

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Kenneth James, #261378,)
)
 Appellant,)
)
 vs.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)

Docket No. 25-ALJ-04-0655-AP
Grievance No. KRCI 610-24

**ORDER GRANTING
MOTION TO DISMISS**

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SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (Court of ALC) pursuant to a Notice of Appeal filed on September 16, 2025, by Appellant Kenneth James (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (SCDC or Department). Presently before the Court is the Department's Motion to Dismiss, filed December 1, 2025 (Motion). For the reasons set forth below, the Court grants the Department's Motion.

On August 18, 2024, Appellant filed a Step 1 Grievance seeking back payment up to the prevailing wage for Prison Industries (PIECP) work he performed from 2009 through 2018. The grievance was elevated to a Step 2 Grievance, and on August 22, 2025, the Department responded to the grievance as follows:

In your grievance, you request prevailing wage pay for work performed in Prison Industries. You last worked in Prison Industries in 2018. Therefore, your claim for prevailing wage backpay is barred by the three-year statute of limitations contained in S.C. Code 15-3-530. Additionally, your grievance is untimely under SCDC Policy ADM 15.13. This policy states as follows:

12.1 Inmates must report any problems in their pay to their institution's inmate pay designee utilizing the Automated Request to Staff Member (ARTSM) within 15 days of the payroll date error. The inmate should maintain a record of the ARTSM reference number. The inmate pay designee will review the case and determine whether any additional pay is owed. Payroll corrections will be limited to the following:

- If the inmate fails to notify the Agency in writing and within 15 days, no back pay will be given.
- The pay rate will be adjusted to the proper rate amount for future payrolls in accordance with these procedures.
- The inmate may receive additional pay owed for the previous two (2) pay periods only.

Therefore, your grievance is denied. ...

FILED

04/23/2026

SC Admin. Law Court

Appellant received a copy of the Department's decision on August 26, 2025. On September 16, 2025, Appellant filed his Notice of Appeal. On October 2, 2025, this matter was assigned to the undersigned Administrative Law Judge. On December 1, 2025, the Department filed the instant Motion. On December 12, 2025, Appellant filed a response in opposition to the Motion.¹ On March 27, 2026, the Court issued an Order for Supplemental Brief from the Department (Issue Brief) regarding the applicability of part of its grievance policy, SCDC Policy GA-01.12, ¶ 13.2 (issued September 1, 2023) (Section 13.2) to the determination of the timeliness/untimeliness of Appellant's grievance.² On April 3, 2026, the Department filed its Issue Brief and renewed its Motion. On April 17, 2026, Appellant filed a response to the Department's Issue Brief and renewed Motion.³

The Department first argues that Appellant's grievance was barred by the three-year statute of limitations set forth in Section 15-3-530(1) and -(2) of the South Carolina Code (2005) because "Appellant's work with PIECP ended in 2018" and "Appellant failed to file a Step One Grievance within three years after he stopped working in PIECP."

In arguing Section 15-3-530(1) or -(2) applies to potentially bar an inmate grievance, the Department cites *Wicker v. South Carolina Department of Corrections*, 360 S.C. 421, 424, 602 S.E.2d 56, 57 (2004) for the proposition that an inmate's right to back pay of the prevailing wage for work performed in PIECP is statutory in nature. The Department then argues that, by extension, because the right to backpay of the prevailing wage is statutory, it "implicates a 'liability created by statute'" pursuant to S.C. Code Ann. § 15-3-530(2) and involves an "obligation or liability" as used in Section 15-3-530(1). The Department also cites to *Matthews v. City of Greenwood*, 305 S.C. 267, 407 S.E.2d 668 (Ct. App. 1991), arguing that because the South Carolina Court of

¹ Appellant also filed his Brief on December 12, 2025. Two days earlier, on December 10, 2025, Appellant filed a Motion to Extend Time for Filing Briefs. However, the Department's filing of the instant Motion (more than a week earlier) had already stayed the briefing deadlines for this appeal. *See* SCALC Rule 61 ("The time for filing briefs shall likewise be stayed by the filing of a motion to dismiss."). Based on the automatic stay provision of SCALC Rule 61, the filing of Appellant's Brief, and the dismissal ordered herein, Appellant's extension motion is moot.

