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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Carolyn C. Matthews, Administrative Law Judge

Trial Court Case No. 2008-AL-04-00887

Ja Ja D.B. Okera, Appellant,

v.

South Carolina Department of Corrections, Respondent.

SUPPLEMENTAL RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Michael Burns aka JaJa D.B. Okera
#228442,

Appellant,

vs.

South Carolina Department of
Corrections,

Respondent.

FINAL ORDER

DOCKET NO. 06-ALJ-04-00173-AP

GRIEVANCE NO: ECI 2087-05

The Honorable Carolyn C. Matthews

July 17, 2008

In the above-captioned matter, Appellant Williams appeals the decision of Respondent South Carolina Department of Corrections ("Department") to deny his grievance concerning payment of prevailing wages and overtime pay. He argues that he is owed back wages that he argues is owed to him for work performed in the Prison Industries private sector program ("prison industries program"). Appellant's challenge is contained within his Steps 1 and 2 Inmate Grievance Form, submitted July 11, 2005, and January 22, 2005, respectively, and identified as grievance number ECI 2087-05. In response to Appellant's grievance, the Department contends that Appellant failed to file a grievance within fifteen (15) days of the occurrence of the alleged grievance, in accordance with SCDC Policy Number GA-01.12, ¶ 13.1. Therefore, by final agency decision dated January 13, 2006, the Department denied Appellant's grievance. Appellant now appeals that denial before this Court. Based upon the record in this appeal, I affirm the Department's decision.

DISCUSSION

This appeal is before this Court pursuant to Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000), Sullivan v. South Carolina Department of Corrections, 355 S.C. 437, 586 S.E.2d 124 (2003), and Slezak v. South Carolina Department of Corrections, 361 S.C. 327, 605 S.E.2d 506 (2004). In this matter, Appellant complains that he was not paid the prevailing wage for work performed in the private sector program, as mandated by S.C. Code Ann. § 24-3-430 (Supp. 2005). Specifically, Section 24-3-430(D) clearly provides that "false inmate participating

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in the [prison industries] program may earn less than the prevailing wage for work of similar nature in the private sector.” Id. The Supreme Court of South Carolina has unequivocally held in Wicker v. South Carolina Dep’t of Corrections, 360 S.C. 421, 602 S.E.2d 56 (2004) that: (1) an inmate is entitled to file a grievance when not being paid the prevailing wage; (2) the ALC has jurisdiction to review the Department’s failure to pay the prevailing wage; and, (3) an inmate is entitled to be paid the prevailing wage while working in the private sector program. Id. at 421, 602 S.E.2d at 56.

In addition to the requirement that an inmate must file a grievance within fifteen days of an alleged incident, SCDC Policy Number GA-01-12, paragraph 13.1 states that “[i]nmates will only be allowed to submit one grievance per incident or circumstance.” Applying this policy provision to the instant matter would lead to an absurd result for this tribunal to find that an inmate must file a separate grievance for each day of work performed or for each pay period. A more logical result would be to interpret the policy so as to find that an inmate has timely filed a prevailing wage grievance if he filed during the course or term of employment or within fifteen days of the completion of a term of employment, regardless of when he initially began employment with the prison industries program. That is, as long as an inmate filed during the term of employment or within fifteen days of the cessation of a term or period of employment, such inmate has satisfied the filing provision of SCDC Policy Number GA-01.12, ¶ 13.1.

Aside from the Department’s assertion concerning the filing period for an inmate grievance, this tribunal is confounded that the Department would still make the kinds of arguments it has made in the instant case concerning the inmate’s claim of entitlement to the prevailing wage. In Wicker, the Court stated that while the inmate has no claim for civil damages¹, an inmate may challenge the wages he is being paid through the Department’s grievance procedures, particularly where there is a statute mandating payment of the prevailing wage. Wicker, 360 S.C. at 423, 602 S.E.2d at 57.² Further, there is nothing in the statutory scheme, as set out in Chapter 3 of Title 24 of the South Carolina Code of Laws, authorizing the

¹ In fact, in Adkins v. South Carolina Dept. of Corrections, 360 S.C. 413, 602 S.E.2d 51 (2004), the Supreme Court specifically held that the Department’s “failure to pay a certain wage simply does not constitute a tort so as to be cognizable under the Tort Claims Act.” Id. at 54.

² It is worth noting that the Court in Wicker did not set the prevailing wage for all inmates. Wicker, 360 S.C. 421, 602 S.E.2d 56 (2004). Rather, the court determined the prevailing wage in the private sector, at that time, and for the work performed by the individual inmate in Wicker. Id. This five dollars and twenty-five cents (\$5.25) figure established in Wicker was the prevailing wage for that inmate, and it is not necessarily the prevailing wage in the instant case.

Department to pay an inmate less than the prevailing wage. *Id.* at 425, 602 S.E.2d at 58; S.C. Code Ann. §§ 24-3-310 to -430 (Supp. 2005). Rather, Section 24-3-430 mandates the payment of the prevailing wage to an inmate participating in the prison industries program. S.C. Code Ann. § 24-3-430 (Supp 2005).

In its appellate brief, the Department states Appellant began his participation in the Prison Industries project located at Evans Correctional Institution on or about June 25, 1997. Based upon this extended period of time, the Department argues that Appellant failed to timely file his grievance.³ However, although the Department indicates the time period Appellant began work with the prison industries program, the Department fails to state the day Appellant ceased working with the prison industries.

In addition to the requirement that an inmate must file a grievance within fifteen days of an alleged incident, SCDC Policy Number GA-01-12, paragraph 13.1 also states that “[i]nmates will only be allowed to submit one grievance per incident or circumstance.” In applying this policy provision to the instant matter, it would lead to an absurd result for this tribunal to find that an inmate must file a grievance for each day of work performed or for each pay period. A more logical result would be to interpret the policy so as to find that an inmate has timely filed a prevailing wage grievance if he filed during the course or term of employment or within fifteen days of the completion of a term of employment, regardless of when he initially began employment with the prison industries program. That is, as long as an inmate filed during the term of employment or within fifteen days of the cessation of a term or period of employment, such inmate has satisfied the filing provision of SCDC Policy Number GA-01.12, paragraph 13.1.

In Wicker, the Court stated that while the inmate has no claim for civil damages⁴, an

³ While the Department does not specifically cite its policy, SCDC Policy Number GA-01.12, paragraph 13.1, in its appellate brief, the Warden informed Appellant in his Step One and Two Grievance Forms that his grievance was denied based upon Appellant's failure to file his grievance within the deadline mandated by SCDC Policy Number GA-01.12, § 13.1. The two-year statute of limitations in S.C. Code Ann. § 15-78-100 does not apply to administrative matters. Section 15-78-100 provides that except as to persons under disability, claims for damages under the South Carolina Tort Claims Act must be filed “within two years after the loss was or should have been discovered.” Cases brought before the ALC for failure to pay wages in accordance with S.C. Code Ann § 24-3-430 (Supp. 2005) are not brought pursuant to the Tort Claims Act. In fact, in Adkins v. South Carolina Dept. of Corrections, 360 S.C. 413, 602 S.E.2d 51 (2004), the Supreme Court specifically held that the Department's “failure to pay a certain wage simply does not constitute a tort so as to be cognizable under the Tort Claims Act.” *Id.* at 54.

⁴ Accordingly, the two-year statute of limitations in S.C. Code Ann. § 15-78-100 does not apply to administrative matters. Section 15-78-100 provides that except as to persons under disability, claims for damages under the South Carolina Tort Claims Act must be filed “within two years after the loss was or should have been discovered.”

inmate may challenge the wages he is being paid through the Department's grievance procedures, particularly where there is a statute mandating payment of the prevailing wage. Wicker, 360 S.C. at 423, 602 S.E.2d at 57.⁵ Further, there is nothing in the statutory scheme, as set out in Chapter 3 of Title 24 of the South Carolina Code of Laws, authorizing the Department to pay an inmate less than the prevailing wage. Id., at 425, 602 S.E.2d at 58; S.C. Code Ann. §§ 24-3-310 to -430 (Supp. 2005). Rather, Section 24-3-430 mandates the payment of the prevailing wage to an inmate participating in the prison industries program. S.C. Code Ann. § 24-3-430 (Supp 2005).

ORDER

For the reasons set forth above,

IT IS HEREBY ORDERED that the Department shall determine if Appellant filed his grievance in the instant matter while he was employed under the prison industries program relating to the instant matter, or if Appellant filed his grievance within fifteen days of the time he completed, terminated, or ceased employment under the prison industries program. The Department's decision to deny Appellant's grievance must be affirmed if it is determined that Appellant did not file within the fifteen-day time period, as stated above.

IT IS FURTHER ORDERED that if the Department finds that Appellant satisfied this time limit requirement, as stated above, the Department's decision to deny Appellant's grievance must be reversed.

IT IS FURTHER ORDERED that if the Appellant filed a grievance while employed in the term of employment which is the subject of this case, or within fifteen (15) days of the completion, termination, or cessation of employment under the prison industries program, the Department shall pay the prevailing wage to the Appellant for work performed in the prison

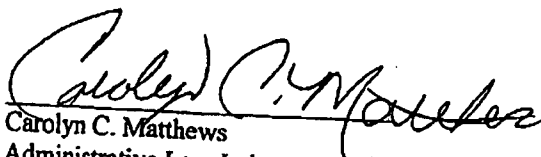
However, cases brought before the ALC for failure to pay wages in accordance with S.C. Code Ann § 24-3-430 (Supp. 2005) are not brought pursuant to the Tort Claims Act. In fact, in Adkins v. South Carolina Dept. of Corrections, 360 S.C. 413, 602 S.E.2d 51 (2004), the Supreme Court specifically held that the Department's "failure to pay a certain wage simply does not constitute a tort so as to be cognizable under the Tort Claims Act." Id. at 54.

⁵ It is worth noting that the Court in Wicker did not set the prevailing wage for all inmates. Wicker, 360 S.C. 421, 602 S.E.2d 56 (2004). Rather, the court determined the prevailing wage in the private sector, at that time, and for the work performed by the individual inmate in Wicker. Id. This five dollars and twenty-five cents (\$5.25) figure established in Wicker was the prevailing wage for that inmate, and it is not necessarily the prevailing wage in the instant case.

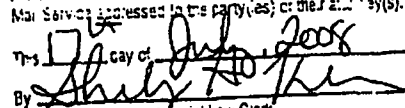
industries program, as set forth below.

- 1) The Department shall determine the dates the inmate in the instant matter started and completed his participation in the prison industries program operated by the Department;
- 2) The Department shall determine the prevailing wage in the private sector for the work the inmate performed during his participation in the prison industries program on the date Appellant started participating in the prison industries program and any change in the rate during his participation until the completion of the project at issue;
- 3) The Department shall determine the total hours worked by the Appellant in the prison on the project at issue and the prevailing wage for each hour of work completed by Appellant; and,
- 4) The Department shall pay the Appellant the difference in the wages actually paid and the prevailing wages that should have been paid for each hour, or fraction of an hour, worked by the Appellant, subject to any statutorily allowed deductions.⁶

AND IT IS SO ORDERED.


Carolyn C. Matthews
Administrative Law Judge

July 17, 2008
Columbia, SC

CERTIFICATE OF SERVICE
This is to certify that the undersigned has this date served in accordance with the above entered action upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or in the Emergency Mail Service addressed to the party(ies) or their attorney(s).
This is the day of July 2008
By 
Court Clerk

⁶ It is noteworthy that S.C. Code Ann. § 24-3-430(H) (Supp. 2005) does not require that the inmate receive all of the earned wages. In fact, Section 24-3-40 provides for the disposition of money earned by a prisoner who is allowed to work at paid employment. S.C. Code Ann. § 24-3-40 (Supp. 2005).

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Ja Ja D.B. Okera,)
(aka Michael Burns), # 228442,)
)
Appellant,)
)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)

Docket No. 08-ALJ-04-00887-AP

Docket No. 06-ALJ-04-00173
Grievance No. ECI-2087-05

**RESPONDENT SCDC'S
RECORD ON APPEAL AND
RESPONSE TO THE COURT'S
ORDER DATED JULY 17, 2008**

As demonstrated by the explanation it respectfully provides below and by the supporting materials it also respectfully submits, the South Carolina Department of Corrections ["SCDC"] hereby supplements the Record on Appeal in this matter in satisfaction of this Court's Order dated and filed July 17, 2008.

I. THE DIRECTIVE ISSUED BY THIS COURT IN ITS ORDER DATED AND FILED JULY 17, 2008

In its Order dated and filed July 17, 2008,¹ this Court apparently affirmed SCDC's denial of the Step 1 grievance and Step 2 appeal filed by the Appellant and designated as grievance number ECI-2087-05.²

In so affirming SCDC's denial of the Appellant's grievance designated as ECI-2087-05, this Court acknowledged that SCDC contended that the "Appellant failed to file a grievance

¹ See the Court's July 17, 2008 Order, p. 1. SCDC respectfully includes this Court's July 17, 2008 Order as Exhibit A in support of its instant response.

² SCDC respectfully includes copies of the Appellant's Step 1 grievance, SCDC's denial of the Appellant's Step 1 grievance, the Appellant's Step 2 appeal, and SCDC's denial of the Appellant's Step 2 appeal as Exhibit B in support of its instant response.

