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Dec 29 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Roger Curtis, #143635)
)
 Appellant,)
)
 vs.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)
)

Docket No. 24-ALJ-04-0161-AP
Grievance No. TYRCI 0033-23

ORDER
(Remanding for Prevailing Wage
Back Pay Determination)

This matter is before the South Carolina Administrative Law Court (Court or ALC) pursuant to an appeal filed by Roger Curtis (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (SCDC or Department), asserting the Department paid him less than the prevailing wage for work in the Prison Industries Program (PIP). Appellant appeals the Department’s final decision denying his Step 2 Grievance as untimely under SCDC Policy ADM-15.13, *Inmate Pay*, ¶ 12.1.

BACKGROUND AND PROCEDURAL HISTORY

On January 30, 2023, Appellant submitted a Step 1 Grievance seeking back payment up to the prevailing wage for PIP work Appellant performed at Kershaw Correctional Institution and Tyger River Correctional Institution since 2006, pursuant to South Carolina statutory law and *Torrence v. S.C. Department of Corrections*, 433 S.C. 633, 861 S.E.2d 36 (Ct. App. 2021). On February 3, 2023, SCDC staff responded to Appellant’s Step 1 Grievance as follows:

I have reviewed your concern. In it you state that pursuant to *Torrence vs SCDC*, you request the prevailing wage, with back pay, and without reprisal. Inmates voluntarily accept services provided by Prison Industries Private Sector Programs and Prison Industries Service Programs. Pursuant to SCDC Policy ADM-15.13 *Inmate Pay*, it establishes criteria for determining eligibility for inmate pay and ensures proper handling of all matters pertaining thereto. An employee is designated specifically to enter inmate pay data, provided by PI, into the Inmate Pay System. Inmates entering a PI program receives pay at that program’s current rate. Problems in pay must be identified within 15 days of the payroll date error. Record of electronic notification must be retained. Failure to notify the Agency in writing and within 15 days, forfeits back pay. You were provided with wages that were approved by the governing authority of South Carolina at that time and accepted as such. Any additional information that you require should be addressed

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to companies outside SCDC. You have failed to prove pertinent staff performed their duties inconsistent with applicable policy and procedure.

Therefore, your grievance is denied.

Appellant acknowledged receipt of the Department's Step 1 Grievance response on February 7, 2023. On February 8, 2023, Appellant filed a Step 2 Grievance. On October 27, 2023, the Department issued its Step 2 Grievance response, stating:

In your grievance, you are requesting adjustments to your inmate pay pursuant to Torrence v. South Carolina Department of Corrections (2021). The South Carolina Court of Appeals opinion in Torrence was filed on June 30, 2021. You submitted your Step 1 Grievance regarding this matter on February 1, 2013, approximately one year and seven months after the Court of Appeals issued its opinion. Accordingly, your grievance is untimely under SCDC Policy ADM-15.13, section 12.1....

Therefore, your grievance is denied.

Appellant received the Department's Step 2 Grievance response on November 1, 2023. On November 21, 2023, Appellant filed his Notice of Appeal to this Court.¹ On February 16, 2024, the Court entered a Notice of Assignment assigning this matter to the Honorable Deborah Brooks Durden.

On April 26, 2024, the Department filed a motion to extend its deadline for filing the Record on Appeal. On May 14, 2024, the Court granted the extension motion, ordering that the Department file the Record on Appeal by August 12, 2024.

On August 12, 2024, the Department filed a motion seeking to stay this appeal for a period of sixty (60) days, based on the overwhelming volume of appeals of prison industries / prevailing wage grievance denials and its retention of new counsel to assess and potentially work towards resolving this appeal without further litigation. On August 14, 2024, Appellant filed his initial appellant's brief. On August 23, 2024, Appellant filed an opposition to the Department's sixty-day stay motion. On August 29, 2024, the Court denied the Department's stay motion but granted the Department an additional thirty (30) days to file the Record on Appeal, providing Appellant the opportunity to file a renewed appellant's brief thereafter. On September 30, 2024, the

¹ Appellant filed his Notice of Appeal directly to the Honorable Crystal M. Rookard, who had been assigned an earlier appeal noticed by Appellant in September 2023. Appellant's earlier appeal, ALC Docket No. 23-ALJ-04-0382-AP, asserted the same issues presented herein but was based on the Department's Step 1 Grievance response and the Department's failure to timely respond to Appellant's Step 2 Grievance. Appellant's earlier appeal was dismissed by Judge Rookard on January 10, 2024.

