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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
South Carolina Department of Corrections

Crystal M. Rookard, Administrative Law Judge

Appellate Case No. 2025-002433

Bernard Bagley, #175851,

Appellant,

v.

South Carolina Department
of Corrections,

Respondent.

RECORD ON APPEAL

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pro se

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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Bernard Bagley, #175851,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

Docket No. 25-ALJ-04-0275-AP
Grievance No. ECI 0621-24

ORDER

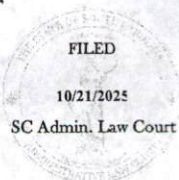
This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to an appeal filed on June 9, 2025, by Bernard Bagley (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department). This matter was assigned to the undersigned on June 19, 2025. Appellant filed a Notice of Appeal to dispute his pay under the prevailing wage statute, subsection 24-3-430(D) of the South Carolina Code (2025). Appellant filed his initial brief on July 14, 2025. The Department filed a Motion to Dismiss (Motion) on August 28, 2025, asserting that this matter should be dismissed because Appellant was employed prior to the enactment of subsection 24-3-430(D) in July of 1995. Appellant filed a response to the Motion on September 4, 2025.

Appellant filed a Step 1 Grievance on September 23, 2024, alleging he was entitled to the prevailing wage for labor performed from November 1991 to April 1995. Appellant's Step 1 Grievance was elevated to the Step 2 level. On June 2, 2025, Appellant's grievance was considered resolved as Appellant was provided the wage calculations for labor performed from September 2006 to May 2024.¹

DISCUSSION

The Court's jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). In *Al-Shabazz*, the Court held that the ALC's jurisdiction in inmate appeals is limited to state-created liberty interests typically involving: (1) cases in which an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) cases

¹ The merits of Appellant's claim in relation to labor performed from 2006 to 2024 are not at issue in this matter as Appellant did not address them in his Notice of Appeal. Appellant has a separate appeal before the undersigned, Docket Number 25-ALJ-04-0136-AP, in relation to his labor performed from 2006 to 2024.



in which an inmate has received punishment in a major disciplinary hearing as a result of a serious rule violation. *Id.* at 382; 527 S.E.2d at 757. Recently, the court further clarified that while the ALC has jurisdiction over all inmate grievance appeals, it is “not required to hold a hearing in every matter and may summarily dismiss an inmate’s grievance if it does not implicate a state-created liberty or property interest sufficient to trigger procedural due process guarantees.” *Allen v. S.C. Dep’t of Corr.*, 439 S.C. 164, 170-71, 886 S.E.2d 671, 674 (2023). To trigger due process guarantees and judicial review, “an inmate’s complaint must encompass an infringement of a liberty interest that imposes an atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.” *Skipper v. S.C. Dep’t of Corr.*, 370 S.C. 267, 274, 633 S.E.2d 910, 914 (2006).

In this matter, Appellant is challenging his pay for labor performed from 1991 to 1995. Specifically, Appellant alleges that while subsection 24-3-430(D) was not enacted until 1995, he is still entitled to the prevailing wage pursuant to the Prevailing Wage Act of 1985. In turn, the Department argues that the prevailing wage statute applicable to SCDC inmates was not enacted until July 1, 1995; thus, Appellant is not entitled to the prevailing wage. Appellant argues that the prevailing wage statute should be construed to apply retroactively pursuant to *Torrence*. *Torrence v. S.C. Dep’t of Corr.*, 433 S.C. 224, 226, 857 S.E.2d 549, 550 (2021). However, as subsection 24-3-430(D) was not in place prior to July 1, 1995, inmates had no statutory right to the prevailing wage. “It is a well-settled rule of statutory construction that absent a specific provision or clear legislative intent to the contrary, statutes are to be construed prospectively rather than retroactively, unless the statute is remedial or procedural in nature.” *Edwards v. State L. Enforcement Div.*, 395 S.C. 571, 579, 720 S.E.2d 462, 466 (2011). “A statute is remedial where it creates new remedies for existing rights or enlarges the rights of persons under disability.” *State v. Hilton*, 406 S.C. 580, 585, 752 S.E.2d 549, 551-52 (Ct. App. 2013) (quoting *Edwards*, 395 S.C. at 579, 720 S.E.2d at 466). However, “[w]hen a statute creates a new obligation or imposes a new duty, courts generally consider the statute prospective only.” *Id.* (quoting *Edwards*, 395 S.C. at 579, 720 S.E.2d at 466); *see also* 82 C.J.S. Statutes § 568 (May 2025 Update) (“In the absence of an express legislative statement or clear intent to the contrary, a statute will not be given a retroactive construction by which it will impose liabilities not existing at the time of its passage . . .”). As such, Appellant’s claim that he is entitled to the prevailing wage prior to the enactment of this statute fails.

