

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Hon. Ralph King Anderson, III, ALJ

Case No.: 2026-000053

William Ballew, #71297,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

BRIEF OF APPELLANT

William Ballew, #71297, Pro Se
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

ATTORNEY FOR RESPONDENT

General Counsel
South Carolina Department of Corrections
4444 Broad River Road
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STATEMENT OF ISSUES ON APPEAL

I. WHETHER APPELLANT HAS A CONSTITUTIONALLY PROTECTED INTEREST IN HIS PRISON ACCOUNT?

II. WHETHER THE DECISION WAS MADE UPON UNLAWFUL PROCEDURE WHEN THE MOTION TO DISMISS WAS NOT PROPERLY SERVED UPON APPELLANT AND CASE WAS DISMISSED PURSUANT TO THAT MOTION?

III. WHETHER THE DECISION WAS MADE UPON UNLAWFUL PROCEDURE WHEN THE CASE WAS DISMISSED A MERE TEN (10) DAYS AFTER ALLEGED SERVICE UPON APPELLANT BY MAIL?

HISTORY OF PROCEEDINGS

Appellant timely filed an appeal from the final agency decision by the South Carolina Department of Corrections ("SCDC" or "Department"). The case was assigned to the Honorable Ralph Kind Anderson, III, on October 2, 2025. The Department filed a Motion to Dismiss (Motion) on November 26, 2025. On November 25, 2025, Respondent used the "Inter-Departmental Mail" system to send a copy of the Motion to Appellant -- United States Postal Service was not used. (See, Record on Appeal, envelope of alleged serving bearing no postage or cancellation; also, see Motion, last page, Certificate of Service, "placing a copy of same via mail" (emphasis supplied)). On December 4, 2025, the case was dismissed.

STANDARD OF REVIEW

The appellate court's standard of review derives from the APA. Howard v. SCDC, 399 S.C. 618, 625, 733 S.E.2d 211,215 (2012), citing Al-Shabazz v. State, 338 S.C. 354, 379, 733 S.E.2d 742,

755 (2000).

"We may affirm, remand, reverse, or modify the appealed decision if the appellant's substantive rights have suffered prejudice because the 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.

ARGUMENT

I. APPELLANT HAS A CONSTITUTIONALLY PROTECTED INTEREST IN HIS PRISON ACCOUNT. CONST. AMEND. 14, U.S. CONST.

Appellant sought transfer of certain funds received and deposited into an interest bearing, escrow account approximately 26 to 30 years ago for work performed as part of an industry within the SCDC.

In Wicker v. SCDC, 360 S.C. 421, 424, 602 S.E.2s 56, 58 (2004) the S.C. Supreme Court recognized a state-created property interest in the payment of a prevailing wage. in Milholland v. SCDC, 463 S.C. 547, 549, 873 S.E.2d 784, 785 (Ct.App. 2022) the court acknowledged inmates have a protected property interest in their inmate accounts.

It is only appropriate that Appellant share the same due process protections.

II. THE DECISION WAS MADE UPON UNLAWFUL PROCEDURE WHEN THE MOTION TO DISMISS WAS NOT PROPERLY SERVED UPON APPELLANT AND CASE WAS DISMISSED PURSUANT TO THAT MOTION.

On November 25, 2025, Charon Hess, Administrative Coordinator, General Counsel's Office, SCDC, placed a copy of Respondent's Motion to Dismiss in the "Inter-Department Mail" system at SCDC Headquarters, 4444 Broad River Road, Columbia, SC. Ms. Hess did not utilize the United States Postal Service. (See, Record on Appeal).

Our Supreme Court has held that "[w]here service by mail is permitted, it is complete when the document is deposited with the United States Postal Service, properly addressed with sufficient postage". Southbridge Properties, Inc. v. Jones, 292 S.C. 198, 355 S.E.2d 535 (1987), citing Town of Honea Path v. Wright, 194 S.C. 461, 9 S.E.2d 924 (1940), Walters v. Lauren Cotton Mills, 53 S.C. 155, 31 S.E. 1 (1898); see also, Lindsey v. S.C. Tax Comm., 323 S.C. 57, 448 S.E.2d 577 (Ct.App. 1994), Green v. Green, 320 S.C. 347, 465 S.E.2d 1305 (Ct. App. 1995), and Smith v. Estate of Lewis, 2026 WL 381856 (Ct.App. 2026).

Placing the Motion in a third party's custody such as the "Inter-Departmental Mail" system does not amount to service:

"In our opinion, merely giving the [motion] to a third party for mailing does not amount to service on the addressee. Since the [motion] was not deposited in the United States Mail ... it was not timely served."
Southbridge, supra.

For reasons aforesaid, Appellant asks the Court to rule the Motion to Dismiss was not properly served upon Appellant and this renders the lower court decision to have been made upon unlawful procedure.

III. THE DECISION WAS MADE UPON UNLAWFUL PROCEDURE WHEN
THE CASE WAS DISMISSED A MERE TEN (10) DAYS AFTER ALLEGED
SERVICE UOPON APPELLANT BY MAIL.

The motion was filed with the ALC on November 26, 2025. Respondent allegedly served Appellant by mail. Rule 7, SCALC Rules, provides ten (10) days within which to answer the Motion. Rule 3(c), SCALC Rules, provides that five (5) are to be added to the prescribed period when a party serves papers by mail. Accordingly, Appellant's response to Respondent's Motion was not due until December 10, 2025. The case was dismissed pursuant to this Motion December 4, 2025.

"The extra five days provided for by Rule 6(e) [Rule 3(c)] compensates for the time notice is in the mail" Witzig v. Witzig, 325 S.C. 363, 479 S.E.2d 297 (Ct.App. 1996).

Appellant suggests that for the lower court to dismiss the case on the tenth day is unlawful procedure.

CONCLUSION

Appellant prays this Court grants a declaration that his property interest in his prison account was prejudiced by the unlawful procedures employed by the lower court in dismissing his appeal and that this case be remanded to the ALC for further proceedings consistent with this Court's order, and for any such and further relief as deemed appropriate and just.

RESPECTFULLY SUBMITTED:

William Ballew

William Ballew, #71297, Pro Se
430 Oaklawn Road
Pelzer, SC 29669

Dated: 3-2-24

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CERTIFICATE OF SERVICE

SC Court of Appeals

I, William Ballew, hereby certify that I placed true and correct copies of the Brief on Appeal in sealed, postage prepaid envelope addressed to General Counsel, SCDC, 4444 Broad River Road, Columbia, SC 29211-1787, and deposited same in the United States Mail at Perry Correctional Institution

on this 2nd day of March, 2026.

s/ William Ballew
William Ballew

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PCI MAILROOM

LEGAL MAIL

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