	=	X	=\$
04-22-14	70.16	\$	-\$ 2.00	=	X	=\$
05-06-14	49.28	\$	-\$ 2.00	=	X	=\$
05-20-14	78.18	\$	-\$ 2.00	=	X	=\$
06-03-14	60.04	\$	-\$ 2.00	=	X	=\$
06-17-14	67.22	\$	-\$ 2.00	=	X	=\$
07-01-14	59.37	\$	-\$ 2.00	=	X	=\$
07-15-14	74.39	\$	-\$ 2.00	=	X	=\$
07-29-14	63.09	\$	-\$ 2.00	=	X	=\$
08-12-14	39.17	\$	-\$ 2.00	=	X	=\$
08-26-14	66.01	\$	-\$ 2.00	=	X	=\$
09-09-14	55.03	\$	-\$ 2.00	=	X	=\$
09-23-14	74.13	\$	-\$ 2.00	=	X	=\$
10-07-14	68.82	\$	-\$ 2.00	=	X	=\$
10-21-14	60.44	\$	-\$ 2.00	=	X	=\$
11-04-14	79.84	\$	-\$ 2.00	=	X	=\$
11-18-14	67.27	\$	-\$ 2.00	=	X	=\$
12-02-14	56.04	\$	-\$ 2.00	=	X	=\$
12-16-14	72.11	\$	-\$ 2.00	=	X	=\$
12-30-14	66.27	\$	-\$ 2.00	=	X	=\$
		\$	-\$	=	X	=\$
		\$	-\$	=	X	=\$
		\$	-\$	=	X	=\$
		\$	-\$	=	X	=\$

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Recovery Worksheet

Carolina Textiles  
 LCI-Forklift operator  
 Darren Scott #233182

January TO December 2015

Pay Period	Hours Worked	Prevailing Wage Rate	Rate Paid	Difference	X's The Hours	Difference Between Amounts Previously Paid
01-13-2015	73.24	\$	-\$ 2.00	=	X	=\$
01-27-15	61.18	\$	-\$ 2.00	=	X	=\$
02-10-15	71.28	\$	-\$ 2.00	=	X	=\$
02-24-15	46.27	\$	-\$ 2.00	=	X	=\$
03-10-15	77.09	\$	-\$ 2.00	=	X	=\$
03-24-15	41.06	\$	-\$ 2.00	=	X	=\$
04-07-15	69.02	\$	-\$ 2.00	=	X	=\$
04-21-15	79.81	\$	-\$ 2.00	=	X	=\$
05-05-15	48.19	\$	-\$ 2.00	=	X	=\$
05-19-15	63.24	\$	-\$ 2.00	=	X	=\$
06-02-15	55.11	\$	-\$ 2.00	=	X	=\$
06-16-15	52.37	\$	-\$ 2.00	=	X	=\$
06-30-15	64.19	\$	-\$ 2.00	=	X	=\$
07-14-15	48.42	\$	-\$ 2.00	=	X	=\$
07-28-15	72.84	\$	-\$ 2.00	=	X	=\$
08-11-15	49.72	\$	-\$ 2.00	=	X	=\$
08-25-15	68.41	\$	-\$ 2.00	=	X	=\$
09-08-15	71.12	\$	-\$ 2.00	=	X	=\$
09-22-15	56.49	\$	-\$ 2.00	=	X	=\$
10-06-15	44.73	\$	-\$ 2.00	=	X	=\$
10-20-15	59.39	\$	-\$ 2.00	=	X	=\$
11-03-15	45.31	\$	-\$ 2.00	=	X	=\$
11-17-15	42.55	\$	-\$ 2.00	=	X	=\$
12-01-15	39.22	\$	-\$ 2.00	=	X	=\$
12-15-15	49.43	\$	-\$ 2.00	=	X	=\$
12-29-15	39.02	\$	-\$ 2.00	=	X	=\$
		\$	-\$	=	X	=\$
		\$	-\$	=	X	=\$
		\$	-\$	=	X	=\$
		\$	-\$	=	X	=\$

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Carolina Textiles  
 LCI - Forklift operator  
 Darren Scott #233182

Recovery Worksheet

January to December - 2016

Pay Period	Hours Worked	Prevailing Wage Rate	Rate Paid	Difference	X's The Hours	Difference Between Amounts Previously Paid
01-12-2016	42.07	\$	-\$ 2.00	=	X	=\$
01-26-2016	45.5	\$	-\$ 2.00	=	X	=\$
02-09-2016	39.43	\$	-\$ 2.00	=	X	=\$
02-23-2016	36.85	\$	-\$ 2.00	=	X	=\$
03-08-2016	43.73	\$	-\$ 2.00	=	X	=\$
03-22-2016	55.22	\$	-\$ 2.00	=	X	=\$
04-05-2016	56.45	\$	-\$ 2.00	=	X	=\$
04-19-2016	40.65	\$	-\$ 2.00	=	X	=\$
05-03-2016	49.82	\$	-\$ 2.00	=	X	=\$
05-17-2016	52.43	\$	-\$ 2.00	=	X	=\$
05-31-2016	46.62	\$	-\$ 2.00	=	X	=\$
06-13-2016	32.2	\$	-\$ 2.00	=	X	=\$
06-27-2016	54.12	\$	-\$ 2.00	=	X	=\$
07-11-2016	32.47	\$	-\$ 2.00	=	X	=\$
07-25-2016	48.62	\$	-\$ 2.00	=	X	=\$
08-09-2016	62.82	\$	-\$ 2.00	=	X	=\$
08-23-2016	59.07	\$	-\$ 2.00	=	X	=\$
09-06-2016	43.83	\$	-\$ 2.00	=	X	=\$
09-19-2016	41.27	\$	-\$ 2.00	=	X	=\$
10-03-2016	47.29	\$	-\$ 2.00	=	X	=\$
10-18-2016	43.05	\$	-\$ 2.00	=	X	=\$
11-01-2016	62.6	\$	-\$ 2.00	=	X	=\$
11-15-2016	49.9	\$	-\$ 2.00	=	X	=\$
11-29-2016	52.68	\$	-\$ 2.00	=	X	=\$
12-13-2016	55.19	\$	-\$ 2.00	=	X	=\$
12-22-2016	46.7	\$	-\$ 2.00	=	X	=\$
		\$	-\$	=	X	=\$
		\$	-\$	=	X	=\$ <b>47</b>
		\$	-\$	=	X	=\$
		\$	-\$	=	X	=\$

Carolina Textiles  
 LCI- Forklift Operator  
 Darren Scott # 233182

Recovery Worksheet

January TO December 2017

Pay Period	Hours Worked	Prevailing Wage Rate	Rate Paid	Difference	X's The Hours	Difference Between Amounts Previously Paid
01-10-2017	30.87	\$	-\$ 2.00	=	X	=\$
01-24-2017	42.19	\$	-\$ 2.00	=	X	=\$
02-07-2017	57.32	\$	-\$ 2.00	=	X	=\$
02-21-2017	64.18	\$	-\$ 2.00	=	X	=\$
03-07-2017	51.53	\$	-\$ 2.00	=	X	=\$
03-21-2017	60.32	\$	-\$ 2.00	=	X	=\$
04-04-2017	56.14	\$	-\$ 2.00	=	X	=\$
04-18-2017	48.21	\$	-\$ 2.00	=	X	=\$
05-02-2017	39.18	\$	-\$ 2.00	=	X	=\$
05-15-2017	36.30	\$	-\$ 2.00	=	X	=\$
05-30-2017	48.82	\$	-\$ 2.00	=	X	=\$
06-13-2017	49.13	\$	-\$ 2.00	=	X	=\$
06-27-2017	53.10	\$	-\$ 2.00	=	X	=\$
07-11-2017	11.08	\$	-\$ 2.00	=	X	=\$
07-25-2017	40.98	\$	-\$ 2.00	=	X	=\$
08-08-2017	48.98	\$	-\$ 2.00	=	X	=\$
08-22-2017	38.88	\$	-\$ 2.00	=	X	=\$
09-05-2017	60.67	\$	-\$ 2.00	=	X	=\$
09-19-2017	39.68	\$	-\$ 2.00	=	X	=\$
10-03-2017	50.27	\$	-\$ 2.00	=	X	=\$
10-17-2017	50.90	\$	-\$ 2.00	=	X	=\$
10-31-2017	60.31	\$	-\$ 2.00	=	X	=\$
11-14-2017	48.14	\$	-\$ 2.00	=	X	=\$
11-28-2017	40.00	\$	-\$ 2.00	=	X	=\$
12-12-2017	50.40	\$	-\$ 2.00	=	X	=\$
12-26-2017	51.82	\$	-\$ 2.00	=	X	=\$
		\$	-\$	=	X	=\$
		\$	-\$	=	X	=\$ <b>48</b>
		\$	-\$	=	X	=\$
		\$	-\$	=	X	=\$