Application of these standards reveals that the prevailing wage statute does not operate retroactively. As discussed above, the prevailing wage statute creates a new obligation on the

Department. Moreover, nothing in the statute evidences any intent that the statute applies retroactively. The Court therefore affirms the Department's decision with respect to any claim for prevailing wages for work performed prior to 1995.

In regard to Appellant's argument that the failure to pay prevailing wage prior to 1995 was a violation of his due process rights, the Court disagrees. The Court finds that Appellant's claim does not pertain to (a) erroneously calculated sentence, sentence-related credits, or custody status nor; (b) any other state-created liberty or property interest. Appellant's appeal does not allege a deprivation of a state-created liberty or property interest, nor has he claimed a significant hardship which reaches constitutional dimensions. As such, the Court concludes that summary dismissal is appropriate in this case. *See Allen*, 439 S.C. at 170-71, 886 S.E.2d at 674 (summary dismissal appropriate where the inmate's grievance does not implicate a state-created liberty or property interest.)

ORDER

IT IS THEREFORE ORDERED that the Department's Motion to Dismiss is **GRANTED** and this appeal is **DISMISSED WITH PREJUDICE**.

AND IT IS SO ORDERED.

Crystal M. Rookard

The Honorable Crystal M. Rookard
South Carolina Administrative Law Judge

October 21, 2025
Columbia, South Carolina

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

Office Use Only

INMATE NAME: Bernard Bagley
SCDC NUMBER: 175851
INSTITUTION: Kershaw
HOUSING UNIT: _____
WORK ASSIGNMENT: _____

Grievance No ECI-0621-24
Code: General _____
Policy _____
Disc Hear _____
Class _____
PREA _____
Date Received _____
IGC Initials: _____
Date Received _____
IGA Initials: _____

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

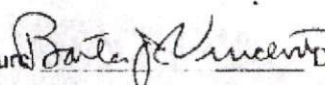
In accordance with SCDC Policy GA-01.12, "Inmate Grievance System," due to the nature of allegations you have raised in your grievance, it has been forwarded to the Inmate Grievance Branch Central Office and Office of General Counsel for a response.

Inmate's signature has been adopted from SCDC 10-5, Step 1 Inmate Grievance Form.


Grievant Signature  Date 6/4/25


RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE REVERSE SIDE FOR RESPONSIBLE OFFICIAL'S DECISION & REASON

Responsible Official Signature  Date 6/2/25

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Grievant Signature  Date 6/4/25

IGC Signature  Date 6/4/25

(SEE REVERSE SIDE FOR INSTRUCTIONS)

INSTRUCTIONS FOR COMPLETING STEP 2 GRIEVANCE FORM

1. Complete form in its entirety, writing only in the space provided for inmate use.
2. State your specific reason for further appeal. Do not submit any new issues for review. No additional pages will be permitted.
3. Submit this completed form with your copy of the Step 1 form by placing in the Grievance Box within five (5) days of your receipt of the Warden's decision. Do not write in the space provided for the responsible official.
4. The decision rendered by the responsible official exhausts the appeal process of the SCDC Inmate Grievance Procedure.


Bernard Bagley, # 175851 – ECI-0621-24

SCDC has calculated your pay at the prevailing wage rate for your Prison Industries job code(s) from September 2006 through May 21, 2024. The calculations stopped on May 21, 2024 because on that date, the inmate pay statute, S.C. Code 24-3-430(D), was amended to eliminate the language requiring that inmates be paid the prevailing wage going forward. It is now lawful for inmates to be paid the federal minimum wage. Our calculations resulted in the following:

Net total: \$37,672.71

SCDC believes its calculations are correct and we are prepared to pay you the full net total upon execution of a settlement agreement and release. If you dispute the time period in question or the calculations, you may file an appeal.