Department filed the Record on Appeal. On October 15, 2024, Appellant filed his renewed appellant's brief.

On November 8, 2024, the Department filed a Motion to Remand, stating that additional information was discovered during the appeal and seeking to issue a supplemental Step 2 Grievance response based upon the full record of Appellant's work history. On November 19, 2024, Appellant filed an objection to the remand motion and a Motion for Rule to Show Cause why the Department should not be held in contempt of court for failing to file its brief within the time limits imposed by this Court's August 29, 2024 order. On January 8, 2025, the Court issued an order denying both the Department's Motion to Remand and Appellant's Motion for Rule to Show Cause. The Court's January 8, 2025 order required the Department to file its respondent's brief by January 31, 2025.

On January 31, 2025, the Department filed a Motion for 21-Day Extension to File the Respondent's Brief, stating that its outside counsel did not receive the Court's January 8, 2025 order until January 24, 2025, due to clerical errors associated with receiving and sorting mail. On February 11, 2025, Appellant filed his opposition to the extension motion, requesting this Court to deny the motion or grant the Department no more than a ten-day extension of time to file its respondent's brief. On February 18, 2025, the Court issued an order partially granting the Department's extension motion, requiring the Department to file its respondent's brief within ten (10) days. On February 28, 2025, the Department filed a Second and Final Motion for an Extension of Time to File the Respondent's Brief, seeking an extension until March 7, 2025 to file its respondent's brief, due to counsel's recent illness and workload.

On March 7, 2025, the Department filed its respondent's brief. On March 17, 2025, Appellant filed his reply.

On March 25, 2025, the Court granted the Department's February 28, 2025 extension motion, thereby accepting the respondent's brief filed by the Department on March 7, 2025.

On June 20, 2025, this matter was reassigned to the undersigned Administrative Law Judge. On June 27, 2025, the Court issued an Order to Show Cause arising from the Department's recent acknowledgment to the Court of Appeals of South Carolina, in a factually analogous appeal referred to herein as the "*Gibson* matter," that it was error to deny that appellant's prevailing wage backpay grievance based on the 15-day deadline set forth in ADM-15.13. *See* Mot. to Remand,

Gibson v. S.C. Dep't of Corr., Appellate Case No. 2024-001076 (filed May 23, 2025) (“[T]he Department does not contest that it was error to dismiss these claims pursuant to ADM-15.13.”).²

On July 7, 2025, Appellant filed an objection to the Court’s Order to Show Cause.

On July 14, 2025, the Department filed its Return to Order to Show Cause (First Return), which asserted that this Court misconstrued the Department’s remand motion in the *Gibson* matter and stated that the motion was a “*strategic decision limited to that case....*” (emphasis in original).³ The First Return characterized the Department’s statement to the Court of Appeals—*i.e.* that it “does not contest that it was error to dismiss these claims pursuant to ADM-15.13”—as the withdrawal of an affirmative defense limited to the *Gibson* matter.⁴

On July 30, 2025, the Court issued a Second Order to Show Cause ordering the Department to submit additional briefing if it contended that ADM-15.13 applied to bar the grievance at issue in this appeal, including discussions of: (a) whether and how the Department’s citation of ADM-15.13 to bar inmate prevailing wage grievances seeking backpay for work performed under PIP comports with the effective version of S.C. Code §§ 24-3-315 and -430(D) during the timeframe at issue in this appeal; (b) whether *Torrence, supra*, applies when ADM-15.13 has been used to bar inmate prevailing wage grievances seeking backpay for historic PIP work; and if not, why not; (c) how the Department reconciles its citation to ADM-15.13 to bar inmate grievances seeking backpay for historic work performed under PIP with SCDC Policy GA-01.12, *Inmate Grievance System*, ¶ 13.2 (“Unless a separate SCDC policy requires filing a grievance within a shorter period

² In the *Gibson* matter, the Department asked the Court of Appeals to remand inmate Gibson’s appeal “back to the ALC with instructions to remand the matter back to the Department for issuance of an appealable corrected Step 2 response which specifically sets forth the Department’s wage calculations and allows Appellant the opportunity to accept the Department’s calculations or appeal the calculations to the ALC if he disagrees with them.” See Mot. to Remand, *Gibson v. S.C. Dep't of Corr.*, Appellate Case No. 2024-001076 (filed May 23, 2025).