Carolina Textiles  
 LCI - Forklift operator  
 Darren Scott #233182

Recovery Worksheet

January TO December - 2018

Pay Period	Hours Worked	Prevailing Wage Rate	Rate Paid	Difference	X's The Hours	Difference Between Amounts Previously Paid
01-09-2018	21.44	\$	-\$ 2.00	=	X	=\$
01-23-2018	32.12	\$	-\$ 2.00	=	X	=\$
02-06-2018	39.4	\$	-\$ 2.00	=	X	=\$
02-20-2018	53.06	\$	-\$ 2.00	=	X	=\$
03-06-2018	45.56	\$	-\$ 2.00	=	X	=\$
03-20-2018	49.26	\$	-\$ 2.00	=	X	=\$
04-03-2018	37.14	\$	-\$ 2.00	=	X	=\$
04-17-2018	59.32	\$	-\$ 2.00	=	X	=\$
05-01-2018	45.39	\$	-\$ 2.00	=	X	=\$
05-15-2018	60.19	\$	-\$ 2.00	=	X	=\$
05-29-2018	53.22	\$	-\$ 2.00	=	X	=\$
06-12-2018	25.22	\$	-\$ 2.00	=	X	=\$
06-26-2018	44.95	\$	-\$ 2.00	=	X	=\$
07-10-2018	27.76	\$	-\$ 2.00	=	X	=\$
07-24-2018	37.25	\$	-\$ 2.00	=	X	=\$
08-07-2018	71.22	\$	-\$ 2.00	=	X	=\$
08-21-2018	55.17	\$	-\$ 2.00	=	X	=\$
09-04-2018	54.20	\$	-\$ 2.00	=	X	=\$
09-18-2018	40.35	\$	-\$ 2.00	=	X	=\$
10-02-2018	41.70	\$	-\$ 2.00	=	X	=\$
10-16-2018	19.57	\$	-\$ 1.25	=	X	=\$
10-30-2018	19.77	\$	-\$ 1.25	=	X	=\$
11-13-2018	39.37	\$	-\$ 1.25	=	X	=\$
11-27-2018	28.88	\$	-\$ 1.25	=	X	=\$
12-11-2018	43.57	\$	-\$ 1.25	=	X	=\$
12-25-2018	63.10	\$	-\$ 1.25	=	X	=\$
		\$	-\$	=	X	=\$
		\$	-\$	=	X	=\$ 49
		\$	-\$	=	X	=\$
		\$	-\$	=	X	=\$



## AGREEMENT

This Agreement ("**Agreement**") is entered into this 30<sup>th</sup> day of September 2008 (the "**Effective Date**"), by and between the South Carolina Department of Corrections (hereinafter called "**SCDC**") by its duly authorized agent Jon Ozmint, Director and Caterpillar Reman Powertrain Services, Inc., (hereinafter referred to as "**CRPSI**") by its duly authorized agent, Brad Chambers, President. SCDC and CRPSI each may be referred to in this Agreement as a "**Party**" and collectively as the "**Parties**".

WHEREAS, Prison Industries is a division of the South Carolina Department of Corrections charged with establishing business relationships with private enterprise so as to fulfill the intent of Section 24-3-310 Code of Laws of South Carolina, 1976 as amended; and has all necessary authorization to enter into this Agreement and to bind the State of South Carolina to all the terms contained herein; and,

WHEREAS, CRPSI represents and warrants that it is a duly qualified South Carolina corporation, licensed to conduct business in South Carolina; and,

WHEREAS, CRPSI intends to engage in the business of disassembly and/or remanufacturing of its product lines at Lieber Correctional Institution (hereinafter referred to as "**LCI**"); and,

WHEREAS, this Agreement is made in the best interest of the State of South Carolina.

NOW, THEREFORE, the Parties hereto do agree as follows:

### ARTICLE 1 General:

SCDC hereby permits CRPSI to use a building of up to 45,000 square feet on the LCI premises (the "**Building**"), and related premises during the term and in accordance with the provisions of this Agreement. Attachment A hereto shall indicate the location of the Building and the related premises, which shall include circulation space for delivery and shipping via tractor-trailers, parking outside of the secured area sufficient for a minimum of six (6) trailers and access to the facility via access roads. SCDC shall be responsible for maintenance of such roadways and related premises.

### ARTICLE 2 Conditions of Occupancy of the Industry Facility:

#### 2.0 Environmental:

CRPSI shall not cause or permit any hazardous substances to be used, stored, generated, or disposed of on or in the premises by CRPSI, its agents, employees, contractors or invitees, without first obtaining SCDC's written consent. SCDC represents that the premises are substantially free of any known contamination at the commencement of this Agreement, and agrees to the extent permitted by law to indemnify and hold CRPSI harmless from any damages or claims relating to contamination present on the premises prior to the commencement of this Agreement. If the premises become contaminated in any manner for which CRPSI is responsible during the term of this Agreement, CRPSI shall indemnify and hold SCDC harmless from any damages or claims arising during or as a result of CRPSI's occupancy of the premises and arising as a result of such contamination by CRPSI. SCDC acknowledges that it has consented to the presence of transmission fluids and oils on the premises.

2.1 The Duties of CRPSI:

1. Maintenance: CRPSI shall keep the occupied area clean, neat and tidy, and shall report any damage to the Building structure or material fixtures or unsafe conditions to the appropriate institutional authority. Further, CRPSI shall be responsible for all maintenance to the Building.
2. Insurance: CRPSI shall maintain insurance coverage for its equipment, supplies and material located in the Building and related premises against casualty occurrences. CRPSI shall maintain general liability coverage for itself, its agents, servants and employees. CRPSI shall satisfy all applicable statutory Workers' Compensation insurance requirements. CRPSI will provide proof of insurance coverage, including pursuant to a program of self-insurance, upon executing this Agreement and upon request during the term of the Agreement.
3. Telephone Service: CRPSI may, with prior approval of SCDC, which will not be unreasonably withheld, install telephones and/or computer lines in the Building, which must be secured at all times in accordance with SCDC guidelines. The cost of installation and maintenance of such telephones will be at CRPSI's sole expense.
4. Tools, Equipment and Supplies: CRPSI shall be responsible for providing all necessary tools, equipment, and/or supplies which may be necessary for the performance of the work herein contemplated. Such tools and equipment supplied by CRPSI may be removed by CRPSI upon termination of the Agreement.
5. Building Modification: CRPSI shall not make any alterations or improvements to the Building other than those outlined herein above without prior written approval of SCDC, which shall not be unreasonably withheld.
6. Waiver of Subrogation: CRPSI shall be liable for any damages to the Building, and for damages to its equipment, supplies and material located in the Building caused by casualty occurrence, it being understood that CRPSI shall repair such damages and look to its insurer for reimbursement and shall obtain from its insurer waiver of subrogation rights against SCDC.
7. Loss of Property: All personal property, inventory, equipment, improvements and/or fixtures or other property of any kind or description whatsoever, installed or brought into the area by CRPSI or CRPSI's employees or agents (the "**Equipment**"), shall be at CRPSI's sole risk and neither the State of South Carolina, SCDC or any employee or agent thereof, shall be liable for any damage done to or loss of such property or Equipment or loss suffered by the business or occupation of CRPSI arising from any acts or occurrences whatsoever except where the damage or loss is due to the malicious destruction of Equipment caused by inmates or employees of the State of South Carolina (as reasonable determined by the SCDC). If SCDC is held liable, the loss or damage shall be limited to replacement cost or to the repair cost of damaged or destroyed property whichever is less. Consequential or punitive damages shall not be recoverable.
8. Condition of Property: Upon termination of this Agreement, CRPSI shall remove its Equipment and vacate the premises; or negotiate a new agreement between SCDC and CRPSI to continue operation of the facility. CRPSI and SCDC may negotiate a new lease and continue operations. However should the Agreement not continue at the end of this Agreement, SCDC shall take possession of the building.

