THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED
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SC SUPREME COURT

Appeal from The Administrative Law Court
Ralph King Anderson, III, Administrative Law Judge

Court of Appeals Opinion No. 5379
Supreme Court Case Tracking No. 2016-000829

Francis Ackerman, #266928, Malik Aljalil, #219551, Linso Allen, #269378, Michael Benninger, #264212, Frederic Brown, #289602, Timothy Brown, #238461, Terrell Buchanon, #277262, Christopher Buch, #200690, Rudy Cassady, #238732, Sheldon Clark, #264772, Zawaski Cobb, #187136, Kamathene Cooper, #145333, Gladstone Cummings, #267450, Patrick Curtis, #175139, Quintin Daniels, #196284, Curtis Davis, #238776, Heyward Dempsey, #134171, Phillip Denney, #240678, Paul Durham, #219573, Jerome Durham, #270393, Keith Eigner, #299153, Bernard Felder, #122099, Jermaine Garriett, #191274, Fred Gatewood, #289775, Dennis Goff, #177506, Gregory Grant, #109656, Nelson Hampton, #286427, James Hartman, #219770, Gary Hayes, #263985, Michael Hood, #279987, Nikia Law, #260855, Stephen Lease, #137016, Harry Leonard, #249996, Herbert McFadden, #184297, Michael McFarland, #266870, Earl Mack, #216237, John Moultri, #276527, Matin Muntaqim, #266870, Tony Pitts, #280597, Germaine Pringle, #250390, Gene Richardson, #93614, Dennis Richey, #233472, Ignacio Rivera, #300424, Vondell Sanders, #241308, James Sattler, #235043, Joseph Schmitz, #173987, Arthur Scott, #251957, Jerome Scott, #153381, Roosevelt Scott, #275631, Archie Simmons, #161419, Robert Smith, #199324, James Williams, #282929, Gary Bryant, #258972, Harlon Edger, #261866, Johnny Holden, #245199, Don Hughes, #256862, Michael Key, #266890, Archie Lee, #226354, Isaac Richardson, #232574, Larkland Richards, #281768, John Wojcik, #219463, James Bogan, #288111, Larry Burke, #281911, Jammie Gaymon, #208922, David Harrell, #260004, Jeff Stinson, #260047, Ricky Libby, #274681, Alain Lareua, #128014, Quentin Baker, #297868, Frank Corley, #292975, James

Jackson, #267718, Quintin Linen, #238553, Thomas Miles, #246763, Chauncy Orr, #177069, Isaiah Scott, #228008, Eric Youmous, #281091, Derek Carter, #275938, Willie Hare, #256641, Ernest Miller, #235474, Robert Norris, #266101, Ronald Simmons, #267937, Samuel Simmons, #302393, William Thomas, #272501, Anthony Murphy, #295893, Anthony Murray, #237867, Johnny Hayes, #267910, Roy Morris, #288777, Daniel Dewey, #276678, Nehemiah Greene, #243339, Leroy Choice, #113990, James McFadden, #235419, Francis Prioleau, #268813, Darrell Rochester, #146731, Wilbur Jordan, #292264, Alvin Stewart, #278595, Kevin Poston, #266083, Kevin Smith, #272440, Donald Robinson, #277520, Douglas Bude, #263537, Willie Elder, #246208, Rogelio Zavala, #245106, Dennis Knight, #286981, Jacob Beach, #301270, Francis Ackerman, #266928, Darrin Miller, #259593, Edward Bryant, #255998, Sherman Austin, #20028, Michael Baylor, #265682, Taurus Bowman, #252745, Kenneth Carter, #243538, Calvin Drummond, #236322, David Feggins, #287157, Terry Ferguson, #299080, Willie House, #257820, Peter Jenkins, #257321, Percy Martin, #270035, James Murray, #165487, Stephone Simmons, #300422, Larry McClam, #282972, Tyrone Aiken, #244428, Tyrone Aiken, #248367, Frank Anderson, #282800, Ronald Brewer, #285756, Keith Brown, #295762, Pete Bryant, #242370, Michael Busques, #191961, Richard Butler, #162467, Gary Davis, #106144, Anthony English, #238474, Kerlan Etheredge, #236635, James Evans, #267837, Jose Flores, #240563, Robert Garrett, #291096, Reginald Geddis, #183851, Richard Graham, #228235, Gary Grooms, #283860, Wayne Harlan, #245705, Johnny Hayes, #267910, Steven Hickenbottom, #196263, Alfred Joyner, #260442, Donald Lyles, #296135, Henry Baker, #263398, Thomas Carter, #249362, Thomas Butler, #257552, Bobby Williams, #261486, Ray Wells, #173651, Rodney Pressley, #177947, Keith Kelly, #257556, Maxie Gamble, #254413, James Enriquez, #215539, Perry Deveaux, #109601, James Wells, #180458, Cedric Martino, #291396, Donald McAteer, #292961, Robert Wydman, #260331, Anthony Wright, #214007, Derrick

Williams, #272958, Kenneth White, #228409, James Trumper, #247429, Jeffrey Spears, #281697, Timothy Smith, #296539, Davis Sims, #278067, Virgil Simpson, #281888, Edward Simpson, #220017, Kenneth Simmons, #278911, George Shine, #292391, Ralph Sellers, #164295, Laron Richardson, #258786, Frank Patterson, #283098, Tony McNeil, #235864, Larry McClam, #282972, Lavanza Mack, #189340, Raymond Livingston, #277133, Nicholas Lambrose, #215080, Joseph Kelsey, #217218, Keith Eugine, no number, Chuck Jackson, #266425, James Foye, #211523, Timothy Inman, #151123, Marvin Gilbert, #273934, Demetrius Wheeling, #264976, Leon Wilson, #155867, Jeffrey Tevis, #216442, Darryel Beasley, #222388, Curtis Thompson, #266448, Baron Cobbs, #280479, James Tino, #145030, Harold Roberson, #117001, Ray Gadsen, #187527, Tony Witt, #242918, Jonathan Singleton, #287670, Joe Pannell, #89592, Charles Graham, #294453, Lazarus Brannon, #227847, Darrell Williams, #219730, Wilbert Mills, #244004, Howard Grant, #255473, Timothy Wilson, #261971, Rodney Elliott, #251337, Henry Rivers, #219118, Respondents,

v.

South Carolina Department of Corrections, Petitioner.

PETITION FOR WRIT OF CERTIORARI
BY THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

APPENDIX
VOLUME 4 OF 14

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@mtsolawfirm.com

Counsel for SCDC

I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.
Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your appeal and grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal and grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

Lieber PI Back Wage Claim Step 2 Reply

Inmate Name	SCDC #	Grievance #
Aljalil, Malik	219551	LCI-0621-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 2, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 22, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on August 1, 2002 and that your participation in this project ended on September 12, 2006.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court

Inmate Name	SCDC #	Grievance #
Aljalil, Malik	219551	LCI-0621-04

for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 2 appeal.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first, 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 four (4) years after SCDC first paid you for your participation in the project located at Lieber and 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.