³ As it did in its Second Order to Show Cause, this Court still questions the characterization of the *Gibson* case as an isolated strategic decision, based on the Court’s non-exhaustive survey of additional, analogous inmate appeals to the ALC challenging the Department’s application of ADM-15.13 that were later appealed to the Court of Appeals and subsequently requested by the Department to be remanded (even though the Department had been successful on appeal at the ALC). See Second Order to Show Cause (July 30, 2025) at pp.4-8 (discussing *Bolte v. S.C. Dep't of Corr.*, ALC Docket No. 23-ALJ-04-0567-AP, Appellate Case No. 2024000602; *Hughes v. S.C. Dep't of Corr.*, ALC Docket No. 23-ALJ-04-0731-AP, Appellate Case No. 2024-000486; *Vandross v. S.C. Dep't of Corr.*, ALC Docket No. 24-ALJ-04-0131-AP, Appellate Case No. 2024-002046; and *Thompson v. S.C. Dep't of Corr.*, ALC Docket No. 23-ALJ-04-0835-AP, Appellate Case No. 2024-000665); cf. *Hawes v. S.C. Dep't of Corr.*, ALC Docket No. 23-ALJ-04-0462-AP, Appellate Case No. 2024-001418. To the Court’s knowledge, the issue of whether ADM-15.13 applies to inmate grievances seeking back payment up to the prevailing wage for historic PIP work has yet to be decided by the Court of Appeals.

⁴ The Department contends that ADM-15.13 gives rise to an exhaustion of administrative remedies defense applicable to this appeal.

of time, any and all grievances that involve a continuous matter (prison industries pay) must be filed within two (2) years of when the issue arose, or the grievant should have known about it.”); and (d) whether the Department contends ADM-15.13 forecloses Appellant’s claim for back pay, and if so, specific identification of the “payroll date error,” including the nature and date(s) thereof, from which the Department contends Appellant’s 15-day deadline began to run.

On August 14, 2025, the Department filed its Return to Second Order to Show Cause (Second Return). On October 21, 2025, Appellant filed a Motion to Expedite Ruling.

ISSUE ON APPEAL

Did the Department err in determining that SCDC Policy ADM-15.13’s fifteen-day deadline for reporting payroll errors barred Appellant’s prevailing wage claim?

JURISDICTION AND STANDARD OF REVIEW

The Court’s jurisdiction to hear this matter is derived from the South Carolina Supreme Court’s decision in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000) and *Furtick v. South Carolina Department of Probation, Parole & Pardon Services*, 352 S.C. 594, 576 S.E.2d 146 (2003). In *Al-Shabazz*, the Supreme Court set forth that the ALC has jurisdiction to review inmate appeals involving state-created liberty or property interests. *Id.* Furthermore, in *Wicker v. South Carolina Department of Corrections*, the South Carolina Supreme Court held this Court has jurisdiction to review inmate wage-claim grievances in the limited circumstance where the state has created a statutory right to that wage. 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.”). The Court reviews these matters in “an appellate capacity.” *Al-Shabazz* at 388, 527 S.E.2d at 754. The Court’s review is therefore confined to the same manner as prescribed in Section 1-23-380 of the South Carolina Code (Supp. 2025), which states:

The court may reverse or modify the decision [of an agency] if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions or decisions are:

- (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.

Id. § 1-23-380(5); *see also id.* § 1-23-600(E) (directing administrative law judges to conduct appellate review in the same manner prescribed in § 1-23-380).