² The Court takes judicial notice of the Department's public policies. *See* Rule 201 of the South Carolina Rules of Evidence; SCDC Policy Listing, <https://www.doc.sc.gov/policy/policy-listing> (last visited April 20, 2026).

³ Although the Court's March 27, 2026 Order for Supplemental Brief effectively resulted in two rounds of briefing, i.e., two filings from each party related to the instant Motion, the Court notes that each party's second filing included essentially the same arguments and authorities as that party's prior filing. Appellant's April 17, 2026 response to the Department's Issue Brief and Renewal of Motion includes essentially the same arguments as his December 12, 2025 response to the Motion. Similarly, the Department's April 2, 2026 Issue Brief and Renewal of Motion includes the same arguments as its December 1, 2025 Motion, though the former does also include a single paragraph addressing Section 13.2.

Appeals applied the statute of limitations under the then-version of Section 15-3-530(2) upon finding that the right to military leave payments is statutorily created (305 S.C. at 269-70, 407 S.E.2d at 669), the three-year statute of limitations under Section 15-3-530(1) and (2) should apply to the statutorily created right to back pay of the prevailing wage for inmate work performed in PIECP.

In opposition to the Motion, Appellant argues that the discovery rule applies to statutes of limitation set forth in Section 15-3-530, and that he promptly filed his grievance upon discovering his right to the prevailing wage had been violated.⁴

The Department's arguments in its Motion and Issue Brief do not convince the Court that the statute of limitations provisions of Section 15-3-530(1) or (2) apply to the grievance below. Section 15-3-350(1) and (2) are found in Title 15 (*Civil Remedies*), Chapter 3 (*Limitations of Civil Actions*) of the Code, and provide a three-year statute of limitations for certain **civil actions**, such as the one in *Matthews, supra*. A civil action "is a proceeding in a judicial court, not an administrative court." *W. Watersheds Project v. U.S. Dep't of the Interior*, 677 F.3d 922, 926 (9th Cir. 2012). The ALC is an administrative body and part of the executive branch. *See* S.C. Code Ann. § 1-23-500 (Supp. 2025) (stating the ALC is "an agency and a court of record within the executive branch"). As such, the ALC can only hear administrative matters, not civil actions. Appellant's grievance is an administrative matter, not a civil action. *See Adkins v. S.C. Dep't of Corr.*, 360 S.C. 413, 419, 602 S.E.2d 51, 55 (2004) (holding inmates "have no private civil cause of action" but "may file an inmate grievance to protest [SCDC's] failure to pay wages" per statute). Therefore, Section 15-3-530 is inapplicable in this case.

Alternatively, the Department argues that the same statutory three-year limitations period(s) began to run on June 30, 2021, the date the South Carolina Court of Appeals issued its opinion in *Torrence v. South Carolina Department of Corrections*, 433 S.C. 633, 861 S.E.2d 36

⁴ In both of Appellant's responses filed in opposition to the instant Motion, Appellant cites to the purported case of "*Union County v. Berkeley County*, 413 S.C. 287, 776 S.E.2d 584 (2015)" in support of the proposition that South Carolina courts consistently apply the discovery rule. The Court has attempted to locate the "*Union County v. Berkeley County*" case using Appellant's citation and by searching appellate court opinions for the names of the parties to the purported appeal, but it appears that no such case exists. Appellant's citation to nonexistent case law would justify the Court striking both of Appellant's responses to the Motion, in the Court's inherent authority, and therefore resolving the Motion in the Department's favor pursuant to Rule 7 of the ALC Rules of Procedure. *See* SCALC Rule 7(B) (providing that failure to timely file response may be deemed consent to relief sought in motion); *id.* Rule 61 (incorporating "the requirements of Rule 7" into the SCALC Rules governing inmate appeals). Although Appellant's presentation of fake authority to the Court would independently warrant the dismissal ordered herein, this Order substantively addresses the limitations period at issue.