Ackerman 5-6-11 1000

Inmate Name	SCDC #	ICI Grievance #
Aljalil, Malik	219551	LCI-0621-04

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 any of the relief you demand in your grievance.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "employee" within your supporting documents to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Inmate Name	SCDC #	Grievance #
Aljalil, Malik	219551	LCI-0621-04

Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your appeal and grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal and grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Malik Aljalil, #219551,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

DOCKET NO. _07__-ALJ-04-_____-___
GRIEVANCE NO.: _____

Notice is hereby given that Malik Aljalil does hereby appeal the final decision of the South Carolina Department of Corrections dated 5-14-07 and received on 5-17-07, 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)):

1. Grievance seeks back wages, contesting SCDC policy/procedure of paying below prevailing/negotiated wages. Thus, there was no time limit to file grievance under Grievance Policy §13.9.

2. Appellant had reasonable cause under §13.9 as his right to grieve did not accrue until Adkins/Wicker and filed within a reasonable time.

3. Applying §13.1 to these facts violated due process.

4. Under 4-19-07 Court order, SCDC was required to accept filing and consider on the merits Appellant's Amendment/Exhibits.

5. Grievance proved all elements of claim for prevailing/negot. wages.

6. Dr. Benich's report is the only evidence of prevailing wages in the record. Appellant is entitled to prevailing/negotiated wages.

7. To extent Appellant worked OT he is entitled to it under SCDC policy.

8. Appellant claims pre/post judgment interest, costs and attorney fees.

Malik Aljalil
Appellant's Name
Turbeville C.I.
P.O. Box 252
Mailing Address
Turbeville, SC 29162
City, State, Zip Code
none
Telephone Number

Signed

5-30-07
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

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STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
	)	
MALIK ALJALIL, #219551	)	
	)	
Grievant/Appellant,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
	)	
Respondent/Appellee.	)	

I certify that on the 5th day of June, 2007, I mailed by first class postage Appellant's Notice of Appeal, and final decision, to the following:

(1) The original and one copy were mailed for filing with the Administrative Law Court, to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC, to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

Douglas H. Westbrook

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: Lissa Allen
SCDC NUMBER: 269378
INSTITUTION: Lieber Corr. Inst.
HOUSING UNIT: Cooper A-32
WORK ASSIGNMENT:

Office Use Only
Grievance No. Lieber 060504
Code: General RM
Policy
Disc. Hear.
Class.
Date Received SEP 22 2004
IGC Initials LC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

The Department is asked to review and determine whether I am entitled to receive back wages due to me from working at Lieber Prison Industry Program when they paid me only $.35/hr. and not prevailing wage as required under South Carolina Code Ann. §24-3-430(A),(H) as well as fact that from 1998-2003 they denied me prevailing wages.

ACTION REQUESTED:

All money due to me be paid at prevailing wage and overtime rate and prevailing wage be paid now.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Lawsuit has been filed, court order to file a grievance by the Court; Wicker v. SCDC and Adkins v. SCDC.

Lissa Allen 9/23/04
Grievant Signature Date

ACTION TAKEN BY IGC:

Inmate Allen: See Warden's response.

L Carraway 10/28/04
IGC Signature Date

☐ I accept the action taken by the IGC and consider the matter closed.
☐ I do not accept the action taken and wish to appeal. 1367

NA

Ackerman 5-6-11 1005

WARDEN'S DECISION AND REASON:

See Attachment

Warden Signature — Date: Oct. 28, 04

☐ 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: 11/2/04

IGE Signature — Date: 11-2-04

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.

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Inmate Jesse Allen, #269378 LCI 0615-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

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To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

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11-7-04

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Linso Allen
SCDC NUMBER: 269378
INSTITUTION: Lieber Corr. Inst.
HOUSING UNIT: Cooper A-32
WORK ASSIGNMENT: Visitation Worker

NOV 01 2004 RP

Office Use Only
Grievance No. LCI 0615-04
Code: General ✓
Policy
Disc. Hear.
Class.
Date Received NOV 02 2004
IGC Initials

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

ADKINS AND WICKER DO REQUIRE PAYMENT OF PREVAILING WAGES- GRIEVANTS WERE EMPLOYED BY WTI, AND SCDC WAS WTI'S "AGENT" IN PAYING OUR WAGES. ADKINS AND WICKER FURTHER ALLOW THIS ISSUE OF PAYMENT OF WAGES UNDER SC CODE 24-3-430 TO BE GRIEVED PURSUANT TO SCDC'S GRIEVANT PROCEDURE. GRIEVANT INCORPORATES BY REFERENCE ALL EXHIBITS ATTACHED TO GRIEVANCES FILED BY DARRELL WILLIAMS AND ATTORNEY DOUGLAS WESTBROOK ON 09-22-04

Linso Allen 11/02/04
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

5-14-07
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.

Linso Allen 5/22/07
Grievant Signature Date

Ann Wallace 5-22-07
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

SCDC 10-5A (November 1997)

1371

ALLEN LCI-0615-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 2, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 22, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on February 7, 2005 and that, as of the date of this response, you are still participating in this project.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 2 appeal.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 four (4) years after SCDC first paid you for your participation in the project located at Lieber and 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.
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 any of the relief you demand in your grievance.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "employee" within your supporting documents to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.
Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your appeal and grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal and grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Linso Allen, #269378,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

DOCKET NO. 07-ALJ-04-_____

GRIEVANCE NO.: _____

Notice is hereby given that Linso Allen does hereby appeal the final decision of the South Carolina Department of Corrections dated 5-14-07 and received on 5-22-07, 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)):

1. Grievance seeks back wages, contesting SCDC policy/procedure of paying below prevailing/negotiated wages. Thus, there was no time limit to file grievance under Grievance Policy §13.9.

2. Appellant had reasonable cause under §13.9 as his right to grieve did not accrue until Adkins/Wicker and filed within a reasonable time.

3. Applying §13.1 to these facts violated due process.

4. Under 4-19-07 Court order, SCDC was required to accept filing and consider on the merits Appellant's Amendment/Exhibits.

5. Grievance proved all elements of claim for prevailing/negot. wages.

6. Dr. Benich's report is the only evidence of prevailing wages in the record. Appellant is entitled to prevailing/negotiated wages.

7. To extent Appellant worked OT he is entitled to it under SCDC policy

8. Appellant claims pre/post judgment interest, costs and attorney fees

Linso Allen
Appellant's Name

Lieber C.I.
P.O. Box 205
Mailing Address

Ridgeville, SC 29472
City, State, Zip Code

none
Telephone Number

Signed

5-30-07
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

1375

STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
	)	
LINSO ALLEN, #269378	)	
	)	
Grievant/Appellant,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
	)	
Respondent/Appellee.	)	

I certify that on the 5th day of June, 2007, I mailed by first class postage Appellant's Notice of Appeal, and final decision, to the following:

(1) The original and one copy were mailed for filing with the Administrative Law Court, to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC, to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

DH Westbrook
Douglas H. Westbrook

1376

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: Frank Anderson
SCDC NUMBER: 282800
INSTITUTION: Lieber C.I.
HOUSING UNIT: Cooper A-19 ✓
WORK ASSIGNMENT:

Office Use Only
Grievance No. Lieber 0637-04
Code: General RLY
Policy
Disc. Hear.
Class.
Date Received SEP 22 2004
IGC Initials LC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

The department is asked to Review and determine whether I am entitled to receive back wages due to me From working at Lieber Prison Industry Progam when they only paid me .35 cents an hour and not Prevailing wage as required under South Carolina Code Ann. Sec. 24-3-430 (A-7) as well as Fact that From 98-03 they denied me Prevailing wage.

