STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Francis Ackerman, #266928, et al.[1],	)	Docket Nos. 25-ALJ-04-0315-AP through 25-ALJ-04-0511-AP
Appellants,	)	
v.	)	**ORDER OF DIMISSAL**
South Carolina Department of Corrections,	)	
Respondent.	)	

These matters are before the South Carolina Administrative Law Court (ALC) pursuant to appeals filed by the above-listed individuals, which include current and former inmates incarcerated with the South Carolina Department of Corrections (Department or SCDC). The Appellants dispute their pay for work performed in the Prison Industries "service work" project (project) operated by the Department at Lieber Correctional Institution (Lieber).[2] *See* S.C. Code Ann. § 24-3-430(D) (1995) (providing that inmates in the Prison Industries program shall be paid no less than "the prevailing wage for work of [a] similar nature in the private sector.").

PROCEDURAL HISTORY

This controversy between the parties has persisted for over twenty years and as a result, the appellate courts have issued three decisions concerning this matter. *Darrell Williams, Class Representative, et al., v. S.C. Dep't of Corr. and Williams Technologies, Inc.*, 372 S.C. 255, 641 S.E.2d 885 (S.C. 2007); *Francis Ackerman, et al., v. S.C. Dep't of Corr.*, 415 S.C. 412, 782 S.E.2d 757 (S.C. Ct. App. 2016), *cert. denied* (May 30, 2017); and *Fred Gatewood v. S.C. Dep't of Corr.*, 416 S.C. 304, 309, 785 S.E.2d 600 (S.C. Ct. App. 2016), *cert. denied* (May 30, 2017).[3] Before

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[1] For the sake of continuity, the Court will refer to Francis Ackerman as the first Appellant.

[2] Williams Technologies, Inc. (WTI), now operating as Caterpillar, Inc., acted as the private industry sponsors.

[3] Other relevant prevailing wage decisions include *Adkins v. S.C. Dep't of Corr.*, 360 S.C. 413, 602 S.E.2d 51 (2004) (no private right of action to prevailing wage claims but inmates may seek remedy by filing inmate grievance); *Wicker v. S.C. Dep't of Corr.*, 360 S.C. 421, 602 S.E.2d 56 (2004) (holding no claim for civil damages yet inmates may pursue prevailing wage claims through the grievance processes); and *Torrence v. S.C. Dep't of Corr.*, 433 S.C. 633, 861 S.E.2d 36 (Ct. App. 2021), *reh'g denied* (Aug. 4, 2021), *cert. denied* (Aug. 3, 2022) (Department must determine mean average wage for occupation using records and data from Department of Employment and Workforce).

addressing the issue before the Court, a review of the history behind these appellate cases is helpful.

Prior Court Review of Prevailing Wage Claims

In early 2001, Darrell Williams, one of the Appellants in this current matter before the ALC, filed a Step 1 Grievance with the Department disputing his pay for work performed in the project. Upon the denial of the Step 1 Grievance, Williams filed a Step 2 Grievance which was also denied. Williams then filed an appeal with the ALC which was dismissed.[4] Then, in 2002, Douglas Westbook filed a class action on behalf of 200 inmates, listing Williams as the class representative.[5] The civil action sought back pay for the inmates based upon the provisions of subsection 24-3-430(D) of the South Carolina Code.

During the pendency of this class action, grievances were filed with the Department on behalf of the individual inmates on or around September 22, 2004.[6] Although the grievances were administrative matters, Judge Goodstein then stayed the processing of those grievances while the class action was pending.[7] Then, on July 1, 2005, Judge Goodstein dismissed the class action, decertified the class, and lifted the stay she had imposed.

