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Oct 31 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

ALC Case No. 25-ALJ-04-0004-IJ
Appellate Case No. 2025-001166

ROBERT DEAL, JR., # 301062,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

**MOTION TO REQUIRE APPELLANT TO FILE A CORRECTED RECORD ON
APPEAL**

Comes now Respondent, through undersigned counsel, and requests that this Court require Appellant to file a corrected Record on Appeal. The relevant facts supporting this request are as follows.

In attempting to prepare Respondent's Final Brief, undersigned counsel realized that Appellant's Record on Appeal fails to contain all the matter designated by Respondent. The Record served on October 13, 2025 contains only the ALC order of dismissal (see **Exhibit A** attached – Record served by Appellant). It fails to contain the record before the ALC and the Affidavit of Richard Hodgkiss, as designated by Respondent in its Designation of Matter (see **Exhibit B** attached – Record before the ALC and Affidavit).

Because Appellant has not provided a proper Record on Appeal as required by SCACR, Rule 210(c), Respondent cannot file a proper Final Brief of Respondent with correct record references, and this Court cannot properly consider the case. Accordingly, Respondent respectfully requests that this Court require Appellant to file a corrected Record on Appeal as described above. Respondent further requests that this Court hold the time period for any filings in abeyance pending resolution of this motion.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY: 

CHRISTINA CATOE BIGELOW

Deputy General Counsel

Office of General Counsel

S.C. Department of Corrections

Post Office Box 21787

Columbia, South Carolina 29221

(803) 896-8508

ATTORNEY FOR RESPONDENT

October 31, 2025

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
S. PHILLIP LENSKI, ADMINISTRATIVE LAW JUDGE

APPELLATE CASE NO. 2025-001166

Robert Deal, Jr., #301062,

Appellant,

v.

South Carolina Department of Corrections, Respondant.

RECORD ON APPEAL

ROBERT DEAL, #301062
P.O. BOX 580
UNA, SOUTH CAROLINA 29378

CHRISTINA CATOE BIGELOW, ESQUIRE
4444 BROAD RIVER ROAD
COLUMBIA, SOUTH CAROLINA 29210
ATTORNEY FOR RESPONDENT

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ORDER GRANTING RESPONDENT'S MOTION TO DISMISS APPEAL, DATED MAY 21, 2025.....	1

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Robert Deal, Jr., #301062,)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)
_____)

Docket No. 25-ALJ-04-0004-IJ

**ORDER GRANTING
RESPONDENT'S MOTION TO
DISMISS**

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed on January 6, 2025 by Robert Deal, Jr., (Appellant), an inmate in the custody of the South Carolina Department of Corrections (Respondent or Department). After the Appellant's Step 1 Grievance was filed and returned unprocessed because the position the Appellant held at McCormick Correctional Institution was in a service program, which was not subject to the prevailing wage statute and therefore the Appellant is not owed any funds, he filed an appeal with the court.

On May 8, 2025, the Department filed a Motion to File Out of Time and Motion to Dismiss with the court. In its Motion to File Out Time, Department explained that the Department's brief or responsive filing was due May 6, 2025, however due to an administrative oversight and the overabundance of cases the Department did not file its Motion to Dismiss in a timely manner. The Department is asking the court to dismiss this appeal because the Appellant's allegations do not implicate a state-created liberty or property interest since the Appellant never worked for a Prison Industries Enhancement Certification Program (PIECP). Therefore, the Appellant does not have a claim that he should be paid the prevailing wage and this appeal should be dismissed pursuant to *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E. 2d 506 (2004) and *Skipper v. S.C. Dep't of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (Ct. App. 2006) because the Appellant's appeal does not involve a state-created liberty or property interest.

On May 15, 2025, the Appellant filed a response to the Department's Motion to Dismiss arguing that the legislative intent was for the Department to have flexibility to negotiate contracts

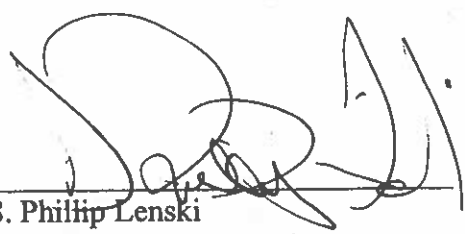
The State of South Carolina
FILED
MAY 21 2025
Administrative Law Court

with private sector entities at a rate below the prevailing wage, not to pay an inmate slave wages. Therefore, he should be awarded all back pay for his labor while assigned to Prison Industries at McCormick Correctional Institution (McCormick).