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within fifteen (15) days of the occurrence of the alleged grievance, in accordance with SCDC Policy Number GA-01.12, [paragraph] 13.1.³”

However, this Court did not affirm SCDC's denial of the Appellant's grievance with finality. Instead, this Court issued the following directive:

IT IS HEREBY ORDERED that [SCDC] shall determine if Appellant filed his grievance in the instant matter while he was employed under the prison industries program relating to the instant matter, or if Appellant filed his grievance within 15 days of the time he completed, terminated, or ceased employment under the prison industries program.⁴ [SCDC's] decision to deny Appellant's grievance *must be affirmed* if it is determined that Appellant did not file within the fifteen-day time period, as stated above.⁵ [emphasis supplied].

II. SCDC'S SATISFACTION OF THE DIRECTIVE ISSUED BY THIS COURT IN ITS ORDER DATED AND FILED JULY 17, 2008

In satisfaction of the above quoted paragraph of this Court's July 17, 2008 Order, SCDC hereby provides this Court with a printed accounting of the Appellant's prison industries pay records.⁶

According to SCDC's pay records, the Appellant began voluntarily participating in the prison industries project operated by SCDC at Evans Correctional Institution ["Evans CI"] on or

³ See Exhibit A, p. 1. The Appellant filed an appeal of this Court's July 17, 2008 Order with the Court of Appeals, and, by order dated October 13, 2008, the Court of Appeals transferred this matter back to this Court for review. On or about October 28, 2008, the Appellant filed another Notice of Appeal with this Court regarding the grievance designated as ECI-2087-05, and this Court designated the Appellant's most recent appeal as docket number 08-ALJ-04-00887-AP. SCDC respectfully includes a copy of the Appellant's Notice of Appeal dated October 28, 2008 and the Court of Appeals order dated October 13, 2008 as Exhibit C in support of its instant response.

⁴ SCDC respectfully argues that the Appellant was never "employed" either by SCDC or by the private industry sponsor that also participates in the prison industries project SCDC operates within the confines of Evans Correctional Institution. In support of its argument on this point, SCDC respectfully craves reference to the South Carolina Supreme Court's decision in Williams, et al., v. S.C. Dep't of Corrections and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885, 887 - 88 (2007).

⁵ See Exhibit A, p. 4.

⁶ SCDC respectfully includes this printed report as Exhibit D in support of its instant response.

about August 29, 1997.⁷ Critically, these records further reflect that the Appellant's voluntarily participation in the prison industries project operated by SCDC at Evans CI ended on or about September 1, 1999.⁸

As reflected by the Record in this matter, the Appellant filed his Step 1 grievance on July 11, 2005.⁹ Thus, the Appellant's prison industries pay records confirm that the Appellant filed his Step 1 grievance nearly six (6) years after the Appellant concluded his voluntary participation in the prison industries project at issue.

Consequentially, this Court, pursuant to its original order dated and filed July 17, 2008,¹⁰ must affirm SCDC's denial of the Appellant's grievance, as the Appellant did not timely file the Step 1 grievance in which he articulated his demand for back wages relating to his participation in the prison industries project at issue.¹¹

⁷ See Exhibit D, p. 13. In his denial of the Appellant's Step 2 appeal dated January 13, 2006, SCDC's General Counsel stated that the records available to SCDC at that time reflected that the Appellant began his participation in the prison industries project operated by SCDC at Evans CI on or about June 25, 1997. See Exhibit B, p. 4. SCDC respectfully submits that the statement of SCDC's General Counsel regarding the date upon which the Appellant voluntarily began participating in the prison industries project at issue is corroborated by the Appellant's prison industries pay records included by SCDC at Exhibit D.

⁸ See Exhibit D, p. 5.

⁹ See Exhibit B, p. 1.

¹⁰ See note 5 above.

¹¹ While SCDC respectfully submits these materials in satisfaction of this Court's July 17, 2008 Order, it nonetheless maintains that the most logical method by which to assess the timeliness of the Appellant's Step 1 grievance is reflected by the analysis provided by SCDC's General Counsel in his denial of the Appellant's Step 2 appeal:

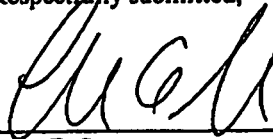
Moreover, you filed your Step 1 grievance over eight (8) years after you first started participating in the project located at Evans CI, and nearly 11 months after the South Carolina Supreme Court issued Adkins and Wicker. [emphasis supplied]. See Exhibit B, p. 4.

Regarding this point, SCDC very respectfully directs this Court's attention to two (2) decisions in which nearly identical facts confronted the Administrative Law Court: James Wright, #200123, v. SCDC, ALC Docket No. 06-ALJ-04-00114-AP and Henry Williams, #187203, vs. SCDC, Docket No. 06-ALJ-04-00622-AP.

III. CONCLUSION

In light of the above provided information, SCDC respectfully represents to this Court that it has satisfied the directive issued by this Court in its Order dated and filed July 17, 2008. Accordingly, SCDC respectfully urges this Court to affirm its denial of the Appellant's grievance designated as ECI-2087-05 and deny the Appellant's appeal in the instant matter.

Respectfully submitted,



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Counsel for Respondent SCDC

Columbia, South Carolina
December 29, 2008

CERTIFICATE OF SERVICE

This is to certify that I have, on this date, caused to be served a copy of **RESPONDENT SCDC's RECORD ON APPEAL AND RESPONSE TO THE COURT'S ORDER DATED AND FILED JULY 17, 2008 (and supporting Exhibits A – D)** upon the Appellant, via the United States Mail, to the following address:

Inmate Ja Ja D.B. Okera, # 228442
Evans Correctional Institution
610 Highway 9 West
Bennettsville, South Carolina 29512

BY:



Lake E. Summers
Malone, Thompson, Summers & Ott LLC
339 Heyward Street, Suite 200
Columbia, South Carolina 29201
Office: (803) 254-3300
Fax: (803) 254-0309
E-mail: summers@mtsollawfirm.com

Counsel for Respondent SCDC

Columbia, South Carolina
December 29, 2008

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DEC 29 2008

SC ADMIN. LAW COURT

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Ja Ja D.B. Okera,)
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Grievance No. ECI-2087-05

**RESPONDENT SCDC'S
RECORD ON APPEAL AND
RESPONSE TO THE COURT'S
ORDER DATED JULY 17, 2008**

EXHIBIT A

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

**Michael Burns aka JaJa D.B. Okera
#228442,**

Appellant,

vs.

**South Carolina Department of
Corrections,**

Respondent.

FINAL ORDER

**DOCKET NO. 06-ALJ-04-00173-AP
GRIEVANCE NO: ECI 2087-05**

**The Honorable Carolyn C. Matthews
July 17, 2008**

In the above-captioned matter, Appellant Williams appeals the decision of Respondent South Carolina Department of Corrections ("Department") to deny his grievance concerning payment of prevailing wages and overtime pay. He argues that he is owed back wages that he argues is owed to him for work performed in the Prison Industries private sector program ("prison industries program"). Appellant's challenge is contained within his Steps 1 and 2 Inmate Grievance Form, submitted July 11, 2005, and January 22, 2005, respectively, and identified as grievance number ECI 2087-05. In response to Appellant's grievance, the Department contends that Appellant failed to file a grievance within fifteen (15) days of the occurrence of the alleged grievance, in accordance with SCDC Policy Number GA-01.12, ¶ 13.1. Therefore, by final agency decision dated January 13, 2006, the Department denied Appellant's grievance. Appellant now appeals that denial before this Court. Based upon the record in this appeal, I affirm the Department's decision.

DISCUSSION

This appeal is before this Court pursuant to Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000), Sullivan v. South Carolina Department of Corrections, 355 S.C. 437, 586 S.E.2d 124 (2003), and Slezak v. South Carolina Department of Corrections, 361 S.C. 327, 605 S.E.2d 506 (2004). In this matter, Appellant complains that he was not paid the prevailing wage for work performed in the private sector program, as mandated by S.C. Code Ann. § 24-3-430 (Supp. 2005). Specifically, Section 24-3-430(D) clearly provides that "no inmate participating

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in the [prison industries] program may earn less than the prevailing wage for work of similar nature in the private sector.” *Id.* The Supreme Court of South Carolina has unequivocally held in Wicker v. South Carolina Dep’t of Corrections, 360 S.C. 421, 602 S.E.2d 56 (2004) that: (1) an inmate is entitled to file a grievance when not being paid the prevailing wage; (2) the ALC has jurisdiction to review the Department’s failure to pay the prevailing wage; and, (3) an inmate is entitled to be paid the prevailing wage while working in the private sector program. *Id.* at 421, 602 S.E.2d at 56.

In addition to the requirement that an inmate must file a grievance within fifteen days of an alleged incident, SCDC Policy Number GA-01-12, paragraph 13.1 states that “[i]nmates will only be allowed to submit one grievance per incident or circumstance.” Applying this policy provision to the instant matter would lead to an absurd result for this tribunal to find that an inmate must file a separate grievance for each day of work performed or for each pay period. A more logical result would be to interpret the policy so as to find that an inmate has timely filed a prevailing wage grievance if he filed during the course or term of employment or within fifteen days of the completion of a term of employment, regardless of when he initially began employment with the prison industries program. That is, as long as an inmate filed during the term of employment or within fifteen days of the cessation of a term or period of employment, such inmate has satisfied the filing provision of SCDC Policy Number GA-01.12, ¶ 13.1.

Aside from the Department’s assertion concerning the filing period for an inmate grievance, this tribunal is confounded that the Department would still make the kinds of arguments it has made in the instant case concerning the inmate’s claim of entitlement to the prevailing wage. In Wicker, the Court stated that while the inmate has no claim for civil damages¹, an inmate may challenge the wages he is being paid through the Department’s grievance procedures, particularly where there is a statute mandating payment of the prevailing wage. Wicker, 360 S.C. at 423, 602 S.E.2d at 57.² Further, there is nothing in the statutory scheme, as set out in Chapter 3 of Title 24 of the South Carolina Code of Laws, authorizing the

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² It is worth noting that the Court in Wicker did not set the prevailing wage for all inmates. Wicker, 360 S.C. 421, 602 S.E.2d 56 (2004). Rather, the court determined the prevailing wage in the private sector, at that time, and for the work performed by the individual inmate in Wicker. *Id.* This five dollars and twenty-five cents (\$5.25) figure established in Wicker was the prevailing wage for that inmate, and it is not necessarily the prevailing wage in the instant case.

Department to pay an inmate less than the prevailing wage. *Id.* at 425, 602 S.E.2d at 58; S.C. Code Ann. §§ 24-3-310 to -430 (Supp. 2005). Rather, Section 24-3-430 mandates the payment of the prevailing wage to an inmate participating in the prison industries program. S.C. Code Ann. § 24-3-430 (Supp 2005).

In its appellate brief, the Department states Appellant began his participation in the Prison Industries project located at Evans Correctional Institution on or about June 25, 1997. Based upon this extended period of time, the Department argues that Appellant failed to timely file his grievance.³ However, although the Department indicates the time period Appellant began work with the prison industries program, the Department fails to state the day Appellant ceased working with the prison industries.

In addition to the requirement that an inmate must file a grievance within fifteen days of an alleged incident, SCDC Policy Number GA-01-12, paragraph 13.1 also states that “[i]nmates will only be allowed to submit one grievance per incident or circumstance.” In applying this policy provision to the instant matter, it would lead to an absurd result for this tribunal to find that an inmate must file a grievance for each day of work performed or for each pay period. A more logical result would be to interpret the policy so as to find that an inmate has timely filed a prevailing wage grievance if he filed during the course or term of employment or within fifteen days of the completion of a term of employment, regardless of when he initially began employment with the prison industries program. That is, as long as an inmate filed during the term of employment or within fifteen days of the cessation of a term or period of employment, such inmate has satisfied the filing provision of SCDC Policy Number GA-01.12, paragraph 13.1.

In *Wicker*, the Court stated that while the inmate has no claim for civil damages⁴, an

³ While the Department does not specifically cite its policy, SCDC Policy Number GA-01.12, paragraph 13.1, in its appellate brief, the Warden informed Appellant in his Step One and Two Grievance Forms that his grievance was denied based upon Appellant's failure to file his grievance within the deadline mandated by SCDC Policy Number GA-01.12, ¶ 13.1. The two-year statute of limitations in S.C. Code Ann. § 15-78-100 does not apply to administrative matters. Section 15-78-100 provides that except as to persons under disability, claims for damages under the South Carolina Tort Claims Act must be filed “within two years after the loss was or should have been discovered.” Cases brought before the ALC for failure to pay wages in accordance with S.C. Code Ann. § 24-3-430 (Supp. 2005) are not brought pursuant to the Tort Claims Act. In fact, in *Adkins v. South Carolina Dept. of Corrections*, 360 S.C. 413, 602 S.E.2d 51 (2004), the Supreme Court specifically held that the Department's “failure to pay a certain wage simply does not constitute a tort so as to be cognizable under the Tort Claims Act.” *Id.* at 54.

⁴ Accordingly, the two-year statute of limitations in S.C. Code Ann. § 15-78-100 does not apply to administrative matters. Section 15-78-100 provides that except as to persons under disability, claims for damages under the South Carolina Tort Claims Act must be filed “within two years after the loss was or should have been discovered.”

inmate may challenge the wages he is being paid through the Department's grievance procedures, particularly where there is a statute mandating payment of the prevailing wage. Wicker, 360 S.C. at 423, 602 S.E.2d at 57.⁵ Further, there is nothing in the statutory scheme, as set out in Chapter 3 of Title 24 of the South Carolina Code of Laws, authorizing the Department to pay an inmate less than the prevailing wage. Id. at 425, 602 S.E.2d at 58; S.C. Code Ann. §§ 24-3-310 to -430 (Supp. 2005). Rather, Section 24-3-430 mandates the payment of the prevailing wage to an inmate participating in the prison industries program. S.C. Code Ann. § 24-3-430 (Supp 2005).