The inmates appealed Judge Goodstein's decision which, yet again, halted the processing of the individual grievances before the Department. On February 26, 2007, the South Carolina Supreme Court affirmed the dismissal of the class action. *Darrell Williams, Class Representative, et al., v. S.C. Dep't of Corr. and Williams Technologies, Inc.*, 372 S.C. 255, 641 S.E.2d 885. Thereafter, the Department resumed the processing of the grievances. Following the Department's determination that the grievances were untimely, the inmates purportedly appealed to the ALC on

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[4] The Court notes that it is unclear whether the prior dismissal of this matter precludes Inmate Williams from challenging his pay in the current matter before the ALC. *See Plum Creek Dev. Co. v. City of Conway*, 334 S.C. 30, 34, 512 S.E.2d 106, 109 (1999) ("Under the doctrine of res judicata, '[a] litigant is barred from raising any issues which were adjudicated in the former suit *and* any issues which might have been raised in the former suit.'") (quoting *Hilton Head Ctr. of S.C., Inc. v. Pub. Serv. Comm'n of S.C.*, 294 S.C. 9, 11, 362 S.E.2d 176, 177 (1987). Nonetheless, since the Department has not raised this defense, I have addressed the issues raised.

[5] The matter was filed in Dorchester County and later assigned to Honorable Judge Goodstein. On January 8, 2005, Judge Goodstein issued an order of certification of the class.

[6] *See Adkins v. S.C. Dep't of Corr.*, 360 S.C. 413, 602 S.E.2d 51; *see Wicker v. S.C. Dep't of Corr.*, 360 S.C. 421, 602 S.E.2d 56.

[7] While the Court questions the authority Judge Goodstein had to stay an administrative matter, the Department, nevertheless stayed the processing of the inmates grievances.

November 6, 2008[8] through Mr. Westbook. The matters were consolidated at the ALC and after a final decision was issued on July 26, 2012, Appellants appealed to the South Carolina Court of Appeals.[9] On February 10, 2016, the Court of Appeals remanded the consolidated cases for consideration of Appellants' grievances on the merits. *Ackerman, et al., v. S.C. Dep't of Corr.*, 415 S.C. 412, 782 S.E.2d 757 (S.C. Ct. App. 2016), *cert. denied* (May 30, 2017). On June 13, 2017, this Court remanded the matter to the Department to issue final decisions regarding the inmates' claims. Between 2017 and 2025, the parties raised multiple legal disputes and also participated in two rounds of mediation in an effort to resolve this decades long controversy. The mediation was not successful, consequently, on May 12, 2025, the Department issued final decisions. This appeal followed.[10]

Appellants' brief was filed on October 1, 2025. Then, on November 3, 2025, the Department filed its brief arguing, in part, that a legitimate question existed as to whether 139 of the Appellants entered into a valid fee agreement with Attorney Westbrook. Appellants' reply brief was later filed on November 12, 2025. On December 17, 2025, the parties convened at the Court's offices in Columbia, South Carolina for oral arguments.

JURISDICTION

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 and Pardon Services*, 352 S.C. 594, 576 S.E.2d 146

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[8] Appellant filed his Notice of Appeal with the ALC on this date; however, some of the other inmates filed their Notice of Appeal during 2007 while others filed in 2008.

[9] Notably, the ALC found all inmates, except Fred Gatewood, had untimely filed their grievances. They appealed the ALC's decision, however, the Court of Appeals remanded Gatewood's appeal to the ALC on August 26, 2013 to issue a decision on the merits. The ALC then remanded the matter to the Department to make further findings. The matter was again appealed to the ALC and the ALC issued a new final decision in April of 2014. Gatewood then appealed the decision to the Court of Appeals. On March 9, 2016, the Court of Appeals issued its decision in *Gatewood. Fred Gatewood v. S.C. Dep't of Corr.*, 416 S.C. 304, 785 S.E.2d 600 (S.C. Ct. App. 2016), *cert. denied* (May 30, 2017). The Court of Appeals specifically found that "[i]n 1995, the South Carolina legislature enacted section 24-3-430 of the South Carolina Code (2007) to authorize the expansion of the Prison Industries program into the private sector. This expansion allowed qualified private entities to use inmate labor but required the wages for participating inmates to be no less than 'the prevailing wage for work of [a] similar nature in the private sector.' Act No. 7, 1995 S.C. Acts 78. Section 24-3-430 became effective on July 1, 1995. *Id.* at 102." *Gatewood v. S.C. Dep't of Corr.*, 416 S.C. at 309.

