

State of South Carolina

In The Court of Appeals

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MAY 22 2026

Appeal From The Administrative Law Court
S. Phillip Lenski, Administrative Law Judge

SC Court of Appeals

Appellate Case No. 2025-001166

Robert Deal, Jr., #301062,

Appellant,

v.

South Carolina Department of Corrections, Respondent.

Motion For Rehearing And

Rehearing En Banc

Appellant comes before this Honorable Court of Appeals to request a rehearing and rehearing en banc based on the court's overlooking or misapprehending material facts and law in this case. Specifically, the court has wrongly concluded that, "Deal (Appellant) failed to show the deprivation of a state created liberty or property interest because evidence in the record did not indicate Deal performed work at issue pursuant to a non-profit organization or private entity," in contrast with *Gatewood v. South Carolina Dept. of Corrections*, 416 S.C. 304, 785 S.E. 2d 600 (Ct. App. 2016), and *Wicker v. South Carolina Dept. of Corrections*, 360 S.C. 421, 602 S.E. 2d 56 (2004).

Argument

Appellant contends that this court incorrectly found that to show a deprivation of a state-created liberty or property interest, that Appellant's work had to be performed in a non-profit organization or private entity. This is erred.

The prevailing wage statute does not mandate or distinguish what job description must be paid a prevailing wage. S.C. Code 24-3-430(A), specifically list the following job titles as being under a "private industry)" "manufacturing and processing goods, wares or merchandise or the provision of services or another business or commercial enterprise."

In its motion for dismissal, the Department specifically argued that Appellant worked in a "service job" under S.C. Code 24-1-295, see

Motion for Dismissal, page 3, dated 5-7-2025. SC Code 24-1-295, specifically states that, "The Director of the Department of Corrections may enter into contracts with private sector entities that allow inmate labor to be provided for prison industry service work...". Therefore, "service jobs" are part of the prevailing wage statute. See *Gatwood v. South Carolina Dept. of Corrections*, 416 S.C. 304, 755 S.E.2d 600 (Ct. App. 2016). Under the statute, it only "allows SCDC the flexibility to determine the amount it would charge industry sponsor to compensate SCDC for inmate labor and any other costs SCDC might incur to make such work available for eligible inmates," *Id.*, not to pay them unrealistic wages such as \$10.35 per hour.

That fact can be further seen and determined by the General Assembly's own stated legislative intent found in its "Declaration of Intent" in SC Code Ann. §24-3-310. There, the General Assembly stated that its past legislation concerning inmate employment was inadequate and therefore, stated the following:

"Since the means now provided for the employment of prison labor is inadequate to furnish a sufficient number of inmates with employment, it is the intent of this article to:

- (1) further provide more adequate, regular suitable employment for the inmates of this state, consistent with proper penal purposes;
- (2) further utilize the labor of inmates for self-maintenance and for reimbursing this state for expenses incurred by reason of their crimes and imprisonment;

(3) effect the requisitioning and disbursement of prison products directly through established state authorities with no possibility of private profits; and

(4) provide prison industry projects designed to place inmates in a realistic working and training environment in which they are able to acquire marketable skills and to make financial payments for restitution to their victims, for support of their families, and for support of themselves in the institution."

Clearly, the General Assembly's legislative intent is for all prison industry jobs to pay a realistic living wage. And being that its intent is clearly stated, the court should not attempt to reconstruct a different meaning. see *Hodges v. Rainey*, 341 S.C. 79, 533 S.E.2d 578

(2000) Under the "plain meaning rule," it is not the court's place to change the meaning of a clear and unambiguous statute; where statute's language is plain and unambiguous, and conveys a clear and definite meaning, rules of ~~statutory~~ statutory interpretation are not needed and the court has no right to impose another meaning).

Plainly, a payment of \$0.35 an hour can not realistically allow for inmate workers to pay restitution, child support or support themselves while in the institution. And even if the Department was correct in its payment of \$0.35 per hour, once Appellant has done the work to acquire that pay, he has a vested liberty and property interest in it. see *Wicker v. South Carolina Dept. of Corrections*, 360-

360 S.C. 424, 602 S.F. 2d 56 (2004) (state's statutory mandate that inmates be paid the prevailing wage in prison industries program created an interest that could not be denied without due process, and thus, Department of Corrections failure to pay prevailing wage was reviewable by Administrative Law Judge); also see *Jarrence v. South Carolina Dept. of Corrections*, 373 S.C. 586, 646 S.F. 2d 866 (2007). Therefore, the court has erred in its findings that Appellant did not show a deprivation of a state created liberty or property interest.

Based on the above facts, service jobs are a part of the prevailing wage private industry jobs, S.C. code 24-3-430(A) and 24-1-295, that require inmates working in a paid position, to receive a realistic wage, S.C. code 24-3-310(4), and after the work has been performed, does possess a vested liberty or property interest in it.

Conclusion

This Honorable Court should reverse its decision and order the Department to pay Appellant back pay of realistic wages.

This 14th day of May, 2026,

BY: Robert Deal

Pro Se

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Proof of Service

I certify that I have served the "Motion For Rehearing and Rehearing En Banc" on Cheron Hess, Administrative Coordinator, by depositing a copy of the same in the United States Mail, postage pre-paid, on May 13, 2026, addressed to her office, South Carolina Department of Corrections, 4444 Broad River Road, Columbia, SC 29221.

BY: Robert Deal

Pro se

P.O. Box 580

Una, SC 29378

Please find enclosed one Motion For Rehearing and Rehearing
En Banc to be filed in your office. Please send a clock stamped
back.

Sincerely,

Robert Deal, Jr., #301062

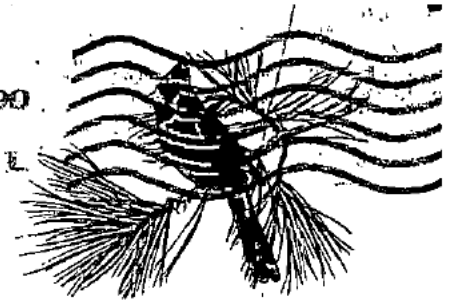
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