ORDER

For the reasons set forth above,

IT IS HEREBY ORDERED that the Department shall determine if Appellant filed his grievance in the instant matter while he was employed under the prison industries program relating to the instant matter, or if Appellant filed his grievance within fifteen days of the time he completed, terminated, or ceased employment under the prison industries program. The Department's decision to deny Appellant's grievance must be affirmed if it is determined that Appellant did not file within the fifteen-day time period, as stated above.

IT IS FURTHER ORDERED that if the Department finds that Appellant satisfied this time limit requirement, as stated above, the Department's decision to deny Appellant's grievance must be reversed.

IT IS FURTHER ORDERED that if the Appellant filed a grievance while employed in the term of employment which is the subject of this case, or within fifteen (15) days of the completion, termination, or cessation of employment under the prison industries program, the Department shall pay the prevailing wage to the Appellant for work performed in the prison

However, cases brought before the ALC for failure to pay wages in accordance with S.C. Code Ann § 24-3-430 (Supp. 2005) are not brought pursuant to the Tort Claims Act. In fact, in Adkins v. South Carolina Dept. of Corrections, 360 S.C. 413, 602 S.E.2d 51 (2004), the Supreme Court specifically held that the Department's "failure to pay a certain wage simply does not constitute a tort so as to be cognizable under the Tort Claims Act." Id. at 54.

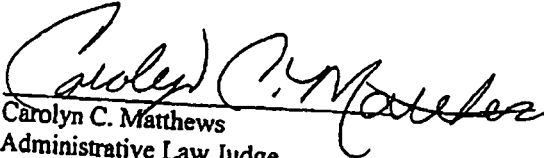
⁵ It is worth noting that the Court in Wicker did not set the prevailing wage for all inmates. Wicker, 360 S.C. 421, 602 S.E.2d 56 (2004). Rather, the court determined the prevailing wage in the private sector, at that time, and for the work performed by the individual inmate in Wicker. Id. This five dollars and twenty-five cents (\$5.25) figure established in Wicker was the prevailing wage for that inmate, and it is not necessarily the prevailing wage in the instant case.

industries program, as set forth below.

- 1) The Department shall determine the dates the inmate in the instant matter started and completed his participation in the prison industries program operated by the Department;
- 2) The Department shall determine the prevailing wage in the private sector for the work the inmate performed during his participation in the prison industries program on the date Appellant started participating in the prison industries program and any change in the rate during his participation until the completion of the project at issue;
- 3) The Department shall determine the total hours worked by the Appellant in the prison on the project at issue and the prevailing wage for each hour of work completed by Appellant; and,
- 4) The Department shall pay the Appellant the difference in the wages actually paid and the prevailing wages that should have been paid for each hour, or fraction of an hour, worked by the Appellant, subject to any statutorily allowed deductions.⁶

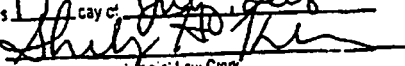
AND IT IS SO ORDERED.

July 17, 2008
Columbia, SC


Carolyn C. Matthews
Administrative Law Judge

CERTIFICATE OF SERVICE

This is to certify that the undersigned on this date served in accordance with the above entered action upon all parties to the cause by depositing a copy hereof in the United States mail, postage paid, or in the emergency Mail Service addressed to the party(ies) or their attorney(s).

This day of July, 2008
By 
Administrative Law Clerk

⁶ It is noteworthy that S.C. Code Ann. § 24-3-430(H) (Supp. 2005) does not require that the inmate receive all of the earned wages. In fact, Section 24-3-40 provides for the disposition of money earned by a prisoner who is allowed to work at paid employment. S.C. Code Ann. § 24-3-40 (Supp. 2005).

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Ja Ja D.B. Okera,)
(aka Michael Burns), # 228442,)
)
Appellant,)
)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)

Docket No. 08-ALJ-04-00887-AP

Docket No. 06-ALJ-04-00173

Grievance No. ECI-2087-05

**RESPONDENT SCDC'S
RECORD ON APPEAL AND
RESPONSE TO THE COURT'S
ORDER DATED JULY 17, 2008**

EXHIBIT B

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

STEP 1

INMATE NAME: Michael Burns / Job: D.B. Dileca 7/24/05
SCDC NUMBER: 228442
INSTITUTION: Lieber Corr. Inst.
HOUSING UNIT: Correc A-24 AUG 1.0 RECD
WORK ASSIGNMENT: Barber gch

Office Use Only
Grievance No. SCJ 2087-05
Code: General 181
Policy _____
Disc. Hear. _____
Class. _____
Date Received 8-2-05
IGC initials LC
KER 11404/24

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy indicates which policy) From June 25, 1997 to August 9, 1999, I was employed at Evans Correctional Institution's Prison Industry. For a designated period of time (determined by the amount of hours worked) I was paid a 'training pay' of .25\$ an hour, and then an increase to \$1.00 an hour. Most of my 'training pay' hours were completed during overtime hours when there was a high demand for products. After the stipulated training pay hours were met, my pay was increased to \$5.25 an hour.

(PLEASE SEE ATTACHMENT FOR BASIS OF GRIEVANCE)

ACTION REQUESTED: TO BE PAID ALL THE MONEY OWED TO ME ADDRESSED IN THE ABOVE SECTION ("STATE GRIEVANCE").

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

POLICY!

[Signature] 07.11.05
Grievant Signature Date

ACTION TAKEN BY IGC:

Grievance forwarded to Evans for processing. Handwritten 8.3.05

- I accept the action taken by the IGC and consider the matter closed.
- I do not accept the action taken and wish to appeal.

IGC Signature Date

Grievant Signature Date

SCDC 1351 Rev. November 1997

(CONTINUED ON REVERSE SIDE)

SCDC's Record on Appeal and Response to the Court's July 17, 2008 Order Exhibit B

Docket No. 08-ALJ-04-00887-AP

Page 1 of 5

WARDEN'S DECISION AND REASON:

Inmate Burns:

I have reviewed your grievance dated 7/11/05. After carefully considering your grievance and the arguments you made justifying the action you request, I deny your grievance.

As you accurately stated in your grievance, the South Carolina Supreme Court, in two opinions it issued last year, determined that you could file a grievance by which to protest any provision of the "prevailing wage" statutes that applied to the prison industries project in which you participated. These opinions are Adkins, et al. v. SCDC and Wicker v. SCDC. Both of these cases discussed SC Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430. The South Carolina Supreme Court issued these decisions on August 23, 2004. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy #GA-01.12 is the policy that establishes SCDC's inmate grievance system. Paragraph 13.1 of SCDC's inmate grievance policy establishes a deadline by which inmates must file grievances for alleged incidents. Specifically, Paragraph 13.1 requires that an inmate must file a grievance "within 15 days of the alleged incident." Exceptions to this deadline appear in paragraph 13.9 of SCDC's policy.

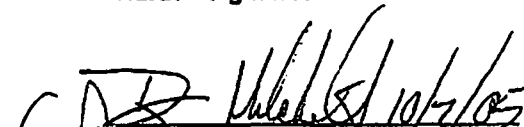
In light of Adkins, Wicker, the deadline established by paragraph 13.1, and the exceptions to this deadline recognized by paragraph 13.9, I find that you did not submit your grievance by the deadline set forth in SCDC's inmate grievance policy. Also, even if you had met the time frames established in paragraphs 13.1 and 13.9, I find that you are not entitled to back wages in the amount you request in your grievance. No reading of Adkins or Wicker supports the arguments you make concerning the hourly wage(s) you claim SCDC should have paid you for your labor.

Regarding the demand you made for overtime wages in your grievance, I conclude that neither Adkins nor Wicker requires SCDC to pay you or any other inmates in your position overtime wages for your prison industries labor. Your grievance is denied.


Warden Signature Date

- I accept the Warden's decision and consider the matter closed.
- I do not accept the Warden's decision and wish to appeal.


Grievant Signature Date


IGC Signature Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1.
2. Complete each section in its entirety, writing only in the space provided for inmate use.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form to the Institutional Grievance Coordinator within fifteen (15) days of an alleged incident; policy grievances at any time. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, via the Institutional Grievance Coordinator.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

173

INMATE NAME: Michael Burns / Tabi D. B. Dikea
SCDC NUMBER: 228412 OCT 12 2005
INSTITUTION: Lee CF
HOUSING UNIT: Kee OCT 18 2005
WORK ASSIGNMENT: Doem

Office Use Only
Grievance No. EEI 2087-05
Code: General NY
Policy _____
Disc. Hear. _____
Class. _____
Date Received 10/12/05
IGC Initials AL

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): Warden Engleton did not address my grievance. I did not rely on Adkins, et al vs SCDC, 360 SC 413, 602 SE2d. 51 (2004), nor Wicker vs. SCDC, 320 SC 421, 602 SE2d. 56 (2004) for the wages argued in my grievance. I relied on South Carolina Code Annotation, § 24-3-430(D), Inmate labor in private industry authorized, requirements and conditions. Nor did I rely on Adkins, nor Wicker for my overtime wages. I relied on the fact that overtime wages were paid (time-and-a-half) to me based on the \$5.25 hourly wage. Therefore, I am due overtime (time-and-a-half) (\$10.75) based on the prevailing wage, \$7.17, I was supposed to have been paid initially. In fact, no where in my grievance did I mention anything about Adkins, nor Wicker. Contrary to Warden Engleton's claim in his decision, Adkins, nor Wicker was about "prevailing wage", as my grievance is. see Adkins; see Wicker.

SEE ATTACHMENT...

Michael Burns / Tabi D. B. Dikea 10.10.05
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE REVERSE SIDE
FOR RESPONSE

[Signature] 1-13-06
Signature Date

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Grievant Signature _____ Date _____ IGC Signature _____ Date _____

(SEE REVERSE SIDE FOR INSTRUCTIONS)

INSTRUCTIONS FOR COMPLETING STEP 2 GRIEVANCE FORM

1. Complete form in its entirety, writing only in the space provided for Inmate use.
2. State your specific reason for further appeal. Do not submit any new issues for review.
3. Submit this completed form with your original Step 1 attached, to the Institutional Grievance Coordinator within five (5) days of your receipt of the Warden's decision. Do not write in the space provided for the responsible official.
4. The decision rendered by the responsible official exhausts the appeal process of the SCDC Inmate Grievance Procedure.

I have reviewed your Step 2 appeal dated October 10, 2005, and I have again reviewed your Step 1 grievance dated July 11, 2005. Additionally, your prison industries participation and pay records were reviewed by the responsible officials at Division of Industries Headquarters in Columbia. These records reflect that you began your participation in the prison industries project located at Evans CI on or about June 25, 1997.

As stated in the response to your Step 1 grievance, two (2) 2004 decisions of the South Carolina Supreme Court apply to both your Step 1 grievance and your Step 2 appeal, Adkins, et al. v. SCDC and Wicker v. SCDC. Both of these cases discussed S.C. Code Section 24-3-40, 24-3-310, et seq. and, specifically, 24-3-430(D). Therefore, contrary to the statements you made in your Step 2 appeal, Adkins and Wicker clearly apply to your grievance.

I conclude, after again reviewing your Step 1 grievance and your Step 2 appeal in light of Adkins, Wicker, the deadline established by paragraph 13.1 of Policy Number GA-01.12, and the exceptions to this deadline recognized by paragraph 13.9 of Policy Number GA-01.12, that you did not submit your Step 1 grievance by the deadline set forth in this policy.

The 15 day deadline established in this policy applies to nearly every aspect of inmate activity, and no special exception applies to prison industries pay disputes. Consequentially, the 15 day deadline applies to your grievance.

Moreover, you filed your Step 1 grievance over eight (8) years after you first started participating in the project located at Evans CI, and nearly 11 months after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded any reasonable time frame associated with filing a grievance under SCDC's applicable policy.

Also, even if you had met the time frames established in paragraphs 13.1 and 13.9, I again conclude that you are not entitled to back pay in the amount you state in your Step 2 appeal. No reading of Adkins or Wicker supports the arguments you make concerning "prevailing wages" and "overtime wages" you claim SCDC owes you under the terms and conditions as you state them in your Step 2 appeal.

Finally, I specifically conclude that no conduct or act allegedly committed by SCDC as described by you in either your Step 1 or Step 2 constitutes "criminal activity." Therefore, your reliance on paragraph 15 of Policy Number GA-01.12 is without merit.

Therefore, I, again, deny your Step 2 appeal in its entirety.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

(Prison Industry grievance ATTACHMENT - Grievance No ECT 2087-05)

Warden Engleton's claim that I did not meet the 15 day time frame to file my grievance is also without merit... South Carolina Department of Corrections "Inmate Grievance" policy (GA-01.12) § 13.9 reads in part: "Exceptions to the 15 day time limit requirement ~~will~~ be made for grievances concerning policies/procedures." (Emphasis mine). This grievance is alleging "criminal activity" which is within SCDC policies/procedures. (See SCDC Inmate Grievance System, supra, § 15). For by definition, a crime is "an act or the commission of an act that is forbidden or the omission of a duty that is commanded by a public law ..."; "a gross violation of law." (Emphasis mine). And is not S.C. Code Ann. § 24-3-430 (D) state law? Section 24-3-430 (D) reads: "No inmate participating in the program" (prison industry-private sector) "may earn less than the prevailing wage for work of similar nature in the private sector."