In this case, the Appellant is requesting backpay from the Department for labor performed while assigned to Prison Industries at McCormick from September 22, 2014 to October 18, 2018 and November 10, 2019 to November 2, 2021. However, the Department argues that the Appellant never worked for a PIECP while at McCormick because McCormick did not have a PIECP program during the time the Appellant worked but instead had a split service and traditional program for furniture and upholstery. In support of its Motion to Dismiss, the Department included a notarized affidavit from the Director of Support Services and Industries attesting that McCormick did not have a PIECP during the time the Appellant was working.

When reviewing the Department's decisions in inmate grievance matters, the court sits in an appellate capacity. *SCDC v. Mitchell*, 377 S.C. 256, 659 S.E.2d 233 (Ct. App. 2008). Consequently, the review in these inmate grievance cases is limited to the record before the court. Pursuant to *Slezak*, the court is to have jurisdiction over all properly perfected inmate appeals, but “[s]ummary dismissal may be appropriate where the inmate’s grievance does not implicate a state-created liberty or property interest.” See *Slezak v. S.C. Dep’t of Corr.*, 361 S.C. 327, 331, 605 S.E. 2d 506, 508 (2004). Here, the Appellant did not work for a PIECP, therefore there is no state-created liberty or property interest implicated here. Based on the foregoing,

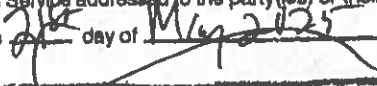
IT IS HEREBY ORDERED that the Department’s Motion to File Out of Time and Motion to Dismiss are **GRANTED** and this appeal is hereby **DISMISSED**.
AND IT IS SO ORDERED.


S. Phillip Lenski
Administrative Law Judge

May 21, 2025
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States Mail, postage paid, or in the Interagency Mail Service addressed to the party(ies) or their attorney(s).

This 21st day of May 2025

Judicial Law Clerk

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

October 13, 2025,

BY: 

PRO SE
POST OFFICE BOX 580
UNA, S.C. 29378

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
S. PHILLIP LENSKI, ADMINISTRATIVE LAW JUDGE

APPELLATE CASE No. 2025-001166

Robert Deal, Jr., 301062,

Appellant,

v.

South Carolina Department of Corrections

Respondent.

PROOF OF SERVICE

I certify that I have served the **RECORD ON APPEAL** on the Respondent, Christina Catoe Bigelow, Esquire, by depositing a copy of the same in the United States Mail, postage prepaid on October 13, 2025, addressed to her office, South Carolina Department of Corrections, 4444 Broad River Road, South Carolina 29221.

BY: Robert Deal

PRO SE

POST OFFICE BOX 580

UNA, SOUTH CAROLINA 29378

INMATE GRIEVANCE FORM

STEP 1

INMATE NAME: ROBERT DEAL	OFFICE USE ONLY
SCDC NUMBER: 301062	Grievance No. <u>HWC 0195-24</u>
INSTITUTION: LIVESAY <u>020 0 2 3</u> <u>AH</u>	Code: General <u>MY/BM</u>
HOUSING UNIT: 2-3-B	Policy _____
WORK ASSIGNMENT: PRISON INDUSTRIES	Disc. Hear. _____
	Class. _____
	PREA _____
	Date Received <u>12/02/24</u>
	IGC Initials <u>@</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.)