9. Hazardous Waste: Any hazardous waste generated in the Building by CRPSI shall be disposed of promptly by CRPSI at its sole expense according to federal and state regulations.

2.2

1. Premises to be Occupied: SCDC shall provide space for an up to 45,000 sq. ft. Building and related area at LCI. The occupancy of this area should be consistent with the terms of this Agreement regarding work authorized and hours. CRPSI will maintain the facility and fixtures in good condition throughout the term of the Agreement.
2. Utilities: SCDC shall provide water, electricity, propane or natural gas, and trash removal services and pass through actual cost to CRPSI for its use of the Building or allow CRPSI to install at its own cost separate meters for calculating payment.
3. Supervisory Staff: SCDC shall provide at least one (1) civilian supervisor to coordinate all activities between SCDC and CRPSI. CRPSI shall provide sufficient civilian staff for supervision of work products on each shift. SCDC will provide supervisors satisfactory to CRPSI and the actual cost of supervision shall be passed through each pay period by SCDC to CRPSI. Payment of such services shall be paid within thirty (30) days from receipt of invoice.

ARTICLE 3 Conditions Related to Inmates:

3.0 General

CRPSI agrees to provide sufficient work in the facility for SCDC to employ a minimum of 50 inmates working 6 hours daily, five days per week. Overtime can be worked if sufficient notice is given to SCDC. SCDC will provide inmate labor upon adequate notice by CRPSI up to a maximum of 300 inmates. Overall staffing will be agreed upon by both SCDC and CRPSI. If CRPSI requests overtime, CRPSI shall pay for such additional hours at the standard hourly rate and shall bear additional costs of security and supervision, of any, for such overtime.

3.1 Duties of CRPSI:

CRPSI shall provide to SCDC job descriptions and personnel procedures. CRPSI reserves the right to have SCDC remove and replace inmate workers based on job performance, so long as its actions conform with nondiscrimination provisions referenced herein.

1. Training of Inmates: CRPSI shall be responsible for training of inmates in the disassembly and/or remanufacturing of its product lines and activities related thereto.
2. Scope of Work: Prison Industry inmates under the general oversight of SCDC will disassemble and/or remanufacture CRPSI's product lines according to engineering design and manufacturing specifications developed and provided by CRPSI, with CRPSI providing work product quality supervision, as set forth in Paragraph 2.2(3). It will be the sole responsibility of CRPSI to provide a quality control manual for these operations and to ensure compliance with the terms provided therein.
3. Raw Materials: CRPSI shall provide all raw materials and component parts for work. All raw materials, personal property, inventory, machinery, equipment and improvements and/or

fixtures or other property of any kind or description whatsoever installed or brought into the prison buildings by CRPSI or its employees or agents, shall be at the sole risk of CRPSI and neither the State of South Carolina or SCDC or its employees and agents thereof, shall be liable for any damage or loss suffered except as provided in Section 2.1.7 contained herein above.

4. Security: CRPSI understands and specifically agrees that its deliveries, shipments and employees are subject to search before entering or leaving the premises of SCDC.
5. Compliance With Rules and Regulations: CRPSI agrees that it and its employees must comply with all applicable policies and procedures of SCDC made known to them and all applicable federal, state, and local laws, ordinances, regulations and accreditation standards.
6. Payment for Inmate Services: SCDC will invoice CRPSI on a bimonthly basis for inmate labor. CRPSI will pay all sums due and owing within thirty days of receipt of invoice. Payments shall be made to S.C. Department of Corrections, Division of Prison Industries account.
7. Specifications: CRPSI will assume the responsibility to provide specifications to the Building along with the specifications and layout of production equipment.
8. Training of CRPSI's Staff: CRPSI shall make its civilian staff available for training in security concerns by SCDC's training staff.

### 3.2 Duties of SCDC:

1. Inmate Laborers: SCDC will use its best efforts to provide a stable and available work force of inmates, which shall fulfill CRPSI's reasonable manpower requests.
2. Screening of Potential Inmate Laborers: Subject to Section 3.1, SCDC will pre-screen, interview and select inmates according to the job descriptions submitted, which shall specify performance criteria for each job.
3. Holidays: The inmates participating in the project will observe holidays as described in Appendix A attached hereto and incorporated herein.
4. Security: At its expense, SCDC shall be responsible for the security of the inmate labor force and the security of CRPSI's employees and agents.
5. Training of CRPSI's Staff: SCDC shall train CRPSI's civilian staff in institutional operational matters.
6. Management and Supervision: SCDC will provide management and supervision of the inmates for all phases of the work.
7. Access:
  - a. For maintenance purposes, SCDC will provide access to the premises at reasonable times for maintenance by CRPSI.

- b. For material handling purposes. SCDC shall provide security clearance and transport (at CRPSI's request) for trailers bringing raw materials and goods in and out of the premises in a timely fashion. SCDC will allow CRPSI's trucks, common carrier and others transporting raw materials, equipment and finished products to and from ICI reasonable access up to twelve (12) hours per day, subject to the Department's security requirements in Section 3.1.4.
- c. Other access. SCDC will provide access to the facility during CRPSI's hours of operation for CRPSI's employees, agents, and business invitees, subject to SCDC's security requirements.
- d. CRPSI's employees and visitors shall be permitted to use the Sallyport entrance to ensure their safety.

3.3 Mutual Duties of the Parties:

1. Payment for Services: CRPSI agrees to pay SCDC \$4.20 per hour per inmate for work performed including training hours and hours in excess of the inmate's normal shift. SCDC shall be responsible to pay inmate workers, cover security costs and P.I. overhead, including any costs for health, safety and welfare of the inmates, taxes or other payroll deduction. No compensation will be paid for time not worked. In order to accommodate holidays not observed by CRPSI, SCDC and CRPSI may agree to work ahead or to work on holidays if a mutually acceptable agreement can be reached.

Thirty (30) days prior to each anniversary date of this Agreement, SCDC and CRPSI may negotiate an increase in the per hour rate paid by CRPSI to SCDC. If such an increase is requested, it shall be limited to a maximum of five percent (5%) annually or the annual percentage increase in the Consumer Price Index, whichever is lower. It is the intent of the Parties that such increase shall only reflect SCDC's increased cost of prison overhead.

CRPSI and SCDC may mutually agree upon a bonus plan for inmates based on productivity and quality control. Such bonus will be paid in its entirety by CRPSI to SCDC for distribution to inmates.

2. Compliance with Convict Labor Laws: CRPSI and SCDC agree that no goods produced under this Agreement shall be placed in commerce in violation of the laws of the State of South Carolina or the United States as they relate to the utilization of prison labor. Should either Federal or State Law (or the interpretation thereof) change preventing interstate shipments of goods produced under this Agreement, this Agreement shall terminate as provided in Sections 4.0.7 and 4.0.9.

ARTICLE 4 General Terms and Conditions:

4.0 General:

CRPSI, its employees or agents performing under the Agreement are not to be deemed to be employees of SCDC nor as agents of SCDC in any manner whatsoever. CRPSI will not hold itself out nor claim to be an officer or employee of SCDC or of the State of South Carolina by reason hereof and will not make any claim, demand, or application to, or for any right or privilege applicable to an officer or employee of SCDC or the State of South Carolina, including, but not

limited to, workers' compensation coverage, unemployment insurance benefits, social security benefits, or retirement membership or credit.