The crime that makes the 15 day time limit for filing this grievance unapplicable is that SCDC paid me an hourly wage of \$5.25, when the prevailing wage paid to SCDC by Escal Industry was \$7.17; And the hourly overtime wage of \$7.86, when the overtime prevailing wage paid to SCDC by Escal Industry was \$10.75.

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Ja Ja D.B. Okera,)
(aka Michael Burns), # 228442,)
)
Appellant,)
)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)

Docket No. 08-ALJ-04-00887-AP

Docket No. 06-ALJ-04-00173
Grievance No. ECI-2087-05

**RESPONDENT SCDC'S
RECORD ON APPEAL AND
RESPONSE TO THE COURT'S
ORDER DATED JULY 17, 2008**

EXHIBIT C

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION

JaJa P.B. Dkera (aka Michael Burns) #228442)

Appellant,

vs.

887

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

Docket No. 0 -ALJ-04-_____-AP

Grievance No. ECI-2087-05

PP

Notice is hereby given that JaJa Pimison Baako Dkera #228442 does hereby appeal the final decision of the South Carolina Department of Corrections dated January 13, 2006 and received on January 24, 2006, a copy of which is attached. A general statement of the grounds for appeal is (See S.C. Code Ann. § 1-23-380(A)(6)): In accordance with an Appeals Court ORDER (a copy of which is attached as ATTACHMENT A) issued on 10.13.08, and received by me on 10.15.08, I submit this notice of appeal.

In violation of State statutory provisions, S.C. Dept. of Corr. did not pay me the required wages during the period I worked for Evans C.I.'s' Prison Industry, depriving me of state created liberty/property interests, thereby, denying me due process guaranteed by S.C. Const. Art. I § 3, and U.S. Const. 14th Amendment. I assert that the 15 day statute of limitations is not applicable in this case. And the administrative findings prejudiced me, because it violates constitutional and statutory provisions; exceeds the statutory authority of the agency; arbitrary; and an abuse of discretion.

JaJa P.B. Dkera, #228442

Appellant's Name

Evans Corr. Inst. (2B-142)

Mailing Address

610 HWY 9 West

Bennettsville SC 29512

City, State, Zip Code

Telephone Number

(Signature)

Signed

10.28.08

Dated

(See reverse side for instructions)

The South Carolina Court of Appeals

Michael Burns a/k/a Ja Ja D. B. Okera. Appellant.

v.

South Carolina Department of
Corrections,

Respondent.

The Honorable Carolyn C. Matthews
Richland County
Trial Court Case No. 2006-AL-04-00173

ORDER

The underlying case was initiated by Michael Burns' appeal of the Department of Corrections' denial of his grievance concerning the payment of prevailing wages and overtime pay. He argued he was owed back wages for work performed in the Prison Industries private sector program. The Department argued Burns failed to file a grievance within fifteen days of the alleged incident. The Administrative Law Court found the Department's brief failed to state the day on which Burns ceased working with the prison industries precluding the ALC from determining when the fifteen-day time limit began to run. Accordingly, the Department was ordered to determine if Burns filed his grievance within fifteen days of the time he completed, terminated, or ceased employment under the prison industries program. If the grievance was filed late, the ALC explained the Department's decision to deny the grievance must be affirmed. If the grievance was timely filed, the ALC ordered the Department to pay Burns the difference

ATTACHMENT A

between the actual wage and the prevailing wage for each hour, or fraction of an hour, worked by Burns. Burns appealed from this order.

We requested appealability memoranda from the parties to determine whether the ALC's order was immediately appealable. In the Department's memorandum to this Court, it informs us the Department has since determined Burns's last day of work was many years prior to his filing of a grievance and therefore was not timely. The Department argues the ALC's order is final and immediately appealable.

After careful consideration, this Court finds the ALC's order was not immediately appealable as it merely remanded the matter to the Department. Now that the Department has ruled, Burns is entitled to appeal again to the ALC. Accordingly, this notice of appeal is transferred pursuant to Rule 204, SCACR, to the ALC for review. Because we transfer this appeal to the ALC, we need not rule on Burns' motion to proceed *In Forma Pauperis*.

AND IT IS SO ORDERED.

Jasper W. Curator A.S.

Columbia, South Carolina

October 13, 2008

cc: Michael Burns a/k/a Ja Ja D. B. Okera #228442
Barton Jon Vincent, Esquire


FILED

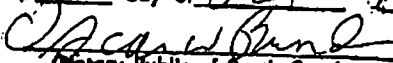
10/13/08 dlp

ATTACHMENT A

CERTIFICATE OF SERVICE

I certify that on this 28th day of October 2008, I forwarded a copy of this CERTIFICATE OF SERVICE, the enclosed NOTICE OF APPEAL and ORDER from The South Carolina Court of Appeals to SCDC Office of General Counsel at POB 21787/4444 Broad River Road, Columbia, South Carolina 29221-1787 by way of INTERDEPARTMENTAL MAIL, no postage necessary, by delivery to, and depositing it in Evans Correctional Institution's mailroom.

sl 
Jaja Tumisani Baako Okera, #228442
Proc SE
Evans Corr. Inst.
610 Hwy 9 West
Bennettsville SC 29512

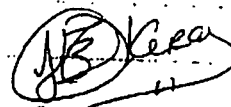
Seems to end subscribed before me
the 28 day of Oct 2008

(Notary Public of South Carolina)
My Commission Expires 06-06-2009

Ms. Jana Shealy, Clerk
 S.C. Adm. Law Court
 Edgar A. Brown Bldg.,
 1205 Pendleton St., Ste. 224
 Columbia SC 29201

RE: NOTICE OF APPEAL - Griev. # ECI-2087-05

Ms. Shealy,

In accordance with an ORDER issued by The South Carolina Court of Appeals, I am permitted to resubmit an appeal with your Court in the above case. So, enclosed are two (2) copies of my Notice of Appeal, the agency's final decision, the Court of Appeals' ORDER, and CERTIFICATE OF SERVICE. I ask that you file the same with your Court, and return to me the extra copy in the enclosed SASE.



sl

Jana Tumisanis Banko Okera, #228442
 Pres

cc: File

Office of Gen. Counsel
 PoB 21787/4444 Broad River Rd.
 Columbia SC 29221-1787
 (803) 896-8555

Evans Corr. Inst.
 610 HWY 9 West
 Bennettsville SC 29512

October 28, 2008

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Ja Ja D.B. Okera,)
(aka Michael Burns), # 228442,)
)
Appellant,)
)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)

Docket No. 08-ALJ-04-00887-AP

Docket No. 06-ALJ-04-00173

Grievance No. ECI-2087-05

**RESPONDENT SCDC'S
RECORD ON APPEAL AND
RESPONSE TO THE COURT'S
ORDER DATED JULY 17, 2008**

EXHIBIT D

REPORT NO. 01

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

12/02/08 PAGE 188

PACACCLT
00228442 MICHAEL

BURNS

PRIVATE SECTOR ACCOUNT TRANSACTIONS

* RATE IS CALCULATED AVERAGE RATE - OVERTIME, BACKPAY
OR OVERPAYMENTS MAY CAUSE RATE TO VARY FROM ACTUAL
HOURLY RATE.

TRAN TYPE	DATE	HOURS	RATE*	GROSS	NET	DEPOSIT	WITHDRAW	DESCRIPTION	VOID	BALANCE
IN	10/21/08	0.00	0.00	0.00	0.00	0.03		INTEREST		43.17
IN	09/29/08	0.00	0.00	0.00	0.00	0.05		INTEREST		43.14
IN	08/29/08	0.00	0.00	0.00	0.00	0.02		INTEREST		43.09
IN	08/12/08	0.00	0.00	0.00	0.00	0.05		INTEREST		43.07
IN	05/21/08	0.00	0.00	0.00	0.00	0.05		INTEREST		43.02
IN	04/17/08	0.00	0.00	0.00	0.00	0.08		INTEREST		42.97
IN	03/17/08	0.00	0.00	0.00	0.00	0.11		INTEREST		42.89
IN	02/19/08	0.00	0.00	0.00	0.00	0.12		INTEREST		42.78
IN	01/17/08	0.00	0.00	0.00	0.00	0.08		INTEREST		42.68
IN	12/14/07	0.00	0.00	0.00	0.00	0.12		INTEREST		42.60
IN	11/16/07	0.00	0.00	0.00	0.00	0.12		INTEREST		42.48
IN	10/17/07	0.00	0.00	0.00	0.00	0.09		INTEREST		42.38
IN	08/18/07	0.00	0.00	0.00	0.00	0.16		INTEREST		42.27
IN	08/17/07	0.00	0.00	0.00	0.00	0.08		INTEREST		42.11
IN	07/17/07	0.00	0.00	0.00	0.00	0.11		INTEREST		42.03
IN	06/14/07	0.00	0.00	0.00	0.00	0.13		INTEREST		41.92
IN	05/14/07	0.00	0.00	0.00	0.00	0.16		INTEREST		41.79
IN	04/12/07	0.00	0.00	0.00	0.00	0.12		INTEREST		41.63
IN	03/16/07	0.00	0.00	0.00	0.00	0.13		INTEREST		41.51
IN	02/07/07	0.00	0.00	0.00	0.00	0.15		INTEREST		41.38
IN	01/16/07	0.00	0.00	0.00	0.00	0.12		INTEREST		41.23
IN	12/11/06	0.00	0.00	0.00	0.00	0.13		INTEREST		41.11
IN	11/17/06	0.00	0.00	0.00	0.00	0.14		INTEREST		40.98
IN	11/01/06	0.00	0.00	0.00	0.00	0.12		INTEREST		40.84
IN	09/19/06	0.00	0.00	0.00	0.00	0.12		INTEREST		40.72
IN	08/08/06	0.00	0.00	0.00	0.00	0.11		INTEREST		40.60
IN	07/13/06	0.00	0.00	0.00	0.00	0.11		INTEREST		40.48

REPORT NO. 01

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

12/02/08 PAGE 198

PACACCLT
00228442 MICHAEL

BURNS

PRIVATE SECTOR ACCOUNT TRANSACTIONS

* RATE IS CALCULATED AVERAGE RATE - OVERTIME, BACKPAY
OR OVERPAYMENTS MAY CAUSE RATE TO VARY FROM ACTUAL
HOURLY RATE.

TRAN TYPE	DATE	HOURS	RATE*	GROSS	NET	DEPOSIT	WITHDRAW	DESCRIPTION	VOID	BALANCE
IN	08/18/08	0.00	0.00	0.00	0.00	0.09		INTEREST		40.38
IN	05/18/08	0.00	0.00	0.00	0.00	0.12		INTEREST		40.28
IN	04/13/08	0.00	0.00	0.00	0.00	0.09		INTEREST		40.17
IN	03/14/08	0.00	0.00	0.00	0.00	0.11		INTEREST		40.08
IN	03/02/08	0.00	0.00	0.00	0.00	0.15		INTEREST		39.97
IN	01/17/08	0.00	0.00	0.00	0.00	0.01		INTEREST		39.82
IN	12/21/05	0.00	0.00	0.00	0.00	0.04		INTEREST		39.81
IN	11/17/05	0.00	0.00	0.00	0.00	0.11		INTEREST		39.77
IN	10/28/05	0.00	0.00	0.00	0.00	0.08		INTEREST		39.68
IN	10/24/05	0.00	0.00	0.00	0.00	0.07		INTEREST		39.57
IN	08/15/05	0.00	0.00	0.00	0.00	0.05		INTEREST		39.50
IN	07/27/05	0.00	0.00	0.00	0.00	0.05		INTEREST		39.45
IN	08/17/05	0.00	0.00	0.00	0.00	0.04		INTEREST		39.40
IN	05/19/05	0.00	0.00	0.00	0.00	0.05		INTEREST		39.38
IN	05/13/05	0.00	0.00	0.00	0.00	0.05		INTEREST		39.31
IN	05/12/05	0.00	0.00	0.00	0.00	0.05		INTEREST		39.28
IN	05/09/05	0.00	0.00	0.00	0.00	0.04		INTEREST		39.21
IN	05/08/05	0.00	0.00	0.00	0.00	0.04		INTEREST		39.17
IN	01/25/05	0.00	0.00	0.00	0.00	0.03		INTEREST		39.13
IN	12/29/04	0.00	0.00	0.00	0.00	0.02		INTEREST		39.10
IN	12/02/04	0.00	0.00	0.00	0.00	0.01		INTEREST		39.08
IN	11/30/04	0.00	0.00	0.00	0.00	0.01		INTEREST		39.07
IN	10/25/04	0.00	0.00	0.00	0.00	0.03		INTEREST		39.08
IN	10/13/04	0.00	0.00	0.00	0.00	0.03		INTEREST		39.03
IN	08/31/04	0.00	0.00	0.00	0.00	0.02		INTEREST		39.00
IN	07/18/04	0.00	0.00	0.00	0.00	0.01		INTEREST		38.98
IN	05/27/04	0.00	0.00	0.00	0.00	0.01		INTEREST		38.87

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PRIVATE SECTOR ACCOUNT TRANSACTIONS

* RATE IS CALCULATED AVERAGE RATE - OVERTIME, BACKPAY
OR OVERPAYMENTS MAY CAUSE RATE TO VARY FROM ACTUAL
HOURLY RATE.