I am filing this grievance based on the Department's failure to pay me a prevailing wage while working in the Prison Industries Program as an Upholstery worker at the McCormick institution from 8-21-2014 until 9-25-2018, and again from 10-2-2019 until 11-2-2021. I was paid a wage of Thirty Five cents (35¢) per hour in violation of state statute S.C.Code Ann. §24-3-430(D). As an informal resolution, and because the kiosk machine was down due the hurricane Helene, I filed a paper Request To Staff Member form to Christina Bigelow/General Counsel complaining of the same. On 11-25-2024, I received a response stating that, "The Office of General Counsel has received your letter and have reviewed it. According to Prison Industries, you worked in the upholstery industries at McCormick from 2014-2018. This work was in a service program, which was not subject to the prevailing wage statute. Therefore, you are not owed any funds." see REQUEST TO STAFF MEMBER, DATED 10-11-2024; and SCDC OFFICE OF GENERAL COUNSEL, RESPONSE TO INMATE CORRESPONDENCE, DATED 11-20-2024. I contend that the Department's findings is incorrect in that state statute S.C.Code Ann. §24-3-430(A) lists "service jobs" as part of the Prevailing Wage statute. Furthermore, the Department had us inmates performing upholstery jobs on church pews, boat and car seats, and furniture from the public for a charged fee. Therefore, I was entitled to a prevailing wage.

Robert Deal 12/28/24
 Grievant Signature Date

ACTION REQUESTED:
 That I receive all back pay with interest.

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

Closed at Lively Sent to McCormick @

The grievance is being Processed (Reviewed) and Returned (No Warden's Decision) for the following reasons: Non-Grievable - General Counsel Memo dated 11/20/2024 in response to your RTSM via Prison Industry that the position you held at McCormick CI was in a service program, which was not subject to the prevailing wage statute. Therefore, you are not owed any funds.

K Conrad 12/02/24
 IGC Signature Date

(CONTINUE ON REVERSE SIDE)

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
OFFICE OF GENERAL COUNSEL
RESPONSE TO INMATE CORRESPONDENCE**

TO: Inmate Robert Deal
SCDC #: 301062
INSTITUTION: Livesay CI
FROM: Office of General Counsel
DATE: November 20, 2024
RE: Inmate Correspondence

Mr. Deal:

The Office of General Counsel has received your letter and have reviewed it. According to Prison Industries, you worked in the upholstery industries at McCormick from 2014-2018. This work was in a service program, which was not subject to the prevailing wage statute. Therefore, you are not owed any funds.



M. Lawrence
Administrative Coordinator
Office of General Counsel

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER**

RECEIVED
OCT 15 2024

TO: STAFF NAME: CHRISTINA BIGELOW		STAFF TITLE: GENERAL COUNSEL	DATE: 10-11-2024
INMATE NAME: ROBERT DEAL			SCDC #: 301062
INSTITUTION: LIVESAY	DORM/SIDE/BED: 2-3-B	HOUSING TYPE: <input type="checkbox"/> RHU <input type="checkbox"/> R&E <input type="checkbox"/> INFIRMARY <input type="checkbox"/> SSR <input type="checkbox"/> DEATH ROW <input type="checkbox"/> ASSISTED LIVING UNIT (ALU) <input type="checkbox"/> N/A	
REASON FOR PAPER REQUEST: <input type="checkbox"/> PREA <input type="checkbox"/> MEDICAL <input type="checkbox"/> MENTAL HEALTH <input type="checkbox"/> DENTAL <input type="checkbox"/> MEDICAL COPAY <input type="checkbox"/> MEDICAL RECORDS <input type="checkbox"/> KIOSK INACCESSIBLE (EXPLAIN): <u>kiosk down</u>			

YOU MUST USE THE KIOSK IF YOUR PAPER REQUEST DOES NOT MEET ANY OF THE CRITERIA ABOVE.

I am writing in concerns to my employment in the prison industries program in which I was not paid a prevailing wage in accordance with state statute S.C.Code Ann. §24-3-430(D). I worked in P.I. at McCormick C.I. from 8-21-2014 until 9-25-2018, and again from 10-2-2019 until 11-2-2021, as a woodworker machine operator. I was paid thirty-five cents (35¢) per hour. According to the South Carolina Selected Occupational Average Mean Wage form, I should have been paid eighteen dollars and thirty cents per hour. Based on my calculations, using my long term savings of Three Hundred and Seventy dollars (\$370.00), multiplied by Ten (10), my total pay was three thousand Seven hundred dollars (\$3,700.00). If divided by thirty five cents, that equals Ten thousand Five hundred Seventy One point Four (10,571.4) hours worked. If we multiply those hours by the Seventeen dollars and ninety-five cents (\$17.95) per hour owed, we reach a sum of One hundred Eighty nine thousand Seven hundred Fifty Six dollars and Sixty Three cents (\$1,897,56.03). If we subtract the Twenty five percent (25%) Room and Board, and the Twenty Percent (20%) Victim Witness, that leaves a sum of One hundred Four thousand Three hundred Sixty Six dollars and Fourteen cents (\$104,366.14). I would be willing to settle the matter for Eighty Five thousand dollars (\$85,000.00) if the Department would be interested opposed to litigating the matter in the courts. If so, please contact me as soon as possible.