This court's review in appellate cases is limited to the record. *See id.* § 1-23-380(4); SCALC Rule 36(G). A decision is supported by “substantial evidence” when the record as a whole allows reasonable minds to reach the same conclusion as the agency. *Friends of the Earth v. Pub. Serv. Comm'n of S.C.*, 387 S.C. 360, 366, 692 S.E.2d 910, 913 (2010). The fact that the record, when considered as a whole, presents the possibility of drawing two inconsistent conclusions from the evidence does not prevent the agency’s findings from being supported by substantial evidence. *Waters v. S.C. Land Res. Conservation Comm'n*, 321 S.C. 219, 226, 467 S.E.2d 913, 917 (1996). In applying the substantial evidence rule, “a reviewing court will not overturn a finding of fact by an administrative agency ‘unless there is no reasonable probability that the facts could be as related by a witness upon whose testimony the finding was based.’” *Sea Pines Ass'n for Prot. of Wildlife v. S.C. Dep't of Nat. Res.*, 345 S.C. 594, 603-04, 550 S.E.2d 287, 292 (2001) (quoting *Lark v. Bi-Lo, Inc.*, 276 S.C. 130, 136, 276 S.E.2d 304, 307 (1981)). When applying the substantial evidence rule, the factual findings of the factfinder are presumed to be correct. *Rodney v. Michelin Tire Co.*, 320 S.C. 515, 519, 466 S.E.2d 357, 359 (1996). Furthermore, the reviewing court is prohibited from substituting its judgment for that of the factfinder as to the weight of the evidence on questions of fact. When the evidence conflicts regarding an issue, the court’s substantial evidence standard of review defers to the findings of the factfinder. *Risher v. S.C. Dep't of Health & Envtl. Control*, 393 S.C. 198, 210, 712 S.E.2d 428, 435 (2011); *Grant v. S.C. Coastal Council*, 319 S.C. 348, 353, 461 S.E.2d 388, 391 (1995). In fact, substantial evidence exists to support a factfinder’s decision “unless there is no reasonable probability the facts could be as related by the witness upon whose testimony the finding was based.” *Tims v. J.D. Kitts Constr.*, 393 S.C. 496, 503, 713 S.E.2d 340, 343 (Ct. App. 2011). The party challenging an agency action has the burden of proving convincingly that the factfinder’s decision is unsupported by substantial evidence. *Waters*, 321 S.C. at 226, 467 S.E.2d at 917.

However, the substantial evidence standard does not restrain a reviewing court from deciding questions of law. *See Verenes v. Alvanos*, 387 S.C. 11, 15, 690 S.E.2d 771, 772–73 (2010)

“An appellate court may decide questions of law with no particular deference to the trial court.”). “Determining the proper interpretation of a statute is a question of law, and this Court reviews questions of law de novo.” *Buchanan v. S.C. Prop. & Cas. Ins. Guar. Ass’n*, 417 S.C. 562, 566-67, 790 S.E.2d 783,785 (Ct. App. 2016) (quoting *Lambries v. Saluda Cnty. Council*, 409 S.C. 1, 7, 760 S.E.2d 785, 788 (2014)). “In a case raising a novel issue of law regarding the interpretation of a statute, the appellate court is free to decide the question with no particular deference to the lower court” and “based on its assessment of which interpretation and reasoning would best comport with the law and public policies of this state and the Court’s sense of law, justice, and right.” *Meier v. Burnsed*, 438 S.C. 362, 369-70, 882 S.E.2d 863, 867 (Ct. App. 2022) (quoting *Buchanan*, 417 S.C. at 566-67, 790 S.E.2d at 785).

DISCUSSION

This appeal concerns the wage paid to Appellant for both historic PIP work and ongoing PIP work at the time of Appellant’s grievance. Appellant argues he is entitled to back payment up to the prevailing wage for two periods of time at two different correctional institutions. Appellant contends that, from September 1, 2006 through the end of 2015, he worked at Kershaw Correctional Institution (KCI). Appellant contends that, from January 1, 2016 through the date he filed his grievance, he worked at Tyger River Correctional Institution (TRCI). Appellant argues that the Department’s invocation of ADM-15.13 to bar his grievance violates Section 24-3-430 and the South Carolina Court of Appeals’ decision in *Torrence v. S.C. Department of Corrections*, 433 S.C. 633, 861 S.E.2d 36 (Ct. App. 2021). In its respondent’s brief, the Department asserts that Appellant should have filed either his Step 1 Grievance or a request to staff member (RTSM) “within 15 days of the date upon which the Court of Appeals decided *Torrence* on June 30, 2021.”

Prevailing Wage Statute and *Torrence*

With respect to the time period at issue in this appeal, the Court first notes that, effective May 21, 2024, the language of Section 24-3-430 no longer requires payment of the “prevailing wage,” but merely requires payment of the federal minimum wage. *See* S.C. Code Ann. § 24-3-430(D) (Supp. 2025). This statutory change renders the Court without authority to address Appellant’s contention that he is entitled to the prevailing wage after May 20, 2025.⁵ Therefore,