TRAN TYPE	DATE	HOURS	RATE*	GROSS	NET	DEPOSIT	WITHDRAW	DESCRIPTION	VOID	BALANCE
IN	04/29/04	0.00	0.00	0.00	0.00	0.01		INTEREST		38.86
IN	03/31/04	0.00	0.00	0.00	0.00	0.01		INTEREST		38.85
IN	03/03/04	0.00	0.00	0.00	0.00	0.01		INTEREST		38.84
IN	12/28/03	0.00	0.00	0.00	0.00	0.01		INTEREST		38.83
IN	12/04/03	0.00	0.00	0.00	0.00	0.01		INTEREST		38.82
IN	10/28/03	0.00	0.00	0.00	0.00	0.02		INTEREST		38.81
IN	09/29/03	0.00	0.00	0.00	0.00	0.02		INTEREST		38.88
IN	08/27/03	0.00	0.00	0.00	0.00	0.08		INTEREST		38.87
IN	07/31/03	0.00	0.00	0.00	0.00	0.02		INTEREST		38.78
IN	08/24/03	0.00	0.00	0.00	0.00	0.01		INTEREST		38.77
IN	05/27/03	0.00	0.00	0.00	0.00	0.01		INTEREST		38.76
IN	04/21/03	0.00	0.00	0.00	0.00	0.01		INTEREST		38.75
IN	04/18/03	0.00	0.00	0.00	0.00	0.01		INTEREST		38.74
IN	02/24/03	0.00	0.00	0.00	0.00	0.02		INTEREST		38.73
IN	01/27/03	0.00	0.00	0.00	0.00	0.01		INTEREST		38.71
IN	12/27/02	0.00	0.00	0.00	0.00	0.02		INTEREST		38.70
IN	12/08/02	0.00	0.00	0.00	0.00	0.02		INTEREST		38.68
IN	10/29/02	0.00	0.00	0.00	0.00	0.01		INTEREST		38.68
IN	10/28/02	0.00	0.00	0.00	0.00	0.01		INTEREST		38.65
IN	09/25/02	0.00	0.00	0.00	0.00	0.02		INTEREST		38.64
IN	08/29/02	0.00	0.00	0.00	0.00	0.01		INTEREST		38.62
IN	08/02/02	0.00	0.00	0.00	0.00	0.01		INTEREST		38.61
IN	08/27/02	0.00	0.00	0.00	0.00	0.02		INTEREST		38.80
IN	08/10/02	0.00	0.00	0.00	0.00	0.01		INTEREST		38.58
IN	08/08/02	0.00	0.00	0.00	0.00	0.02		INTEREST		38.57
IN	04/09/02	0.00	0.00	0.00	0.00	0.02		INTEREST		38.55
IN	02/28/02	0.00	0.00	0.00	0.00	0.02		INTEREST		38.53

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* RATE IS CALCULATED AVERAGE RATE - OVERTIME, BACKPAY OR OVERPAYMENTS MAY CAUSE RATE TO VARY FROM ACTUAL HOURLY RATE.

TRAN TYPE	DATE	HOURS	RATE*	GROSS	NET	DEPOSIT	WITHDRAW	DESCRIPTION	VOID	BALANCE
IN	01/31/02	0.00	0.00	0.00	0.00	0.05		INTEREST		38.51
IN	01/14/02	0.00	0.00	0.00	0.00	0.08		INTEREST		38.48
IN	12/17/01	0.00	0.00	0.00	0.00	0.08		INTEREST		38.38
IN	10/31/01	0.00	0.00	0.00	0.00	0.11		INTEREST		38.28
IN	10/02/01	0.00	0.00	0.00	0.00	0.12		INTEREST		38.18
IN	08/28/01	0.00	0.00	0.00	0.00	0.13		INTEREST		38.08
IN	08/08/01	0.00	0.00	0.00	0.00	0.13		INTEREST		37.93
IN	08/28/01	0.00	0.00	0.00	0.00	0.14		INTEREST		37.80
IN	05/31/01	0.00	0.00	0.00	0.00	0.15		INTEREST		37.68
IN	04/27/01	0.00	0.00	0.00	0.00	0.18		INTEREST		37.51
IN	03/23/01	0.00	0.00	0.00	0.00	0.20		INTEREST		37.35
IN	02/21/01	0.00	0.00	0.00	0.00	0.23		INTEREST		37.15
IN	02/14/01	0.00	0.00	0.00	0.00	0.21		INTEREST		36.92
IN	12/27/00	0.00	0.00	0.00	0.00	0.22		INTEREST		36.71
IN	12/27/00	0.00	0.00	0.00	0.00	0.22		INTEREST		36.49
IN	10/24/00	0.00	0.00	0.00	0.00	0.23		INTEREST		36.27
IN	10/24/00	0.00	0.00	0.00	0.00	0.22		INTEREST		36.04
IN	08/31/00	0.00	0.00	0.00	0.00	0.25		INTEREST		35.82
IN	07/28/00	0.00	0.00	0.00	0.00	0.22		INTEREST		35.57
IN	08/27/00	0.00	0.00	0.00	0.00	0.15		INTEREST		35.35
IN	08/02/00	0.00	0.00	0.00	0.00	0.17		INTEREST		35.20
IN	04/24/00	0.00	0.00	0.00	0.00	0.20		INTEREST		35.03
IN	03/20/00	0.00	0.00	0.00	0.00	0.21		INTEREST		34.83
IN	02/28/00	0.00	0.00	0.00	0.00	0.20		INTEREST		34.62
IN	02/07/00	0.00	0.00	0.00	0.00	0.22		INTEREST		34.42
IN	02/01/00	0.00	0.00	0.00	0.00	1.88-		INTEREST		34.20
IN	01/28/00	0.00	0.00	0.00	0.00	1.88		INTEREST		35.88

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TRAN TYPE	DATE	HOURS	RATE*	GROSS	NET	DEPOSIT	WITHDRAW	DESCRIPTION	VOID	BALANCE
IN	12/30/99	0.00	0.00	0.00	0.00	0.23		INTEREST		34.20
IN	12/29/99	0.00	0.00	0.00	0.00	0.24		INTEREST		33.97
IN	11/15/99	0.00	0.00	0.00	0.00	7.07		INTEREST		33.73
OF	08/24/99						1,541.60	COURT ORDER: FEES		28.68
IN	08/21/99	0.00	0.00	0.00	0.00	8.47		INTEREST		1,588.28
CI	08/01/99						84.22	CASH FOR INMATE		1,558.78
PR	08/01/99						42.88	PGM FEE: ROOM/BOARD		1,823.01
PV	08/01/99						34.38	PGM FEE: VICTM COMP		1,685.99
DP	08/01/99	32.75	5.25	171.93	158.78	158.78		DEPOSIT		1,700.38
IN	08/18/99	0.00	0.00	0.00	0.00	9.42		INTEREST		1,541.80
CI	08/18/99						285.83	CASH FOR INMATE		1,532.18
PR	08/18/99						85.17	PGM FEE: ROOM/BOARD		1,828.01
PV	08/18/99						85.17	PGM FEE: VICTM COMP		1,923.18
DP	08/18/99	107.25	5.82	634.45	548.62	548.62		DEPOSIT		2,018.35
CI	07/30/99						245.11	CASH FOR INMATE		1,468.73
PR	07/30/99						72.54	PGM FEE: ROOM/BOARD		1,713.84
PV	07/30/99						72.54	PGM FEE: VICTM COMP		1,786.38
DP	07/30/99	88.75	5.38	483.83	438.55	438.55		DEPOSIT		1,858.82
IN	07/20/99	0.00	0.00	0.00	0.00	4.88		INTEREST		1,420.37
CI	07/16/99						218.83	CASH FOR INMATE		1,415.88
PR	07/16/99						63.20	PGM FEE: ROOM/BOARD		1,834.31
PV	07/16/99						63.20	PGM FEE: VICTM COMP		1,887.51
DP	07/16/99	80.25	5.25	421.31	387.18	387.18		DEPOSIT		1,780.71
CI	07/01/99						151.84	CASH FOR INMATE		1,373.55
PR	07/01/99						43.51	PGM FEE: ROOM/BOARD		1,525.38
PV	07/01/99						43.51	PGM FEE: VICTM COMP		1,588.80
DP	07/01/99	55.25	5.25	290.08	287.87	287.87		DEPOSIT		1,612.41

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TRAN TYPE	DATE	HOURS	RATE*	GROSS	NET	DEPOSIT	WITHDRAW	DESCRIPTION	VOID	BALANCE
IN	08/28/99	0.00	0.00	0.00	0.00	5.01		INTEREST		1,344.54
CI	08/18/99						148.78	CASH FOR INMATE		1,339.53
PR	08/18/99						42.92	PGM FEE: ROOM/BOARD		1,489.31
PV	08/18/99						42.92	PGM FEE: VICTM COMP		1,532.23
DP	08/18/99	54.50	5.25	288.12	284.23	284.23		DEPOSIT		1,575.15
CI	08/01/99						185.48	CASH FOR INMATE		1,310.92
PR	08/01/99						58.31	PGM FEE: ROOM/BOARD		1,506.41
PV	08/01/99						58.31	PGM FEE: VICTM COMP		1,562.72
DP	08/01/99	71.50	5.25	375.37	345.65	345.65		DEPOSIT		1,618.03
IN	05/26/99	0.00	0.00	0.00	0.00	4.99		INTEREST		1,273.38
CI	05/14/99						178.24	CASH FOR INMATE		1,268.39
PR	05/14/99						51.19	PGM FEE: ROOM/BOARD		1,448.63
PV	05/14/99						51.19	PGM FEE: VICTM COMP		1,497.82
DP	05/14/99	65.00	5.25	341.25	314.75	314.75		DEPOSIT		1,548.01
CI	04/30/99						237.12	CASH FOR INMATE		1,234.26
PR	04/30/99						68.10	PGM FEE: ROOM/BOARD		1,471.38
PV	04/30/99						68.10	PGM FEE: VICTM COMP		1,540.48
DP	04/30/99	84.50	5.45	460.65	421.39	421.39		DEPOSIT		1,609.58
IN	04/21/99	0.00	0.00	0.00	0.00	3.71		INTEREST		1,188.19
CI	04/18/99						308.80	CASH FOR INMATE		1,184.48
PR	04/18/99						88.70	PGM FEE: ROOM/BOARD		1,490.28
PV	04/18/99						88.70	PGM FEE: VICTM COMP		1,589.98
DP	04/18/99	118.25	5.82	684.89	571.87	571.87		DEPOSIT		1,689.68
CI	04/01/99						217.32	CASH FOR INMATE		1,118.01
PR	04/01/99						62.80	PGM FEE: ROOM/BOARD		1,335.33
PV	04/01/99						62.80	PGM FEE: VICTM COMP		1,398.13
DP	04/01/99	78.75	5.25	418.68	384.79	384.79		DEPOSIT		1,460.83

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TRAN TYPE	DATE	HOURS	RATE*	GROSS	NET	DEPOSIT	WITHDRAW	DESCRIPTION	VOID	BALANCE
IN	03/25/88	0.00	0.00	0.00	0.00	3.44		INTEREST		1,078.14
CI	03/18/88						198.83	CASH FOR INMATE		1,072.70
PR	03/18/88						58.70	PGM FEE: ROOM/BOARD		1,289.53
PV	03/18/88						58.70	PGM FEE: VICTM COMP		1,328.23
DP	03/18/88	72.00	5.25	378.00	348.03	348.03		DEPOSIT		1,382.93
CI	03/01/88						247.14	CASH FOR INMATE		1,034.80
PR	03/01/88						73.43	PGM FEE: ROOM/BOARD		1,282.04
PV	03/01/88						73.43	PGM FEE: VICTM COMP		1,355.47
DP	03/01/88	88.50	5.53	488.51	442.85	442.85		DEPOSIT		1,428.80
IN	02/24/88	0.00	0.00	0.00	0.00	3.70		INTEREST		885.85
IN	02/17/88	0.00	0.00	0.00	0.00	3.52		INTEREST		882.25
CI	02/18/88						158.02	CASH FOR INMATE		978.73
PR	02/18/88						45.28	PGM FEE: ROOM/BOARD		1,138.75
PV	02/18/88						45.28	PGM FEE: VICTM COMP		1,182.03
DP	02/18/88	57.50	5.25	301.87	278.77	278.77		DEPOSIT		1,227.31
CI	02/01/88						175.60	CASH FOR INMATE		948.54
PR	02/01/88						50.40	PGM FEE: ROOM/BOARD		1,124.14
PV	02/01/88						50.40	PGM FEE: VICTM COMP		1,174.54
DP	02/01/88	84.00	5.25	338.00	310.00	310.00		DEPOSIT		1,224.94
CI	01/15/88						144.29	CASH FOR INMATE		814.94
PR	01/15/88						41.34	PGM FEE: ROOM/BOARD		1,059.23
PV	01/15/88						41.34	PGM FEE: VICTM COMP		1,100.57
DP	01/15/88	52.50	5.25	275.82	254.53	254.53		DEPOSIT		1,141.91
CI	01/04/88						250.75	CASH FOR INMATE		887.38
PR	01/04/88						75.00	PGM FEE: ROOM/BOARD		1,138.13
PV	01/04/88						75.00	PGM FEE: VICTM COMP		1,213.13
DP	01/01/88	87.50	5.71	499.88	450.75	450.75		DEPOSIT		1,288.13

