

STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Crystal M. Rookard

ALC Case No. 25-ALJ-04-0275-AP
Appellate Case No. 2025-002433

BERNARD BAGLEY, # 175851,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

FINAL BRIEF OF RESPONDENT

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

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ATTORNEY FOR RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

THE ADMINISTRATIVE LAW COURT PROPERLY DISMISSED THE APPEAL WHERE APPELLANT WAS NOT ENTITLED TO PREVAILING WAGE PAY UNDER S.C. CODE 24-3-430 FOR WORK PRIOR TO THE ENACTMENT OF THE STATUTE.

STATEMENT OF THE CASE

This matter comes before this Court pursuant to the appeal of Bernard Bagley, 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 funds for labor performed from November 1991 through April 1995. The grievances were denied, and Appellant appealed to the Administrative Law Court on June 9, 2025. On October 21, 2025, Judge Crystal M. Rookard 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 DISMISSED THE APPEAL WHERE APPELLANT WAS NOT ENTITLED TO PREVAILING WAGE PAY UNDER S.C. CODE 24-3-430 FOR WORK PRIOR TO THE ENACTMENT OF THE STATUTE.

In this appeal, Appellant claims that he is entitled to prevailing wage backpay under S.C. Code 24-3-430 for work he performed in Prison Industries from November 1991 through April 1995. For the reasons discussed below, this claim is without merit and the ALC properly denied and dismissed his appeal.

The so-called “prevailing wage” statute, S.C. Code 24-3-430, was enacted on July 1, 1995. From that date until the statute was amended on May 21, 2024, the statute contained language in section (D) as follows: “[n]o inmate participating in the program may earn less than **the prevailing wage** for work of similar nature in the private sector (emphasis added).”¹ Appellant argues that the language of the statute should be applied retroactively. However, the general rule is that absent a specific provision or clear legislative intent to the contrary, a statute is to be construed prospectively rather than retroactively, unless the statute is remedial or procedural in nature. Southeastern Site Prep, LLC v. Atlantic Coast Builders & Contractors, LLC, 394 S.C. 97, 106, 713 S.E.2d 650, 654-55 (Ct. App. 2011). A statute is remedial where it creates new remedies for existing rights unless it violates a contractual obligation, creates a new right, or divests a vested right. Smith v. Eagle Constr. Co., 282 S.C. 140, 143, 318 S.E.2d 8, 9 (1984). When a statute creates new obligations or imposes a new duty it will be construed as prospective only.” Edwards v. State Law Enforcement Div., 395 S.C. 571, 579, 720 S.E.2d 462, 466 (2011).

¹ Since the amendment on May 21, 2024, section D of the statute states as follows: “[n]o inmate participating in the program may earn less than an hourly rate equal to the **federal minimum wage** for work of similar nature in the private sector (emphasis added).”

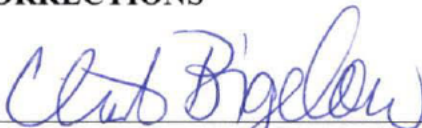
Here, the statute is not remedial or procedural in nature. Further, nothing in the statute evidences any intent that it be applied retroactively. Therefore, it must be applied prospectively only. Accordingly, Appellant's claim fails, and the ALC properly denied and dismissed the appeal.

CONCLUSION

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

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

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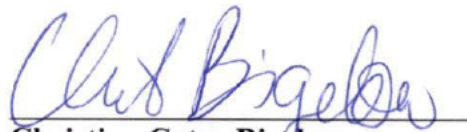
v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the **Final Brief of Respondent** complies with Rule 211(b), SCACR, and also complies with the South Carolina Supreme Court's April 15, 2014, order entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



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