ACTION REQUESTED: All money due to me be paid at prevailing wage and overtime rate and prevailing wage be paid now.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Lawsuit ~~Lawsuit~~ was Filed ordered to File Grievance by court Wicker v. S.C.D.C. Adkins v. ~~[redacted]~~ S.C.D.C

Frank Anderson 9-23-04
Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's response.

Y Carter 10/28/04
IGC Signature Date

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

1377

NA

Ackerman 5-6-11 1015

WARDEN'S DECISION AND REASON:

See Attachment

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.

1378

Inmate D. Anderson, # 282800 2C10637-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

1380

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

RECEIVED
MAY 29 2007
INMATE
NOV 04 2004
PP

Office Use Only
Grievance No. CCI 0037-04
Code: General MM
Policy
Disc. Hear.
Class
Date Received NOV 08 2004
IGC Initials

INMATE NAME: Frank Anderson
SCDC NUMBER: 282800
INSTITUTION: L.C.I.
HOUSING UNIT: Cooper A-19
WORK ASSIGNMENT: Dorm worker

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):
Adkins v Wicker Do require payment of prevailing wages. Grievants were employed by WTI and S.C.D.C. was WTI's "agent" In paying our wages. Adkins v Wicker Further allows this issue of payment of wages under S.C. code 24-3-430 to be grieved pursuant to S.C.D.C. grievance procedures. Grievance filed by Darrell Williams and Attorney Douglas Westbrook on 9-22-04 Grievants Re-Incorporates By reference all exhibits Attached to grievance

Frank Anderson 11-02-04
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

S-14-07
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.

Frank Anderson 5-22-07
Grievant Signature Date

Ann Haeman 5.22-07
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

SCDC 10-5A (November 1997)

1381

Lieber PI Back Wage Claim Step 2 Reply

Inmate Name	SCDC #	Grievance #
Anderson, Frank	282800	LCI-0637-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 2, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 22, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that your first voluntary work assignment in the prison industries project at Lieber began on May 3, 2002 and ended June 26, 2003. Additionally, these records reflect that you returned to this project for a second work assignment that began January 21, 2005 and, as of the date of this response, your participation continues.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings.

Inmate Name	SCDC #	Grievance #
Anderson, Frank	282800	LCI-0637-04

The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 2 appeal.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 nearly 2 ½ years after SCDC first paid you for the labor you provided to the project located at Lieber during your first work assignment there and 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

Inmate Name	SCDC #	Grievance #
Anderson, Frank	282800	LCI-0637-04

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.

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 any of the relief you demand in your grievance.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "employee" within your supporting documents to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the

Inmate Name	SCDC #	Grievance #
Anderson, Frank	282800	LCI-0637-04

South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your appeal and grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal and grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION

Frank Anderson, #282800

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

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

Grievance No. _____

Notice is hereby given that Frank Anderson does hereby appeal the final decision of the South Carolina Department of Corrections dated _____ and received on no final decision issued, 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)): 1. Automatic appeal is proper under grievance policy §§13.5, 13.8 and 28 C.F.R. Part 40.7(e) because SCDC did not timely respond to grievance and the 105 day grievance processing period expired without final decision. 2. Grievance contests SCDC wage policy and "concerns policy/procedure" under §13.9 with no time limit to file. 3. There was reasonable cause under §13.9 and (1) no time limit to file and (2) compliance with §13.1. 4. Inmates' class action tolled §13.1. 5. §13.1 denied grievant reasonable time to file and thus due process. 6. SCDC failed to plead §13.1 in step 1 response and considered Amendments on the merits and thus waived §13.1. 7. SCDC was judicially estopped to raise §13.1. 8. Grievant proved all elements of claim, including prevailing wage, period(s) worked and any overtime due. 9. Grievant claims back wages, pre/post judgment interest, costs and attorney fees. 10. SCDC should process grievance for all who worked in program whether or not they personally filed a grievance.

Frank Anderson
Appellant's Name

Lee C.I.
Mailing Address

990 Wisacky Hwy

Bishopville, SC 29010
City, State, Zip Code

none
Telephone Number

Signed

11-6-07
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

(See reverse side for instructions) 1386

Ackerman 5-6-11 1024

STATE OF SOUTH CAROLINA FRANK ANDERSON, #282800 Grievant/Appellant, vs. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, Respondent/Appellee.	)	IN THE ADMINISTRATIVE LAW COURT CERTIFICATE OF SERVICE

I certify that on the 7th day of Nov., 2008, I mailed by first class postage Appellant's Notice of Appeal, and any grievance response provided to me by SCDC, to the following:

(1) The original was mailed for filing with the Administrative Law Court to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

Douglas H. Westbrook

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

Sherman K Austin individually, and on behalf of all inmate employees (IE's) STEP 1

INMATE NAME: listed on attached Exh. A *

SCDC NUMBER: 300098

INSTITUTION: L. C. I.

HOUSING UNIT: Dorm Cooper B-46

WORK ASSIGNMENT: School

Office Use Only

Grievance No. Lieber0726-04

Code: General ~~Any~~

Policy

Disc. Hear.

Class.

Date Received SEP 30 2004

IGC Initials TC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) From 1999 to present, IE's were/are employed in the Williams Tech/Lieber service work program. From 1999 to July 2001, WTI/Lieber were required by S.C. Code 24-3-430 to pay IE's the "prevailing wage" for work of a similar nature in the private sector. This prevailing wage was $8.40 to $10.97 for 1999, $9.74 to $11.59 fo 2000, and $10.10 to $12.06 for 2001 (Exh. G, H). Since July 2001, WTI/Lieber were required to pay IE's the negotiated wage of $4.00 per hour (Statutes at Large, No. 66, S37.31, eff. July 1, 2001; Exh. B, C). In fact, WTI/Lieber's policy was to pay IE's, in most cases, under $1.00 per hour. Exhibits documer a $.35 per hour base pay rate, maximum pay of $1.00 per hour, the September 3(1998 WTI/Lieber contract specifying a wage of $4 per hour, the names and emplo ment periods of all 1000 plus class members, and the pay dates, rates, hours, and pay for all class members from 1999 to June 2004 (Exh. D, E, C, A, and F).