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TRAN TYPE	DATE	HOURS	RATE*	GROSS	NET	DEPOSIT	WITHDRAW	DESCRIPTION	VOID	BALANCE
IN	12/30/88	0.00	0.00	0.00	0.00	3.23		INTEREST		837.38
CI	12/18/88						188.87	CASH FOR INMATE		834.15
PR	12/18/88						54.34	PGM FEE: ROOM/BOARD		1,023.02
PV	12/18/88						54.34	PGM FEE: VICTM COMP		1,077.38
DP	12/18/88	89.00	5.25	382.25	333.78	333.78		DEPOSIT		1,131.70
CI	12/01/88						88.62	CASH FOR INMATE		787.82
PR	12/01/88						25.40	PGM FEE: ROOM/BOARD		888.54
PV	12/01/88						25.40	PGM FEE: VICTM COMP		911.94
DP	12/01/88	32.25	5.25	169.31	158.35	158.35		DEPOSIT		937.34
IN	11/30/88	0.00	0.00	0.00	0.00	3.33		INTEREST		780.89
CI	11/18/88						181.50	CASH FOR INMATE		777.68
PR	11/18/88						55.13	PGM FEE: ROOM/BOARD		889.18
PV	11/18/88						55.13	PGM FEE: VICTM COMP		1,024.29
DP	11/18/88	70.00	5.25	387.50	338.51	338.51		DEPOSIT		1,078.42
CI	10/30/88						105.81	CASH FOR INMATE		740.81
PR	10/30/88						30.32	PGM FEE: ROOM/BOARD		846.72
PV	10/30/88						30.32	PGM FEE: VICTM COMP		877.04
DP	10/30/88	38.50	5.25	202.12	188.68	188.68		DEPOSIT		807.38
IN	10/28/88	0.00	0.00	0.00	0.00	3.07		INTEREST		720.70
CI	10/18/88						138.73	CASH FOR INMATE		717.63
PR	10/18/88						38.18	PGM FEE: ROOM/BOARD		854.38
PV	10/18/88						38.18	PGM FEE: VICTM COMP		883.54
DP	10/18/88	49.75	5.25	281.18	241.21	241.21		DEPOSIT		932.72
CI	10/01/88						212.74	CASH FOR INMATE		881.51
PR	10/01/88						81.43	PGM FEE: ROOM/BOARD		904.25
PV	10/01/88						81.43	PGM FEE: VICTM COMP		985.68
DP	10/01/88	78.00	5.25	409.50	378.55	378.55		DEPOSIT		1,027.11

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TRAN TYPE	DATE	HOURS	RATE*	GROSS	NET	DEPOSIT	WITHDRAW	DESCRIPTION	VOID	BALANCE
IN	09/24/98	0.00	0.00	0.00	0.00	2.78		INTEREST		650.58
CI	09/18/98						234.38	CASH FOR INMATE		647.78
PR	09/18/98						68.31	PGM FEE: ROOM/BOARD		882.18
PV	09/18/98						68.31	PGM FEE: VICTM COMP		950.47
DP	09/18/98	86.00	5.30	455.42	416.54	416.54		DEPOSIT		1,018.78
IN	09/02/98	0.00	0.00	0.00	0.00	2.28		INTEREST		602.24
CI	09/01/98						145.68	CASH FOR INMATE		599.88
PR	09/01/98						41.74	PGM FEE: ROOM/BOARD		745.82
PV	09/01/98						41.74	PGM FEE: VICTM COMP		787.38
DP	09/01/98	53.00	5.25	278.25	258.87	258.87		DEPOSIT		829.10
CI	08/14/98						151.16	CASH FOR INMATE		572.13
PR	08/14/98						43.31	PGM FEE: ROOM/BOARD		723.29
PV	08/14/98						43.31	PGM FEE: VICTM COMP		768.60
DP	08/14/98	55.00	5.25	288.75	268.88	268.88		DEPOSIT		809.81
CI	07/31/98						168.96	CASH FOR INMATE		543.25
PR	07/31/98						48.43	PGM FEE: ROOM/BOARD		712.21
PV	07/31/98						48.43	PGM FEE: VICTM COMP		760.84
DP	07/31/98	61.50	5.25	322.87	298.11	298.11		DEPOSIT		809.07
IN	07/29/98	0.00	0.00	0.00	0.00	1.79		INTEREST		510.88
CI	07/18/98						204.79	CASH FOR INMATE		509.17
PR	07/18/98						59.08	PGM FEE: ROOM/BOARD		713.88
PV	07/18/98						59.08	PGM FEE: VICTM COMP		773.02
DP	07/18/98	75.00	5.25	393.75	362.29	362.29		DEPOSIT		832.08
IN	07/02/98	0.00	0.00	0.00	0.00	1.83		INTEREST		489.79
CI	07/01/98						240.98	CASH FOR INMATE		488.18
PR	07/01/98						71.17	PGM FEE: ROOM/BOARD		709.12
PV	07/01/98						71.17	PGM FEE: VICTM COMP		780.29

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00228442 MICHAEL

BURNS

PRIVATE SECTOR ACCOUNT TRANSACTIONS

* RATE IS CALCULATED AVERAGE RATE - OVERTIME, BACKPAY OR OVERPAYMENTS MAY CAUSE RATE TO VARY FROM ACTUAL HOURLY RATE.

TRAN TYPE	DATE	HOURS	RATE*	GROSS	NET	DEPOSIT	WITHDRAW	DESCRIPTION	VOID	BALANCE
DP	07/01/88	88.50	5.38	474.44	430.74	430.74		DEPOSIT		851.48
CI	08/18/88						235.88	CASH FOR INMATE		420.72
PR	08/18/88						89.00	PGM FEE: ROOM/BOARD		656.88
PV	08/18/88						68.00	PGM FEE: VICTM COMP		725.68
DP	08/18/88	85.25	5.40	460.00	418.88	418.88		DEPOSIT		794.88
CI	08/01/88						94.14	CASH FOR INMATE		374.72
PR	08/01/88						28.87	PGM FEE: ROOM/BOARD		488.88
PV	08/01/88						28.87	PGM FEE: VICTM COMP		485.83
DP	08/01/88	34.25	5.28	179.81	168.08	168.08		DEPOSIT		522.80
IN	05/28/88	0.00	0.00	0.00	0.00	1.45		INTEREST		358.74
CI	05/15/88						147.01	CASH FOR INMATE		355.29
PR	05/15/88						42.13	PGM FEE: ROOM/BOARD		502.30
PV	05/15/88						42.13	PGM FEE: VICTM COMP		544.43
DP	05/15/88	81.00	5.51	280.88	259.38	259.38		DEPOSIT		588.58
CI	05/01/88						109.84	CASH FOR INMATE		327.20
PR	05/01/88						31.50	PGM FEE: ROOM/BOARD		437.14
PV	05/01/88						31.50	PGM FEE: VICTM COMP		488.64
DP	05/01/88	40.00	5.25	210.00	193.84	193.84		DEPOSIT		500.14
IN	04/28/88	0.00	0.00	0.00	0.00	0.98		INTEREST		308.20
CI	04/18/88						184.53	CASH FOR INMATE		305.24
PR	04/18/88						53.05	PGM FEE: ROOM/BOARD		489.77
PV	04/18/88						53.05	PGM FEE: VICTM COMP		542.82
DP	04/18/88	83.00	5.81	353.87	328.00	328.00		DEPOSIT		585.87
CI	04/01/88						208.43	CASH FOR INMATE		289.87
PR	04/01/88						59.55	PGM FEE: ROOM/BOARD		478.30
PV	04/01/88						59.55	PGM FEE: VICTM COMP		535.85
DP	04/01/88	75.00	5.29	387.01	365.23	365.23		DEPOSIT		585.40

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PRIVATE SECTOR ACCOUNT TRANSACTIONS

* RATE IS CALCULATED AVERAGE RATE - OVERTIME, BACKPAY
OR OVERPAYMENTS MAY CAUSE RATE TO VARY FROM ACTUAL
HOURLY RATE.

TRAN TYPE	DATE	HOURS	RATE*	GROSS	NET	DEPOSIT	WITHDRAW	DESCRIPTION	VOID	BALANCE
IN	03/31/88	0.00	0.00	0.00	0.00	0.62		INTEREST		230.17
CI	03/16/88						178.88	CASH FOR INMATE		229.55
PR	03/16/88						51.58	PGM FEE: ROOM/BOARD		408.13
PV	03/16/88						51.58	PGM FEE: VICTM COMP		480.71
DP	03/16/88	85.50	5.25	343.87	317.13	317.13		DEPOSIT		512.29
CI	02/27/88						246.20	CASH FOR INMATE		185.16
PR	02/27/88						73.43	PGM FEE: ROOM/BOARD		441.38
PV	02/27/88						73.43	PGM FEE: VICTM COMP		514.79
DP	02/27/88	80.00	5.44	488.52	442.01	442.01		DEPOSIT		588.22
IN	02/25/88	0.00	0.00	0.00	0.00	1.81		INTEREST		146.21
CI	02/13/88						205.44	CASH FOR INMATE		144.80
PR	02/13/88						58.28	PGM FEE: ROOM/BOARD		350.04
PV	02/13/88						58.28	PGM FEE: VICTM COMP		408.30
DP	02/13/88	74.50	5.30	385.05	383.47	383.47		DEPOSIT		488.58
CI	01/30/88						188.53	CASH FOR INMATE		105.08
PR	01/30/88						54.53	PGM FEE: ROOM/BOARD		284.62
PV	01/30/88						54.53	PGM FEE: VICTM COMP		349.15
DP	01/30/88	88.50	5.31	383.55	334.85	334.85		DEPOSIT		403.68
IN	01/29/88	0.00	0.00	0.00	0.00	1.41		INTEREST		68.73
AF	01/28/88						300.00	ATTORNEY FEES		87.32
CI	01/16/88						48.77	CASH FOR INMATE		367.32
PR	01/16/88						13.98	PGM FEE: ROOM/BOARD		416.09
PV	01/16/88						13.98	PGM FEE: VICTM COMP		430.07
DP	01/16/88	17.75	5.25	83.18	88.05	88.05		DEPOSIT		444.05
CI	01/02/88						164.80	CASH FOR INMATE		358.00
PR	01/02/88						47.25	PGM FEE: ROOM/BOARD		522.80
PV	01/02/88						47.25	PGM FEE: VICTM COMP		570.15

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PRIVATE SECTOR ACCOUNT TRANSACTIONS

* RATE IS CALCULATED AVERAGE RATE - OVERTIME, BACKPAY OR OVERPAYMENTS MAY CAUSE RATE TO VARY FROM ACTUAL HOURLY RATE.

TRAN TYPE	DATE	HOURS	RATE*	GROSS	NET	DEPOSIT	WITHDRAW	DESCRIPTION	VOID	BALANCE
DP	01/01/88	60.00	5.25	315.00	280.80	280.80		DEPOSIT		617.40
IN	12/30/87	0.00	0.00	0.00	0.00	1.19		INTEREST		326.50
CI	12/18/87						161.32	CASH FOR INMATE		325.31
PR	12/18/87						48.48	PGM FEE: ROOM/BOARD		486.83
PV	12/18/87						48.48	PGM FEE: VICTM COMP		533.08
DP	12/18/87	59.00	5.25	309.75	285.22	285.22		DEPOSIT		579.55
CI	12/01/87						145.41	CASH FOR INMATE		294.33
PR	12/01/87						41.73	PGM FEE: ROOM/BOARD		439.74
PV	12/01/87						41.73	PGM FEE: VICTM COMP		481.47
DP	12/01/87	52.25	5.32	278.23	258.89	258.89		DEPOSIT		523.20
IN	11/20/87	0.00	0.00	0.00	0.00	0.74		INTEREST		288.51
CI	11/14/87						214.50	CASH FOR INMATE		265.77
PR	11/14/87						62.40	PGM FEE: ROOM/BOARD		480.27
PV	11/14/87						62.40	PGM FEE: VICTM COMP		542.87
DP	11/14/87	73.75	5.84	416.00	380.80	380.80		DEPOSIT		605.07
CI	10/31/87						263.28	CASH FOR INMATE		224.17
PR	10/31/87						82.28	PGM FEE: ROOM/BOARD		487.43
PV	10/31/87						82.28	PGM FEE: VICTM COMP		569.71
DP	10/31/87	88.75	5.58	548.58	482.88	482.88		DEPOSIT		651.89
IN	10/28/87	0.00	0.00	0.00	0.00	0.41		INTEREST		189.31
CI	10/18/87						238.54	CASH FOR INMATE		188.80
PR	10/18/87						70.38	PGM FEE: ROOM/BOARD		405.44
PV	10/18/87						70.38	PGM FEE: VICTM COMP		475.82
DP	10/18/87	88.25	5.32	489.20	424.22	424.22		DEPOSIT		548.20
CI	10/01/87						122.31	CASH FOR INMATE		121.88
PR	10/01/87						35.04	PGM FEE: ROOM/BOARD		244.28
PV	10/01/87						35.04	PGM FEE: VICTM COMP		279.33

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PRIVATE SECTOR ACCOUNT TRANSACTIONS

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TRAN TYPE	DATE	HOURS	RATE*	GROSS	NET	DEPOSIT	WITHDRAW	DESCRIPTION	VOID	BALANCE
DP	10/01/97	44.50	5.25	233.62	215.75	215.75		DEPOSIT		314.37
CI	09/18/97						208.70	CASH FOR INMATE		98.62
PR	09/18/97						80.05	PGM FEE: ROOM/BOARD		305.32
PV	09/18/97						80.05	PGM FEE: VICTM COMP		365.37
DP	09/16/97	75.50	5.30	400.30	388.83	388.83		DEPOSIT		425.42
CI	08/29/97						275.53	CASH FOR INMATE		58.59
PR	08/29/97						87.88	PGM FEE: ROOM/BOARD		334.12
PV	08/29/97						87.88	PGM FEE: VICTM COMP		422.01
DP	08/29/97	100.75	5.82	585.82	509.90	509.90		DEPOSIT		509.90

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

JaJa D. B. Okera, # 228442
APPELLANT,

Docket No.: 08-ALJ-04-00887-AP

v
South Carolina Department of
Corrections,

APPELLANT'S BRIEF

RESPONDENT.

