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SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Robert L. Reibold, Administrative Law Judge

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Administrative Law Court Docket No. 25-ALJ-04-0251-AP

Appellate Case No. 2025-002443

Charles Hughes, #242931,

Appellant,

V,

South Carolina Department of Corrections,

Respondent.

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REPLY BRIEF

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Charles Hughes, #242931  
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Institution 1-A-214  
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Enoree, S.C. 29335

Appellant, Pro Se

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#### STATEMENT OF THE CASE

Although Respondent South Carolina Department of Corrections ("SCDC" of "Department") failed to file a Respondent's Brief in connection with the instant case, Appellant files this Reply Brief to clarify controlling legal errors in the Administrative Law Court's ("ALC") Final Order and to further buttress why reversal and remand are required. See Rules of the South Carolina Appellate Court (SCACR) Rule 208(a)(4), (authorizing the Appellate Court to proceed on Appellant's brief alone where respondent fails to file).

#### ARGUMENT

##### A. SCDC'S REFUSAL TO ADDRESS THE MERITS VIOLATED ITS OWN GRIEVANCE POLICY AND DUE PROCESS

SCDC rejected Appellant's grievance not on the merits, but on the incorrect assertion that it could not communicate with Appellant because he was "represented by counsel". (See Step 2 grievance denial). However, the record demonstrates otherwise. In the ALC's Final Order, the ALC stated, "the Department's cover letter and certificate of service indicate the Department's brief was mailed to Appellant. There is no indication the Record on Appeal or Department's brief were served upon Ms. Brown or Winslow Law. In the absence of a Notice of Appearance or any other filing by legal counsel to this Court, the Court deems Appellant to be proceeding in this matter on a pro se basis." (See Final Order p. 2).

Therefore, SCDC's position was factually erroneous and legally indefensible.

An agency must follow its own promulgated procedures. South Carolina Courts apply this same principle. Brown v. S.C. State Bd. of Educ., 301 S.C. 326, 391 S.E.2d 866 (1990) (agency action arbitrary and capricious when it disregards required procedures).

**SCDC Inmate Grievance Procedures Policy, ("GA-01.12")** requires SCDC to process grievances and issue decisions on the merits. A refusal to adjudicate based on a nonexistent attorney-client relationship constitutes arbitrary action and a denial of procedural due process. Mathews v. Eldridge, 424 U.S. 319, 333 (1976); Al-Shabazz v. State, 338 S.C. 354, 382 - 83, 527 S.E.2d 742, 756 (2000) (recognizing inmate grievances implicating liberty or property interests must be handled pursuant to established procedures).

**B. THE ALC APPLIED THE WRONG REMEDY BY AFFIRMING INSTEAD OF REMANDING**

When an agency fails to address a grievance on the merits due to legal errors, the proper remedy is remand, not affirmance. The ALC exceeded its authority by insulating SCDC's error rather than correcting it.

Under the APA, reviewing tribunals may reverse or remand by error of law, made upon unlawful procedure, or arbitrary and capricious. S.C. Code Ann. § 1-23-380(A)(c), (d), & (f); Lark v. Bi-Lo, Inc., 276 S.C. 130, 132, 276 S.E.2d 304, 305 (1981).

Courts consistently hold that where an agency refuses to exercise its discretion or adjudicate a claim, remand is mandatory. Palmetto All., Inc. v. S.C. Pub. Serv. Comm'n, 282 S.C. 430, 434, 319 S.E.2d 695, 697 (1984).

**C. PREVAILING WAGE CLAIMS IMPLICATE A COGNIZABLE PROPERTY INTEREST**

Former S.C. Code Ann. § 24-3-430(D)(2007) created a mandatory entitlement to PIECP inmates, requiring that they "may not earn less than the prevailing wage." Under South Carolina and federal law, mandatory statutory language gives rise to a protected interest. See Bd. of Regents v. Roth, 408 U.S. 564, 577 (1972) (property interests stem from rules or understandings securing benefits).

By refusing to adjudicate Appellant's prevailing wage grievance, SCDC deprived Appellant of that interest without process, and the ALC compounded

the error by affirming rather than remanding. The State may not extinguish a claim due to a procedural failure caused by the State itself. Logan v. Zimmerman Brush Co., 455 U.S. 422, 433 - 34 (1982).


D. EFFECT OF SCDC'S FAILURE TO FILE A RESPONDENT'S BRIEF

SCDC's failure to file a Respondent's Brief constitute waiver of counter-arguments and leaves Appellant's legal positions unrebutted. While reversal is not automatic, the absence of any defense underscores that the ALC's ruling rests solely on legal error apparent on the face of the record.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court reverse the ALC's Final Order and remand with instructions that SCDC process Appellant's GA-01.12 grievance on the merits under the former prevailing wage statute, specifically S.C. Code Ann. § 24-3-430(D)(2007).

Respectfully Submitted,

/s/   
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January 26, 2026