DISPOSITION BY STAFF MEMBER:

DATE:

Robert Deal 301062 v. SCDC, 25-ALJ-04-0004-U, Record on Appeal, Page 3 of 5
STAFF SIGNATURE:

PAYROLL DETAIL RECORDS FOR INMATE DEAL JR,ROBERT 301062

PAY DATE	HOURS	PAY RATE	PAY AMOUNT	LOC
09/22/2014	69.93	.30	20.97	MCC PI (PGM 382 ELIG ONLY
10/06/2014	63.39	.30	19.01	MCC PI (PGM 382 ELIG ONLY
10/20/2014	61.09	.30	18.32	MCC PI (PGM 382 ELIG ONLY
11/03/2014	44.69	.30	13.40	MCC PI (PGM 382 ELIG ONLY
11/17/2014	72.65	.30	21.79	MCC PI (PGM 382 ELIG ONLY
12/01/2014	68.13	.30	20.43	MCC PI (PGM 382 ELIG ONLY
12/15/2014	53.62	.30	16.08	MCC PI (PGM 382 ELIG ONLY
12/29/2014	73.74	.30	22.12	MCC PI (PGM 382 ELIG ONLY
01/12/2015	43.90	.30	13.17	MCC PI (PGM 382 ELIG ONLY
01/26/2015	65.42	.30	19.62	MCC PI (PGM 382 ELIG ONLY
02/09/2015	58.09	.30	17.42	MCC PI (PGM 382 ELIG ONLY
02/23/2015	65.40	.30	19.62	MCC PI (PGM 382 ELIG ONLY
03/09/2015	70.10	.30	21.03	MCC PI (PGM 382 ELIG ONLY
03/23/2015	71.07	.30	21.32	MCC PI (PGM 382 ELIG ONLY
04/06/2015	73.00	.30	21.90	MCC PI (PGM 382 ELIG ONLY
04/20/2015	53.50	.30	16.05	MCC PI (PGM 382 ELIG ONLY
05/04/2015	74.30	.30	22.29	MCC PI (PGM 382 ELIG ONLY
05/18/2015	58.00	.30	17.40	MCC PI (PGM 382 ELIG ONLY
06/01/2015	57.25	.30	17.17	MCC PI (PGM 382 ELIG ONLY
06/15/2015	71.00	.30	21.30	MCC PI (PGM 382 ELIG ONLY
06/29/2015	66.55	.30	19.96	MCC PI (PGM 382 ELIG ONLY
07/13/2015	63.52	.30	19.05	MCC PI (PGM 382 ELIG ONLY
07/27/2015	67.50	.30	20.25	MCC PI (PGM 382 ELIG ONLY
08/10/2015	68.79	.30	20.63	MCC PI (PGM 382 ELIG ONLY
08/24/2015	70.06	.30	21.01	MCC PI (PGM 382 ELIG ONLY
09/07/2015	64.26	.30	19.27	MCC PI (PGM 382 ELIG ONLY
09/21/2015	61.30	.30	18.39	MCC PI (PGM 382 ELIG ONLY
10/05/2015	69.71	.30	20.91	MCC PI (PGM 382 ELIG ONLY
10/19/2015	55.10	.30	16.53	MCC PI (PGM 382 ELIG ONLY
11/02/2015	51.46	.30	15.43	MCC PI (PGM 382 ELIG ONLY
11/16/2015	66.10	.30	19.83	MCC PI (PGM 382 ELIG ONLY
11/30/2015	56.65	.30	16.99	MCC PI (PGM 382 ELIG ONLY
12/14/2015	50.42	.30	15.12	MCC PI (PGM 382 ELIG ONLY
12/28/2015	72.66	.30	21.79	MCC PI (PGM 382 ELIG ONLY
01/11/2016	42.97	.30	12.89	MCC PI (PGM 382 ELIG ONLY
01/25/2016	67.91	.30	20.37	MCC PI (PGM 382 ELIG ONLY
02/08/2016	68.35	.30	20.50	MCC PI (PGM 382 ELIG ONLY
02/22/2016	69.62	.30	20.88	MCC PI (PGM 382 ELIG ONLY
03/07/2016	71.59	.30	21.47	MCC PI (PGM 382 ELIG ONLY
03/21/2016	69.84	.30	20.95	MCC PI (PGM 382 ELIG ONLY
04/04/2016	58.99	.30	17.69	MCC PI (PGM 382 ELIG ONLY
04/18/2016	71.29	.30	21.38	MCC PI (PGM 382 ELIG ONLY
05/02/2016	72.06	.30	21.61	MCC PI (PGM 382 ELIG ONLY
05/16/2016	66.36	.30	19.90	MCC PI (PGM 382 ELIG ONLY
06/13/2016	66.65	.30	19.99	MCC PI (PGM 382 ELIG ONLY
06/27/2016	77.33	.30	23.19	MCC PI (PGM 382 ELIG ONLY
07/11/2016	59.21	.30	17.76	MCC PI (PGM 382 ELIG ONLY
07/25/2016	41.02	.30	12.30	MCC PI (PGM 382 ELIG ONLY
08/08/2016	72.50	.30	21.75	MCC PI (PGM 382 ELIG ONLY
08/22/2016	73.03	.35	25.56	MCC PI (PGM 382 ELIG ONLY
09/05/2016	75.37	.35	26.37	MCC PI (PGM 382 ELIG ONLY
09/19/2016	61.36	.35	21.47	MCC PI (PGM 382 ELIG ONLY