The State of South Carolina, SCDC, their employees (including inmates performing labor pursuant to this Agreement) and agents, are not to be deemed employees of CRPSI nor agents of CRPSI in any manner whatsoever and for any purpose whatsoever. None of the above will hold themselves out or claim to be an officer or employee of CRPSI by reason hereof and will not make any claim, demand, or application to, or for any right or privilege applicable to an officer or employee of CRPSI, including but not limited to, worker's compensation coverage, unemployment insurance benefits, social security benefits, or retirement membership or credit.

1. Period of Performance: The term of this Agreement shall be for five (5) years commencing on the Effective Date of this Agreement and terminating on September 30, 2013. SCDC grants to CRPSI a right of first refusal to match any bona fide third party offer as to the use of the premises after the termination of this Agreement.

Acts and Omissions: Each party agrees that it shall be responsible for its own acts and omissions and the acts and omissions of its agents, servants or employees. The foregoing shall not be interpreted to waive any contractual or other claims that may arise between the parties against each other.

2. Notices: All notices regarding the terms of this Agreement, including terminations, amendments and disputes shall be sent by certified mail to SCDC as follows:

Jon Ozmint, Director  
South Carolina Department of Corrections  
4444 Broad River Road  
P.O. Box 21787  
Columbia, South Carolina 29221-1787

to CRPSI as follows:

Caterpillar Reman Powertrain Services, Inc.  
175 McQueen Blvd.  
Summerville, SC 29483  
ATTN: Brian Yoder, VP & General Manager

With a copy to:

Caterpillar Inc.  
100 N.E. Adams Street  
Peoria, IL 61629  
ATTN: General Counsel

3. Non-Discrimination in Employment: Neither SCDC nor CRPSI shall discriminate against any inmate worker or applicant because of race, color, sex, religion, national origin, creed, marital status, age, or the presence of any sensory mental or physical handicap, which does not impair the inmate's or applicant's ability to perform the duties of his job, with or without reasonable accommodation or pose a danger to himself or others.
4. Noncompliance with Nondiscrimination Requirements: In the event CRPSI fails to comply with the discrimination laws, the Agreement may be rescinded, canceled or terminated in

whole or in part, and CRPSI may be declared ineligible for further contracts from SCDC. CRPSI shall, however, be given a reasonable time in which to cure the noncompliance.

5. Records, Documents and Reports: CRPSI shall maintain books, records, documents and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect cost of any nature expended in the performance of this Agreement. These records shall be subject at all reasonable times for inspection, review or audit by SCDC personnel or other personnel duly authorized by SCDC, the office of the State Auditor and Federal Officials so authorized by law, rules regulations or contract such audit shall be at the expense of the auditing agency. CRPSI shall retain all books, records, documents and other materials relevant to this Agreement for five (5) years and the authorities described herein above shall have full access to and the right to examine any of said materials during the extended period.

Only the Director of SCDC or his delegated designee by writing shall have the expressed, implied, or apparent authority to alter, modify or waive any clause or condition in this Agreement. Furthermore, any alterations, amendment or modification or waiver of any clause or condition of this Agreement is not effective or binding unless made in writing and signed by the Director.

6. Termination: It is understood and agreed that this Agreement shall terminate:
- a. Upon the written, mutual, agreement of the Parties;
  - b. Upon the material breach or default of any provision of this Agreement by either Party, provided thirty (30) days written notice of the breach is given to the breaching Party by the non-breaching Party and the breaching Party fails to cure within the thirty (30) days;
  - c. (i) If CRPSI fails to utilize a minimum of fifty (50) inmates for 6 hours per day, five (5) days per week for a period of thirty (30) consecutive days; or (ii) if SCDC fails to provide a minimum of fifty (50) inmates for a period of thirty (30) consecutive days;
  - d. If Section 24-3-310 of the Code of Laws of the State of South Carolina, 1976, as amended, or the interpretation thereof is materially changed, altered, amended, or repealed so as to abrogate this legislation charged with establishing business relationships with private industry;
  - e. If federal, state, or local laws or the interpretation of such laws (including any provision of Chapter 24 of the Code of Laws of the State of South Carolina) change to prevent the shipment of goods produced under this Agreement or change so that there is a material alteration in the terms of this Agreement;
  - f. If CRPSI becomes bankrupt and such is not cured within sixty (60) days, insolvent, or makes an assignment for the benefit of creditors, or becomes subject to the administration of its assets in any kind of voluntary or involuntary creditors proceedings;
  - g. If CRPSI performs any intentional act which damages the reputation or property of SCDC and CRPSI does not cure such damage with thirty (30) days of notice thereof;
  - h. If CRPSI loses its corporate charter in its state of incorporation or loses the authority to transact business in the State of South Carolina pursuant to mandate by the Secretary of State of South Carolina, or if CRPSI's corporation is dissolved voluntarily or involuntarily and CRPSI does not cure such defect within thirty (30) days of notice thereof;

- i. Failure of CRPSI to pay promptly to SCDC any inmate wages due or supervision pass through costs hereunder for a period of fifteen (15) days after written notice from SCDC to CRPSI of such default; or
- j. At the end of any fiscal year (June 30) after the commencement date of this Agreement when sufficient appropriations, revenues, income, grants, or other funding from whatever source are not available to SCDC to carry on the purpose of program of SCDC, this sufficiency of funds to be solely determined by the State Budget and Control Board;

Upon early termination of the Agreement due to SCDC's breach of default, change in the law or an insufficiency of State funding for this Agreement, CRPSI shall have one hundred eighty (180) days to cease operations and vacate the premises. Upon early termination of the Agreement due to CRPSI's breach or default, CRPSI shall have one hundred and twenty (120) days to cease operations and vacate the premises. In the event of an early termination of this Agreement for any reason whatsoever, SCDC's obligation to provide a work force and CRPSI's obligation to provide and pay for work for a minimum number of inmates shall cease as of the date of cessation of operations. Upon any such termination, the Parties will cooperate to affect the purpose of Section 2.1.8, 3.1.6 and 3.3.1.

7. Immediate Suspension: This Agreement shall be suspended immediately in the event that the safety or security of the institution, its personnel or inmates is jeopardized by CRPSI, its agents or employees, and shall remain inoperative until such time as the condition no longer exists.
8. Government Compliance: SCDC warrants that it complies with all federal, state and local laws, Executive Orders, rules, regulations and ordinances which may be applicable to the performance of its obligations under this Agreement, including but not limited to Chapter 24 of the Code of Laws of the State of South Carolina (including federal certification of the private sector/prison industries program), the Fair Labor Standards Act, regulations of the U.S. Department of Labor, equal opportunity clauses applicable to government contracts, and environmental, health and safety laws and regulations, and will provide certification of such compliance if requested. If for any reason SCDC is not in compliance, CRPSI may terminate this Agreement, cease operations and vacate the premises in accordance with the final paragraph of Section 4.0.7 above, or at its option, temporarily cease operations until such noncompliance is remedied to its satisfaction.
9. Force Majeure: Neither Party shall be liable nor deemed to be in default for any delay or failure in performance under this Agreement or otherwise for an interruption of service or employment deemed resulting from civil or military authority, from acts of God, riots, war, or any similar or dissimilar cause beyond reasonable control of either Party.
10. Governing Law: This Agreement shall be governed by the laws of the State of South Carolina and venue shall be located in the County of Richland, State of South Carolina.
11. Severability: If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are to be declared to be severable.

12. All Writings Contained Herein: This Agreement contains all the terms and conditions agreed upon by the Parties, no other understandings oral or otherwise, regarding the subject matter of this Agreement shall be deemed binding.
13. Successors and Assigns: The provisions hereof will inure to the benefit of and be binding upon the successors and assigns of the Parties hereto.