⁵ In *Slezak v. South Carolina Department of Corrections*, 361 S.C. 327, 332, 605 S.E.2d 506, 508 (2004), the Supreme Court of South Carolina held that inmate appeals not implicating a state-created liberty or property interest are subject to summary dismissal by this Court. More recently, in *Allen v. South Carolina Department of Corrections*, 439 S.C. 164, 886 S.E.2d 671 (2023), our state supreme court clarified that pursuant to its *Slezak* decision, “the ALC may not

the Court’s review of the Department’s denial of Appellant’s prevailing wage grievance is limited to the period of September 1, 2006 through May 20, 2024. Otherwise, Appellant is correct that, at all times relevant to this appeal, the prevailing wage statute—Section 24-3-430(D) of the South Carolina Code—provided that “[n]o inmate participating in the [prison industries] program may earn less than the prevailing wage for work of similar nature in the private sector.”⁶ Moreover, the *Torrence* decision reaffirmed that inmates have the right to pursue their claims under the prevailing wage statute “through the Department’s internal grievance procedure.” *Torrence* at 638, 861 S.E.2d at 39.

In *Torrence*, the inmate sought back payment up to the prevailing wage for PIP work performed between June 1997 and November 2004. Inmate Torrence filed a grievance on May 21, 2007. The Department denied the grievance, contending it was untimely because inmate Torrence did not file it within fifteen days of the date upon which the Department began paying him for his labor. The Department contended Paragraph 13.1 of SCDC Policy GA-01.12, *Inmate Grievance System*—which required step one grievances be filed within fifteen days of the “incident”—applied to inmate Torrence’s grievance seeking back payment up to the prevailing wage for Prison Industries work he performed years earlier. *Id.* at 643, 861 S.E.2d at 42. The Court of Appeals disagreed, noting that Paragraph 13.9 of the same Inmate Grievance System policy excepted “grievances concerning policies/procedures” from the 15-day deadline set forth in Paragraph 13.2. The Court of Appeals reasoned that because the Prison Industries contracts negotiated between the Department and private employers “involve continuous conditions potentially affecting numerous inmates,” those contracts are a statement of Department policy. *Id.* at 645, 861 S.E.2d at 43; *see also Ackerman v. S.C. Dep’t of Corr.*, 415 S.C. 412, 420-21, 782 S.E.2d 757, 762 (Ct. App. 2016 (“[T]he provisions of [PIP] contracts [between the Department and PIP sponsors] are enduring and have the same effect on numerous inmates”) (quoted with emphasis added in *Torrence*, 433 S.C. at 644, 861 S.E.2d at 42)). Because inmate Torrence’s grievance involved the Department’s

grant an inmate relief from an erroneous administrative decision by SCDC ... unless the inmate demonstrates the error deprived him of due process.” 439 S.C. at 171, 886 S.E.2d at 674. Thus, the ALC may only grant relief for Department decisions that implicate a state-created liberty or property interest sufficient to trigger procedural due process guarantees. *Id.* It is true that “where ... 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.” *Wicker v. S.C. Dep’t of Corr.*, 360 S.C. 421, 424, 602 S.E.2d 56, 57 (2004). But it follows that where the state has eliminated such statutory right, failure to pay the prevailing wage does not implicate due process protections.

⁶ *See* S.C. Code Ann. § 24-3-430(D) (2007 & Supp. 2022).

policies and procedures rather than an isolated incident, the Court of Appeals rejected the Department's attempt to characterize the grievance as one arising from an "incident." The Court of Appeals thus held that the prevailing wage grievance fell within the exception enumerated in Paragraph 13.9 of the Inmate Grievance System policy, and therefore Paragraph 13.1's fifteen-day (from the incident) deadline did not apply to bar inmate Torrence's grievance. Accordingly, pursuant to the Court of Appeals' decision, inmate Torrence was allowed to claim the difference between the wage he was paid and the prevailing wage. *Id.* at 637, 861 S.E.2d at 38.

ADM-15.13, Paragraph 12.1

In this appeal, the Department contends Appellant was untimely under a *different* SCDC policy than the Inmate Grievance System policy at issue in *Torrence*. While *Torrence* determined an inmate's grievance seeking back pay up to the prevailing wage did not arise from an "incident" and therefore was not subject to the 15-day deadline to file incident grievances, this appeal requires the Court to examine the Department's contention that Appellant's prevailing wage back-pay claim arose from a payroll error, thereby *imposing* upon Appellant a 15-day deadline to seek informal redress (and providing a remedy of back payments for only the two pay periods prior to the error if Appellant's claim is successful). Paragraph 12.1 of ADM 15.13 provides as follows:

Inmates must report any problems in their pay to their institution's inmate pay designee utilizing the Automated Request to Staff Member (ARTSM) *within 15 days of the payroll date error*. The inmate should maintain a record of the ARTSM reference number. The inmate pay designee will review the case and determine whether any additional pay is owed. *Payroll corrections* will be limited to the following:

- If the inmate fails to notify the Agency in writing and within 15 days, no back pay will be given.
- The pay rate will be adjusted to the proper rate amount for future payrolls in accordance with these procedures.
- The inmate may receive additional pay owed for the previous two (2) pay periods only.