10/03/2016	64.39	.35	22.53 MCC PI (PGM 382 ELIG ONLY
10/17/2016	46.25	.35	16.18 MCC PI (PGM 382 ELIG ONLY
10/31/2016	59.83	.35	20.94 MCC PI (PGM 382 ELIG ONLY
11/14/2016	71.33	.35	24.96 MCC PI (PGM 382 ELIG ONLY
11/28/2016	57.72	.38	21.93 MCC PI (PGM 382 ELIG ONLY
12/12/2016	49.46	.35	17.31 MCC PI (PGM 382 ELIG ONLY
12/26/2016	60.28	.35	21.09 MCC PI (PGM 382 ELIG ONLY
01/09/2017	38.77	.35	13.56 MCC PI (PGM 382 ELIG ONLY
01/23/2017	54.73	.35	19.15 MCC PI (PGM 382 ELIG ONLY
02/06/2017	39.74	.35	13.90 MCC PI (PGM 382 ELIG ONLY
02/20/2017	71.93	.35	25.17 MCC PI (PGM 382 ELIG ONLY
03/06/2017	59.45	.35	20.80 MCC PI (PGM 382 ELIG ONLY
03/20/2017	64.66	.35	22.63 MCC PI (PGM 382 ELIG ONLY
04/03/2017	64.81	.35	22.68 MCC PI (PGM 382 ELIG ONLY
04/17/2017	62.93	.35	22.02 MCC PI (PGM 382 ELIG ONLY
05/01/2017	46.31	.35	16.20 MCC PI (PGM 382 ELIG ONLY
05/15/2017	55.21	.35	19.32 MCC PI (PGM 382 ELIG ONLY
05/29/2017	51.16	.35	17.90 MCC PI (PGM 382 ELIG ONLY
06/12/2017	62.19	.35	21.76 MCC PI (PGM 382 ELIG ONLY
06/26/2017	51.52	.35	18.03 MCC PI (PGM 382 ELIG ONLY
07/10/2017	69.68	.35	24.38 MCC PI (PGM 382 ELIG ONLY
07/24/2017	51.54	.35	18.03 MCC PI (PGM 382 ELIG ONLY
08/07/2017	57.82	.35	20.23 MCC PI (PGM 382 ELIG ONLY
08/21/2017	60.57	.35	21.19 MCC PI (PGM 382 ELIG ONLY
09/04/2017	56.11	.35	19.63 MCC PI (PGM 382 ELIG ONLY
09/18/2017	53.68	.35	18.78 MCC PI (PGM 382 ELIG ONLY
10/02/2017	57.10	.35	19.98 MCC PI (PGM 382 ELIG ONLY
10/16/2017	53.69	.35	18.79 MCC PI (PGM 382 ELIG ONLY
10/30/2017	73.36	.35	25.67 MCC PI (PGM 382 ELIG ONLY
11/13/2017	69.62	.35	24.36 MCC PI (PGM 382 ELIG ONLY
11/27/2017	55.14	.35	19.29 MCC PI (PGM 382 ELIG ONLY
12/11/2017	52.04	.35	18.21 MCC PI (PGM 382 ELIG ONLY
12/25/2017	68.11	.35	23.83 MCC PI (PGM 382 ELIG ONLY
01/08/2018	36.02	.35	12.60 MCC PI (PGM 382 ELIG ONLY
01/22/2018	56.63	.35	19.82 MCC PI (PGM 382 ELIG ONLY
02/05/2018	68.18	.35	23.86 MCC PI (PGM 382 ELIG ONLY
02/19/2018	45.00	.35	15.75 MCC PI (PGM 382 ELIG ONLY
03/05/2018	65.74	.35	23.00 MCC PI (PGM 382 ELIG ONLY
03/19/2018	63.54	.35	22.23 MCC PI (PGM 382 ELIG ONLY
04/02/2018	62.69	.35	21.94 MCC PI (PGM 382 ELIG ONLY
04/16/2018	64.80	.35	22.68 MCC PI (PGM 382 ELIG ONLY
04/30/2018	21.18	.35	7.41 MCC PI (PGM 382 ELIG ONLY
05/14/2018	71.45	.35	25.00 MCC PI (PGM 382 ELIG ONLY
05/28/2018	68.18	.35	23.86 MCC PI (PGM 382 ELIG ONLY
06/11/2018	70.84	.35	24.79 MCC PI (PGM 382 ELIG ONLY
06/25/2018	77.51	.35	27.12 MCC PI (PGM 382 ELIG ONLY
07/09/2018	78.03	.35	27.31 MCC PI (PGM 382 ELIG ONLY
07/23/2018	69.86	.35	24.45 MCC PI (PGM 382 ELIG ONLY
08/06/2018	74.86	.35	26.20 MCC PI (PGM 382 ELIG ONLY
08/20/2018	67.09	.35	23.48 MCC PI (PGM 382 ELIG ONLY
09/03/2018	6.95	.35	2.43 MCC PI (PGM 382 ELIG ONLY
09/17/2018	66.90	.35	23.41 MCC PI (PGM 382 ELIG ONLY
10/01/2018	40.83	.35	14.29 LIEBER CORR. DEFAULT