* "Exh." denotes exhibits attached to Darrell Williams' Grievance, which are ~~incorporated by reference herein.~~

ACTION REQUESTED: That IE's be paid back wages at the prevailing wage rate fo 1999 to July 2001; and at $4 per hour for July 2001 to present, and in the fu ture; all as determined from Exhibits A-H; and the time cards, pay stubs, an other records for class members shown to IE's counsel July 20, 2004 at Lieber in Jack Staudt's custody. IE's also request pre/post judgment interest, cost ~~and attorney fees.~~

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT: IE's hav verbally requested WTI/Lieber to pay them prevailing wages. Darrell Williams in 2001 formally protested the improper wages, and filed a grievance which wa dismissed for want of jurisdiction. In 2002, Williams filed a lawsuit (Willi et al. v. SCDC, et al., Case No. 02-CP-18-134, now pending) which was certifi a class action representing the class identified in Exh. A. On August 23, 20 the S.C. Supreme Court held in the Adkins and Wicker cases that 24-3-430's prevailing wage provision was mandatory, and IE's could file a grievance for back wages.

Sherman K Austin 09-22-0

Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's Response.

L Carlton 10/28/04

IGC Signature Date

☐ I accept the action taken by the IGC and consider the matter closed.

☐ I do not accept the action taken and wish to appeal.

N/A

Grievant Signature Date

SCDC 10-5 (Rev. November 1997)

Ackerman 5-6-11 1026

WARDEN'S DECISION AND REASON:

See attachment.

Warden Signature — Date: Oct. 28, 04

☐ 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: 11-2-04

IGC Signature — Date: 11-2-04

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.

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Jim S. Austin, # 300028 CC10726-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

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To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

AMENDMENT TO GRIEVANCE OF SHERMAN AUSTIN, #300028

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; hours in 2000 at $10.66 per hour; hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 55.84 plus hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

(Grievant Signature) (Date)

* Attached are Exh. A, 0775; C, 0081,0086; F, 0961; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

Inmate #	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Gross Pay	Net Pay Amount
259485	AUSTIN	DARIUS	L.	20010507	0.50	126.50	63.25
259485	AUSTIN	DARIUS	L.	20010521	0.50	101.20	50.60
259485	AUSTIN	DARIUS	L.	20010604	0.50	113.85	56.92
259485	AUSTIN	DARIUS	L.	20010618	0.50	113.85	56.92
259485	AUSTIN	DARIUS	L.	20010702	0.50	126.50	63.25
259485	AUSTIN	DARIUS	L.	20010716	0.50	101.20	50.60
259485	AUSTIN	DARIUS	L.	20010730	0.50	113.85	56.92
259485	AUSTIN	DARIUS	L.	20010813	0.50	113.85	56.92
259485	AUSTIN	DARIUS	L.	20010827	0.50	83.20	41.60
259485	AUSTIN	DARIUS	L.	20010910	0.50	127.35	63.67
259485	AUSTIN	DARIUS	L.	20010924	0.50	132.60	66.30
259485	AUSTIN	DARIUS	L.	20011008	0.50	99.05	49.52
259485	AUSTIN	DARIUS	L.	20011022	0.50	141.50	70.75
259485	AUSTIN	DARIUS	L.	20011105	0.50	141.50	70.75
259485	AUSTIN	DARIUS	L.	20011119	0.50	146.00	73.00
259485	AUSTIN	DARIUS	L.	20011203	0.50	99.05	49.52
259485	AUSTIN	DARIUS	L.	20011217	0.50	137.35	68.67
259485	AUSTIN	DARIUS	L.	20011231	0.50	70.75	35.37
300028	AUSTIN	SHERMAN	KEITH	20040517	0.50	34.92	17.46
300028	AUSTIN	SHERMAN	KEITH	20040531	0.50	20.92	10.46
251896	AUSTIN	STEVEN	DWAYNE	20000103	0.35	22.50	7.87
251896	AUSTIN	STEVEN	DWAYNE	20000103	0.55	4.57	2.51
251896	AUSTIN	STEVEN	DWAYNE	20000117	0.50	71.28	35.64
251896	AUSTIN	STEVEN	DWAYNE	20000117	0.55	5.17	2.84
251896	AUSTIN	STEVEN	DWAYNE	20000131	0.35	42.28	14.79
251896	AUSTIN	STEVEN	DWAYNE	20000214	0.50	75.00	37.50
251896	AUSTIN	STEVEN	DWAYNE	20000214	0.80	6.50	5.20
251896	AUSTIN	STEVEN	DWAYNE	20000228	0.35	58.02	20.30
251896	AUSTIN	STEVEN	DWAYNE	20000228	1.05	7.50	7.87
251896	AUSTIN	STEVEN	DWAYNE	20000313	0.35	58.45	20.45
251896	AUSTIN	STEVEN	DWAYNE	20000327	0.50	71.42	35.71
251896	AUSTIN	STEVEN	DWAYNE	20000410	0.50	67.50	33.75
251896	AUSTIN	STEVEN	DWAYNE	20000424	0.35	60.00	21.00
251896	AUSTIN	STEVEN	DWAYNE	20000508	0.50	67.32	33.66
251896	AUSTIN	STEVEN	DWAYNE	20000522	0.50	63.15	31.57
251896	AUSTIN	STEVEN	DWAYNE	20000522	0.25	7.50	1.87
251896	AUSTIN	STEVEN	DWAYNE	20000605	0.50	67.50	33.75
251896	AUSTIN	STEVEN	DWAYNE	20000605	0.55	1.80	0.99
251896	AUSTIN	STEVEN	DWAYNE	20000619	0.50	74.40	37.20
251896	AUSTIN	STEVEN	DWAYNE	20000619	0.25	7.50	1.87
251896	AUSTIN	STEVEN	DWAYNE	20000703	0.50	57.27	28.63
251896	AUSTIN	STEVEN	DWAYNE	20000703	0.35	7.50	2.62
251896	AUSTIN	STEVEN	DWAYNE	20021230	0.50	17.50	8.75
259961	AUSTIN, JR.	WILLIAM	ALLEN	19991011	0.35	38.00	13.30
259961	AUSTIN, JR.	WILLIAM	ALLEN	19991025	0.35	54.50	19.07
259961	AUSTIN, JR.	WILLIAM	ALLEN	19991108	0.35	63.00	22.05
259961	AUSTIN, JR.	WILLIAM	ALLEN	19991108	0.55	16.00	8.80
259961	AUSTIN, JR.	WILLIAM	ALLEN	19991122	0.35	52.00	18.20
259961	AUSTIN, JR.	WILLIAM	ALLEN	19991206	0.50	55.73	27.86
259961	AUSTIN, JR.	WILLIAM	ALLEN	19991220	0.50	20.93	10.46
277318	AYERS	RANDY	PAUL	20010910	0.50	6.26	3.13
277318	AYERS	RANDY	PAUL	20010924	0.50	46.42	23.21
277318	AYERS	RANDY	PAUL	20011008	0.50	50.40	25.20
277318	AYERS	RANDY	PAUL	20011022	0.50	52.26	26.13

PLAINTIFF'S EXHIBIT F

A - 0961
June 2004

1393

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Sherman K. Austin
SCDC NUMBER: 300028 NOV 0 8 2004
INSTITUTION: Lieber Corr. Inst. PP
HOUSING UNIT: Cooper B-
WORK ASSIGNMENT: S.C. Hook