LAW OFFICES

JAN 22 2009

MALONE, THOMPSON
SUMMERS & OTT, LLC

STATEMENT OF ISSUES ON APPEAL

- 1) Does the 15 day statute of limitation apply to policy/procedure?
- 2) If I was denied access to the courts because of South Carolina Department of Corrections' (SCDC) discontinuation of needed law material, is the 15 day statute of limitation applicable?
- 3) Did SCDC's discontinuation of Southeastern Reporters deny me knowledge of a 'cause of action' created by Vicker vs SCDC, 360 SC 421, 602 SE2d. 56 (2004) decision?
- 4) Does the notice given to me by prisoner Thomas Torrence, # 094651, constitute a cause of action?
- 5) Did the agency's failure to comply with South Carolina Code Annotation § 24-3-430(D) deny me due process?
- 6) Am I entitled to prevailing, and overtime wages?
- 7) Is it legal for SCDC to create policy/procedure(s) that violates or conflicts with State statutes denying me the liberty/property interests created by the statutes?

STATEMENT OF CASE

July 22, 2008, I received Judge Matthews' FINAL ORDER (in the case of 06-ALJ-04-DD173-AP) allowing the agency to determine if I filed my grievance timely. If so, my grievance must be REVERSED; if not, the decision must be AFFIRMED.

August 22, 2008, I timely submitted a Notice of Appeal, and Motion + Affidavit To Proceed In Forma Pauperis, and Memo. In Support with the Court of Appeals, arriving on August 27/08. September 8/08, I was informed of the assigned case tracking number. On September 18/08, I received a letter from Deputy Clerk, Ms. V. Elaine Allen, requesting a memo addressing the issue of appealability, which was timely submitted and received by the Ct. of App.s September 29/08.

An ORDER was issued October 13, 2008, and received by me on October 15/08 holding that "...the ALC's order was not immediately appealable as it merely remanded the matter to the Department." Id. But since the Department has now ruled, I am entitled to reappeal to the ALC. Id. With that being so, I timely submitted a notice of appeal, filed Oct. 28/08, and assigned, again, to Judge Matthews on November 13, 2008.

ARGUMENT

1a) THE 15 DAY STATUTE OF LIMITATION DOES NOT APPLY TO SCDC Policy/Procedure.

Section (3) 13.10 of SCDC Policy, GA-DI.12, "Inmate Grievance System" (July 1, 2008), states, in part, that, "Exceptions to the 15 day time limit requirement will be made for grievances concerning Policy/Procedure."

SCDC has been paying prisoners employed in Evans' Prison Industry (P.I.) minimum wage since at least 1997 (the year of my employment), and still does to date, ... over 11 years later. (see EXHIBIT A). As EXHIBIT A reveals, the payment of minimum wage at Evans Corr. Inst.'s (ECI) P.I. is policy/procedure, which is an exception to the 15 day limitation requirement established by SCDC grievance policy, supra, at § 13.10. Therefore, I request that the SCDC's decision be REVERSED, and relief sought, granted.

2a) THE STATUTE OF LIMITATIONS IS INAPPLICABLE BECAUSE SCDC DENIED ME ACCESS TO THE COURTS BY DISCONTINUING NEEDED LAW MATERIAL.

The agency is relying on two (2) cases (Adkins et al v SCDC, 360 SC 413, 602 SE2d. 51 (2004), and Wicker v SCDC, 360 SC 421, 602 SE2d. 56 (2004)) that it and/or the General Counsel has/have denied me access to. Adkins et al and Wicker are 2004 cases that are contained in 602 SE 2d. However, the last Southeastern Reporter received by ECI's institutional law library is 578, 2nd edition, (see EXHIBIT B). The agency's decision to discontinue Southeastern Reporters for its institutional law libraries denied me access to the courts by the fact that I had no way of knowing about Wicker, nor Adkins et al.

The decision of Wicker created a 'cause of action' enabling me to file a grievance at that time, but as stated above, I could not have known. For that reason, the 15 day statute of limitation is inapplicable, and the relief sought should be granted.

3a) SOUTH CAROLINA DEPARTMENT OF CORRECTIONS' DISCONTINUATION

OF SOUTHEASTERN REPORTERS DENIED ME KNOWLEDGE OF A CAUSE OF ACTION CREATED BY WICKER'S DECISION.

For the sake of judicial economy, I incorporate here, verbatim, the argument presented in issue 2a above. Further, Rumpf v Massachusetts Mut., 357 SC 386, 593 SE2d. 183 (2004) ("Under the discovery rule, a cause of action accrues for purposes of the statute of limitations when a plaintiff has notice that he might have a remedy for a harm."). Here, I was denied that notice.

4a) THE NOTICE GIVEN TO ME BY T. TORRENCE CONSTITUTE A CAUSE OF ACTION.

I was apart of a class action suit in relation to P.I.'s prevailing wage (Torrence, Ward et. al v SCDC, and the State of South Carolina, c/A# 01-CP-40-3409), however, in July, 2005, before my transfer from Lieber C.I., Torrence, #D94651, informed me that the case might be dismissed, so I should file a grievance concerning the prevailing wages. So days later, I filed my initial grievance, (July 11, 2005).

In June, 2007 (almost 2 yrs. after filing my initial grievance; and more than 1 yr. after I filed my brief in your Court) I received a letter from Torrence's lawyer, Ms. Helen T. McFadden, Esquire, informing me that she told Torrence and Ward to inform us to "... file a Wicker type claim ...". (see EXHIBIT C). So as advised by his lawyer, Torrence advised me to do so - a cause of action.

Unlike in this instance, a notice was posted at ECI on 10-20-08 concerning a class action lawsuit filed by Tarryl Williams on behalf of prisoners currently participating in, or once participated in the SCDC/

Williams Technologies, Inc. P.J. Project at Lieber Cl. (see EXHIBIT D). The suit was dismissed relying on Adkins et al, and Wicker, but the notice states, in part, that "inmates who participate or participated in this project may, if they have not already done so, file Step 1 grievances and Step 2 appeals against SCDC..." emphasis added. This is the same scenario as with my case... my grievance was filed before I was legally notified that I should. (see EXHIBIT C). The same legal principle applies. Therefore, the SCDC's decision should be REVERSED, and relief sought, granted.

5a) THE AGENCY'S FAILURE TO COMPLY WITH SOUTH CAROLINA CODE ANNOTATION §24-3-430(D) DENIED ME DUE PROCESS.

South Carolina Code Ann. § 24-3-430 (D) states that "Inmate participating in the program may earn less than the prevailing wage for work of similar nature in the private sector." This statute is perfectly clear in its language, creating liberty/property interests in the wages I seek. The denial of said wages denied me the protection of liberty and property interests created by the state, and protected under due process - state and federal constitutions. Therefore, the SCDC's decision should be REVERSED, and relief granted.

6a) I AM ENTITLED TO PREVAILING, AND OVERTIME WAGES.

Wicker did not seek prevailing wages. He sought minimum wage for the training pay hours. That is not my request. I seek to be paid the prevailing wages paid to the private sector for similar work done by me while employed at P.J. as required by S.C. Code Ann. §24-3-430(D).

I am entitled to overtime wages, because SCDC paid me overtime (time + 1/2) of \$ 7.86 based on the \$ 5.25 hourly wage. So if

SCDC would have complied with § 24-3-430(D) initially, my overtime pay would have been based on the prevailing hourly wage.

South Carolina Dept. of Corrs.' failure to comply with S.C. Code Ann. § 24-3-430(D) denied me due process guaranteed by the 14th Amendment to the U.S. Constitution, and Article I § 3 of the S.C. Constitution. Therefore, the SCDC's decision should be REVERSED, and relief sought, granted.

7) IT IS ILLEGAL FOR SCDC TO CREATE POLICY / PROCEDURE THAT VIOLATES (OR OVERRIDES) STATE STATUTE.

South Carolina Code Annotation § 24-1-30 states: "There is hereby created as an administrative agency of the State government the Department of Corrections. The functions of the Department shall be to implement and carry out the policy of the State with respect to its prison system, as set forth in § 24-1-20, and the performance of such other duties and matters as may be delegated to it pursuant to law."

Administrative agencies are required to formulate and promulgate rules and regulations governing their activities and the activities of those whom they regulate. However, All agencies must comply with the statutes that originally brought them into existence. Here, legislation, has not given the Department of Corrections power to create policies / procedures that conflicts with state law. (see § 24-1-30 supra). The agency may not confer power upon itself. Louisiana Public Service Com'n v F.C.C., ___ US ___, 106 S.Ct. 1890, 1401 (1986).

Therefore, SCDC, in this instance, has acted beyond its authority. For that reason, I ask that the wages I seek be granted, reversing

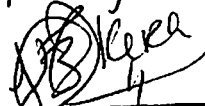
the agency's decision.

CONCLUSION

As shown above, I was denied due process guaranteed by the 5th, and 14th Amendments to the U.S. Const.; and liberty and property interests created by S.C. Code Ann. §24-3-430(D).

For such, I request to be paid the difference between the wages actually paid to me, and the prevailing wages that should have been paid to me for each hour, and fraction of an hour, worked by me, to include the overtime wages, and the interest earned on same wages.

Respectfully submitted,



Jaja P.B. Okera, # 228442
Pro Se

ECI

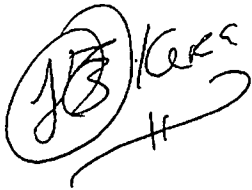
610 HWY 9 West
Bennettsville SC 29512

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER**


TO: NAME: Gene Baker TITLE: PRISON INDUSTRY	DATE: Oct. 17, 2008
INMATE'S NAME: Jaja Okena	SCDC #: 228442
INSTITUTION: Evans C.J.	LIVING QUARTERS: 2B-142

I have learned that the rate of pay in P.I. had increased. I ask what is the hourly wage now, and are you hiring? Mind you, I am experienced in lacing.

Sincerely,



DISPOSITION BY STAFF MEMBER: Michael Burns - Currently as you probably know, work is slow and we are not hiring in fact we don't have enough work for the men we have. I discuss a man's pay rate when he is hired. For your information the Federal min wage rate is \$6.55/hr, we comply with all Federal wage requirements.

DATE: 10-21-08	SIGNATURE: 
----------------	---

SCDC FORM 19-11 (REV.FEB 2001)

EXHIBIT A

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER**

TO: NAME: <i>Cpl. B. Miller - EDUCATION</i>	TITLE: <i>Cpl.</i>	DATE: <i>9.26.08</i>
INMATE'S NAME: <i>Jaja P. B. Okeru</i>		SCDC #: <i>228442</i>
INSTITUTION: <i>Evans C.I.</i>		LIVING QUARTERS: <i>2B-142</i>

I have two (2) questions for you:

- 1) What is the last Southeastern Reporter that Evans Corr. Inst. received?; and
- 2) What year did SCDC discontinue certain law material for the law library?

S/ (J.B.) Kery #

DISPOSITION BY STAFF MEMBER:
578 SE ed
2003 for SE ed but the law library still receive certain books

DATE: <i>9-30-08</i>	SIGNATURE: <i>[Signature]</i>
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SCDC FORM 19-11 (REV. FEB 2001)

EXHIBIT B

HELEN T. MCFADDEN, ESQ.

P.O. BOX 1114

Kingstree, South Carolina 29556

Telephone
843-355-5200

Facsimile
843-355-7658

May 30, 2007

Michael Burns # 228442
Lee Correctional Institution
990 Wisacky Hwy.
Bishopville, SC 29010

Dear Mr. Burns,

You are one of the class of prisoners who was represented in the action Torrence v. S. C. D. C. who has written to me individually. This case, like all of the others before it, was treated in the circuit courts with a determination to give prisoners nothing. The circuit court granted the motion for summary judgement against the prisoners and the two other classes we joined with it—mothers of the children of prisoners and victims who would receive money from the prisoner funds. After the summary judgement we took the appeal to the South Carolina Supreme Court. The Court ruled in this case on May 7, 2007, holding that the prisoners did not have a right to pursue this matter in circuit court, but that the right outlined in Wicker was available to them. The text below is a quote from the opinion.

Appellants claim that despite the holdings of Adkins and Wicker, the Prisoner Subclass should be able to proceed in circuit court in the posture of a declaratory judgment action. We disagree. The clear rule emerging from the Adkins and Wicker cases is this: inmates working in the Prison Industries Program have a cognizable, state-created interest in having the DOC pay them according to the statutory scheme governing the Program, but they do not have a private right of action; instead, the DOC's internal grievance procedure, with recourse to the Administrative Law Court, is the appropriate way to have a prisoner's wage claim adjudicated. Therefore, the trial court correctly applied Adkins and Wicker to the Prisoner Subclass. To hold otherwise would contravene our precedent on these issues by allowing inmates access to the circuit court merely by styling their cases as declaratory judgment actions.