STATE OF SOUTH CAROLINA )

AGREEMENT

COUNTY OF RICHLAND )

THE AGREEMENT is entered into this 8<sup>th</sup> day of January 2011, by and between the South Carolina Department of Corrections (hereinafter called "SCDC") and its authorized agent William R. Byars, Jr., Director, and Carolina Textiles (hereafter referred to as "Contractor") by its duly authorized agent Brad Grossman, President.

WHEREAS, Prison Industries is a division of the South Carolina Department of Corrections charged with establishing business relationships with private enterprise so as to fulfill the intent of Section 24-3-310 Code of Laws of South Carolina, 1976 as amended; and,

WHEREAS, the Contractor represents and warrants that it is a duly qualified South Carolina corporation, licensed to conduct business in South Carolina;

WHEREAS, the Contractor intends to engage in the business of cutting fabric components provided at the Lieber Correctional Institution (hereinafter referred to as "Lieber CI"); and ,

WHEREAS, this agreement is made in the best interest of the State of South Carolina:

NOW, THEREFORE, the parties hereto do agree as follows:

ARTICLE 1 General:

SCDC shall provide space in an industry facility located at Lieber CI and will refer necessary inmates for potential employment.

ARTICLE 2 Conditions of Occupancy of the Industry Facility:

2.0 General:

The Contractor shall not have the right to sublease, assign, transfer, or enter into any other agreement regarding the occupancy herein granted without the expressed written consent of SCDC.

2.1 The Duties of the Contractor:

1. Insurance: The Contractor shall maintain insurance coverage for its equipment, supplies and material located in the Prison Industries building against casualty occurrences. The Contractor shall not be responsible for maintaining insurance on SCDC owned equipment and supplies.

2. Telephone Service: The Contractor may, with prior approval of SCDC, which will not be unreasonably withheld, install telephones and/or computer lines in the Prison Industries building, which must be secured at all times in accordance with SCDC guidelines. The cost of installation and maintenance of such telephones will be at the Contractor's sole expense.

3. Tools, Equipment and Supplies: The Contractor shall be responsible for providing all necessary supplies which may be necessary for the performance of the work herein contemplated. Such tools and equipment supplied by Contractor may be removed upon termination of the agreement after it is determined that the Contractor does not owe SCDC money.

4. Waiver of Subrogation: SCDC shall not be liable for any damages to the Contractor's equipment, supplies and material located in the Prison Industries building caused by casualty occurrence, it being understood that the Contractor shall look to its insurer for reimbursement and shall obtain from its insurer waiver of subrogation rights against SCDC.

5. Loss of Property: All personal property, inventory, equipment, improvements and/or fixtures or other property of any kind or description whatsoever, installed or brought into the area by the Contractor or the Contractor's employees or agents, shall be at the Contractor's sole risk and neither the State of South Carolina, SCDC or any employee or agent thereof, shall be liable for any damage done to or loss of such real or personal property or loss suffered by the business or occupation of the Contractor arising from any acts or occurrences whatsoever except where the damage or loss is due to the malicious destruction of equipment caused by inmates (as determined by the SCDC). If SCDC is held liable, the loss or damage shall be limited to

replacement cost less fair market value. Consequential or punitive damages shall not be recoverable.

6. Payment for Occupancy: The Contractor shall pay a fixed monthly amount of One (\$1.00) Dollar for occupancy of the premises herein above described.

7. Condition of Property: Upon termination of this agreement, the Contractor will surrender the building, equipment and fixtures belonging to SCDC in the same condition it received it, normal wear and tear and casualty excepted.

8. Hazardous Waste: No hazardous waste shall be generated in the Prison Industries building by the Contractor.

9. Worker Displacement: During term of this agreement, Contractor's civilian workers will not be displaced by inmate workers. SCDC will verify with the S. C. Employment Security Commission annually.

## 2.2 The Duties of SCDC:

1. Premises to be Occupied: SCDC shall provide space in the industry building at Lieber CI. The occupancy of this area should be consistent with the terms of this agreement regarding work authorized and hours. SCDC will maintain its facility and fixtures in good condition throughout term of contract.

2. Utilities: SCDC shall provide water, electricity, natural gas, and trash removal services and pass through actual cost to Contractor or allow Contractor to install at its own cost, separate meters for calculating payment.

3. Insurance: SCDC will maintain insurance coverage on the building and its property therein as required by the laws of the State of South Carolina.

## ARTICLE 3 Conditions Related to Employment of Inmates:

### 3.0 General:

Contractor shall provide employment for a minimum of 30 inmates working eight (8) hours per day, five (5) days per week. SCDC will provide one civilian supervisor paid from P.I. funds provided, however, Contractor shall pay for any additional staff sufficient to ensure security and supervision on each shift. Contractor shall abide by all SCDC policies and procedures. SCDC shall have the discretion to remove any agent or employee of Contractor from the institution in the event of a violation of any of SCDC's policies and procedures with regard to the institution.

3.1 Duties of Contractor:

SCDC, at its cost, will provide one civilian employee to supervise 30 inmates at Lieber CI. Any additional security supervision provided by SCDC will be passed through to the Contractor on a monthly basis. The Contractor will pay all sums due and owing within fifteen days from receipt of invoice to SCDC, Prison Industries.

1. Training of Inmate Employees: SCDC shall provide initial training after assuming work within the Prison Industries facility.

2. Raw Materials: The Contractor shall provide all raw materials, equipment and component parts for cutting wiping rags from scrap material. All raw materials, personal property, inventory, machinery, equipment and improvements and/or fixtures or other property of any kind or description whatsoever installed or brought into the prison buildings by the Contractor or its employees or agents, shall be at the sole risk of Contractor and neither the State of South Carolina or SCDC or its employees and agents thereof, shall be liable for any damage or loss suffered except as provided in Sections 2.1.4 and 2.1.5 contained herein above. SCDC will provide management and production supervision for all phases of the work. SCDC will allow Contractor's trucks, common carrier and others transporting raw materials, equipment and finished products to and from Lieber CI, reasonable access during normal business hours, subject to the Department's security requirements in Section 3.1.3.

3. Security: The Contractor understands and specifically

agrees that its deliveries, shipments and employees are subject to search before entering or leaving the premises of SCDC.

4. Compliance With Rules and Regulations: The Contractor agrees that it and its employees must comply with all policies and procedures of SCDC and all applicable federal, state, and local laws, ordinances, regulations and accreditation standards.

5. Payment for Inmate Services: SCDC will invoice the Contractor on a monthly basis for inmate labor. The Contractor will pay all sums due and owing within fifteen days of receipt of invoice. Payments shall be made to SC Department of Corrections, Division of Industries account.

### 3.2 Duties of SCDC:

1. Scope of Work: Prison Industry inmates under the direct and total supervision of SCDC will cut wiping rags from scrap materials according to engineering design and manufacturing specifications developed and provided by the Contractor. It will be the sole responsibility of the Contractor to provide a quality control manual for these operations and to ensure compliance with the terms provided therein.

2. Inmate Laborers: SCDC will provide a stable and available work force of inmates.

3. Screening of Potential Inmate Laborers: SCDC will pre-screen inmates for interview according to the job descriptions submitted.

4. Holidays: The inmates employed in the project may observe holidays as described in Appendix A attached hereto and incorporated herein.

5. Inmate Workers Security: SCDC shall be responsible for the security of the inmate labor force

### 3.3 Mutual Duties of the Parties:

1. Bonus Pay: The Contractor and SCDC may mutually

agree upon a bonus plan for inmates based on productivity and quality control. Such bonus will be paid in its entirety by the Contractor.

2. Charge to Contractor: SCDC will charge Contractor \$.08 per pound for processed goods and \$.02 per pound for scrap/waste goods up to 10% of total weight.