Office Use Only
Grievance No. 01 0726-04
Code: General CH
Policy
Disc. Hear.
Class.
Date Received NOV 08 2004
IGC Initials

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

Adkins & Wicker do require payment of prevailing wages. Grievants were employed by W T L and S C D C was W T L's "Agent" in paying our wages. Adkins & Wicker further allow this issue of payment of wages under S. C. Code 24-3-430 to be grieved pursuant of S C D C's grievance procedures. Grievant Incorporated by reference all exhibits attached to grievance filed by Darrell Williams and Attn. Douglas Westbrooke on 9-22-04

SHERMAN K AUSTIN 11-3-04
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

Released 3-1-06
Closed Per GA-01.12

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)

SCDC 10-5A (November 1997)

1394

Ackerman 5-6-11 1032

Lieber PI Back Wage Claim Step 2 Reply

Inmate Name	SCDC #	Grievance #
Austin, Sherman	300028 Released 11/30/2007	LCI-0725-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 3, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 30, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that your participation in the prison industries project at Lieber started on May 17, 2004 and ended on May 31, 2004.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March

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Inmate Name	SCDC #	Grievance #
Austin, Sherman	300028 Released 11/30/2007	LCI-0725-04

21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 four (4) months after SCDC first paid you for your participation in the project located at Lieber, just less than four (4) months after your participation in this project concluded, and over 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.

Austin, Sherman	300028 Released 11/30/2007	LCI-0725-04

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 any of the relief you demand in your grievance.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "employee" within your supporting documents to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or

Inmate Name	SCDC #	Grievance #
Austin, Sherman	300028 Released 11/30/2007	LCI-0725-04

other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your appeal and grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal and grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION

Sherman Austin, #300028 Appellant, vs. South Carolina Department of Corrections, Respondent.	NOTICE OF APPEAL Docket No. 00-ALJ-04-_____-AP

Notice is hereby given that Sherman Austin does hereby appeal the final decision of the South Carolina Department of Corrections dated 1-28-08 and received on 2-1-08, 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)): Grievant seeks back wages contesting SCDC policy/procedure of paying below prevailing/negotiated wages and under §13.9 there was no time limit to file. Grievant had reasonable cause under §13.9 as right to grieve did not accrue until Adkins/Wicker and he filed within reasonable time. Applying §13.1 denied grievant reasonable time to file and thus due process. SCDC failed to plead §13.1 in step 1 and filed/considered Amendments/Exhibits on the merits and thus waived §13.1. Grievant proved all elements of claim and disputes work period(s) alleged by SCDC. Dr. Benich's report is the only evidence of prevailing wages in record and grievant is entitled to prevailing/negotiated wages. To extent grievant worked OT he is entitled to it under SCDC policy. Grievant claims pre/post judgment interest, costs and attorney fees. Darrell Williams' 9-22-04 grievance, and many others, was filed individually and on behalf of all inmates and SCDC should process grievance for all who worked in program regardless of filir

Sherman Austin
Appellant's Name
c/o Mrs. Rosalee Austin
212 Sullivan St.
Mailing Address

Greenwood, SC 29646
City, State, Zip Code

none available
Telephone Number

Signed

2-5-08
Dated:

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

(See reverse side for instructions)

1399

STATE OF SOUTH CAROLINA SHERMAN AUSTIN, #300028 GRIEVANT/APPELLANT, VS. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, RESPONDENT/APPELLEE.	)	IN THE ADMINISTRATIVE LAW COURT CERTIFICATE OF SERVICE

I certify that on the 22nd day of Feb., 2008, I mailed by first class postage Appellant's Notice of Appeal, and final decision, to the following:

(1) The original was mailed for filing with the Administrative Law Court to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
Edgar A. Brown Building
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to Directive to SCDC Policy GA-01.12, §4.3, effective Jan. 30, 2008, to:

South Carolina Department of Corrections
Office of General Counsel
P.O. Box 21787
Columbia, SC 29221-1787

Douglas H. Westbrook

1400

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: Henry Baker
SCDC NUMBER: 263398
INSTITUTION: Lieber Correctional Inst
HOUSING UNIT: Stone A-40- 3mu B234
WORK ASSIGNMENT: Commissary

Office Use Only
Grievance No. Lieber-0608-04
Code: General mu
Policy
Disc. Hear.
Class.
Date Received SEP 22 2004
IGC Initials

STATE GRIEVANCE (Include documentation, and date of incident; if SCDC Policy, indicate which policy)

The department is asked to review and determine whether I am entitled to receive back wages due to me from working at Lieber Prison Industry Program when they only paid me .35 cents an hour and not prevailing wage as required under South Carolina Code Ann. Sec. 24-3-430 (A-7) as well as fact that from 1998-2003 they denied me prevailing wage.

ACTION REQUESTED:

All money due to me be paid at prevailing wage and overtime rate at prevailing wage be paid now.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Lawsuit was filed ordered to file Grievance by court Wicker v. SCDC, Adkins v. State.

9/23/04

MP Henry L. Baker Jr
Grievant Signature Date

ACTION TAKEN BY IGC:

Inmate Baker: See Warden's response.

L Carrington 10/28/04
IGC Signature Date

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

N/A
Grievant Signature Date

SCDC 10-5 (Rev. November 1997)

(CONTINUED ON REVERSE SIDE)

1401

WARDEN'S DECISION AND REASON:

See Attachment

Warden Signature Date Oct 28, 04

☐ 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 10/29/04

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.

1402

LIEBER CORRECTIONAL INSTITUTION

GRIEVANCE NOTIFICATION SLIP

NOV 17 2004

I/M NAME: H. Baker NOV 19 2004 DATE 10-29-04

SCDC NO.: 263398 GRIEVANCE NO. LC/0608-04

UNIT: SMU

TO INMATE: THE ATTACHED ENVELOPE CONTAINS THE ABOVE-NOTED GRIEVANCE. PLEASE FOLLOW THE DIRECTIONS ON THE ENCLOSED GRIEVANCE PROCEDURE RESPONSE SHEET.

**GRIEVANCE NOTIFICATION SLIPS WILL BE SIGNED/DATED BY BOTH INMATE AND STAFF WITNESS. UNIT STAFF MEMBER WILL RETURN SLIPS TO THE IGC NO LATER THAN THE NEXT WORKDAY AFTER SERVICE OF GRIEVANCE ENVELOPES (MAILROOM WILL BE OK).