N = 105

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Robert Deal, #301062)	
)	
Appellant,)	
)	Certificate of Service
vs.)	
)	Docket# 24-ALJ-04-0004-IJ
South Carolina Department of Corrections,)	
)	
Respondent.)	

I hereby certify that a copy of the foregoing *Record on Appeal* was, this date, served upon the following individuals by placing a copy of the same via mail to his/her last known address as follows:

Inmate Robert Deal
Inmate Number: 301062
Livesay Correctional Institution
Dorm-Room-Bunk: N2-0023-A


Kensey Evans
Deputy General Counsel
Office of General Counsel
South Carolina Department of Corrections
4444 Broad River Road
P.O. Box 21787
Columbia, South Carolina 29221-1787
(803) 896-8508

March 27, 2025

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Robert Deal, 301062,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

Docket Numbers: 24-ALJ-04-0004-IJ

[Grievance No.: LIWC 195-24]

Hon. S. Phillip Lenski

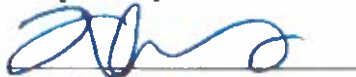
**RESPONDENT'S
MOTION TO FILE OUT OF TIME**

COMES NOW, Respondent, South Carolina Department of Corrections, and requests that this Honorable Court grant Respondent leave to file its Motion to Extend time out of time. In support of this request, Respondent shows this Honorable Court the following:

1. This matter comes before the Court by way of Appellant's challenge to his prison industries pay.
2. Pursuant to this Court's February 7, 2024 Order, Respondent's brief or responsive filing was due May 6, 2025. Due to an administrative oversight and the overabundance of cases in this Court, Respondent did not file their Motion to Dismiss in a timely manner.
3. Respondent is working through hundreds of similar cases and processing as many as possible in a timely manner. The delay was certainly not intentional.

