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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Robert L. Reibold

ALC Case No. 25-ALJ-04-0251-AP
Appellate Case No. 2025-002405

CHARLES HUGHES, # 242931,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

INITIAL BRIEF OF RESPONDENT

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

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STATEMENT OF ISSUE ON APPEAL

THE ADMINISTRATIVE LAW COURT PROPERLY AFFIRMED THE DEPARTMENT'S DECISION BELOW WHERE APPELLANT'S SUBSTANTIVE ARGUMENT REGARDING INMATE PAY COULD NOT BE ADDRESSED BECAUSE THERE WAS NO FINAL AGENCY DECISION ON THAT ISSUE AND WHERE APPELLANT FAILED TO APPEAL THE ACTUAL BASIS OF THE DEPARTMENT'S DECISION.

STATEMENT OF THE CASE

This matter comes before this Court pursuant to the appeal of Charles Hughes, an inmate in the custody of the South Carolina Department of Corrections (SCDC). Appellant submitted Step One and Two Grievances alleging that he was entitled to prevailing wage backpay. The Step 2 Grievance was considered resolved on the basis that Respondent was not permitted to communicate with Appellant directly on the issue of inmate pay/prevailing wages because Appellant was represented by counsel. Appellant appealed to the Administrative Law Court, and on October 27, 2025, Administrative Law Judge Robert L. Reibold issued an order dismissing the appeal. This appeal follows.

STANDARD OF REVIEW

S.C. Code Ann. § 1-23-610(B) provides the applicable standard of review:

The review of the administrative law judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (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.

S.C. Code Ann. § 1-23-380(5).

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. S.C. Code Ann. § 1-23-610(B). "Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that administrative agency reached. Hendley v. S.C. State Budget & Control Bd., 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). A reviewing court shall not substitute its own judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole. Id.

ARGUMENT

THE ADMINISTRATIVE LAW COURT PROPERLY AFFIRMED THE DEPARTMENT'S DECISION BELOW WHERE APPELLANT'S SUBSTANTIVE ARGUMENT REGARDING INMATE PAY COULD NOT BE ADDRESSED BECAUSE THERE WAS NO FINAL AGENCY DECISION ON THAT ISSUE AND WHERE APPELLANT FAILED TO APPEAL THE ACTUAL BASIS OF THE DEPARTMENT'S DECISION.

Issue Preservation

Initially, the issues presented in Appellant's brief are not preserved for appellate review because they were not the issues that were ruled upon by the Administrative Law Court (ALC). The ALC only ruled on two issues – whether or not it could rule on an issue for which there was no final agency decision, and whether or not it could rule on an issue that was not appealed. (See ALC Order, p. 4-5). The ALC dismissed the appeal on these two grounds alone. (See ALC Order, p. 4-5). Accordingly, the unrelated issues presented in Appellant's brief are not preserved for review. See State v. Dunbar, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) (“In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial judge. Issues not raised and ruled upon in the trial court will not be considered on appeal.”) (citation omitted); State v. Rogers, 361 S.C. 178, 183, 603 S.E.2d 910, 912-13 (Ct. App. 2004) (in order for an issue to be preserved for appellate review, it must have been raised and ruled upon below).

Argument

The ALC cannot address any issue on which the Department has not issued a final decision. S.C. Code 1-23-380 (a party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision is entitled to judicial review). Therefore, although Appellant sought to have his substantive arguments regarding wages and backpay reviewed, the ALC properly concluded that it was unable to review those issues without a final agency decision

addressing those issues. See, e.g., Nucor Corp. v. S.C. Dep't of Employment and Workforce, 410 S.C. 507, 514-15, 765 S.E.2d 558, 562 (2014) (stating that there must be a final agency decision in order for a party to have judicial review).

Furthermore, the ALC could not address the merits of the propriety of the Department's grievance response because Appellant failed to appeal from the actual basis of the Department's decision. The decision in the Step 2 Grievance was that the Department could not communicate with Appellant regarding inmate pay because he is represented by counsel on the issue of inmate pay. That issue was not identified in Appellant's statement of issues on appeal below, nor did Appellant argue the issue below. Therefore, the ALC properly concluded that it could not review the issue. See Rule 60(B)(1), SCALCR; see also First Savings Bank v. McLean, 314 S.C. 361, 363, 444 S.E.2d 513, 514 (1994).

CONCLUSION

For the above reasons, this Court should affirm the Administrative Law Court's decision below.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
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