I accept a settlement for the full net total.

 I do not accept a settlement and wish to file an appeal.

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. No additional grievances may be submitted through the Inmate Grievance System regarding the timeframe stated in this Final Agency Decision. Therefore, we consider your grievance resolved.

You may appeal this decision under the South Carolina Administrative Procedures Act to the South Carolina Administrative Law Court. In order to appeal, you must complete the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt of this decision.



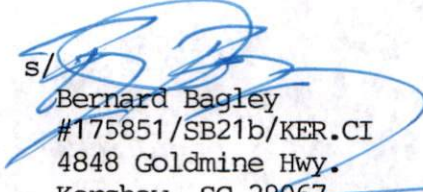
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00223	37.57	67.75	7.25	419.41	4,843.98	7.25 DP DEPOSIT	PIE	389
00224	29.99	54.05	7.25	341.94	4,815.63	7.25 DP DEPOSIT	PIE	389
00225	33.63	60.65	7.25	379.35	4,892.23	7.25 DP DEPOSIT	PIE	389
00226	29.59	53.35	7.25	337.95	4,894.80	7.25 DP DEPOSIT	PIE	389
00227	43.43	78.30	7.25	478.38	5,073.91	7.25 DP DEPOSIT	PIE	389
00228	38.62	69.65	7.25	430.14	5,082.44	7.25 DP DEPOSIT	PIE	389
00229	145.87	54.45	7.25	1,423.32	3,844.75	7.25 DP DEPOSIT	PIE	389
00230	145.87	54.45	7.25	1,423.32	6,126.12	7.25 DP DEPOSIT VOIDED 09/29/17	PIE	389
00231	0.00	0.00	0.00	374.59	5,268.07	OTHER FROM HIS COOPER		
00232	21.80	39.30	7.25	257.52	4,960.32	7.25 DP DEPOSIT	PIE	389
00233	0.00	0.00	0.00	344.22	5,075.51	OTHER 9/15/17 PAYROLL		
00234	0.00	0.00	0.00	352.51	5,123.28	OTHER VOIDED 10/17/17		
00235	31.00	55.90	7.25	352.51	5,163.81	7.25 DP DEPOSIT	PIE	389
00236	0.00	0.00	0.00	352.51	4,499.32	OTHER PAYROLL FOR 10/16/17		
00237	0.00	0.00	0.00	1,303.65	6,114.95	OTHER SETTLEMENT OF GRV. ECI-10		
00238	32.44	58.50	7.25	367.20	5,178.50	7.25 DP DEPOSIT	PIE	389
00239	40.83	73.60	7.25	452.16	5,305.87	7.25 DP DEPOSIT	PIE	389
00240	31.47	56.75	7.25	357.32	5,264.39	7.25 DP DEPOSIT	PIE	389
00241	26.79	48.30	7.25	309.11	5,257.32	7.25 DP DEPOSIT	PIE	389
00242	33.08	59.65	7.25	374.51	5,357.74	7.25 DP DEPOSIT	PIE	389
00243	20.91	37.70	7.25	248.75	5,275.23	7.25 DP DEPOSIT	PIE	389
00244	31.57	56.90	7.25	365.07	5,418.88	7.25 DP DEPOSIT	PIE	389
00245	41.15	74.20	7.25	462.88	5,557.94	7.25 DP DEPOSIT	PIE	389
00246	29.67	53.50	7.25	345.66	5,494.52	7.25 DP DEPOSIT	PIE	389
00247	29.45	53.10	7.25	343.38	5,531.03	7.25 DP DEPOSIT	PIE	389

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

s/


Bernard Bagley
#175851/SB21b/KER.CI
4848 Goldmine Hwy.
Kershaw, SC 29067

March 9, 2026

pro se

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MAR 13 2026

SC Court of Appeals