

RECEIVED

AUG 13 2025

STATE OF SOUTH CAROLINA
In The Court of Appeals

SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Deborah Brooks Durden

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

DARREN G. SCOTT, #233182

APPELLANT

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT

FINAL BRIEF OF APPELLANT

Appellant Pro-Se

Darren G. Scott #233182
Allendale Correctional Institution
HAB-0057-F-3
1057 Revolutionary Trail
Fairfax, South Carolina 29827

TABLE OF AUTHORITIES

CASES

- Al-Shabazz, 338 SC. at 369-70, 527 S.E.2d at 750 Ps. 2, 5
Bazzle v. Huff, 319 SC. 443, 445, 462 S.E.2d 273, 274 (1995) Ps. 8
Bryant v. City of Charleston, 295 SC. 408, 368 S.E.2d 899 (1998) Ps. 7
Carolina Power & Light Co. v. City of Bennettsville, 314 Ps. 7
SC. 137, 139, 442 S.E.2d 177, 179 (1994).
Hodges v. Rainey, 341 SC. 79, 85, 533 S.E.2d 578, 581 (2000) Ps. 6
Monroe v. Livingston, 511 SC. 214, 217, 161 S.E.2d 243 244 (1968) Ps. 8
S.C. Dep't of Corr. v. Cartrette, 387 SC. 640, 646, 694 S.E.2d 1821 Ps. 6
State v. Martin, 293 SC. 46, 358 S.E.2d 697 (1987) Ps. 6
Slezak, 361 SC. at 331, 605 S.E.2d at 508, Cert. denied, 544 U.S. at 1033 Ps. 2, 5
Triska v. Dep't of Health & Env'tl Control, 292 SC. 190, 355 S.E.2d 531 (1987) Ps. 8
Wicker, 360 SC. at 423-24, 602 S.E.2d at 57. Ps. 5

STATUTES AND RULES

- 1-23-610(B) Ps. 2
24-3-410 Ps. 7
24-3-310 Ps. 4, 6, 8, 9
24-3-315 Ps. 4, 5, 6, 8, 9
24-3-430(D) Ps. 4, 5, 6, 7, 8
ACT NO. 181, 409 Ps. 4
ACT NO. 7, 995 SC. Acts 78, Ps. 4
Affidavit of Mark Gathers Ps. 7
Fax - From the S.C.E.S.C. - Workforce center. Ps. 7

STANDARD OF REVIEW

The ALC has subject matter jurisdiction under the Administrative Procedures Act (APA) to hear properly perfected appeals from the Department's final orders in administrative or non-collateral matters.

Slezak v. S.C. Dept of Corr., 361 S.C. 327, 331, 605 S.E.2d 506, 507 (2004)

This Court's standard of review derives from the APA. Al-Shabazz v. State, 338 S.C. 354, 379, 527 S.E.2d 742, 755 (2000). This Court may affirm, remand, reverse, or modify the appealed decision if the appellants' substantive rights have suffered prejudice because the decision is:

- (a) In violation of Constitutional or Statutory Provisions;
- (b) In excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law
- (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion S.C. Code Ann. 1-23-610(B) 2 (Supp. 2009). Respondents are in violation of (A) & (F)

STATEMENT OF THE CASE

This matter comes before the South Carolina Court of Appeals pursuant to an appeal of Darren B. Scott (Appellant) an inmate in the South Carolina Department of Corrections (SCDC). This appeal is pursuant to the order of Dismiss by the (ALC) Administrative Law Court The Hon. Deborah Brooks Durden Administrative law Judge, dated October 22, 2024, Appellant Filed his notice of Appeal. January 17, 2025 Appellant respectfully Submitted Submitted his Designation of matter and his Initial Brief on the Court of Appeals and Counsel of Record.

