

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM ADMINISTRATIVE LAW COURT
Robert L. Reibold, Administrative Law Judge

Case No. 25-AJL-04-0212-AP

Appellant Case NO: 2025-002434

Roger Dale Burke # 304613

Appellant

v.

South Carolina Department of Corrections

Respondent

Initial Brief

RECEIVED

DEC 22 2025

SC Court of Appeals

Submitted

12 / 17 / 2025

Roger Dale Burke

Roger Dale Burke, # 304613
BRCI. Maultrie - - 2111-B
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Authorities

U.S.CA 14th Amendment Section (1) pg 6
Administrative Procedure Act 1-23-380 pg 6
Statute Law 1-23-610 pg 4
Torrence v. S.C. Dept. of Corrections 433 S.C. 633, 642, 861 SE 2d
3642, 2021 pg 4

Statement of Issues on Appeal

1. Did the ALC Judge err by not ordering the South Carolina Department of Corrections to pay the Appellant the Amount Due to him, violating his due process rights under the 14th Amendment?

Statement of the Case

Appellant filed a Step 1 Grievance on October 29, 2023. The Step 1 Grievance was forwarded to the Step 2 level of Grievance Process. The S.C. Dept. of Corrections' response was filed on January 8, 2024. The Honorable Judge Rookard was assigned to the case on March 1, 2024. On Sept 25, 2024 the attorney for the Dept. of Corrections visited the Appellant at Broad River Correctional Institution to offer a settlement which was declined by the Appellant. On this same day S.C.D.C. through Counsel submitted a motion to the court to remand the case back to S.C.D.C. for a Supplemental Step 2 citing newly discovered information and evidence was discovered.

The Appellant objected to this via Motion to the Court on October 13, 2024. This motion was never ruled upon, and the Court granted the Department's motion to remand back to S.C.D.C. for Supplemental Step 2 on October 15, 2024.

On November 14th, 2024 S.C.D.C. submitted its Supplemental Step 2 Grievance. The Appellant received this Supplemental Step 2 on November 21, 2024. On November 25th, 2024 Appellant filed a Notice of Appeal with Administrative Law Court. On 05/8/2025 the case was assigned to the Honorable Judge Robert L. Reibold. On October 24th, 2025 the court released its ruling and decision on this matter. Appellant received and signed for the order on November 12, 2025. Appellant filed for Notice of Appeal on December 1, 2025.

The Appeal is as follows . . .

STANDARD OF REVIEW

Statute Law §1-23-610 sets forth the standard of review when the Court of Appeals is sitting in review of a decision by the Adm. Law Court on Appeal from an Administrative Agency. Torrence v. S. C. Dept. of Corrections 433 S.C. 633,642 861 SE2d 36,42 (2021).

And the standard of review is whether the Adm. Law Court's findings are supported by substantial evidence. And in determining whether the Adm. Law Court's decisions was supported by substantial evidence, this court need only find (considering the Record as a whole) evidence from which reasonable minds could reach the same conclusion that the Adm. Law Court reached. Id.

However, this court may reverse, or modify and Adm. Law Court's decision if the decision is controlled by an error of law or clearly erroneous in view of the evidence in the Record as a whole. Id.

Argument

1. Did the ALC Judge err by not ordering the South Carolina Department of Corrections to pay the Appellant the amount due to him, violating his due process rights under the 14th Amendment?

The Appellant raised the issue in his Step 1 Grievance that he was owed back pay for prevailing wages for work performed in Prison Industries job code 51-7099 Industry Sponsor RM Design. See Step 1 Grievance provided to the Record. In the states Supplemental Step 2 decision, the Department calculated and came to a conclusion that Appellant was due \$7,030.11. The state said they were prepared to pay upon a settlement agreement and release. The Appellant had other issues reserved and appealed. Here the Department tried to blackmail Amended Brief he agreed to the states calculations. He erroneously asked the judge to allow him to receive his long-term savings. See ALC's ruling in his order.

In the State's Response Brief they asked the judge to order S.C.D.C. to pay the Appellant. In the Judges' Order on this issue # 2 before the A.L.C. the judge affirmed the calculations.

The judge did not order the Department of Corrections to pay the undisputed amount that the Dept. of Corrections, the Appellant and the ALC Judge, all agreed was due to the Appellant.

Law and Analysis

Here the ALC Judge's decision to not order the Department of Corrections to pay the amount due to the Defendant, denied the Appellant his 14th Amendment right to due process.

USCA 14th Amendment (Section 1.) No one shall be deprived life, liberty or property without due process of law.

The Due Process Clause centrally concerns fundamental fairness. Here the issue raised was fuitful as it produced a result that he was due a monetary gain. Under fundamental fairness he should recover the amount due. This error by the A.L.C. prejudiced the Appellant, because since he did not order the Department of Corrections to pay, the Appellant is deprived the results of this winning claim.

The Appellant does not have to drop his other issues and release the Department of Corrections of its responsibility to get the affirmed amount due after a ruling in Appellant's favor.

Under the APA 1-23-380 = a party who exhausted administrative remedies is entitled to judicial review.

Under this review the ALC affirmed the amount due to the Appellant. It was error by the ALC Judge.

Conclusion

The Appellant now asks this Honorable Court to rule that the ALC erred in not ordering that South Carolina Department of Corrections pay the Appellant the amount due, and remand this case back to the Administrative Law Court for further proceedings to order payment to the Appellant and resolve the issue.

Respectfully Submitted,

12 / 17 / 2025

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