[10] In total, there were 197 appeals filed challenging the Department's May 12 decision. (*See* Exhibit A). The cases were assigned on July 7, 2025 and consolidated on July 9, 2025. Thereafter, the Department filed a Motion to Dismiss in 58 appeals. On October 13, 2025, the Court granted all but five of those Motions. (*See* Exhibit C). As a result, there are 146 remaining appeals pending before this Court, 139 of those appeals are addressed in this Order. (*See* Exhibit B and D)

(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. *Al-Shabazz*, 338 S.C. 376-77, 527 S.E.2d 754. The Court reviews these matters in "an appellate capacity." *Id.* Furthermore, in *Wicker v. South Carolina Department of Corrections*, the South Carolina Supreme Court held this Court has jurisdiction to review grievances pertaining to an inmate's statutory right to the payment of prevailing wage. 360 S.C. at 423–24, 602 S.E.2d at 57 ("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.").

"A reviewing court will not disturb findings of [an administrative agency] if its findings are supported by substantial evidence on the record as a whole." *Pearson v. JPS Converter & Indus. Corp.*, 327 S.C. 393, 397, 489 S.E.2d 219, 220 (Ct. App. 1997). 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 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). Furthermore "the party challenging a[n administrative agency's] order bears the burden of convincingly proving that the decision is clearly erroneous, or arbitrary or capricious, or an abuse of discretion, in view of the substantial evidence on the whole record." *Porter v. S.C. Pub. Serv. Comm'n*, 333 S.C. 12, 20, 507 S.E.2d 328, 332 (1998).

DISCUSSION

The Department initially questions whether these cases are properly before the ALC because it does not appear to that Department that Appellants legally authorized Mr. Westbook to represent them in this matter. Consequently, the Department argues Mr. Westbook lacked the authority to file these appeals on behalf of the Appellants.[11] Conversely, Mr. Westbook fervently argues that Appellants authorized him to represent their interests in this underlying appeal as

[11] Mr. Westbrook argues that this issue is not preserved for review since the Department did not previously raise the issue. Nonetheless, the Department contends that it raised this issue in the mediation below, but that the validity of its concerns was established when Mr. Westbrook filed Notice of Appeals in this matter indicating that he was either unaware of their whereabouts and/or unable to contact approximately thirty of the Appellants. The validity of its concerns regarding the inmates addressed by this order was established by Mr. Westbrooks' response to concerning the above thirty Appellants.

evidenced by the supplemental fee agreements (supplemental agreement) executed on or around September 2004.

Attorney-Client Relationship

An attorney-client relationship is contractual in nature. *DeBerry v. McCain*, 275 S.C. 569, 573, 274 S.E.2d 293, 295 (1981). For a contract to arise, there must be an agreement between two or more parties, which includes an offer and acceptance. *Hughes v. Edwards*, 265 S.C. 529 (1975). The offer is a proposal by one party to enter into a legally binding agreement and acceptance is the agreement by the other party to the terms of the offer. In addition, a meeting of the minds, or mutual assent, is required for a contract to be valid. This means that both parties must have a clear understanding and agreement on the essential and material terms of the contract. *Lampo v. Amedisys Holding*, LLC, 437 S.C. 236 (2022).

However, this contractual relationship is unique. While the formation of an attorney-client relationship is consensual and arises from an agreement governed by contract law, in some instances, ethical and professional rules may supersede ordinary contract principles. 23 Williston on Contracts § 62:1 (4th ed.). Indeed, an attorney must fully disclose the terms of their representation and obtain the client's informed consent. *See Matter of Jordan*, 421 S.C. 594, 809 S.E.2d 409 (2017). Rule 1.8(a) of the Rules of Professional Conduct (RPC) further specifies that any business transaction between a lawyer and a client must be fair and reasonable, fully disclosed in writing, and understood by the client. A written agreement is essential, especially in cases involving contingent fees. Rule 1.5(c), RPC, Rule 407, SCACR ("A contingent fee agreement shall be in a writing signed by the client and shall state the method by which the fee is to be determined, ..."). The client must also be advised in writing of the desirability of seeking independent legal counsel and given a reasonable opportunity to do so. Rule 1.8(a)(2), RPC, Rule 407, SCACR. Additionally, the client must provide informed consent in writing, acknowledging the essential terms of the transaction and the lawyer's role. Rule 1.8(a)(3), RPC, Rule 407, SCACR.