July 14, 2025 The Court of Appeals order "the parties shall serve and file their final Briefs within (20) twenty days of the order, Appellant received notice of said order on July 28, 2025 in the Institution's mailroom, His final Brief follows:

The (ALC) erred By Dismissing Appellant's Case Pursuant to Slezak

Appellant seeks to have this Honorable court to enforce his statutory right to receive Compensation (Wages) from SCDC/ Respondents, that he has already earned working/ participating in the prison industries project under 24-3-315, 24-3-310, and 24-3-430. From Appellant, states he is entitled to the difference between what he has already been paid, and the prevailing wage for the type of work he performed. Appellant states that 24-3-315 and 24-3-430 are the controlling authority when it comes to inmate pay. The South Carolina legislature enacted S.C. Code Ann. 24-3-315 in 1987, which was captioned as Determinations prerequisite to selecting prison industry project.

That statute states in pertinent part: The Department of Corrections shall ensure that inmates participating in any prison industry program pursuant to the Justice Assistance Act of 1984 is on a Voluntary basis.

The Director must determine prior to using inmate labor in a prison industry project that the rates of pay and other conditions of employment are not less than those paid, and provided for work of similar nature in the locality in which the work is performed. S.C. Code Ann. 24-3-315 1993 Act No. 181, 409. In 1995, the South Carolina legislature enacted S.C. Code 24-3-430 to authorize the expansion of the prison industries program (PID) into the private sector. This expansion allowed for qualified private entities to use inmate labor, but required the wage for participating inmates to be no less than the prevailing wage for work of (a) similar nature in the private sector, Act No. 7, 995 S.C. Acts 78. Section 24-3-430 became effective on July 1, 1995. S.C. Code Ann. 24-3-315
4-0f-10

5

(1987) and S.C. Code Ann. 24-3-430 (1995) Created a Statutory right to the payment of (a) prevailing wage for an inmate who worked / participated in the SCD's / Respondents prison industry program, see S.C. Dept of Corro. v. Cartrette, 387 S.C. 640, 646, 694 S.E. 2d 18, 21 (Ct. App. 2016) Finding "Sections 24-3-315 and 24-3-430(D) Compel the Department to ensure inmate workers who are employed under those sections receive the same pay rates and employment conditions as their non-inmate peers.

Thus, based on the information properly before this Court, Appellant has asserted a wage claim that is a state-created property interest pursuant to Al-Shabazz and Wicker, see Al-Shabazz, 338 S.C. at 369-70, 527 S.E. 2d at 750; Wicker, 360 S.C. at 423-24, 602 S.E. 2d at 57, for the (ALC) to dismiss under Slezak was improper, see Slezak, 361 S.C. at 331, 605 S.E. 2d at 508, Cert. denied, 544 U.S. at 1033. Appellant's assertion, the PIE program at Lieber was the program commonly referred to as PIE PIECP Section 24-3-315 expressly applies to inmates participating in any prison industry program pursuant to the Justice Assistance Act of (1984). PIE, is the program that is 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. products produced by Appellant was on the open market. Allows reasonable minds to reach the same conclusion.

The Primary Questions Before This Court 24-3-430 Apply In Nature

The primary Questions before this Court of Appeals are whether SC Code Ann. 24-3-430 apply in nature to the private Sector and whether it requires the respondents to pay Appellant his wages, or whether the respondents' non-compliance with mandatory statutory provisions at issue that are contained in SC Code Ann 24-3-430, 24-3-315, and 24-3-310.

The statutory terms above are clear, unambiguous, and require the respondents to pay all inmates who performed the labor in any PIP, PIE, PI, PIECP, and Service as outlined in SC Code Ann 24-3-430.

As stated in S.C. Dept of Corr. v. Cartrette, 387 S.C. 640, 646, 694 S.E. 2d 18, 21. The respondents realized that the agency was operating outside the authority and requirements of SC Code 24-3-430 in that inmates were being paid less than the prevailing wage for work performed for private Companies. Appellant was also not paid for work performed for the (2) two private Companies he worked for. Further, Appellant and Wlicker worked under the same Statute, 24-3-310, as the Supreme Court unequivocally held that there is nothing in the Statutory Scheme, as set out in 24-3-310 code of law authorizing the Department to pay an inmate less than the prevailing wage.

It is a Cardinal rule of Statutory Construction that the primary purpose in interpreting Statutes is ascertain the intent of the legislature.

Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E. 2d 578, 581 (2000) State v. Martin, 293 S.C. 46, 358

^{DS}
S.E. 2d ~~578, 581~~ 697 (1987).