3. Compliance with Convict Labor Laws: The Contractor and SCDC agree that no goods produced under this agreement shall be placed in commerce in violation of the laws of the State of South Carolina or the United States as they relate to the utilization of prison labor. Should either Federal or State Law change preventing interstate shipments of goods produced under this agreement, Contractor shall terminate without penalty under this contract.

ARTICLE 4 General Terms and Conditions:

*.10 lb. for processed goods*

4.1 General:

The Contractor, his/her employee under the agreement are not to be considered agents of SCDC nor as agents of SCDC in \_\_\_\_\_ . The Contractor will not hold himself/herself out nor claim to be an officer or employee of SCDC or of the State of South Carolina by reason hereof and will not make any claim, demand, or application to, or for any right or privilege applicable to an officer or employee of SCDC or the State of South Carolina, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security benefits, or retirement membership or credit.

*take out .02 for scrap/waste up to 10% of total weight*

1. Period of Performance: The term of this Agreement shall be for one (1) year commencing on the date of the execution of this Agreement and renewed annually in one year increments so long as both parties agree for a total of five (5) years. For the second, third, fourth and fifth year of this agreement, the rate shall be increased on the anniversary date of the agreement by the amount of the state employee salary increase passed by the most recent legislative session. Should both parties not agree upon the increased cost for the upcoming year, this agreement can be terminated.

*66*

2. Hold Harmless: The Contractor agrees to protect, defend and hold harmless the State of South Carolina, SCDC or its employees or agents thereof, from any liability or claim for damage, including injury to the Contractor's employees or agents, except where such liability claim is due to negligence of the State of South Carolina, SCDC or employees or agents thereof, arising out of the performance of this contract. The Contractor further agrees to protect, defend and hold harmless the State of South Carolina, SCDC or any employees or agents thereof, for any product liability claims relating to the products produced or services rendered under this contract. The Contractor expressly understands that SCDC or its employees or agents thereof, is not a guarantor of the work performed by the inmate workers referred by SCDC. Inmates shall not be considered employees of Contractor.

3. Notices: All notices regarding the terms of this contract, including terminations, amendments and disputes shall be sent by certified mail to SCDC as follows:

William R. Byars, Jr., Director  
South Carolina Department of Corrections  
4444 Broad River Road  
P. O. Box 21787  
Columbia, South Carolina 29221-1787

to the Contractor as follows:

Brad Grossman, President  
Carolina Textiles  
68 Anderson Road  
Walterboro, SC 29488

4. Non-Discrimination in Employment: The Contractor shall not discriminate against any employee inmate worker or applicant for employment because of race, color, sex, religion, national origin, creed, marital status, age, or the presence of any sensory mental or physical handicap.

5. Noncompliance with Nondiscrimination Requirements: In the event the Contractor fails to comply with the discrimination laws, the contract may be rescinded,

canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts from SCDC. The Contractor shall, however, be given a reasonable time in which to cure the noncompliance.

6. Records, Documents and Reports: The Contractor shall maintain books, records, documents and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect cost of any nature expended in the performance of this agreement. These records shall be subject at all reasonable times for inspection, review or audit by SCDC personnel or other personnel duly authorized by SCDC, the office of the State Auditor and Federal Officials so authorized by law, rules, regulations or contract. Such audit shall be at the expense of the auditing agency. The Contractor shall retain all books, records, documents and other materials relevant to this agreement for five (5) years after termination of the agreement and the authorities described herein above shall have full access to and the right to examine any of said materials during the extended period.
  
7. Termination: It is understood and agreed that this Agreement shall terminate:
  - a. Upon the written, mutual, agreement of the parties with thirty (30) days written notice;
  - b. Upon the material breach or default of any provision of this Agreement by either party, provided fifteen (15) days written notice of the breach is given to the breaching party by the non-breaching party and the breaching party fails to cure within the fifteen (15) days;
  - c. If Contractor fails to employ a minimum of 30 inmates 8 hours per day, 5 days per week;
  - d. If Section 24-3-310 of the Code of Laws of the State of South Carolina, 1976, as amended, is materially changed, altered, amended, or repealed so as to abrogate this legislation charges with establishing business relationships with private enterprise;
  - e. If federal, state, or local laws change to prevent the shipment of goods produced under this Agreement;
  - f. If Contractor becomes bankrupt and such is not cured within sixty (60) days, insolvent, or makes an

assignment for the benefit of creditors, or becomes subject to the administration of its assets in any kind of voluntary or involuntary creditors proceedings;

- g. If Contractor performs any intentional act which damages the reputation or property of SCDC;
- h. If Contractor loses its corporate charter in its state of incorporation or loses the authority to transact business in the State of South Carolina pursuant to mandate by the Secretary of State of South Carolina, or if Contractor's corporation is dissolved voluntarily or involuntarily;
- i. Failure of Contractor to pay promptly any inmate wages due, hereunder, for a period of fifteen (15) days after written notice from SCDC to Contractor of such default;
- j. At the end of any fiscal year (June 30) after the commencement date of this contract when sufficient appropriations, revenues, income, grants or other funding from whatever sources are not available to SCDC to carry on the purpose of program of SCDC, this sufficiency of funds to be solely determined by the State Budget and Control Board; and
- k. Immediately, in the event that the safety or security of the institution, its personnel or inmates is jeopardized.

Upon termination of the contract, the Contractor shall have thirty (30) days to vacate the facilities of SCDC.

8. Force Majeure: Neither party shall be liable nor deemed to be in default for any delay or failure in performance under this Agreement or otherwise for an interruption of service or employment deemed resulting from civil or military authority, from acts of God, riots, war, or any similar or dissimilar cause beyond reasonable control of either party.

9. Governing Law: This contract shall be governed by the laws of the State of South Carolina and venue shall be located in the County of Richland, State of South Carolina.

10. Severability: If any provision of this agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this contract, which can be given

effect without the invalid provision, and to this end, the provisions of this agreement are to be declared to be severable.

11. All Writings Contained Herein: This agreement contains all the terms and conditions agreed upon by the parties, no other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed binding.

Only the Director of SCDC or his delegate or designee by writing shall have the expressed, implied, or apparent authority to alter, modify or waive any clause or condition in this contract. Furthermore, any alterations, amendment or modification or waiver of any clause or condition of this contract is not effective or binding unless made in writing and signed by the Director.

IN WITNESS WHEREOF the parties have executed this contract on the first written herein above.

Witness

\_\_\_\_\_  
\_\_\_\_\_

Witness

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
William R. Byars, Jr.,  
Director

\_\_\_\_\_  
Brad Grossman, President

STATE OF SOUTH CAROLINA )

AGREEMENT

COUNTY OF RICHLAND )

2646

SVC

THE AGREEMENT is entered into this 14<sup>th</sup> day of February 2013, by and between the South Carolina Department of Corrections (hereinafter called "SCDC") and its authorized agent William R. Byars, Jr., Director, and Carolina Textiles (hereafter referred to as "Contractor") by its duly authorized agent Brad Grossman, President.

WHEREAS, Prison Industries is a division of the South Carolina Department of Corrections charged with establishing business relationships with private enterprise so as to fulfill the intent of Section 24-3-310 Code of Laws of South Carolina, 1976 as amended; and,

WHEREAS, the Contractor represents and warrants that it is a duly qualified South Carolina corporation, licensed to conduct business in South Carolina;

WHEREAS, the Contractor intends to engage in the business of cutting fabric components provided at the Lieber Correctional Institution (hereinafter referred to as "Lieber CI"); and ,

WHEREAS, this agreement is made in the best interest of the State of South Carolina:

NOW, THEREFORE, the parties hereto do agree as follows:

ARTICLE 1 General:

SCDC shall provide space in an industry facility located at Lieber CI and will refer necessary inmates for potential employment.

ARTICLE 2 Conditions of Occupancy of the Industry Facility:

2.0 General:

The Contractor shall not have the right to sublease, assign, transfer, or enter into any other agreement regarding the occupancy herein granted without the expressed written consent of SCDC.

2.1 The Duties of the Contractor:

Exhibit # I

replacement cost less fair market value. Consequential or punitive damages shall not be recoverable.

