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SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Vincent Allen, #194611,)	Docket No. 25-ALJ-04-0147-AP
)	
Appellant,)	
)	
vs.)	FINAL ORDER
)	
South Carolina Department of Corrections,)	
)	
Respondent.)	
)	

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed on March 27, 2025 by Vincent Allen (Appellant) an inmate in the custody of the South Carolina Department of Corrections (Department or Respondent). After the Appellant's Step 1 and Step 2 grievances were filed and denied, the Appellant filed a Notice of Appeal with this court appealing the denial of his grievance because the federal statute mandating that inmates be paid the prevailing wage preempts S.C. Code Ann. § 24-3-430(D), which was amended to allow for inmates to be paid the federal minimum wage.

On June 13, 2025, the Department filed a Motion to Dismiss because on September 9, 2024, the parties settled all claims arising out of the Appellant's participation in the prison industries program and the settlement funds were deposited into the Appellant's E.H.Cooper Account on or about September 27, 204. On July 8, 2025, the court denied the Department's Motion to Dismiss because the Department's motion did not address the issue in the Appellant's appeal, except for stating that section 24-3-430(D) of the South Carolina Code was amended effective May 21, 2024 to eliminate the language requiring that inmates be paid the prevailing wage.

On August 1, 2025, the Department filed the Record on Appeal (ROA) with the court. On August 13, 2025, the Appellant filed a Motion to Compel Respondent to Supplement the Record and Extension of Time to File Brief. The Appellant was requesting the Department to supplement the ROA with the Appellant's payroll history from June 2, 2024 to the present, the South Carolina Department of Employment and Workforce (DEW) wage data used by the Department to determine prevailing wages, the job description and Standard Occupational Classification Code



documents relied upon in setting the Appellant's wage rate, and the Department's contract with Shaw Industries Group, Inc. However, section 24-3-430(D) was amended effective May 21, 2024, and substituted "an hourly rate equal to the federal minimum wage" for "the prevailing wage," therefore, the work the Appellant performed from June 2, 2024 to the present is not subject to the prevailing wage statute. In this appeal, the Appellant's grievance is that pursuant to the preemption doctrine, the federal statute mandating that inmates be paid the prevailing wage, preempts S.C. Code Ann. § 24-3-430(D), which was amended to allow for inmates to be paid the federal minimum wage. Consequently, on September 5, 2025, the court denied the Appellant's Motion to Supplement the Record.

On September 19, 2025 the Appellant filed his brief with the court arguing that state laws that conflict with the federal mandate to pay PIECP inmates the prevailing wage is "without effect." Thus, the Department must adjust the Appellant's wages to reflect the prevailing wage as determined by the Department of Employment and Workforce (DEW). On October 14, 2025, the Department filed its brief with the court arguing that the Appellant is not entitled to the prevailing wage for his current work because S.C. Code Ann. § 24-3-430 was amended effective May 21, 2024 from "prevailing wage" to "federal minimum wage." Therefore, the Appellant is not entitled to the prevailing wage for his ongoing work in the PIECP. On October 22, 2025, the Appellant filed his Reply Brief with the court arguing that pursuant to the Supremacy Clause, it is clear that federal law controls and any conflicting state statute is void. Therefore, the amended state statute is preempted and without effect under the Supremacy Clause. The Appellant is requesting the court to reverse the Department's denial of his grievance, declare S.C. Code Ann. § 24-3-430(D) preempted by 18 U.S.C. § 1761(c) and order the Department to pay him the prevailing wage for all PIECP work performed from May 21, 2024 to the present.

STANDARD OF REVIEW

This court'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). Therefore, the court's appellate jurisdiction in inmate appeals is limited to cases involving denial of 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 in which an inmate has received punishment in a major disciplinary hearing as a result of a serious rule violation. *Id.* Later, the South Carolina Supreme Court found that the state's

statutory mandate that inmates be paid the prevailing wage made the receipt of the prevailing wage a state created liberty or property interest. *Wicker v. S.C. Department of Corrections*, 360 S.C. 421, 423–24, 602 S.E.2d 56, 57 (2004). (“We find that where, as here, the state has created a statutory right to the payment of a prevailing wage, it cannot thereafter deny that right without affording due process of law.”)