The Court went on to say that this was the only route available to the mother class and the victim class also.

SCDC has asked for reconsideration of the opinion, seeking to have the Court overturn Wicker in essence. We don't think there is much likelihood of a change of the opinion in a rehearing. Right after the Wicker decision we indicated to the named parties that they should file a Wicker type claim and to tell everyone else to do so also. I hope that you received this information and did so.

EXHIBIT C

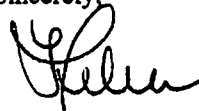
Page 2
May 30, 2007

The lawyers who have worked on this matter believe that you have not been treated fairly in the payment of the wages. However, the underlying reason for the loss is the effect on the state budget, not solely the consideration of the law and a determination that it is correctly applied. We had joined the claims of mothers and victims to try to persuade the Court that not only were prisoners being poorly treated, that the real beneficiaries of the statute were not receiving the benefits outlined by the legislative action. This was not sufficiently persuasive.

I send my sincere regrets that this case did not result in a favorable verdict..

With regards,

Sincerely,



Helen T. McFadden, Esq.

EXHIBIT C cont.

EXHIBIT D**NOTICE****TO ALL INMATES WHO CURRENTLY PARTICIPATE OR AT ONE TIME PARTICIPATED IN THE SCDC/WILLIAMS TECHNOLOGIES, INC., PRISON INDUSTRIES PROJECT AT LIEBER CI**

- A circuit court judge recently dismissed with prejudice a class action lawsuit filed on behalf of all inmates who currently participate or at one time participated in the SCDC/Williams Technologies, Inc., prison industries project located at Lieber CI.
- This lawsuit was captioned as Darryl Williams, et al., v. SCDC and Williams Technologies, Inc., and Attorney Douglas H. Westbrook represented the inmate in this class action lawsuit.
- The circuit court also dismissed with prejudice the class of inmate plaintiffs it certified in 2004.
- In dismissing both the class action lawsuit and the class of plaintiffs, the circuit court relied on 2 recent SC Supreme Court case: Adkins, et al., v. SCDC and Wicker v. SCDC. Important points about these cases appear on the reverse side of this notice.
- Inmates who participate or participated in this project may, if they have not already done so, file Step 1 grievances and Step 2 appeals against SCDC *by placing them in the grievance box to be picked up by* _____, who has been designated by the Warden at this institution to receive such items, for any alleged violation of the prevailing wage statute, Section 24-3-430(D).
- These Step 1s and Step 2s must conform to the procedures, substances and deadlines established in SCDC's Inmate Grievance System Policy Number GA-01.12 (revised July 1, 2008).
- Inmates have 45 days from the date this notice is posted to file these Step 1 grievances. SCDC shall not accept any Step 1 grievance filed after this 45 day period.
- Inmates may appeal any denial of a Step 2 appeal to the SC Administrative Law Court.
- The information and deadline appearing on this notice apply only to inmates who participate or participated in the SCDC/Williams Technologies PI project located at Lieber.

POSTED

10-20-08 32

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

JaJa P. B. Dkera, # 228442
APPELLANT,

CASE #: 08-ALJ-04-00887-AP

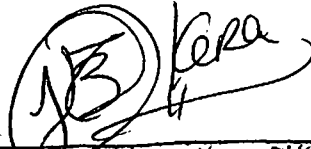
v
South Carolina Department of
Corrections,
RESPONDENT.

AFFIDAVIT

COMES now, the Appellant, in the above captioned case, JaJa P. B. Dkera, duly swear that:

- 1) I am the Appellant in this action;
- 2) all EXHIBITS, herein, are true, and unaltered;
- 3) SCDC prisoner, Thomas Torrence, # 094651, did, in fact, advise me to file a grievance concerning the prevailing wages owed to me;
- 4) I did submit my grievance within 15 days of inmate Torrence's advice to do so; and
- 5) I am entitled to the wages I seek, pursuant to State statute.

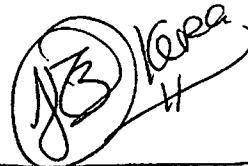
I swear, under the penalty of perjury, that all of the above is true, and correct.

s/ 
JaJa P. B. Dkera, # 228442
Pro Se
ECI
610 HWY 9 West
Bennettsville SC 29512

CERTIFICATE OF SERVICE

OKera vs SCOC, 08-ALS-04-00887-AP

I certify that on this 20th day of January, 2009, I forwarded a copy of the enclosed APPELLANT'S BRIEF (and EXHIBITS A-D) and AFFIDAVIT to Respondent's counsel (Lake E. Summers) at Malore, Thompson, Summers, + Dtt LLC, 339 Heyward Street, Suite 200, Columbia, SC 29201 by way of INTERDEPARTMENTAL MAIL, no postage necessary, by delivery to, and depositing them in Evans Correctional Institution's mailroom, VIA, the institutional mailbox.

A handwritten signature in black ink, consisting of a large, stylized 'J' and 'P' intertwined, followed by 'OKera' and a small 'H' below it.

s/
Jaja P. B. OKera, #228442
Pro Se
Evans Cor. Inst.
610 Hwy 9 West
Bennettsville SC 29512

RECEIVED
JUN - 4 2009
GENERAL COUNSEL

FILED

JUN 2 2009

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

SC ADMIN. LAW COURT

Michael Burns a/k/a Ja Ja D.B. Okera)
#228442.)
Appellant.)
vs.)
South Carolina Department of Corrections.)
Respondent.)

Docket No. 06-ALJ-04-00173-AP

ORDER
GRIEVANCE NO: ECI 2807-05

DISCUSSION

This matter was dismissed by final order dated June 17, 2008, on the basis that the Department was to determine if the Appellant filed his grievance in the instant matter while he was employed under the prison industries program or within fifteen days of the time he completed, terminated, or ceased employment under the prison industries program. That Order was appealed to the South Carolina Court of Appeals. In the Department's memorandum to the South Carolina Court of Appeals, it informs them that Appellant' last day of work in the prison industries was many years prior to his filing of a grievance and therefore was not timely.

This matter is now before me pursuant to an Order dated October 13, 2008 which remitted this case to the ALC from the South Carolina Court of Appeals. Based on the Department's memorandum, this appeal must be dismissed because Appellant failed to file his grievance in the instant matter while he was employed under the prison industries program, or within fifteen days of the time he completed, terminated, or ceased employment under the prison industries program.

The Supreme Court of South Carolina has unequivocally held in Wicker v. South Carolina Dep't of Corrections, 360 S.C. 421, 602 S.E.2d 56 (2004) that: (1) an inmate is entitled to file a grievance when not being paid the prevailing wage; (2) the ALC has jurisdiction to review the Department's failure to pay the prevailing wage; and, (3) an inmate is entitled to be paid the prevailing wage while working in the private sector program. Id. at 421, 602 S.E.2d at 56.

In addition to the requirement that an inmate must file a grievance within fifteen days of an alleged incident, SCDC Policy Number GA-01-12, paragraph 13.1 states that "[i]nmates will only be allowed to submit one grievance per incident or circumstance."

Se Burns

ORDER

IT IS THEREFORE ORDERED that this matter is dismissed.

AND IT IS SO ORDERED.

Carolyn C. Matthews
Carolyn C. Matthews
Administrative Law Judge

June 2, 2009
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to hereby certify that on the _____ day of _____, 2009, I have caused to be served upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, by the Interagency Mail Service addressed to the party(ies) or their attorney(s).

This 2nd day of June, 2009
By: *Shelly H. Bell*
Federal Law Clerk

P.I.

RECEIVED

JUL - 1 2009

STATE OF SOUTH CAROLINA ADMINISTRATIVE LAW COURT

GENERAL COUNSEL

Ja Ja D.B. Okera #228442.)
Appellant,)
vs.)
South Carolina Department of Corrections,)
Respondent.)

Docket No. 08-ALJ-04-00887-AP

FINAL ORDER
GRIEVANCE NO: ECI 2087-05

June 29, 2009

This matter was remanded to the Department on July 17, 2008 to determine if the Appellant filed his grievance in the instant matter while he was employed under the prison industries program or within fifteen days of the time he completed, terminated, or ceased employment under the prison industries program. The Record on Appeal was supplemented on December 29, 2008. In the record, it appears that Appellant failed to file his step one grievance six years after his last day of work in the prison industries. Therefore, Appellant's Appeal was untimely.

Based on the Record on Appeal, this appeal must be dismissed because Appellant failed to file his grievance in the instant matter while he was employed under the prison industries program, or within fifteen days of the time he completed, terminated, or ceased employment under the prison industries program.

The Supreme Court of South Carolina has unequivocally held in Wicker v. South Carolina Dep't of Corrections, 360 S.C. 421, 602 S.E.2d 56 (2004) that: (1) an inmate is entitled to file a grievance when not being paid the prevailing wage; (2) the ALC has jurisdiction to review the Department's failure to pay the prevailing wage; and, (3) an inmate is entitled to be paid the prevailing wage while working in the private sector program. Id. at 421, 602 S.E.2d at 56.

In addition to the requirement that an inmate must file a grievance within fifteen days of an alleged incident, SCDC Policy Number GA-01-12, paragraph 13.1 states that "[i]nmates will only be allowed to submit one grievance per incident or circumstance."

FILED


JUN 29 2009

SC ADMIN. LAW COURT

ORDER

IT IS THEREFORE ORDERED that this matter is dismissed.

AND IT IS SO ORDERED.



Carolyn C. Matthews
Administrative Law Judge

June 29, 2009
Columbia, South Carolina

CERTIFICATE OF SERVICE
This is to certify that I, the undersigned, has the file served this order on all parties to this case, including a copy hereof, in the United States or by overnight mail, or in the emergency Mail Service addressed to the party(ies) or their attorney(s).
This 29th day of June, 2009
By [Signature]
Administrative Law Clerk

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
APPEAL FROM ADMINISTRATIVE LAW COURT
Adm. Law Judge, Carolyn C. Matthews
Docket # C8-AJ-04-00887-AP

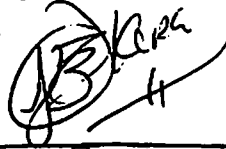
JaJa P. B. Okera, #228442 APPELLANT,

vs.

South Carolina Department of Corrections RESPONDENT.

NOTICE OF APPEAL

I, JaJa P. B. Okera, appeals the court order of Judge Carolyn C. Matthews, filed June 29, 2009, but received by Appellant on July 1, 2009. This appeal involves issues of fundamental rights, i.e., due process, property, and liberty interests. Appeal in this matter is by right pursuant to South Carolina Code Annotation, § 1-23-610 (B).



cc: General Counsel
PJB 21787
Columbia SC 29221
(803) 896-8508
Adm. Law Court
Edgar A. Brown Bldg.
1205 Pendleton St., Ste. 224
Columbia SC 29201

sl
JaJa P. B. Okera, #228442
Pro Se
Evans C. F.
610 Hwy 9 West
Bennettsville SC 29512
July 29, 2009

Lake E. Summers
Attorney @ Law
339 Heyward St., Ste. 200
Columbia, SC 29201

RE: SERVICE OF NOTICE OF APPEAL

Okera v SCDC, Docket # 08-AW-04-00887-AP

Mr. Summers,

In error, instead of serving you, I served the
General Counsel with the notice of appeal. En-
closed is a copy of that notice.

I apologize for the error.

August 4th, 2009

sl


J. P. B. Okera, #228442
Pm Jp

ccs Ms. Jeanette Barber, Clerk
S.C. Court of Appeals
Post Office Box 11629
Columbia SC 29211

Evans Comm. Inst.
1610 Hwy 9 West
Bennettsville SC 29512

File

LAW OFFICES

AUG 05 2009

MALONE, THOMPSON
SUMMERS & OTT, LLC

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Carolyn C. Matthews, Administrative Law Judge

Trial Court Case No. 2008-AL-04-00887

Ja Ja D.B. Okera, Appellant,

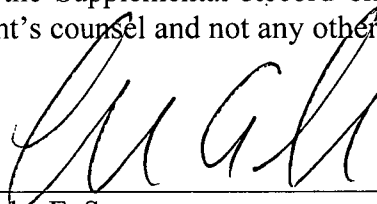
v.

South Carolina Department of Corrections, Respondent.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Supplemental Record on Appeal contains all material proposed to be included by Respondent's counsel and not any other material.

June 28, 2010



Lake E. Summers
Katherine Phillips
Malone, Thompson, Summers & Ott LLC
339 Heyward Street, Suite 200
Columbia, South Carolina 29201
Office: (803) 254-3300
Fax: (803) 254-0309
E-mail: summers@mtsolfirm.com
phillips@mtsolfirm.com

Counsel for Respondent

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Carolyn C. Matthews, Administrative Law Judge

Trial Court Case No. 2008-AL-04-00887

Ja Ja D.B. Okera, Appellant,

v.

South Carolina Department of Corrections, Respondent.

PROOF OF SERVICE

I certify that I have served a copy of the Respondent's **Supplemental Record on Appeal** on the above named *pro se* Appellant by mailing a copy of it to the *pro se* Appellant at the following address:

Ja Ja D.B. Okera, # 228442
P.O. Box 2039
Ridgeland Correctional Institution
Ridgeland, South Carolina 29936



Lake E. Summers

June 28, 2010