STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

John Varner, #173636,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

Docket No. 25-ALJ-04-0207-AP
Grievance No. ECI 0185-25

ORDER

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to an appeal filed on April 26, 2025, by John Varner (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (SCDC or Department). This case was assigned to the Honorable Deborah Brooks Durden on May 8, 2025, and reassigned to the undersigned on June 20, 2025. Appellant filed the Notice of Appeal to dispute his pay for work performed in the Prison Industries Employment Certification Program (PIECP) from April 1996 to February 1997. *See* S.C. Code Ann. § 24-3-430(D) (2025).[1]

BACKGROUND

On July 2, 2024, Appellant filed a Step 1 Grievance asserting that he was entitled to the prevailing wage for labor performed in the PIECP while incarcerated at Evans Correctional Institution. Appellant's grievance was elevated to the Step 2 level. On April 10, 2025, the Department considered Appellant's Step 2 Grievance resolved on the grounds that Appellant rejected the Department's calculation of backpay for wages owed. Specifically, the Department determined that Appellant was entitled to a net total of $2, 421.33 for labor performed from April

[1]"In 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. 304, 309, 785 S.E.2d 600, 603 (Ct. App. 2016); *see also Torrence v. South Carolina 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). Section 24-3-430 was amended on May 21, 2024. *See* 2024 S.C. Acts 192. It now provides "no 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." S.C. Code Ann. § 24-3-430(D) (2024) (emphasis added). However, Appellant's claim involves work up to May 8, 2024. Thus, the amended statute is inapplicable to the time period at issue.

1996 to February 1997. This appeal followed. The Department filed the Record on Appeal on July 17, 2025. Appellant filed his initial brief on July 17, 2025. The Department filed its brief on August 26, 2025. As of the date of this Order, Appellant has not filed a reply brief.

ISSUES ON APPEAL

Did the Department err in its calculation of wages owed to Appellant for labor performed in the PIECP from April 1996 to February 1997?

STANDARD OF REVIEW

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 South Carolina Supreme Court set forth that the ALC has jurisdiction to review inmate appeals involving state-created liberty or property interests. *Id.* Furthermore, in *Wicker v. South Carolina Department of Corrections*, the South Carolina Supreme Court held this Court has jurisdiction to review inmate wage claim grievances in the limited circumstance where the state has created a statutory right to that wage. 360 S.C. 421, 423–24, 602 S.E.2d 56, 57 (2004) ("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.").

This Court sits in "an appellate capacity" when reviewing these matters. *Al-Shabazz*, 338 S.C. at 388, 527 S.E.2d at 754. "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). The South Carolina Supreme Court has observed that "substantial evidence is not a mere scintilla; rather, it is evidence which, considering the record as a whole, would allow reasonable minds to reach the same conclusion as the agency." *Friends of the Earth v. Pub. Serv. Commission of S.C.*, 387 S.C. 360, 366, 692 S.E.2d 910, 913 (2010) (citation omitted). Thus, the possibility of drawing two inconsistent conclusions from the evidence does not prevent the findings of an administrative agency from being supported by substantial evidence. *Grant v. S.C. Coastal Council*, 319 S.C. 348, 353, 461 S.E.2d 388, 391 (1995). 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

In this matter, there is no dispute that Appellant is entitled to the statutory prevailing wage under section 24-3-420(D) of the South Carolina Code (2025) as it was defined in *Torrence* for his labor performed in the PIECP. *Torrence v. South Carolina 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) (affirming inmates are entitled to the prevailing wage and explaining, for the first time, how to calculate the prevailing wage). In its decision, the Department found Appellant was owed backpay at the prevailing wage rate. As a result, the Department determined that Appellant was owed a net total of $2,421.33. The Department, in its brief, indicated that its calculations were in conformity with the decision by the Court of Appeals in *Torrence* and that its calculations encompass the entirety of Appellant's participation in the PIECP.

Specifically, the Department represents, and the Record corroborates, that Appellant worked a total of 1,164.75 regular hours and 3.50 overtime hours from April 1996 to February 1997 as an electronic assembler under the Standard Occupation Code 51-9199. The Department calculated the difference between average hourly wage for the jobs Appellant worked and the hourly rate he was paid. The total gross backpay was $5,380.71. The Department then applied the deductions as required by section 24-3-40 and after applying the deductions, determined Appellant is entitled to a net total of $2,421.33. The Department requests the Court determine that it correctly calculated the gross backpay and order it to pay Appellant the gross backpay in the amount of $5,380.71 subject to the deductions outlined in section 24-3-40(A)(1) through (A)(6) of the South Carolina Code (2025).

While Appellant summarily argues that the Department incorrectly calculated his wages, he does not provide any explanation as to how the Record supports his argument. Rather, Appellant asserts that he worked a total of 1,680 hours which resulted in a shortage of wages owed. However, as Appellant indicates he used the average forty-hour work week as his basis for that estimate and not the hours he actually worked. The Department, on the other hand, argues that its calculations are correct for the wages owed to Appellant for labor performed in the PIECP. As such, the Record does not support Appellant's assertion that he worked more hours than the Department calculated. Moreover, Appellant does not dispute the job code. Certainly, reasonable minds could conclude that the Department correctly calculated the hours worked by Appellant. *See Se. Res. Recovery, Inc. v. S.C. Dep't of Health & Env't Control*, 358 S.C. 402, 407, 595 S.E.2d 468, 470 (2004)

quoting in part, *Lark v. Bi–Lo*, 276 S.C. 130, 135, 276 S.E.2d 304, 306 (1981) ("Substantial evidence is 'evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion that the administrative agency reached.'"). Accordingly, the Court concludes that Appellant failed to carry his burden of proving that SCDC improperly calculated his wages owed and the Department's decision must be affirmed. *See Porter*, 333 S.C. at 20, 507 S.E.2d at 332 (holding "the party challenging [an 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.").

ORDER

IT IS THEREFORE ORDERED that the Department's determination is **AFFIRMED.**

AND IT IS SO ORDERED.

Crystal M. Rookard

The Honorable Crystal M. Rookard
South Carolina Administrative Law Judge

September 23, 2025
Columbia, South Carolina