6. Payment for Occupancy: The Contractor shall pay a fixed monthly amount of One (\$1.00) Dollar for occupancy of the premises herein above described.

7. Condition of Property: Upon termination of this agreement, the Contractor will surrender the building, equipment and fixtures belonging to SCDC in the same condition it received it, normal wear and tear and casualty excepted.

8. Hazardous Waste: No hazardous waste shall be generated in the Prison Industries building by the Contractor.

9. Worker Displacement: During term of this agreement, Contractor's civilian workers will not be displaced by inmate workers. SCDC will verify with the S. C. Department of Employment and Workforce annually.

2.2 The Duties of SCDC:

1. Premises to be Occupied: SCDC shall provide space in the industry building at Lieber CI. The occupancy of this area should be consistent with the terms of this agreement regarding work authorized and hours. SCDC will maintain its facility and fixtures in good condition throughout term of contract.

2. Utilities: SCDC shall provide water, electricity, natural gas, and trash removal services and pass through actual cost to Contractor or allow Contractor to install at its own cost, separate meters for calculating payment.

3. Insurance: SCDC will maintain insurance coverage on the building and its property therein as required by the laws of the State of South Carolina.

ARTICLE 3 Conditions Related to Employment of Inmates:

3.0 General:

Contractor shall provide employment for a minimum of 30 inmates working eight (8) hours per day, five (5) days per week. SCDC will provide one civilian supervisor paid from P.I. funds provided, however, Contractor shall pay for any additional staff sufficient to ensure security and supervision on each shift. Contractor shall abide by all SCDC policies and procedures. SCDC shall have the discretion to remove any agent or employee of Contractor from the institution in the event of a violation of any of SCDC's policies and procedures with regard to the institution.

3.1 Duties of Contractor:

SCDC, at its cost, will provide one civilian employee to supervise 30 inmates at Lieber CI. Any additional security supervision provided by SCDC will be passed through to the Contractor on a monthly basis. The Contractor will pay all sums due and owing within fifteen days from receipt of invoice to SCDC, Prison Industries.

1. Training of Inmate Employees: SCDC shall provide initial training after assuming work within the Prison Industries facility.

2. Raw Materials: The Contractor shall provide all raw materials, equipment and component parts for cutting wiping rags from scrap material. All raw materials, personal property, inventory, machinery, equipment and improvements and/or fixtures or other property of any kind or description whatsoever installed or brought into the prison buildings by the Contractor or its employees or agents, shall be at the sole risk of Contractor and neither the State of South Carolina or SCDC or its employees and agents thereof, shall be liable for any damage or loss suffered except as provided in Sections 2.1.4 and 2.1.5 contained herein above. SCDC will provide management and production supervision for all phases of the work. SCDC will allow Contractor's trucks, common carrier and others transporting raw materials, equipment and finished products to and from Lieber CI, reasonable access during normal business hours, subject to the Department's security requirements in Section 3.1.3.

3. Security: The Contractor understands and specifically

agrees that its deliveries, shipments and employees are subject to search before entering or leaving the premises of SCDC.

4. Compliance With Rules and Regulations: The Contractor agrees that it and its employees must comply with all policies and procedures of SCDC and all applicable federal, state, and local laws, ordinances, regulations and accreditation standards.

5. Payment for Inmate Services: SCDC will invoice the Contractor on a monthly basis for inmate labor. The Contractor will pay all sums due and owing within fifteen days of receipt of invoice. Payments shall be made to SC Department of Corrections, Division of Industries account.

3.2 Duties of SCDC:

1. Scope of Work: Prison Industry inmates under the direct and total supervision of SCDC will cut wiping rags from scrap materials according to engineering design and manufacturing specifications developed and provided by the Contractor. It will be the sole responsibility of the Contractor to provide a quality control manual for these operations and to ensure compliance with the terms provided therein.

2. Inmate Laborers: SCDC will provide a stable and available work force of inmates.

3. Screening of Potential Inmate Laborers: SCDC will pre-screen inmates for interview according to the job descriptions submitted.

4. Holidays: The inmates employed in the project may observe holidays as described in Appendix A attached hereto and incorporated herein.

5. Inmate Workers Security: SCDC shall be responsible for the security of the inmate labor force

3.3 Mutual Duties of the Parties:

1. Bonus Pay: The Contractor and SCDC may mutually

agree upon a bonus plan for inmates based on productivity and quality control. Such bonus will be paid in its entirety by the Contractor.

2. Charge to Contractor: SCDC will charge Contractor \$.10 per pound for processed goods.

3. Compliance with Convict Labor Laws: The Contractor and SCDC agree that no goods produced under this agreement shall be placed in commerce in violation of the laws of the State of South Carolina or the United States as they relate to the utilization of prison labor. Should either Federal or State Law change preventing interstate shipments of goods produced under this agreement, Contractor shall terminate without penalty under this contract.

ARTICLE 4 General Terms and Conditions:

4.1 General:

The Contractor, his/her employees or agents performing under the agreement are not to be deemed to be employees of SCDC nor as agents of SCDC in any manner whatsoever. The Contractor will not hold himself/herself out nor claim to be an officer or employee of SCDC or of the State of South Carolina by reason hereof and will not make any claim, demand, or application to, or for any right or privilege applicable to an officer or employee of SCDC or the State of South Carolina, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security benefits, or retirement membership or credit.

1. Period of Performance: The term of this Agreement shall be for one (1) year commencing on the date of the execution of this Agreement and renewed annually in one year increments so long as both parties agree for a total of five (5) years. For the second, third, fourth and fifth year of this agreement, the rate shall be increased on the anniversary date of the agreement by the amount of the state employee salary increase passed by the most recent legislative session. Should both parties not agree upon the increased cost for the upcoming year, this agreement can be terminated.

2. Hold Harmless: The Contractor agrees to protect, defend and hold harmless the State of South Carolina, SCDC or its employees or agents thereof, from any liability or claim for damage, including injury to the Contractor's employees or agents, except where such liability claim is due to negligence of the State of South Carolina, SCDC or employees or agents thereof, arising out of the performance of this contract. The Contractor further agrees to protect, defend and hold harmless the State of South Carolina, SCDC or any employees or agents thereof, for any product liability claims relating to the products produced or services rendered under this contract. The Contractor expressly understands that SCDC or its employees or agents thereof, is not a guarantor of the work performed by the inmate workers referred by SCDC. Inmates shall not be considered employees of Contractor.
3. Notices: All notices regarding the terms of this contract, including terminations, amendments and disputes shall be sent by certified mail to SCDC as follows:

William R. Byars, Jr., Director  
South Carolina Department of Corrections  
4444 Broad River Road  
P. O. Box 21787  
Columbia, South Carolina 29221-1787

to the Contractor as follows:

Brad Grossman, President  
Carolina Textiles  
68 Anderson Road  
Walterboro, SC 29488

4. Non-Discrimination in Employment: The Contractor shall not discriminate against any employee inmate worker or applicant for employment because of race, color, sex, religion, national origin, creed, marital status, age, or the presence of any sensory mental or physical handicap.
5. Noncompliance with Nondiscrimination Requirements: In the event the Contractor fails to comply with the discrimination laws, the contract may be rescinded, canceled or terminated in whole or in part, and the

Contractor may be declared ineligible for further contracts from SCDC. The Contractor shall, however, be given a reasonable time in which to cure the noncompliance.

6. Records, Documents and Reports: The Contractor shall maintain books, records, documents and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect cost of any nature expended in the performance of this agreement. These records shall be subject at all reasonable times for inspection, review or audit by SCDC personnel or other personnel duly authorized by SCDC, the office of the State Auditor and Federal Officials so authorized by law, rules, regulations or contract. Such audit shall be at the expense of the auditing agency. The Contractor shall retain all books, records, documents and other materials relevant to this agreement for five (5) years after termination of the agreement and the authorities described herein above shall have full access to and the right to examine any of said materials during the extended period.
  
