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SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Bernard Bagley, #175851,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

Docket No. 25-ALJ-04-0275-AP
Grievance No. ECI 0621-24

ORDER

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to an appeal filed on June 9, 2025, by Bernard Bagley (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department). This matter was assigned to the undersigned on June 19, 2025. Appellant filed a Notice of Appeal to dispute his pay under the prevailing wage statute, subsection 24-3-430(D) of the South Carolina Code (2025). Appellant filed his initial brief on July 14, 2025. The Department filed a Motion to Dismiss (Motion) on August 28, 2025, asserting that this matter should be dismissed because Appellant was employed prior to the enactment of subsection 24-3-430(D) in July of 1995. Appellant filed a response to the Motion on September 4, 2025.

Appellant filed a Step 1 Grievance on September 23, 2024, alleging he was entitled to the prevailing wage for labor performed from November 1991 to April 1995. Appellant's Step 1 Grievance was elevated to the Step 2 level. On June 2, 2025, Appellant's grievance was considered resolved as Appellant was provided the wage calculations for labor performed from September 2006 to May 2024.¹

DISCUSSION

The Court's jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). In *Al-Shabazz*, the Court held that the ALC's jurisdiction in inmate appeals is limited to state-created liberty interests typically involving: (1) cases in which an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) cases

¹ The merits of Appellant's claim in relation to labor performed from 2006 to 2024 are not at issue in this matter as Appellant did not address them in his Notice of Appeal. Appellant has a separate appeal before the undersigned, Docket Number 25-ALJ-04-0136-AP, in relation to his labor performed from 2006 to 2024.



in which an inmate has received punishment in a major disciplinary hearing as a result of a serious rule violation. *Id.* at 382; 527 S.E.2d at 757. Recently, the court further clarified that while the ALC has jurisdiction over all inmate grievance appeals, it 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.” *Allen v. S.C. Dep’t of Corr.*, 439 S.C. 164, 170-71, 886 S.E.2d 671, 674 (2023). To trigger due process guarantees and judicial review, “an inmate’s complaint must encompass an infringement of a liberty interest that imposes an atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.” *Skipper v. S.C. Dep’t of Corr.*, 370 S.C. 267, 274, 633 S.E.2d 910, 914 (2006).

In this matter, Appellant is challenging his pay for labor performed from 1991 to 1995. Specifically, Appellant alleges that while subsection 24-3-430(D) was not enacted until 1995, he is still entitled to the prevailing wage pursuant to the Prevailing Wage Act of 1985. In turn, the Department argues that the prevailing wage statute applicable to SCDC inmates was not enacted until July 1, 1995; thus, Appellant is not entitled to the prevailing wage. Appellant argues that the prevailing wage statute should be construed to apply retroactively pursuant to *Torrence*. *Torrence v. S.C. Dep’t of Corr.*, 433 S.C. 224, 226, 857 S.E.2d 549, 550 (2021). However, as subsection 24-3-430(D) was not in place prior to July 1, 1995, inmates had no statutory right to the prevailing wage. “It is a well-settled rule of statutory construction that absent a specific provision or clear legislative intent to the contrary, statutes are to be construed prospectively rather than retroactively, unless the statute is remedial or procedural in nature.” *Edwards v. State L. Enforcement Div.*, 395 S.C. 571, 579, 720 S.E.2d 462, 466 (2011). “A statute is remedial where it creates new remedies for existing rights or enlarges the rights of persons under disability.” *State v. Hilton*, 406 S.C. 580, 585, 752 S.E.2d 549, 551-52 (Ct. App. 2013) (quoting *Edwards*, 395 S.C. at 579, 720 S.E.2d at 466). However, “[w]hen a statute creates a new obligation or imposes a new duty, courts generally consider the statute prospective only.” *Id.* (quoting *Edwards*, 395 S.C. at 579, 720 S.E.2d at 466); *see also* 82 C.J.S. Statutes § 568 (May 2025 Update) (“In the absence of an express legislative statement or clear intent to the contrary, a statute will not be given a retroactive construction by which it will impose liabilities not existing at the time of its passage . . .”). As such, Appellant’s claim that he is entitled to the prevailing wage prior to the enactment of this statute fails.

Application of these standards reveals that the prevailing wage statute does not operate retroactively. As discussed above, the prevailing wage statute creates a new obligation on the

Department. Moreover, nothing in the statute evidences any intent that the statute applies retroactively. The Court therefore affirms the Department's decision with respect to any claim for prevailing wages for work performed prior to 1995.

In regard to Appellant's argument that the failure to pay prevailing wage prior to 1995 was a violation of his due process rights, the Court disagrees. The Court finds that Appellant's claim does not pertain to (a) erroneously calculated sentence, sentence-related credits, or custody status nor; (b) any other state-created liberty or property interest. Appellant's appeal does not allege a deprivation of a state-created liberty or property interest, nor has he claimed a significant hardship which reaches constitutional dimensions. As such, the Court concludes that summary dismissal is appropriate in this case. *See Allen*, 439 S.C. at 170-71, 886 S.E.2d at 674 (summary dismissal appropriate where the inmate's grievance does not implicate a state-created liberty or property interest.)

ORDER

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

AND IT IS SO ORDERED.

Crystal M. Rookard

The Honorable Crystal M. Rookard
South Carolina Administrative Law Judge

October 21, 2025
Columbia, South Carolina