Supplemental Fee Agreement

Mr. Westbrook asserts that his attorney-client relationship with Appellants began as part of a class action he filed in circuit court in 2002 but argues that the scope of his representation was later extended following the decisions in *Adkins* and *Wicker* to include filing individual grievances on the Appellants' behalf. Mr. Westbrook avers that the extension of the scope of his

representation was memorialized by the supplemental agreement, dated September 14, 2004.[12] The supplemental agreement includes a cover letter and agreement totaling twenty-four (24) pages in length, twenty-two (22) of which are signature pages. However, the supplement agreement, merely authorized Mr. Westbrook "**as class counsel in *Williams, et al., v. SCDC, et al.*, Case No. 02-CP-18-134**, and Darrell Williams as class representative, to file a grievance against SCDC for collection of wages and pursue that grievance **on behalf of the class** through the Administrative Law Judge Division and Courts, if necessary[]." (emphasis added). The agreement also provided that "the supplemental fee agreement covers handling **the case** at the grievance level only, plus appeal to the ALJ Division and Circuit Court." (emphasis added). Clearly, although the agreement refers to the authority of Mr. Westbrook to file a grievance on behalf of an inmate, the plain terms of the supplemental agreement confine Mr. Westbrook's contractual authority to the filing **a grievance on behalf of the class**; a class, which again, Judge Goodstein decertified on July 1, 2005.

Implied Consent

Nonetheless, Mr. Westbook contends by entering into the supplemental agreement, the inmates **impliedly** consented for him to pursue separate underlying administrative grievances on behalf of the individual Appellants. In support of his argument, Mr. Westbrook draws the Court's attention to the Appellants' endorsement of the supplement agreement. Yet still, based upon the evidence presented to the Court, there is substantial doubt as to whether Mr. Westbrook even initially obtained the Appellants' consent to represent them in the underlying matter.

First, seventy (70) signatures are listed on the twenty-two (22) pages following the supplemental agreement. Significantly, while these seventy signatures appear on numbered pages following the terms of the agreement, neither Mr. Westbrook nor any member of his staff were present when the signatures were affixed to the attached twenty-two pages. Obviously, this raises a substantial question as to what advice, if any, the Appellants obtained from Mr. Westbrook and what, if anything, was discussed with the Appellants. *See In re Carter*, 400 S.C. 170, 176, 733 S.E.2d 897, 900 (2012) (providing that legal advice must be sought and discussed with a lawyer in **confidence** for the purpose of obtaining such advice). However, that question was answered by Mr. Westbrook, who stated that before filing the grievances neither he or any member of his staff

[12] Mr. Westbrook attached a copy of the supplemental agreement to his response to the Department's Motion to Dismiss. This supplemental agreement was later made a part of the Record on Appeal.

ever personally discussed the filing of the administrative grievances with any inmate other than Darrell Williams as class representative.[13] Thus, the Court is left to speculate whether Mr. Westbrook and the Appellants had a clear understanding of the essential and material terms outlined in the supplement agreement or even whether they actually signed the agreement.[14] *See Lampo v. Amedisys Holding*, LLC, 437 S.C. 236 (2022); *see also* Rule 1.8(a), RPC, Rule 407, SCACR.

Additionally, Mr. Westbrook also relies upon fifty-three (53) other signatures to support his claim that he represents those inmates in the underlying matter. However, the signatures of those fifty-three inmates appear on separate unnumbered sheets of paper, unassociated from the terms of the supplemental agreement. The lack of nexus between the signatures and the agreement adds even further uncertainty as to whether the Appellants agreed to Mr. Westbrook's representation. In other words, the lack of nexus between the signatures and the supplemental agreement creates an additional question as to whether the inmates were ever provided with a copy of the supplement agreement.