WHEREFORE, Respondent respectfully requests to file and serve Respondent's Motion to Dismiss out of time in this matter.

Respectfully submitted,



Kensey Evans
Deputy General Counsel
South Carolina Department of Corrections
Post Office Box 21787
4444 Broad River Road
Columbia, South Carolina 29221
(803) 896-8508

May 7, 2025
Columbia, South Carolina

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Robert Deal, 301062,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

Docket Numbers: 24-ALJ-04-0004-IJ

[Grievance No.: LIWC 195-24]

Hon. S. Phillip Lenski

**RESPONDENT'S
MOTION TO DISMISS**

STATEMENT OF THE CASE

This matter is before the Administrative Law Court ("ALC" or "Court") pursuant to the appeal of Robert Deal ("Appellant"), an inmate incarcerated with the South Carolina Department of Corrections ("SCDC" or "Department"). On December 28, 2024, 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 labor allegedly performed while assigned to Prison Industries at McCormick Correctional Institution ("MCCI").

The Department moves to dismiss this appeal because Appellant's allegations do not implicate a state-created liberty or property interest because Appellant never worked for a Prison Industries Enhancement Certification Program (aka "PIE" or "PIECP," hereinafter PIECP). Accordingly, he has no basis to claim that he should be paid the prevailing wage.

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). 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 PRISON INDUSTRIES CERTIFIED ENHANCEMENT PROGRAM.

This case should be dismissed in accordance with *Slezak* and *Skipper* because Appellant never worked for a Prison Industries Certified Enhancement Program (aka "PIE" or "PIECP" hereinafter referred to as "PIECP") while at MCCI, and, therefore, no state-created liberty or property interest is implicated in this case. *See* Affidavit of Richard Hodgkiss.¹

¹ Filed with this Motion.

There are three types of Prison Industries programs at SCDC. They are PIECPs, Prison Industries Service Programs, and Traditional Industries Programs. Only PIECPs and Prison Industries Service Programs operate with private industry sponsors, but are not required to do so. Only PIECP are subject to the former 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”).

Prison Industries Service Programs, in contrast, are governed by section 24-1-295 and inmate “wages may be less than the prevailing wage for work of a similar nature...” S.C. Code Ann. § 24-1-295. Service work is defined as including “any work that includes repair, replacement of original manufactured items, packaging, sorting, recycling, labeling, or similar work that is not original equipment manufacturing.” *Id.* The statute governing payment for service work also provides for statutory deductions to be taken from inmate wages. *Id.* (1)-(6).

Prison Industry Traditional Programs are governed by 24-3-320 and 330, which allows “the manufacture or production of such articles or products as may be needed for the construction, operation, maintenance, or use of any office, department, institution, or agency [. . . in] this State.” S.C. Code Ann. § 24-3-320. These statutes do not include any language regarding payment. *See* S.C. Code Ann. § 24-3-320 and 330.

This appeal should be dismissed because Appellant never worked for a PIECP while at MCCI, and, therefore, no state-created liberty or property interest is implicated in this case. *See* Affidavit of Richard Hodgkiss. It is important to note that MCCI did not have a PIECP program

during the time Appellant worked in industries from 2014 – 2018; rather, MCCI had a split service and traditional program for furniture and upholstery. *See* Affidavit of Richard Hodgkiss.

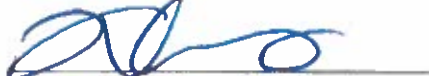
SCDC's Inmate Financial System shows Appellant was paid \$.30 – \$.35 an hour for his work at MCCI. R. pp. 4 – 5. This indicates that Appellant did not work for a designated PIECP, but for a service program in accordance with S.C. Code Ann. § 24-1-295, which allows for payment less than the prevailing wage.

The Prison Industries Program Appellant participated in was not a PIECP. Because Appellant never participated in a PIECP, Appellant was not entitled to be paid pursuant to the former prevailing wage statute, and no state-created liberty or property interest is implicated in this appeal. Additionally, Appellant does not allege that SCDC erroneously calculated his sentence, sentence-related credits, or custody status; or allege that a state-created liberty or property interest was taken in a major disciplinary hearing. Because Appellant's allegations do not implicate a state-created liberty or property interest sufficient to trigger procedural due process guarantees, this Court should dismiss this appeal, with prejudice.