Harold Baker Jr 11-9-04

I/M SIGNATURE DATE

Sara Dunlap 11-9-04

STAFF WITNESS DATE

1 of 3

Ackerman 5-6-11 1041

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

HENRY L. BAKER JR INMATE GRIEVANCE FORM

STEP 1

individually, and on behalf of all inmate employees (IE's)

INMATE NAME: listed on attached Exh. A *

SCDC NUMBER: # 263398

INSTITUTION: LIEBER

HOUSING UNIT: SA-40

WORK ASSIGNMENT: COMMISSARY

Office Use Only

Grievance No. _____

Code: General _____

Policy _____

Disc. Hear. _____

Class. _____

Date Received OCT 0 4 2004

IGC Initials _____

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) From 1999 to present, IE's were/are employed in the Williams Tech/Lieber service work program. From 1999 to July 2001, WTI/Lieber were required by S.C. Code 24-3-430 to pay IE's the "prevailing wage" for work of a similar nature in the private sector. This prevailing wage was $8.40 to $10.97 for 1999, $9.74 to $11.59 for 2000, and $10.10 to $12.06 for 2001 (Exh. G, H). Since July 2001, WTI/Lieber were required to pay IE's the negotiated wage of $4.00 per hour (Statutes at Large, No. 66, 837.31, eff. July 1, 2001; Exh. B, C). In fact, WTI/Lieber's policy was to pay IE's, in most cases, under $1.00 per hour. Exhibits documenting a $.35 per hour base pay rate, maximum pay of $1.00 per hour, the September 30 1998 WTI/Lieber contract specifying a wage of $4 per hour, the names and employment periods of all 1000 plus class members, and the pay dates, rates, hours, and pay for all class members from 1999 to June 2004 (Exh. D, E, C, A, and F).

* "Exh." denotes exhibits attached to Darrell Williams' Grievance, which are incorporated by reference herein.

ACTION REQUESTED: That IE's be paid back wages at the prevailing wage rate for 1999 to July 2001; and at $4 per hour for July 2001 to present, and in the future; all as determined from Exhibits A-H; and the time cards, pay stubs, and other records for class members shown to IE's counsel July 20, 2004 at Lieber in Jack Staudt's custody. IE's also request pre/post judgment interest, costs and attorney fees.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT: IE's have verbally requested WTI/Lieber to pay them prevailing wages. Darrell Williams in 2001 formally protested the improper wages, and filed a grievance which was dismissed for want of jurisdiction. In 2002, Williams filed a lawsuit (Williams et al. v. SCDC, et al., Case No. 02-CP-18-134, now pending) which was certified a class action representing the class identified in Exh. A. On August 23, 2004 the S.C. Supreme Court held in the Adkins and Wicker cases that 24-3-430's prevailing wage provision was mandatory, and IE's could file a grievance for back wages.

Henry L. Baker Jr 9/28/04

Grievant Signature Date

ACTION TAKEN BY IGC:

See LCI 0608-04

IGC Signature Date

☐ I accept the action taken by the IGC and consider the matter closed.

☐ I do not accept the action taken and wish to appeal.

1484

Ackerman 5-6-11 1042

WARDEN'S DECISION AND REASON:

See attachment.

Warden Signature Date Oct 28, 04

☐ 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

1405

Inmate Henry Baker, # 263398 LCI 0608-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

1406

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

1407

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION

Henry Baker, #263398

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

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

Grievance No. _____

Notice is hereby given that Henry Baker does hereb appeal the final decision of the South Carolina Department of Corrections dated _____ and received on no final decision issued, a copy of which is attached. A general statement of th grounds for appeal is (See S.C. Code Ann. § 1-23-380(A)(6)): 1. Automatic appeal is proper under grievance policy §§13.5, 13.8 and 28 C.F.R. Part 40.7(e) because SCDC did not timely respond to grievance and the 105 day grievance processing period expired without final decision. 2. Grievance contests SCDC wage policy and "concerns policy procedure" under §13.9 with no time limit to file. 3. There was reasonable cause under §13.9 and (1) no time limit to file and (2) compliance with §13.1. 4. Inmates class action tolled §13.1. 5. §13.1 denied grievant reasonable time to file and thus due process. 6. SCDC failed to plead §13.1 in step 1 response and considered Amendments on the merits and thus waived §13.1. 7. SCDC was judicially estopped to raise §13.1. 8. Grievant proved all elements of claim, including prevailing wage, period(s worked and any overtime due. 9. Grievant claims back wages, pre/post judgment interest, costs and attorney fees. 10. SCDC should process grievance for all who worked in program whether or not they personally filed a grievance.

Henry Baker
Appellant's Name

Lieber C.I.
Mailing Address

P.O. Box 205

Ridgeville, SC 29472
City, State, Zip Code

none
Telephone Number

Signed

11-6-09
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

(See reverse side for instructions)

1408

STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
HENRY BAKER, #263398	)	
Grievant/Appellant,	)	
vs.	)	CERTIFICATE OF SERVICE
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
Respondent/Appellee.	)	

I certify that on the 7th day of Nov., 2008, I mailed by first class postage Appellant's Notice of Appeal, and any grievance response provided to me by SCDC, to the following:

(1) The original was mailed for filing with the Administrative Law Court to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

D. Westbrook
Douglas H. Westbrook

1409

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Quentin B. Baker INMATE GRIEVANCE FORM

individually, and on behalf of all inmate employees (IE's) STEP 1

INMATE NAME: listed on attached Exh. A *

SCDC NUMBER: 297868

INSTITUTION: LIEBER

HOUSING UNIT: COOPER A-24 ✓

WORK ASSIGNMENT: P.I 2

Office Use Only
Grievance No. Lieber 0711-04
Code: General RM
Policy
Disc. Hear.
Class.
Date Received SEP 30 2004
IGC Initials LC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy). From 1999 to present, IE's were/are employed in the Williams Tech/Lieber service work program. From 1999 to July 2001, WTI/Lieber were required by S.C. Code 24-3-430 to pay IE's the "prevailing wage" for work of a similar nature in the private sector. This prevailing wage was $8.40 to $10.97 for 1999, $9.74 to $11.59 fc 2000, and $10.10 to $12.06 for 2001 (Exh. G, H). Since July 2001, WTI/Lieber were required to pay IE's the negotiated wage of $4.00 per hour (Statutes at Large, No. 66, 337.31, eff. July 1, 2001; Exh. B, C). In fact, WTI/Lieber's policy was to pay IE's, in most cases, under $1.00 per hour. Exhibits docume a $.35 per hour base pay rate, maximum pay of $1.00 per hour, the September 3(1998 WTI/Lieber contract specifying a wage of $4 per hour, the names and empl(ment periods of all 1000 plus class members, and the pay dates, rates, hours, and pay for all class members from 1999 to June 2004 (Exh. D, E, C, A, and F)

* "Exh." denotes exhibits attached to Darrell Williams' Grievance, which are incorporated by reference herein.

ACTION REQUESTED: That IE's be paid back wages at the prevailing wage rate f(1999 to July 2001; and at $4 per hour for July 2001 to present, and in the fu- ture; all as determined from Exhibits A-H; and the time cards, pay stubs, an(other records for class members shown to IE's counsel July 20, 2004 at Lieber in Jack Staudt's custody. IE's also request pre/post judgment interest, cost: and attorney fees.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT: IE's hav verbally requested WTI/Lieber to pay them prevailing wages. Darrell Williams in 2001 formally protested the improper wages, and filed a grievance which wa dismissed for want of jurisdiction. In 2002, Williams filed a lawsuit (Willi et al. v. SCDC, et al., Case No. 02-CP-18-134, now pending) which was certifi a class action representing the class identified in Exh. A. On August 23, 20 the S.C. Supreme Court held in the Adkins and Wicker cases that 24-3-430's prevailing wage provision was mandatory, and IE's could file a grievance for back wages.