Certainly, these facts raise substantial doubt as to whether the supplemental agreement reflects that any of the inmates other than Darrell Williams formally agreed for Mr. Westbrook to represent them in the grievances before the Department. Moreover, after these issues were raised, Mr. Westbrook did not show whether the Appellants were made aware of the "meaning and objectives" described in the supplement agreement or that implied consent was given for Mr. Westbrook to represent the Appellants' individual interests. Thus, even if Mr. Westbook had the authority to represent the Appellants as members of the class action,[15] there is no credible evidence

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[13] Indeed, these concerns are further heightened by a consideration of the signatures affixed to the pages. For instance,

- one of the Appellant's signatures is listed more than once,
- at least one Appellant's signature is not dated, and
- fourteen (14) of the Appellants did not even sign the supplemental agreement.

[14] As will be discussed hereinafter, Mr. Westbrook did not obtain assurance from Inmate Williams that the Appellants personally signed the signature pages.

[15] Significantly, Mr. Westbook did not provide the Court with copies of the original fee agreement. Therefore, the Court is unable to even state with certainty that Mr. Westbrook had the authority to represent the Appellants as members of the class.

that the scope of his attorney-client relationship transitioned to representing these inmates' individual interests.[16]

Scope of Agency

Despite the above questions, Mr. Westbrook nonetheless contends that he did not need to meet with each Appellant to obtain the authority to represent them. Rather, he argues that Inmate Williams had the authority as class representative to "have the other named inmates sign and date the blanks by their name(s)[]" since, according to Mr. Westbrook, Inmate Williams "could be reasonably relied upon to circulate the 2004 fee agreement and protect class members' interests." Surely, there is nothing that would preclude an agent of Mr. Westbrook from communicating the terms of the supplemental agreement and obtaining consent from the Appellants for Mr. Westbrook to represent their interests. *See Royal v. Free Kindergarten Ass'n of Charleston*, 445 S.C. 436, 447–48, 914 S.E.2d 856, 862 (Ct. App. 2025), *reh'g denied* (May 16, 2025) ("Agency is the fiduciary relationship that arises when one person (a 'principal') manifests assent to another person (an 'agent') that the agent shall act on the principal's behalf and subject to the principal's control.") (quoting *Froneberger v. Smith*, 406 S.C. 37, 49, 748 S.E.2d 625, 631 (Ct. App. 2013). Yet, importantly, "[u]nder traditional agency law, an agency relationship [only] exists when a principal 'manifests assent' to an agent 'that the agent shall act on the principal's behalf and subject to the principal's control, and the agent manifests assent or otherwise consents so to act.'" *Krakauer v. Dish Network, L.L.C.*, 925 F.3d 643, 659–60 (4th Cir. 2019) (quoting Restatement (Third) of Agency § 1.01 (Am. L. Inst. 2006)).

Here, the paradox of Mr. Westbrook's assertion is that any authority which may have been extended to Inmate Williams' was limited to his role as class representative. *Est. of Alvarez by & through Galindo v. Rockefeller Found.*, 96 F.4th 686, 693 (4th Cir. 2024) ("Agencies ... come in many sizes and shapes: One may be an agent for some business purposes and not others so that the fact that one may be an agent for one purpose does not make him or her an agent for every purpose.") (quoting *Daimler AG v. Bauman*, 571 U.S. 117, 135, 134 S.Ct. 746, 187 L.Ed.2d 624 (2014) (internal quotations and citation omitted)); *see also Sampson & Wyatt v. Singer Mfg. Co.*, 5 S.C. 465, 467 (1875) ("[t]wo things are necessary to enable an agent to bind his principal: first,

[16] Interestingly, a number of the Step 2 grievances state that the "grievant incorporates by refence exhibits A-H attached to grievances **filed by Darrell Williams and counsel on September 22, 2004.**" (emphasis added). It is noteworthy that the inmates did not hold out Mr. Westbrook as their counsel.

he must have authority for that purpose; second, he must duly exercise it."). Clearly, a class representative only serves as a representative for the class action. Indeed, Mr. Westbrook confirmed this fact when he acknowledged that Inmate Williams' authority to retain clients on his behalf was specific to Inmate Williams' responsibilities as class representative.