When a statute's terms are clear and unambiguous on their face, there is no room for Statutory Construction and Appellant request that this court apply the statute according to its literal meaning. Carolina Power & Light CO. V. City of Bennettsville, 314 SC 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 SC 408, 368 SE 2d 899 (1998) Moreover, Appellant found additional evidence in the record that support his theory to show this court specifically that both (PIE) prison programs at Lieber was under 24-3-430 - Please see the Affidavit of Mr. Mark Gethers, to whom was the program assistant for the Division of Industries at Lieber, when Appellant worked under his supervision Mr. Gethers's Affidavit is to the United States District court. Also see the fax from the SEESC Workforce Center, stating that Lieber Correctional Institution is under the Prison Industries Enhancement program. It was there determination. This determination falls under the 24-3-430 of prevailing wages. Despite what the respondent are trying to relay to this court, the evidence show different, as well as the statutes.

Respondents Actions Are Not Consistent
With the Statute 24-3-310, 24-3-315, & 24-3-430(D)

The Respondents is an agencies / creatures of
'statute and may not act outside the authority
granted to them by the legislature. see Bazzle
V. Huff, 319 S.C. 443, 445, 462 S.E.2d 273, 274 (1995)
(Citing Triska V. Dept of Health & Env't Control, 892
S.C. 190, 355 S.E.2d 531 (1987).

An administrative agency has only such powers
as have been conferred by law and must act
within the authority granted for that purpose...
Monroe V. Livingston, 511 S.C. 214, 217, 161 S.E.2d 243
244 (1968) Agency is not clothed with the authority
to adopt self-imposed limitations which are
inconsistent with the stated purpose of the
legislation under which it operates.

The purpose of SC Code Ann. 24-3-310, 24-3-315,
and 24-3-430 are to ensure that the rates
of pay and other conditions of employment in the
prison industries are not less than those paid,
and provided for work of similar nature in the
locality in which the work is performed and to
insure prisoners receive the prevailing wage

There is no language in the above statutes that
purport to vest said respondents with authority
to deprive Appellant of any wage for not having
an account or that he may have worked

Traditional Industries program, nor that of in the respondent's initial brief page # 6 Lines 8 & 9 as stated "The Caterpillar program was not a PIE or PIECP program.

As the Department/Respondents explained in other cases that SDC operates (3) three types of projects within its prison industries program (1) "Traditional projects under Sections 24-3-320 and 330; (2) "Service" work projects under sections 24-1-290, -295 and (3) projects certified by the Federal government under its Prison Industries Enhancement Certification program, 24-3-310 also known as PIE or PIECP. According to the Department, the third program must comply with subsection 24-3-430(d) which requires inmates to be paid the prevailing wage. 24-3-430 states Service work as well see 24-3-430 in its entirety

Only PIECP and PIE Prison Industries Service programs operate with private industry sponsors and are subject to the prevailing wage statute i.e., sc. code 24-3-430(d) and implicate a state-created liberty interest. As in Wicker Appellant worked under the same statute, i.e., sc. code 24-3-310

CONCLUSION

For the foregoing reasons, Appellant request that this Honorable Court Grant the following relief:
The finding that the Respondents actions, as follows depriving Appellant of due process, unlawful and in excess of it's Authority, has been substantially prejudiced, violation of Constitutional or statutory provisions, reverse and remand back to the (ALE) to be paid prevailing wages, and such other further relief that this Court deems Fair & Just.

~~Respectfully Submitted,~~

This 6th day of August 2025
Fairfax, South Carolina

Darren G. Scott # 233187
Allendale Corr. Inst.
0057
1057 Revolutionary Treo!
Fairfax, South Carolina 29827

10-d-10

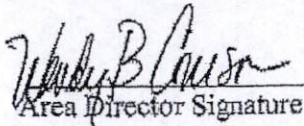
S.C. Department of Corrections
P.O. Box 21787
4444 Broad River Rd.
Columbia, S.C. 29221-1787

To Whom it May Concern:

Having reviewed the proposed project/s for the Lieber Correctional Institution under the Prison Industries Enhancement program, I make the following determination regarding projected impact upon the local area.

This project will not result in the displacement of workers and will not adversely affect employers in the area.

This project will result in the displacement of workers and will adversely impact employers in the area.