Quentin B. Baker 9-27-0(
Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's response.

L Carlton 10/28/04
IGC Signature Date

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

N/A
Grievant Signature Date

SCDC 10-5 (Rev. November 1997)

(CONTINUED ON REVERSE SIDE)

1410

WARDEN'S DECISION AND REASON:

See Attachment.

Warden Signature Oct. 28, 04
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 11-2-04
Date

IGC Signature 11-2-04
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.

1411

John A Baker, # 297868 LCI-0711-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

Ackerman 5-6-11 1050

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

1413

AMENDMENT TO GRIEVANCE OF QUENTIN BAKER, #297868

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference). * Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; hours in 2000 at $10.66 per hour; hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 203.78 plus hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

Quentin Baker 2-3-06
(Grievant Signature) (Date)

* Attached are Exh. A, 0775; C, 0081,0086; F, 0963; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

1414

Includes 2nd set of class action notices sent out after 7-2-04 discontinued

PRISON INDUSTRIES PAST EMPLOYEES
BUILDING 2 AS OF: 6/24/04 ALPHABETICAL

(Check these dates against hire-release dates on Jan 2004 Lists)

	NAME	SCDC	DORM	SHIFT	HIRED	RELEASED	
	ABDALLAH, MUHAMMAD	249704	E B 24	1	6/29/01	7/12/01	
	ABLE, ANTHONY	229930	A B 63	1	9/22/00	2/8/01	
MI 3	ACKERMAN, FRANCIS	266928	C A 32	2	10/12/01	8/3/02	
	ADAMS, DAVID	246977	C A 60	1	11/4/99	2/14/01	
	ADAMS, ROBERT	262980	C 0	1	1/18/00	3/14/00	R-11
	ADDISON, JAMES	248725	A A 60	1	1/17/02	1/23/02	
	ADKINSON, WADE	216744	M X 0	2	1/6/00	4/20/01	R-11
	AIKEN, ALLEN	253738	C A 6	1	11/10/99	1/30/01	
MI 3	AIKEN, TYRONE	244428	C B 32	2	3/27/02	10/7/02	
MI 3	AIKEN, TYRONE	244428	C B 29	1	1/15/03	6/26/03	
MI 3	AIKEN, TYRONE	248367	C A 55	1	10/1/99	6/26/03	
MI 3	ALJALIL, MALIK	219551	C A 1	1	8/1/02	6/24/04	
	ALLAH, FOUNDATION	152845	C B 52	1	4/15/01	12/20/01	
	ALLEN, DANIEL	192554	M 0	1	2/8/00	3/15/00	
MI 3	ALLEN, LINSO	269378	C A 32	1	10/29/01	10/31/02	
	ALLISON, JEFFERY	255624	C A 4	1	8/11/99	6/19/00	
	ALLISON, STONEY	263717	E B 60	1	6/6/00	6/8/00	
	ALSTON, JOSEPH	219252	C B 14	1	6/6/00	7/25/01	R-11
MI 3	ALVARADO, JOSE	273599	C B 36	1	6/27/03	6/24/04	
MI 3	ALVARADO, LUIS	287920	C B 50	1	12/13/02	11/20/03	
MI 3	AMADOR, CHRISTOPHER	250701	S A 29	1	6/30/03	7/9/03	
MI 2	ANCRUM, TYRONE	238025	C A 18	2	4/11/02	9/5/02	
MI 3	ANDERSON, ELVIS	258849	C A 0	0		12/17/99	
MI 3	ANDERSON, FRANK	282800	C A 19	1	4/16/02	6/26/03	
	ANDERSON, LAMAR	251314	A B 11	1	2/15/00	11/27/00	
	ANDERSON, PATRICK #247718	209044	C B 53	1	10/16/00	5/30/01	
	ANDERSON, WALTER	246089	C 0	1	8/5/99	2/26/00	
MI 3	ARMSTRONG, TOBY	210917	WA218	1	5/27/04	6/18/04	
	AUSTIN, DARIUS	259485	M X 0	2	1/4/00	12/14/01	
MI 3	AUSTIN, SHERMAN K.	300028	C B 32	1	5/3/04	5/27/04	
MI 3	AUSTIN, STEVE	251896	C A 22	1	12/21/99	7/14/00	
MI 3	AUSTIN, W.	259961	C A 0	0		12/20/99	R-11
	AYERS, RANDY	277318	C A 25	1	9/5/01	1/25/02	
MI 2	BAILEY, MCGILL	270801	C A 3	2	2/7/01	10/16/02	
	BAILEY, RALPH	248086	S B 62	1	4/18/01	7/26/01	
MI 3	BAKER JR, HENRY	263398	C A 22	1	10/12/01	6/26/03	
	BAKER, DEMETRIS	232951	C A 23	1	8/6/99	6/30/00	R-11
MI 3	BAKER, QUENTIN	297868	C A 24	1	3/30/04	6/24/04	
	BAKER, TONY	253490	C 0	1	1/21/00	2/22/00	R-11
	BAKER, WILLIE	238685	C 0	1	2/15/00	3/9/00	
	BANNISTER, MARCUS	267885	C B 31	1	11/17/00	4/11/01	R-11
MI 2	BARBER, DONALD	283052	C B 15	2	6/19/02	8/26/02	R-11

PLAINTIFF'S EXHIBIT

1415

A - 0775
June 2004

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

LEASE

THE AGREEMENT is entered into this 30th day of September, 1998, by and between the South Carolina Department of Corrections (hereinafter called "SCDC") by its duly authorized agent Michael W. Moore, Director and Williams Technologies, Inc., (hereafter referred to as "Williams") by its duly authorized agent William S. Williams, Chairman.

WHEREAS, Prison Industries is a division of the South Carolina Department of Corrections charged with establishing business relationships with private enterprise so as to fulfill the intent of Section 24-3-310 Code of Laws of South Carolina, 1976 as amended; and has all necessary authorization to enter into this agreement and to bind the State of South Carolina to all the terms contained herein; and,

WHEREAS, Williams represents and warrants that it is a duly qualified South Carolina corporation, licensed to conduct business in South Carolina; and,

WHEREAS, Williams intends to engage in the business of disassembly and/or remanufacturing of its product lines at Lieber Correctional Institution (hereinafter referred to as"LCI"); and ,

WHEREAS, this agreement is made in the best interest of the State of South Carolina;

NOW, THEREFORE, the parties hereto do agree as follows:

ARTICLE 1 General:

In consideration of Williams' expenditures to construct on behalf of the State of South Carolina a building of up to 45,000 square feet on the LCI premises (the "Building") , SCDC hereby enters into this Agreement to permit Williams to use such Building and related premises during the term and in accordance with the provisions of this Agreement. The State Engineer's approval of all building plans is required. Attachment A hereto shall indicate the location of the Building and the related premises, which shall include circulation space for delivery and shipping via tractor-trailers, parking outside of the secured area sufficient for a minimum of six (6) trailers and access to the facility via access roads. SCDC shall be responsible for maintenance of such roadways and related premises.