Furthermore, even if I were to assume that Inmate Williams was legally authorized by Mr. Westbrook to obtain clients on his behalf, there is still no credible evidence that Inmate Williams, or anyone else for that matter, communicated the terms of the supplemental agreement to the Appellants or that the Appellants actually signed the signature pages. Indeed, the Record is devoid of evidence attesting to the context for which the signatures were obtained, nor did Mr. Westbrook demonstrate that he obtained assurance from Inmate Williams that the Appellants personally signed the signature pages.[17] As argued by the Department, "without Mr. Westbrook involvement and [having] personally shepherd[ed] this process ... we have no way of knowing" who actually signed the supplemental agreement.

Dual-Representation

In addition, Mr. Westbrook claims the sole reason he circulated the supplemental agreement was to obtain the authority from the Appellants "to file a grievance against SCDC for collection of wages." Yet, quizzically, Mr. Westbrook only signed three of the Step 1 grievances.[18] As to the remaining grievances, although Mr. Westbrook contends that the inmates consented to his representation, the remainder of the grievances were dated and signed by the inmate. Moreover, some of the inmates even filed amendments to their grievance years after having presumably signed the supplemental agreement and those amendments were also signed by the inmates.

Significantly, our Supreme Court has avowed that "substantive documents filed *pro se* by a person represented by counsel are not accepted unless submitted by counsel." *State v. Devore*, 416 S.C. 115, 120, 784 S.E.2d 690, 693 (Ct. App. 2016) (quoting *State v. Stuckey* 333 S.C. 56, 58,

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[17] Interestingly, Inmate Williams was released from the Department's custody on October 1, 2004. Yet, some Appellants presumably signed and dated the supplemental agreement after Inmate Williams release. Thus, who circulated the agreement and collected the signatures?

[18] Notably, the only grievances Mr. Westbrook signed contained no grievance numbers. In fact, there was no evidence that the individuals for whom the grievances were filed were ever incarcerated and consequently, ever worked in the project. Therefore, the three grievances that Mr. Westbrook signed were dismissed by an earlier decision.

508 S.E.2d 564 564 (1998)); *e.g., Miller v. State*, 388 S.C. 347, 697 S.E. 2d 527 (2010) (holding *pro se* motion was not proper, should not have been accepted, and should not have been ruled upon since Appellant was represented by counsel). Therefore, if Mr. Westbrook had the authority to represent Appellants' interests in these matters, this Court lacks procedural jurisdiction over these appeals because the Step 1 and/or Step 2 grievances were not properly filed by Mr. Westbrook. *See id.; see also Brown v. James*, 389 S.C. 41, 48, 697 S.E.2d 604, 608 (Ct. App. 2010) ("The doctrine of exhaustion of administrative remedies requires that where a remedy before an administrative agency is provided, relief must be sought by exhausting this remedy before the courts will act."). On the other hand, if the Step 1 and/or Step 2 grievances were independently filed by the inmates, Mr. Westbrook did not represent them at that time and he would have needed to obtain consent to subsequently represent them in this appeal, something which Mr. Westbrook has failed to show he obtained.

Current Attorney Client Relationship

Still, even if I were to disregard all of the aforementioned concerns, the evidence presented to this Court shows Mr. Westbrook also failed to maintain an attorney-client relationship with Appellants throughout the years. Significantly, the preamble to the Rules of Professional Conduct specifically requires that a "lawyer **shall** maintain communication with a client." Preamble [4], RPC, Rule 407, SCACR (emphasis added); *see also* Rule 68, SCALCR ("the South Carolina Rules of Civil Procedure and the South Carolina Appellate Court Rules, in contested cases and appeals respectively, may, in the discretion of the presiding administrative law judge, be applied to resolve questions not addressed by these rules."). Similarly, Rule 1.4, RPC, provides:

> (a) A lawyer **shall**:
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> > (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(g), is required by these Rules;
> >
> > (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
> >
> > (3) keep the client reasonably informed about the status of the matter;
> >
> > (4) promptly comply with reasonable requests for information; and
> >
> > (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

Rule 1.4a, RPC, Rule 407, SCACR (emphasis added). Indeed, as explained by the Rules "[r]easonable communication between the lawyer and the client **is necessary for [a] client to effectively participate in the[ir] representation.**" Rule 1.4a, Comment 1, RPC, Rule 407, SCACR; *see also* Preamble [2], RPC, Rule 407, SCACR ("[a]s advisor, a lawyer provide[] a client with an **informed understanding** of the client's legal rights and obligations and explains their practical implications....").