Area Director Signature

Summerville
SCESC Workforce Center

EX-F

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Don Hughes # 256862)	Civil Action No. 0:06-02078-JFA-BM
)	
Plaintiff,)	
)	
vs.)	
)	
Mark Gethers, in his individual and)	AFFIDAVIT OF MARK GETHERS
official capacities; and)	IN SUPPORT OF DEFENDANTS'
Jack Staudt, in his individual and)	JOINT MOTION FOR
Official capacities;)	SUMMARY JUDGMENT
)	
Defendants.)	

PERSONALLY APPEARED BEFORE ME, MARK GETHERS, who first being duly sworn deposes and states as follows:

1. I am one of the two (2) named defendants in the above captioned lawsuit.
2. I am currently employed by the South Carolina Department of Corrections ["SCDC"] as the Program Assistant for a Division of Industries ["DOI"] project located at Lieber Correctional Institution ["Lieber"] in which Williams Technologies, Inc. ["WTI"], acted the private industry participant.
 - A. SCDC's DOI operates the project for which I am the Program Assistant under the provisions of S.C. Code Ann. § 24-3-310, *et seq.*, and, specifically, § 24-3-430.
 - B. Jack Staudt, the other defendant named by the Plaintiff, Inmate Don Hughes, retired from SCDC in 2005. Until the time of his retirement, Mr. Staudt was my first line supervisor, and he served as the Plant Manager for the DOI project located at Lieber for which I am the Program Assistant.

C. Caterpillar, Inc., very recently purchased WTI, and Caterpillar now acts as the private industry participant for the DOI project at Lieber for which I am the Program Assistant.

D. Caterpillar, through a contract WTI first executed with SCDC and under the provisions of the statutes referenced immediately above, leases the labor of inmates confined at Lieber from SCDC.

E. As part of the original contract between SCDC and WTI, WTI constructed a facility entirely within the confines of Lieber at which inmates, like the Plaintiff, disassemble defective automotive transmissions collected by WTI and, now, Caterpillar in the regular course of its business.

F. Caterpillar collects these defective automotive transmissions from companies such as Ford and General Motors at facilities it owns and operates aside from the Lieber facility, and it then ships a portion of these defective transmissions to Lieber for disassembly. Once the inmates have disassembled the defective transmissions, Caterpillar ships the salvageable component parts to another facility it owns and operates in Summerville, South Carolina. Caterpillar operates its Summerville facility entirely with Caterpillar employees. Caterpillar uses the salvaged component parts to produce re-manufactured transmissions which Caterpillar then sells to various automotive wholesalers and distributors.

G. Inmates who are permitted by SCDC to participate in this project must participate voluntarily, and their participation constitutes their prison work assignment.

H. As part of the work assignment process, inmates fill out an SCDC generated application form in which they provide answers to relevant questions such as criminal conviction history and their institutional assignment history.

3. I recently reviewed the Amended Complaint filed by the Plaintiff, Inmate Hughes.

A. Additionally, I reviewed the affidavit prepared by Ms. Mary Coleman, Chief Administrator for SCDC's Inmate Grievance Branch, as well as the documents Ms. Coleman included with her affidavit.

B. I also reviewed an SCDC form entitled "INMATE JOB/SCHOOL ASSIGNMENT," which reflects action taken by SCDC concerning the Plaintiff back in late March 2004. I include a copy of this form with my affidavit. This form is best known within SCDC as a "1954" form.

C. At the time of the events described by the Plaintiff in his Amended Complaint and, for that matter, in his many grievances, I was serving as the Acting Plant Manager for the DOI project in question.

D. At the time of the events described by the Plaintiff in his Amended Complaint and, for that matter, in his many grievances, the Plaintiff was serving as one (1) of my two (2) night clerks for the DOI project in question.

E. At the time of the events described by the Plaintiff in his Amended Complaint and, for that matter, in his many grievances, the Plaintiff came to me and told me that he did not like the other night clerk with whom he served. He also complained that the office in which he worked was equipped with only one (1) computer, and, further, he complained that the other night clerk's use of this single computer interfered with his work performance.