7. Termination: It is understood and agreed that this Agreement shall terminate:
  - a. Upon the written, mutual, agreement of the parties with thirty (30) days written notice;
  - b. Upon the material breach or default of any provision of this Agreement by either party, provided fifteen (15) days written notice of the breach is given to the breaching party by the non-breaching party and the breaching party fails to cure within the fifteen (15) days;
  - c. If Contractor fails to employ a minimum of 30 inmates 8 hours per day, 5 days per week;
  - d. If Section 24-3-310 of the Code of Laws of the State of South Carolina, 1976, as amended, is materially changed, altered, amended, or repealed so as to abrogate this legislation charges with establishing business relationships with private enterprise;
  - e. If federal, state, or local laws change to prevent the shipment of goods produced under this Agreement;
  - f. If Contractor becomes bankrupt and such is not cured within sixty (60) days, insolvent, or makes an assignment for the benefit of creditors, or becomes

subject to the administration of its assets in any kind of voluntary or involuntary creditors proceedings;

- g. If Contractor performs any intentional act which damages the reputation or property of SCDC;
- h. If Contractor loses its corporate charter in its state of incorporation or loses the authority to transact business in the State of South Carolina pursuant to mandate by the Secretary of State of South Carolina, or if Contractor's corporation is dissolved voluntarily or involuntarily;
- i. Failure of Contractor to pay promptly any inmate wages due, hereunder, for a period of fifteen (15) days after written notice from SCDC to Contractor of such default;
- j. At the end of any fiscal year (June 30) after the commencement date of this contract when sufficient appropriations, revenues, income, grants or other funding from whatever sources are not available to SCDC to carry on the purpose of program of SCDC, this sufficiency of funds to be solely determined by the State Budget and Control Board; and
- k. Immediately, in the event that the safety or security of the institution, its personnel or inmates is jeopardized.

Upon termination of the contract, the Contractor shall have thirty (30) days to vacate the facilities of SCDC.

8. Force Majeure: Neither party shall be liable nor deemed to be in default for any delay or failure in performance under this Agreement or otherwise for an interruption of service or employment deemed resulting from civil or military authority, from acts of God, riots, war, or any similar or dissimilar cause beyond reasonable control of either party.

9. Governing Law: This contract shall be governed by the laws of the State of South Carolina and venue shall be located in the County of Richland, State of South Carolina.

10. Severability: If any provision of this agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this contract, which can be given effect without the invalid provision, and to this end, the

provisions of this agreement are to be declared to be severable.

11. All Writings Contained Herein: This agreement contains all the terms and conditions agreed upon by the parties, no other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed binding.

Only the Director of SCDC or his delegate or designee by writing shall have the expressed, implied, or apparent authority to alter, modify or waive any clause or condition in this contract. Furthermore, any alterations, amendment or modification or waiver of any clause or condition of this contract is not effective or binding unless made in writing and signed by the Director.

IN WITNESS WHEREOF the parties have executed this contract on the first written herein above.

Witness

Alvin J. Robertson  
Conrad Durbin

Witness

Michael Cunningham  
Charles D. Keyling

William R. Byars, Jr.  
Director

Brad Grossman  
Brad Grossman, President

**STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT**

Darren G. Scott, #233182,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

Docket No. 23-ALJ-04-0683-AP  
Grievance No. ACI 0297-23

**ORDER OF DISMISSAL**

This matter is before the South Carolina Administrative Law Court (ALC) pursuant to the Notice of Appeal filed November 21, 2023, by Appellant Darren G. Scott (Appellant). Appellant's grievance with Respondent South Carolina Department of Corrections (Respondent or Department) concerned his wages. On January 23, 2024, Appellant filed his initial brief with this Court. On January 31, 2024, this Court issued an Order Granting Appellant's Motion to Supplement the Record. On March 13, 2024, this Court issued an Order Granting Respondent's Motion to Extend Time to File the Record. On April 12, 2024, Respondent filed the Record on Appeal with this Court. Appellant filed a renewed brief with this Court on May 7, 2024. On May 15, 2024, this Court issued an Order for Respondent to file a return to Appellant's April 29, 2024 letter requesting the Department fully comply with this Court's January 31, 2024 Order to supplement the Record on Appeal. On May 28, 2024, Respondent filed a Motion to Dismiss, stating that no state-created liberty or property interest was implicated in this case, because Appellant never worked for a Prison Industries Enhancement Certification Program (PIECP), which is subject to the prevailing wage statute. In its motion, Respondent states the record indicates Appellant does not have a private industry account, and during the time periods Appellant worked, Lieber Correctional Institution did not have a PIECP. On June 5, 2024, Appellant filed a response to the motion.

This Court reviews Department grievance decisions pursuant to the South Carolina Supreme Court decision in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). Under the Al-Shabazz line of cases, this Court may only review matters related to a state-created liberty or property interest. See id., 338 S.C. at 368–69, 527 S.E.2d at 749–50 (vesting the ALC with jurisdiction over the loss of state-created liberty interests such as accrued good time credit); Wicker v. S.C. Dept. of Corrs., 360 S.C. 421, 602 S.E.2d 56 (2004) (holding that inmate had a right to

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procedural due process in matters involving a state-created right to property such as wages). Specifically, the South Carolina Supreme Court has stated that summary dismissal of an otherwise properly perfected inmate appeal “may be appropriate where the inmate’s grievance does not implicate a **state-created** liberty or property interest.” Slezak v. S.C. Dept. of Corrs., 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004) (citation omitted) (emphasis added).

Appellant here is making a claim for wages pursuant to S.C. Code Ann. Sections 24-3-430(D) and 24-3-315. Contrary to Appellant’s assertion, the statutes at issue apply only to the prison work programs at SCDC, which are commonly referred to as the PIECP program. Section 24-3-315 expressly applies only to “inmates participating in any prison industry program pursuant to the Justice Assistance Act of 1984.” Section 24-3-430 states that it applies to “inmate labor by a nonprofit organization or in private industry for the manufacturing and processing of goods, wares, or merchandise.” These are programs that are organized as an exception to the general rule set forth in section 24-3-410 prohibiting the sale on the open market of products manufactured or produced by inmate labor.

Here, there is nothing in the record indicating that any of the work performed by Appellant as an inmate was a part of the PIECP program. Therefore, the requirement that the prevailing wage be paid is not applicable to Appellant’s prison employment. Because there is no statutory requirement that the prevailing wage be paid to Appellant, there is no state-created liberty or property interest involved in this matter. Therefore, finding good cause,

**IT IS HEREBY ORDERED** that the Department’s Motion to Dismiss is **GRANTED**, and this appeal is **DISMISSED, WITH PREJUDICE**.

**AND IT IS SO ORDERED.**



Deborah Brooks Durden, Judge  
S.C. Administrative Law Court

October 22, 2024  
Columbia, South Carolina

**CERTIFICATE OF SERVICE**

I, Robin E. Coleman, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).

*Robin Coleman*

Robin E. Coleman  
Judicial Aide to Judge Deborah Brooks Durden

October 22, 2024  
Columbia, South Carolina



THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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Appeal From the  
Administrative Law Court  
The Honorable Deborah Brooks Durden

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Docket NO. 23-ALJ-04-0683-AP  
Grievance NO. ACI-0297-23

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South Carolina Department  
of Corrections,

Darren G. Scott,

vs.

Respondents,

Appellant.

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NOTICE OF APPEAL


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Appellant, Darren G. Scott, appeals the order of dismissal of the Honorable Deborah Brooks Durden, dated October 22, 2024. Appellant received written notice of entry of this order October 28, 2024.

This 30<sup>th</sup> day of October 2024

Other Counsel of Record:

cc:  
Administrative law clerk  
Court of Appeals - Hon. Kitchinas  
General Counsel scdc - Evans

  
Darren G. Scott 233102  
Allendale Correctional Inst.  
1057 - Revolutionary Trail  
Fairfax, South Carolina  
29827

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SC Court of Appeals