While Mr. Westbrook attested that he sent updates to Appellants throughout the years, he was unable to provide the Court with any documentation to substantiate that he communicated with the Appellants. In fact, when directly asked, Mr. Westbrook was unable to even identify which of the Appellants he had been in communication with, the basis of the communication, or even when the communication occurred.[19] The Court thus cannot discern whether Appellants were in fact aware of the events which transpired since the original grievances were filed, nearly 20 years ago. *See* Rule 1.4, RPC, Rule 407, SCACR.

Additionally, the Record reflects that between 2017 and 2025, the parties engaged in mediation in an effort to resolve this decades long controversy. Significantly, without consulting with any of the Appellants, Mr. Westbrook declined at least one settlement offer extended by the Department.[20] While Mr. Westbrook may have believed that the Department's offer was unreasonable, it was not Mr. Westbrook's decision whether to accept the Department's offer of settlement. *See* 23 Williston on Contracts § 62:1 (4th ed.) (providing that control ultimately resides with the client and that the attorney must be authorized to act for the client). Although this issue is predominately an ethical issue that is not before this Court, the lack of communication with Appellants nevertheless reflects upon the existence of an attorney-client relationship.

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[19] Mr. Westbrook did, however, indicate in filings with the Court that he spoke with Appellant Keith Kelly on May 20, 2025, which was prior to the filing of the appeal. Mr. Westbrook also averred in pleadings that he spoke with four separate personal representatives of deceased inmates prior to filing the appeals in those matters. As a result, the Court denied the Department's Motion to Dismiss and a separate order addressing the merits of those appeals will be issued in those matters.

[20] I acknowledge that Mr. Westbrook initially asserted that it was unclear to him whether a settlement offer occurred. However, Mr. Westbrook assertions are undermined by Mr. Summers assurance as an officer of the Court that a clear $1.25 million dollars offer was made to settle Appellants claims. Moreover, Mr. Westbrook thereafter acknowledged that he rejected the offer because he thought that it only constituted approximately 10% of what Appellants were owed. Importantly, the Rules require that "[a] lawyer shall abide by a client's decision whether to make or **accept an offer** of settlement of a matter." Rule 1.2a, RPC, Rule 407, SCACR. (emphasis added).

Yet still, Mr. Westbook argues that his lack of communication is acceptable because it was impracticable for him to speak "individually with all 200 inmates when they are subject to visitation…" However, the Rules do not provide any exceptions for clients who are incarcerated nor did I find any legal authority to condone the filing of an appeal under these circumstances without consultation with a client. In fact, the Rules underscore the inverse. *See* Rule 1.4b, RPC, Rule 407, SCACR (providing that it is the responsibility of an attorney to consult with client about the means to accomplish the client's objectives). Finally, to the extent, Mr. Westbrook argues the thirty-day time frame to file an appeal lent an insufficient amount of time to first consult with each of the Appellants, thirty days from issuance of the Department's decision does not rise to the level of immediacy contemplated by the Rules. Again, although these issues are generally ethical concerns that are not before this Court, the exceptions offered by Mr. Westbrook for the lack of communication with Appellants do not convince the Court that Mr. Westbrook maintained an attorney-client relationship with the Appellants.

In sum, these appeals were not properly brought before this Court as Mr. Westbrook did not have the authorization to file the appeal on behalf of Appellants. Consequently, the Court will not address the issues on the merits.

IT IS THEREFORE ORDERED that these appeals are **DISMISSED.**

AND IT IS SO ORDERED.

Ralph King Anderson, III
Chief Administrative Law Judge

January 23, 2026
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Stephanie Perez, 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).

Stephanie Perez
Judicial Law Clerk

January 23, 2026
Columbia, South Carolina