See SCDC Policy ADM-15.13, *Inmate Pay*, ¶ 12.1 (June 3, 2014) (Emphasis added.) The Court does not agree with the Department's characterization of Appellant's prevailing wage grievance as arising from "payroll error" with a remedy that is extinguished unless reported within fifteen days of occurrence.

First, this appeal does not involve a payroll error.⁷ The common understanding of the term “payroll error” connotes an administrative mistake and excludes intentionally effectuated policies regarding wages. *See, e.g., Thomas v. Bed Bath & Beyond, Inc.*, 309 F. Supp. 3d 121, 134 (S.D.N.Y. 2018), *aff’d*, 961 F.3d 598 (2d Cir. 2020) (“It is undisputed that [Plaintiff] was underpaid by \$50 due to a single payroll error, since rectified. Plaintiffs do not argue ... that this underpayment reflects a policy or practice of any kind, including of ‘docking’ base salary.”); *Abramowich v. CSX Transp., Inc.*, 975 F. Supp. 2d 513, 525 (W.D. Pa. 2013) (“Both the union and CSXT initially believed that the helper pay issue was an administrative payroll error, and it was not until later that CSXT concluded that the issue was a contract interpretation issue.”). Even an ordinary definition of the word “error” connotes an unintentional or accidental action that deviates from what was expected to be done. *See Error*, Merriam-Webster Online, <https://www.merriam-webster.com/dictionary/error> (last visited November 17, 2025) (“**1 a:** an act or condition of ignorant or imprudent deviation from a code of behavior[;] **b:** an act involving an unintentional deviation from truth or accuracy[;] **c:** an act that through ignorance, deficiency or accident departs from or fails to achieve what should be done”). Again, the Court cannot reasonably construe the setting of inmate wage rates below the prevailing wage rate, as agreed upon between the Department and PIP sponsors for numerous inmates, as being an unintentional act. Rather, the Court concludes that Paragraph 12.1 of ADM-15.13 refers to the commonly understood connotation of “payroll error” as an administrative mistake affecting an individual inmate’s pay. This appeal, however, does not arise from an error – payroll or otherwise. This appeal arises from intentional decisions of the Department with respect to wage rates for inmates under Prison Industries programs. Were Appellant’s grievance the result of a payroll error, the Department could have described the nature of the payroll error and identified the date thereof in its grievance response. Instead, the Department, in its Step 1 Grievance response, vaguely informed Appellant that “[p]roblems in pay must be identified within 15 days of the payroll date error.... Failure to notify the Agency in writing and within 15 days, forfeits back pay.” Even in its Step 2 Grievance response, the Department did not assert a payroll error but instead deemed Appellant’s grievance untimely under ADM-15.13 because it was lodged approximately one year and seven months after

⁷ The 15-day deadline set forth in ADM-15.13 begins to run on the “payroll date error,” which this Court interprets as “payroll error date,” i.e., the date upon which a payroll error manifests in an incorrect payment.

the Court of Appeals issued the *Torrence* opinion.⁸ Even during this appeal, when specifically directed by the Court to describe the payroll error and identify the payroll error date at issue, the Department could not identify the date on which it contends Appellant’s 15-day timeframe began to run pursuant to ADM-15.13.

Moreover, the Department’s current grievance policy, SCDC Policy GA-01.12, *Inmate Grievance System*, directly addresses the timeline for filing a grievance seeking back payment of the prevailing wage for Prison Industries work. Paragraph 13.2 of the grievance policy states:

Unless a separate SCDC policy requires filing a grievance within a shorter period of time, any and all grievances *that involve a continuous matter (prison industries pay)* must be filed within two (2) years of when the issue arose, or the grievant should have known about it. If the issue is older than two (2) years but has continued to be an issue that is grievable, only the two (2) year portion immediately prior to filing of the grievance will be considered.

