

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appellate Case No. 2025-002328

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APR 06 2026

SC Court of Appeals

Marco Bates #249552 -- APPELLANT,

-Vs-

South Carolina Dep't of Corr. -- RESPONDENT

APPELLANT'S REPLY BRIEF

Marco Bates
SCDC# 249552
Tyger River Corr. Inst.
200 Prison Rd.
Enoree, SC. 29335

APPELLANT, pro-se

ARGUMENT

In support of Appellant's position Appellant has relied on and cited the Attorney General's (hereafter "AG") Opinion 2002WL31728841 (S.C.A.G.) where the Honorable Mike Fair, Chairman of the Corrections & Penology Committee advised the AG in 2002 that Respondent/General Counsel was clearly aware they were operating outside the authority of §24-3-430 in that inmates were being paid less than the prevailing.

The AG performed an in depth analysis of the law. The AG said they agreed with Senator Fair's concerns. Thus, state law required that "the provision of services" by inmates who otherwise meet the requirements of §24-3-430 must be paid the prevailing wage. The AG stated "as I understand it, "service" is work which does not result in the manufacturing and production of an item sold on the open market. The AG made it clear, it should be noted that §24-3-430 was enacted in 1995, while the Ashurst-Summers Act, which contains the phrase goods, wares or merchandise was a product of the 1930s. At the time the Legislature enacted §24-3-430, the "service" industry in this country had become just as important to the American economy as manufacturing or production . Recognition of that fact is obviously one reason the General Assembly included the broad language "the provision of service" in §24-3-430. To read that provision out of state law is, in the AG's view, simply incorrect. The AG's opinion went on to state that it is clear that, provided the other requirements of §24-3-430 are met, the Legislature intended "service contracts" to be so included. Inmates participating in the performance of service contracts for

private industry as provided in §24-3-430 thus must be paid the prevailing wage. Id (emphasis original and added).

The AG's opinion relied on General Counsel's Memorandum which they provided to the AG prior to the AG issuing this opinion. General Counsel advised as follows: (1.) the advice that your staff may have previously received from My Office concerning the industry "service work" was substantially affected by numerous statutory changes in this area by the passage of §24-3-430, S.C. Code of Laws of July 1, 1995; (2).SCDC may operate a "prison industry service program, but inmates who work in such a program must be paid the prevailing wage; (3) Inmates who work in prison industry "service" programs must have their wages received by SCDC with such wages affected and distributed in accordance with §24-3-430. This means that inmate wages for prison industry "service work" must be handled as other prison industry wages are handled as other prison industry wages are handled and distributed; (4) Where existing prison industry "service programs" are in place SCDC should begin to comply with the above provisions immediately. The Assistant AG (Robert Cook) whom wrote the AG Opinion (2002WL31728841) clearly found that he agreed that section §24-3-430 is mandatory and must be followed.

The ALC and Respondents are in error claiming that prevailing wage does not apply to "service programs". Clearly Respondent's claim at page 6 fn 2 that the AG's opinion did not address service work is misplaced. The opinion clearly says prevailing wage also applies to "service work contracts". Id

Respondent's erroneous conclusion is misplaced. The appeal should be ruled in Appellant's favor and Respondent should be ordered to pay Appellant the difference in the prevailing wage

and back pay as mandated by 24-3-430.

CONCLUSION

The appeal should be resolved in Appellant's favor as a matter of law and fact and the matter should be remanded back to the lower court with instruction for Respondents to comply with 24-3-430 and pay Appellant all of his back wages to conform to the prevailing wage.

Respectfully Submitted,

/s/ Marco Bates #249552

Marco Bates #249552

Appellant, pro-se

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CERTIFICATE OF SERVICE

The undersigned hereby certifies he has served a true and correct copy of the enclosed Appellant's reply brief on the persons whose names and addresses appear below by placing the aforesaid in properly addressed, first-class postage affixed envelopes and placed in the U.S. Mail this 2nd day of April, 2026.

Those Served:

S.C. Court of Appeals
Clerk's Office
P.O. Box 11629
Columbia, SC. 29211

Respectfully Submitted,

/s/ Marco Bates #249552
Marco Bates #249552

Appellant, pro-se

General Counsel
SCDC
P.O. Box 11549
Columbia, SC. 29221-1787

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 2 DAY OF April, 2026

NOTARY PUBLIC

MY COMM. EXPIRES 4/14/24

Marco Bates #249552 - Unit 2-220
Tyger River Corr. Inst.
200 Prison Rd.
Endree, SC 29335



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