When reviewing the Department's decisions in inmate grievance matters, the court sits in an appellate capacity. *Al-Shabazz*, at 756. Consequently, the review in these inmate grievance cases is limited to the Record presented. Additionally, the court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact but may modify or reverse the decision of the agency when substantial rights of the appellant have been prejudiced. S.C. Code Ann. § 1-23-380(5). Substantial rights of an appellant are prejudiced when the agency’s decision, including the agency’s findings, inferences, and conclusions, are in violation of constitutional or statutory provisions; in excess of the statutory authority of the agency; made upon unlawful procedure; affected by other error of law; clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or arbitrary or capricious or characterized by abuse of discretion or a clearly unwarranted exercise of discretion. *Id.*

DISCUSSION

In this case, the Department responded in its Step 2 Grievance response that “the inmate pay statute S.C. Code 24-3-430(D) was amended effective May 21, 2024 to eliminate the language requiring that inmates be paid the prevailing wage. It is now lawful for inmates to be paid the federal minimum wage. Therefore, you are not due any additional wages...” The Department again explained in its brief that subsection 24-3-430(D) was amended effective May 21, 2024 to provide that “[n]o inmate participating in the program may earn less than an hourly rate equal to the federal minimum wage for work of similar nature in the private sector.” S.C. Code Ann. § 24-3-430(D) (2025). Thus, the Appellant is not entitled to the prevailing wage for his ongoing work in PIECP. The Appellant disputes this assertion by arguing that the state statutory amendment is in direct conflict with federal regulations and therefore preempted by the preemption doctrine.

South Carolina courts have previously held that certain federal laws do not apply to inmate workers, but rather the state statutory scheme governs the Department’s conduct. *See South Carolina Dept. of Corr. V. Cartrette*, 387 S.C. 640, 694 S.E.2d 18 (Ct. App. 2010) (holding that the federal Fair Labor Standards Act does not apply to inmate workers, but rather statutes

governing the prison industries program compel the Department to ensure inmate workers receive the same pay rates and employment conditions as their non-inmate peers.). Inmates working in a prison industries program have a state-created liberty interest in having the Department pay them according to the statutory scheme governing the program. *Torrence v. S.C. Dep't of Corr.*, 433 S.C. 224, 226, 857 S.E.2d 549, 550 (2021). Accordingly, the current statutory mandate requires the Department to pay inmates not less than the federal minimum wage. *See Brown v. S.C. Dep't of Health & Env'tl. Control*, 348 S.C. 507, 515, 560 S.E.2d 410, 414 (2002) (“An appellate court cannot construe a statute without regard to its plain meaning and may not resort to a forced interpretation in an attempt to expand or limit the scope of a statute.”) Moreover, “[u]nless there is a compelling reason to the contrary, appellate courts ‘defer to an administrative agency’s interpretation with respect to the statutes entrusted to its administration or its own regulations.’” *Torrence*, 433 S.C. at 643, 861 S.E.2d at 41 (quoting *Chapman v. S.C. Dep't of Soc. Servs.*, 420 S.C. 184, 188, 801 S.E.2d 401, 403 (Ct. App. 2017)); *see also Kiawah*, 411 S.C. at 34-35, 766 S.E.2d at 718 (2014) (“We defer to an agency interpretation unless it is ‘arbitrary, capricious, or manifestly contrary to the statute.’”)

Consequently, the Appellant has not met his burden to show that the Department has erred. *State v. Mitchell*, 330 S.C. 189, 199, 498 S.E.2d 642, 647 (1998) (placing on appellant the burden of presenting a sufficient record to allow appellate review). Therefore, based on the foregoing,

IT IS HEREBY ORDERED that the Department’s determination is **AFFIRMED**.
AND IT IS SO ORDERED.



S. Phillip Lenski
Administrative Law Judge

November 12, 2025
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that on this 12th day of November, 2025, I have served the original and true copies of the enclosed 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 12th day of November, 2025

Judicial Law Clerk