CONCLUSION

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

Respectfully Submitted,
**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**



Kensey Evans
Deputy General Counsel
S.C. Department of Corrections
P.O. Box 21787
Columbia, South Carolina 29221-1787
Phone: (803) 896-8508

May 7, 2025
Columbia, SC

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

Robert Deal, 301062,)	Docket No.: 24-ALJ-04-0004-IJ
)	[Grievance No.: LIWC 195-24]
Appellant,)	
)	
v.)	AFFIDAVIT OF RICHARD
)	HODGKISS
South Carolina Department of Corrections,)	
)	
Respondent.)	
)	

PERSONALLY APPEARED BEFORE ME, RICHARD HODGKISS, who, being duly sworn, states as follows:

I am employed by the South Carolina Department of Corrections (SCDC) as the Director of Support Services and Industries. I have been in this position since 2015 and have worked for SCDC since 2015.

My duties include but are not limited to managing and overseeing the Industries Program.

I am aware that inmate Robert is seeking to be paid pursuant to the former prevailing wage statute, *i.e.*, SC Code Ann. § 24-3-430 (d), for his participation at the furniture and upholstery plant at McCormick Correctional Institution (“MCCI”) from 2014-2018.

Inmate Deal never participated in a Prison Industries Enhancement Certification Program (“PIE” or “PIECP”) at MCCI. MCCI did not have a PIECP during the times subject to this matter. He worked as an Upholsterer Helper from September 22, 2014 through October 1, 2018. His last paycheck was received while he was at Lieber Correctional Institution, which has never operated a PIECP.


The furniture and upholstery plant was set up as a prison industries traditional and service project. SCDC was essentially its own partner for this program. There was not a private industry sponsor for this program. Inmates in the program were paid service wages if they were working

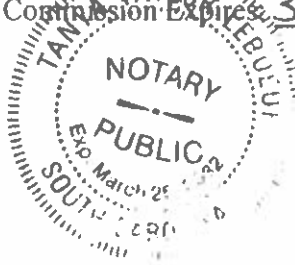
on a service project. Inmates were not paid if they were working on a traditional project. As such, the Summary of PI Payroll Hours, included in the Supplemental Record, shows when inmate Deal was paid service wages from September 2014 through October 2018. Anytime he worked and was not paid would have been for a traditional project since he was not paid a service wage during that time.

Accordingly, inmate Deal did not work for a designated PIE or PIECP while at MCCI.


Richard Hodgkiss
Director of Support Services and Industries
South Carolina Department of Corrections

Sworn to before me this 7th day
of May 2025


Notary Public for South Carolina
My Commission Expires 3-25-2032



RECEIVED

Oct 31 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

ALC Case No. 25-ALJ-04-0004-IJ
Appellate Case No. 2025-001166

ROBERT DEAL, JR., # 301062,

APPELLANT,

v.

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 Require Appellant to File a Corrected Record on Appeal (with Exhibits)** to Appellant, addressed as follows:

**Robert Deal, # 301062
Livesay Correctional Institution
N6-0037
Post Office Box 580
Una, South Carolina 29378**



Christina Catoe Bigelow
Office of General Counsel
S. C. Department of Corrections
Post Office Box 21787
Columbia, S. C. 29221
(803) 896-8508

October 31, 2025



SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Office of General Counsel

HENRY McMASTER, Governor
JOEL E. ANDERSON, Interim Director

OFFICE OF GENERAL COUNSEL

October 31, 2025

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

RE: Robert Deal, Jr., # 301062 v. South Carolina Department of Corrections
Appellate Case No. 2025-001166

Dear Ms. Kitchings:

Enclosed please find the **Motion to Require Appellant to File a Corrected Record on Appeal** in the above captioned appeal, along with **Proof of Service**.

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

Sincerely,

Christina Catoe Bigelow
Deputy General Counsel
South Carolina Department of Corrections

cc: Robert Deal, # 301062
Livesay Correctional Institution
N6-0037
Post Office Box 580
Una, South Carolina 29378

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Oct 31 2025

SC Court of Appeals