(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). Appellant argues that judicial opinions do not trigger statutes of limitations, and that the issuance of *Torrence* did not provide him with individualized notice of his rights as related to the grievance below. For the reasons discussed above, the Department's arguments do not convince the Court that the statute of limitations provisions of Section 15-3-530(1) or -(2) apply to the grievance below. The instant case involves an administrative matter, not a civil action, and the Department has cited no authority establishing the application of Section 15-3-530 to administrative matters such as the inmate grievance at issue.⁵

In its Issue Brief, the Department states that it believes Section 13.2 does not apply in this case to bar Appellant's grievance filing as untimely because the years he worked in PIECP were prior to the effective date of that policy.⁶ The Court disagrees with the Department's assessment of the effect of imposing a change to a limitation period for bringing a claim. Unlike the change in S.C. Code Ann. § 24-3-430 requiring the payment of the federal minimum wage rather than the "prevailing wage" for work performed in PIECP, which altered the nature of the state-created property interest itself and thus altered what could be grieved, Section 13.2 includes a specific statute of limitations found within the Department's grievance policy that addresses **when** grievances involving pay must be filed. The relevant language of Section 13.2, which has been in effect since September 1, 2023, provides that "any and all grievances that involve a continuous matter (prison industries pay) must be filed within two (2) years of when the issue arose, or the grievant should have known about it..."⁷ Because Section 13.2 contains plain language, the Court

⁵ While the Department is correct that "[n]o appellate court has held that the back pay claims by Prison Industries inmates are not subject to a statutory time limitation," it is equally true that no appellate court has held that the back pay claims by Prison Industries inmates **are** subject to a statutory time limitation. However, it is noteworthy that three other administrative law judges (ALJs) have considered and rejected the Department's argument that the three-year statute of limitations under Section 15-3-530(1) and (2) should apply to back pay of the prevailing wage for inmate work performed in PIECP (and no ALJ has accepted this argument). See *Smith v. S.C. Dep't of Corr.*, 25-ALJ-04-0700 (Feb. 11, 2026); *Booker v. S.C. Dep't of Corr.*, 25-ALJ-04-0653 (Feb. 24, 2026); and *Kelly v. S.C. Dep't of Corr.*, 25-ALJ-04-0618 n. 4 (Jan. 8, 2026). While this Court is not bound by the decision of other ALJs, this Court agrees with their holdings rejecting the application of Section 15-3-530(1) and (2) to inmate wage grievances and also agrees with their rationale for doing so.

⁶ Appellant's April 17, 2026 response does not address Section 13.2, instead reiterating Appellant's arguments against application of Section 15-3-530.

⁷ The next (second) sentence provides that "[i]f the issue is older than two (2) years but has continued to be an issue that is grievable, only the two (2) year portion immediately prior to filing of the grievance will be considered." However, the Court interprets this provision as applying only if the deadline in the first sentence (quoted in the text above) is satisfied, specifically where an issue arose more than two years prior to the filing of the grievance and the

need not defer to the Department for its plain meaning.⁸ While Section 13.2 contains a limitation period set by SCDC in a policy rather than by the General Assembly in a statute, the law regarding statutes of limitations is equally applicable. It is well settled that the Legislature may amend statutes of limitation to include reducing the period of time in which a claim may be maintained. *Gillespie v. Pickens Cnty.*, 197 S.C. 217, 14 S.E.2d 900, 905-06 (1941). The only restriction upon the Legislature's power to do so is that the new limitation must allow a reasonable time for commencement of any existing claim affected by the limitation. *Id.*; see also *Peloquin v. State*, 321 S.C. 468, 470, 469 S.E.2d 606, 607 (1996) ("The legislature may reduce the period in which actions may be brought and may make such reduction applicable to existing causes of action; however, no new limitation shall be made to affect existing claims without allowing a reasonable time for parties to bring actions before their claims are absolutely barred by a new enactment."); 26 S.C. Jur. *Limitation of Actions* § 12 (March 2026 Update).⁹ Consequently, while the effective date of the alteration in Section 24-3-430(D) (May 21, 2024) can only apply to work performed in PIECP from that date forward, as it provides a right that attaches to the work itself (i.e., it affects the nature of the claim itself), the effective date of Section 13.2 applies to when an inmate wage grievance can be filed, which has immediate effect on all such grievances filed from that date forward, though a reasonable period of time must be allowed for filing for those grievances involving work performed prior to its effective date.

