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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

ALC Case No. 26-ALJ-04-0310-AP
Appellate Case No. 2026-001919

ARTHUR Q. JONES, JR., # 358555,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

INITIAL BRIEF OF RESPONDENT

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

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STATEMENT OF ISSUE ON APPEAL

THE LOWER COURT PROPERLY DISMISSED THE APPEAL FOR FAILING TO IMPLICATE A STATE-CREATED LIBERTY OR PROPERTY INTEREST WHERE THE APPLICABLE STATUTE IS CLEAR THAT APPELLANT, WHO IS NOT SERVING LIFE IN PRISON OR A SENTENCE OF DEATH, IS NOT ENTITLED TO ACCESS HIS LONG-TERM SAVINGS.

STATEMENT OF THE CASE

This matter comes before this Court pursuant to the appeal of Arthur Q. Jones (Appellant), an inmate in the custody of the South Carolina Department of Corrections. Appellant submitted a Step 1 grievance on February 6, 2026, claiming that he should be permitted to have immediate access to his long-term savings account. The grievance was denied, and Appellant submitted a Step 2 grievance on March 10, 2026. This grievance was also denied, and Appellant submitted a Notice of Appeal to the Administrative Law Court on May 12, 2026. On July 31, 2026, Administrative Law Judge S. Phillip Lenski 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.

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 LOWER COURT PROPERLY DISMISSED THE APPEAL FOR FAILING TO IMPLICATE A STATE-CREATED LIBERTY OR PROPERTY INTEREST WHERE THE APPLICABLE STATUTE IS CLEAR THAT APPELLANT, WHO IS NOT SERVING LIFE IN PRISON OR A SENTENCE OF DEATH, IS NOT ENTITLED TO ACCESS HIS LONG-TERM SAVINGS.

Appellant argues that he should be permitted to have immediate access his long-term escrow savings account. S.C. Code 24-3-40 addresses inmate escrow accounts. This statute reads as follows:

(A) Unless otherwise provided by law, the employer of a prisoner authorized to work . . . under [the] prison industry program . . . shall pay the prisoner's wages directly to the Department

....
The Director of the Department of Corrections . . . shall deduct the following amounts from the gross wages of the prisoner:

....
(5) Ten percent must be held in an interest-bearing escrow account for the benefit of the prisoner.

....
(B) The Department . . . shall return a prisoner's wages held in escrow pursuant to subsection (A) as follows:

- (1) A prisoner released without community supervision must be given his escrowed wages upon release.
- (2) A prisoner serving **life in prison or sentenced to death** shall be given the option of having his escrowed wages included in his estate or distributed to the persons or entities of his choice.
- (3) A prisoner released to community supervision shall receive two hundred dollars or the escrow balance, whichever is less, upon his release. Any remaining balance must be disbursed to the Department of Probation, Parole and Pardon Services. The prisoner's supervising agent shall apply this balance toward payment of the prisoners' housing and basic needs and dispense any balance to the prisoner at the end of the supervision period.

S.C. Code § 24-3-40(A), (B) (emphasis added).

Appellant is not serving life in prison or a sentence of death. Instead, he is serving terms of years sentences with a projected release date in 2052. S.C. Code 24-3-40 is clear that only inmates

sentenced to “life in prison or sentenced to death” can have immediate access their long-term savings. The cardinal rule of statutory interpretation is to ascertain and effectuate the legislative intent whenever possible.” Lightner v. Hampton Hall Club, Inc., 419 S.C. 357, 363, 798 S.E.2d 555, 558 (2017) (citing Mitchell v. City of Greenville, 411 S.C. 632, 634, 770 S.E.2d 391, 392 (2015)). The statute clearly gives only inmates serving life in prison or sentenced to death the option to distribute money in an escrow account to a person or entity.¹ Therefore, per the plain language of the statute, Appellant cannot currently have access to his long-term savings account.

Based on the foregoing, Appellant, who is serving a term of years and not life in prison or death, is not entitled to access his long-term savings, and the lower court properly dismissed the appeal for failing to implicate a state-created liberty or property interest.²

¹ In 2019, this Court, in an unpublished opinion, held that inmates serving life in prison or a sentence of death were entitled to have immediate access to their long-term escrow savings accounts so that they could distribute funds to persons or entities of their choice. Baum v. S.C. Dep’t of Corr., 2019-UP-104 (S.C. Ct. App. filed March 13, 2019) (*certiorari denied*). The issue in Baum was timing: whether an inmate sentenced to life or death had to wait until death to distribute funds or whether the inmate could distribute funds during his lifetime. Id. This Court held that because the language in the statute was ambiguous, and because the funds were to be held “for the benefit of the prisoner,” the inmate should be permitted to distribute funds to persons or entities of his choice during his lifetime. Id. There was no question in Baum that the statutory provision only applied to inmates serving life in prison or a sentence of death. To Respondent’s knowledge, there are no cases, published or unpublished, that interpret the statute to apply to inmates who are serving something other than life in prison or a sentence of death.

² The other issues raised by Appellant in his Brief are not preserved for review because they were not raised to or ruled upon by the lower court. See Wilder Corp. v. Wilke, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) (“It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial [court] to be preserved for appellate review.”).

CONCLUSION

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

Respectfully submitted,

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