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May 23 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Ralph King Anderson, III

ALC Case No. 23-ALJ-04-0526-AP
Appellate Case No. 2024-001076

BOBBY C. GIBSON, JR., # 171440,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

MOTION TO REMAND

In Appellant’s appeal to the Administrative Law Court (“ALC”), he argued that he was entitled to prevailing wage backpay for his work in Prison Industries. The ALC dismissed the majority of Appellant’s claims on the ground that Appellant did not comply with the timelines of SCDC Policy ADM-15.13. The ALC did order the Department to pay Appellant for the two pay periods prior to June 28, 2023, the date Appellant submitted his request regarding backpay to the Department, finding that his request was timely as to those two pay periods. As to the remainder of Prison Industries backpay, the ALC did not make any ruling on the merits and therefore did not address the issue of Appellant’s wage calculations for work other than the two pay periods prior to June 28, 2023.

Respondent does not contest and has not contested in this case that it was error to conclude that Appellant was not due backpay for pay periods other than the two mentioned above on the ground that Appellant failed to comply with the time periods in ADM-15.13. In fact, Respondent calculated Appellant's prevailing wage backpay for all Prison Industries work after this appeal was filed and has attempted to settle with Appellant multiple times. Respondent also issued a Final Agency Decision setting forth Appellant's wage calculations in December 2024 and provided Appellant the ability to appeal that decision. Appellant did not appeal from that Final Agency Decision.

Regardless, the only issue in the instant appeal is whether or not the ALC erred in dismissing the majority of Appellant's wage claims because they were untimely under ADM-15.13. As stated above, Respondent does not contest that it was error to dismiss these claims pursuant to ADM-15.13. Therefore, there are no issues to argue before this Court. However, Respondent still wishes to provide Appellant with the proper prevailing wage backpay. Accordingly, the appropriate remedy would be to remand this matter back to the ALC with instructions to remand the matter back to the Department for issuance of an appealable corrected Step 2 response which specifically sets forth the Department's wage calculations and allows Appellant the opportunity to accept the Department's calculations or appeal the calculations to the ALC if he disagrees with them. The ALC needs to consider the matter prior to this Court, so Respondent would move to dismiss the instant appeal once the appealable corrected Step 2 response is issued and served.

For the reasons discussed above, Respondent respectfully requests that this Court remand this matter back to the ALC with instructions to remand the matter back to the Department for issuance of an appealable corrected Step 2 as described above.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY:



CHRISTINA BIGELOW

Deputy General Counsel

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ATTORNEY FOR RESPONDENT

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on this date, she mailed a copy of the **Motion to Remand** to Appellant, addressed as follows:

Bobby C. Gibson, Jr., # 171440
Livesay Correctional Institution
N6-0024
Post Office Box 580
Una, South Carolina 29378



Christina Catoe Bigelow
Deputy General Counsel
S. C. Department of Corrections
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SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Division of Legal Counsel & Compliance

HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

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The Honorable Jenny A. Kitchings
Clerk of Court, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Bobby Gibson, # 171440 v. South Carolina Department of Corrections
Appellate Case No. 2024-001076

Dear Ms. Kitchings:

Enclosed please find Respondent's **Motion to Remand** in the above referenced matter, along with **Proof of Service**. A copy of the same is being mailed to Appellant today.

Thank you for your attention to this matter, and please do not hesitate to contact me should there be any questions or concerns.

Sincerely,

Christina Catoe Bigelow
Deputy General Counsel
South Carolina Department of Corrections
S.C. Bar No. 73562

cc: Bobby C. Gibson, Jr., # 171440
Livesay Correctional Institution
N6-0024
Post Office Box 580
Una, South Carolina 29378