In this case, Appellant's grievance arises from wages he was paid while working in PIECP from 2009 to 2018. This includes work performed as far back as seventeen (17) years and as recently as eight (8) years ago, all of which was performed more than six years before Appellant filed the subject grievance. Even if Respondent had no reason to know about the pay issue while

grievant had no actual or constructive notice that it was an issue during that time. Even then, only the two years immediately preceding the filing of the grievance will be considered. However, in this case, the Court need not reach the second sentence because Appellant did not satisfy the filing deadline in the first sentence.

⁸ It is noteworthy that two ALJs have interpreted Section 13.2 as applying to inmate wages from work performed in PIECP during years preceding effective date of this policy. See *Smith, supra* and *Booker, supra*. Again, this Court is not bound by the decisions of other ALJs, but this Court agrees with their application of Section 13.2 in cases where, as here, the work at issue was performed before the effective date of the policy but the corresponding wage grievance was not filed within a reasonable amount of time after the policy became effective.

⁹ Normally, there is "a presumption that statutory enactments are to be given prospective rather than retroactive effect." *Jenkins v. Meares*, 302 S.C. 142, 146, 394 S.E.2d 317, 319 (1990). However, unless there is a clear legislative intent of prospective application, "[a]n exception to this presumption [of prospective effect] arises when the enactment is remedial or procedural in nature, such as a statute of limitations." *Id.*; see also 26 S.C. Jur. *Limitations of Actions* § 11 (March 2026 Update).

working in PIECP, he had constructive notice of the wage issue once the decision issued in *Torrence*—wherein the Court of Appeals for the State of South Carolina affirmed inmates’ right to be paid the prevailing wage and explaining for the first time how to calculate the prevailing wage—became final on appeal (on August 3, 2022,¹⁰ more than two (2) years before Appellant filed his Step 1 Grievance). While the two-year rule under Section 13.2 did not become effective until September 1, 2023, Appellant had a reasonable amount of time thereafter in which he could have and should have filed his grievance instead of waiting nearly a year to do so, on August 18, 2024, especially since the issue of inmate wage grievances is not a novel issue but has instead been an ongoing issue for over a decade, and the *Torrence* decision had become final more than two years prior to Appellant’s grievance was filed. Whether the Appellant’s time for filing began in 2018 (when Appellant’s PIECP work ended) or 2022 (when certiorari was denied in *Torrence*), this claim is well outside the two-year limitation provided for in Section 13.2 and beyond what this Court considers to be a reasonable period after the two-year limitation of Section 13.2 became effective.

Consequently, under Section 13.2, Appellant is foreclosed from receiving back pay for any work performed while he was a participant in PIECP during the time period at issue.

ORDER

IT IS THEREFORE ORDERED that the Department’s Motion to Dismiss is **GRANTED**.

AND IT IS SO ORDERED.



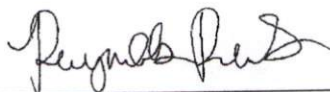
Samuel L. Johnson
Administrative Law Judge

April 23, 2026
Columbia, South Carolina

¹⁰ The Department argues in the alternative that “[e]ven if the [three-year] statute of limitations [under Section 15-3-530(1) and (2)] does not apply when an inmate stopped working in PI, Appellant’s claim is still untimely if the statute of limitations starts when the *Torrence* decision was released.” While the Court, for the reason discussed above *supra*, does not agree with the Department that the three-year statute of limitations under Section 15-3-530(1) and (2) applies, the Court does agree that the date of the *Torrence* decision is a relevant consideration in determining whether Appellant’s grievance was timely filed. The *Torrence* decision was issued on June 30, 2021, which is arguably when Appellant first had constructive notice that he could file a wage grievance. However, the Court uses the date of August 3, 2022 above, which is when certiorari was denied by the South Carolina Supreme Court, to reflect that even under the latest possible timeframe of constructive notice from the *Torrence* decision, Appellant had ample time (over two years, in fact) to file his wage grievance but failed to do so.

CERTIFICATE OF SERVICE

I, Reynolds C. Rawls, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



Reynolds C. Rawls
Judicial Law Clerk

April 23, 2026
Columbia, South Carolina