F. After describing his concerns to me, the Plaintiff told me that he wanted to continue working as a clerk but that he wanted to work as a clerk in either of the two (2) other DOI projects SCDC operated at that time within the confines of Lieber.

G. After my conversation with the Plaintiff, I checked into whether there were any openings for clerks in either of the two (2) other DOI projects SCDC operated at that time, and I learned that no openings for clerks were available.

H. I soon told the Plaintiff that there were no other openings for clerks in either of these other DOI projects at Lieber. I then offered the Plaintiff a chance to work in another position in the DOI project in which he was participating as a clerk. The Plaintiff refused my offer for reassignment within my project. Specifically, the Plaintiff told me that he planned on pursuing education opportunities available to him within SCDC while he waited for a clerk position to open up in one of the other projects.

I. The Plaintiff soon thereafter formally requested a transfer from my project, and I granted his request. Consequentially, I never had to terminate the Plaintiff from my project.

J. The Plaintiff's request for transfer out of my project is reflected in the "INMATE JOB/SCHOOL ASSIGNMENT" form I include with my affidavit.

(1) The Plaintiff's SCDC identification number, name, and institution appear in blocks 1 through 3 of this form.

(2) The information in blocks 4 and 6 reflect that the Plaintiff was transferred at his request (see block 6) from "P.I. #2" (see block 4) with an effective date of "3-31-04" (block 4). The designation "P.I. #2" references the project I described above in paragraph 2.

(3) The information in block 9 reflects that SCDC employee Bernard A. Poole, who worked for me in late March 2004, endorsed the Plaintiff's request to be transferred out of my project on "3-31-04."

(4) The information in block 12 reflects that the Plaintiff's transfer became effective on "4-14-04" when a representative of SCDC's Classification Branch entered the

information into SCDC's computer database system. This computer database system is referenced internally within SCDC as the "CRT" system, and the acronym "CRT" appears in block 12.

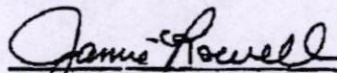
(5) As a result of this action, the Plaintiff was sent back into the pool of SCDC inmates at Lieber to await assignment to another prison job by SCDC's "Job Board."

4. I collected the document described immediately above, and it is a true and accurate copy of the "INMATE JOB/SCHOOL ASSIGNMENT" form concerning the Plaintiff.

FURTHER AFFIANT SAYETH NOT.


MARK GETTERS

SWORN TO BEFORE ME THIS 1st
DAY OF MARCH, 2007


NOTARY PUBLIC FOR SOUTH CAROLINA

COMMISSION EXPIRES: 4/27/16

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Classification and Inmate Records
INMATE JOB/SCHOOL ASSIGNMENT

CA-48

1. SCDC #: 256862	2. Inmate's Name: Hughes, Don	3. Institution: Lieber C.I.
4. Transferred From: P.I. #2 Area: Title: Mech. Helper Code: 05130 <input checked="" type="checkbox"/> Full-Time <input type="checkbox"/> Part-Time 8 Hours Per Day 5 Days Per Week Date Effective 3-31-04		5. Transferred To: Area: Title: Code: <input type="checkbox"/> Full-Time <input type="checkbox"/> Part-Time Hours Per Day Days Per Week Date Effective
6. Reason for <u>Transfer</u> Termination (a reason must be indicated): <p align="center" style="font-size: 1.2em;">Inmate Request.</p>		
7. Comments:		
8. Bonus Educational Credit: <input type="checkbox"/> ADD <input type="checkbox"/> DELETE Date Effective _____ <input type="checkbox"/> 4-7 Hrs/Wk <input type="checkbox"/> 8-11 Hrs/Wk <input type="checkbox"/> 12-14 Hrs/Wk <input type="checkbox"/> 15 or MORE Hrs/Wk		
Return This Form To Classification.		9. Losing Supervisor: Ben Ahal Date: 3-31-04
		10. Gaining Supervisor: Date:
		11. Classification Caseworker: Date:
		12. CRT Entry by: Rup Date: 4-14-04

13. CRT Entries: EWC EEC _____ Assignment Location:

DISTRIBUTION:
 White: Institutional Record
 Yellow: Losing Supervisor
 Pink: Gaining Supervisor
 Gold: Inmate Pay Designee