(Emphasis added.) The inclusion of this two-year timeline for filing a grievance seeking back payment up to the prevailing wage—for Prison Industries work specifically—suggests the 15-day timeline of ADM-15.13, ¶ 12.1 has no applicability to such grievances. More significantly, grievance policy GA-01.12 states that a period of *at least two years* will be considered for Prison Industries back pay grievances, which is practicably irreconcilable with the maximum remedy available for payroll errors under ADM-15.13: two pay periods.⁹ This further demonstrates that the scope of ADM-15.13, ¶ 12.1 *does not include* claims seeking back payment up to the prevailing wage for historic Prison Industries work.

For these reasons, the Court is not convinced that ADM-15.13 plays any role with respect to prevailing wage grievances seeking backpay for historic work under PIP. While ADM-15.13 appears to apply to correction of individualized pay errors for ongoing inmate employment

⁸ Plainly, the *Torrence* decision is not a payroll error for purposes of ADM-15.13. Thus, even under the terms of ADM-15.13, which requires an inmate to report a payroll error “within 15 days of the payroll date error” (emphasis added), the Department’s Step 2 Grievance response’s basis for denial is erroneous. Indeed, such an interpretation of the Department’s policy would lead to the absurd result of rendering all inmate issues with pay, no matter their genesis, untimely unless they were filed within fifteen days of the *Torrence* decision.

⁹ Although the current version of SCDC Policy GA-01.12, *Inmate Grievance System*, has an issue date of September 1, 2023, i.e., after Appellant filed his grievance, its language nonetheless reflects that grievances seeking back payment up to the prevailing wage for historic Prison Industries work are redressable beyond the two-pay-period limitation of ADM-15.13, ¶ 12.1. It also reflects that a distinction is still drawn by the Department for prison industries pay as a “continuous matter,” similar to the Court of Appeals’ description thereof in *Torrence* as involving “continuous conditions,” thus rendering it a policy under SCDC Policy GA-01.12, ¶ 13 and not a payroll error incident under ADM-15.13.

(including payroll errors related to Prison Industries work), by its terms and in practice it is not an avenue for an inmate to pursue back payment up to the prevailing wage for PIP work. Consequently, ADM-15.13's deadline of fifteen days from the payroll error date does not apply here, nor does ADM-15.13 play any role in the "proper exhaustion"¹⁰ of the instant appeal. The Department therefore erred in denying Appellant's grievance based on ADM-15.13, and the Court rejects the Department's contention that Appellant failed to exhaust his administrative remedies.

The Department erred in denying Appellant's Step 2 Grievance based on ADM 15.13. The Department's respondent's brief states that the Department has calculated the amount of gross backpay owed to Appellant for his work at TRCI. However, Respondent makes no reference to Appellant's PIP work at KCI, or its back pay calculation with respect thereto. This Court will therefore order the Department to fully calculate and remit the back pay owed to Appellant for PIP work he performed over the time period at issue in this appeal.

ORDER

IT IS THEREFORE ORDERED that this matter is **REMANDED** to the South Carolina Department of Corrections, which shall within ninety (90) days of the date of this Order calculate and offer to remit to Appellant the additional pay owed to Appellant under the prevailing wage statute, S.C. Code § 24-2-430(D), for the period of September 1, 2006 through May 21, 2024. The Department shall issue and serve upon Appellant a corrected, substantive, and appealable Step 2 response that sets forth—with sufficient detail and clarity to permit meaningful consideration by Appellant—the Department's calculations of the total underpayment amount owed to Appellant, allowing Appellant the opportunity to accept the Department's calculations or appeal them to the ALC if he disagrees with them.

AND IT IS SO ORDERED.



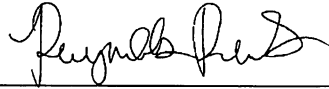
Samuel L. Johnson
Administrative Law Judge

November 25, 2025
Columbia, South Carolina

¹⁰ Unlike the Department's respondent's brief, the First Return characterized ADM-15.13 as giving rise to an exhaustion or remedies defense. However, as stated on the form containing the Department's Step 2 Grievance response, "[t]he decision rendered by the responsible official exhausts the appeal process of the SCDC Inmate Grievance Procedure."

CERTIFICATE OF SERVICE

I, Reynolds C. Rawls, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



Reynolds C. Rawls
Judicial Law Clerk

November 25, 2025
Columbia, South Carolina