The Building shall be constructed according to plans approved by the state in accordance with all applicable federal and state and local rules and regulations and SCDC security requirements. The State Engineer's approval of all building plans is required. The cost of the Building (excluding personal property located in the Building such as furnishings and equipment) is estimated to be $. 1,200,000 . Within 90 days of completion of the Building, Williams shall provide to SCDC documentation of the expenditures to construct the Building for its review and acknowledgment.

PLAINTIFF'S EXHIBIT 6

14/6

to and from LCI reasonable access up to twelve (12) hours per day, subject to the Department's security requirements in Section 3.1.4.

(c) Other access. SCDC will provide access to the facility during Williams' hours of operation for Williams' employees, agents, and business invitees, subject to SCDC's security requirements.

3.3 Mutual Duties of the Parties:

1. Payment for Services: Williams agrees to pay SCDC $4.00 per hour per inmate for work performed including training hours and hours in excess of the inmate's normal shift. SCDC shall be responsible to pay inmate workers, cover security costs and P.I. overhead, including any costs for health, safety and welfare of the inmates, taxes or other payroll deduction. No compensation will be paid for time not worked. In order to accommodate holidays not observed by Williams, SCDC and Williams may agree to work ahead or to work on holidays if a mutually acceptable agreement can be reached.

Thirty (30) days prior to each anniversary date of this agreement, SCDC and Williams may negotiate an increase in the per hour rate paid by Williams to SCDC. If such an increase is requested, it shall be limited to a maximum of five percent (5%) annually or the annual percentage increase in the Consumer Price Index, whichever is lower. It is the intent of the parties that such increase shall only reflect SCDC's increased costs of prison overhead.

Williams and SCDC may mutually agree upon a bonus plan for inmates based on productivity and quality control. Such bonus will be paid in its entirety by Williams to SCDC for distribution to inmates.

2. Compliance with Convict Labor Laws: Williams and SCDC agree that no goods produced under this agreement shall be placed in commerce in violation of the laws of the State of South Carolina or the United States as they relate to the utilization of prison labor. Should either Federal or State Law (or the interpretation thereof) change preventing interstate shipments of goods produced under this Agreement, this Agreement shall terminate as provided in Sections 4.0.7 and 4.0.9.

ARTICLE 4 General Terms and Conditions:

4.0 General:
Williams, its employees or agents performing under the agreement are not to be deemed to be employees of SCDC nor as agents of SCDC in any manner whatsoever. Williams will not hold itself out nor claim to be an officer or employee of SCDC or of the State of South Carolina by reason hereof and will not make any claim, demand, or application to, or for any right or privilege applicable to an officer or employee of SCDC or the State of South Carolina, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security benefits, or retirement membership or credit.

The State of South Carolina, SCDC, their employees (including inmates performing labor pursuant to this Agreement) and agents, are not to be deemed employees of Williams nor agents of Williams in any manner

PLAINTIFF'S EXHIBIT C

Inmate #	LastName	FirstName	MiddleName	Pay Date	Pay Rate	Hours	Pay Amount
232951	BAKER	DEMETRIS		19991206	0.50	53.21	26.60
232951	BAKER	DEMETRIS		19991206	0.55	10.22	5.62
232951	BAKER	DEMETRIS		19991220	2.50	2.00	5.00
232951	BAKER	DEMETRIS		19991220	0.50	59.18	29.59
232951	BAKER	DEMETRIS		19991220	0.55	7.50	4.12
232951	BAKER	DEMETRIS		20000103	0.35	30.00	10.50
232951	BAKER	DEMETRIS		20000103	0.55	3.05	1.67
232951	BAKER	DEMETRIS		20000117	0.35	55.38	19.38
232951	BAKER	DEMETRIS		20000131	0.35	57.35	20.07
232951	BAKER	DEMETRIS		20000214	0.50	75.00	37.50
232951	BAKER	DEMETRIS		20000214	0.80	6.50	5.20
232951	BAKER	DEMETRIS		20000228	0.50	67.50	33.75
232951	BAKER	DEMETRIS		20000228	1.05	15.00	15.75
232951	BAKER	DEMETRIS		20000313	0.65	68.72	44.66
232951	BAKER	DEMETRIS		20000327	0.65	73.81	47.97
232951	BAKER	DEMETRIS		20000410	0.65	75.00	48.75
232951	BAKER	DEMETRIS		20000410	0.75	18.90	14.17
232951	BAKER	DEMETRIS		20000410	1.00	15.00	15.00
232951	BAKER	DEMETRIS		20000424	0.65	69.75	45.33
232951	BAKER	DEMETRIS		20000508	0.65	75.00	48.75
232951	BAKER	DEMETRIS		20000508	0.75	37.82	28.36
232951	BAKER	DEMETRIS		20000508	0.25	14.30	3.57
232951	BAKER	DEMETRIS		20000522	0.75	67.50	50.62
232951	BAKER	DEMETRIS		20000522	0.75	35.33	26.49
232951	BAKER	DEMETRIS		20000522	0.25	21.68	5.42
232951	BAKER	DEMETRIS		20000605	0.65	67.27	43.72
232951	BAKER	DEMETRIS		20000619	0.65	75.85	49.30
232951	BAKER	DEMETRIS		20000703	0.65	60.00	39.00
232951	BAKER	DEMETRIS		20000703	0.75	10.17	7.62
232951	BAKER	DEMETRIS		20000703	0.35	4.67	1.63
297868	BAKER	QUENTIN	BRUCE	20040419	0.50	20.02	10.01
297868	BAKER	QUENTIN	BRUCE	20040503	0.50	50.49	25.24
297868	BAKER	QUENTIN	BRUCE	20040517	0.50	68.96	34.48
297868	BAKER	QUENTIN	BRUCE	20040531	0.50	64.31	32.15
253490	BAKER	TONY		19991025	0.35	21.00	7.35
253490	BAKER	TONY		19991108	0.35	63.50	22.22
253490	BAKER	TONY		19991108	0.55	23.50	12.92
253490	BAKER	TONY		19991122	0.35	37.35	13.07
253490	BAKER	TONY		19991206	0.35	48.77	17.06
253490	BAKER	TONY		19991206	0.50	4.50	2.25
253490	BAKER	TONY		19991220	0.50	71.02	35.51
253490	BAKER	TONY		19991220	0.55	1.15	0.63
253490	BAKER	TONY		19991220	2.50	2.00	5.00
253490	BAKER	TONY		20000103	0.35	30.00	10.50
253490	BAKER	TONY		20000103	0.55	5.97	3.28
253490	BAKER	TONY		20000117	0.35	55.97	19.58
253490	BAKER	TONY		20000131	0.35	38.48	13.46
253490	BAKER	TONY		20000214	0.35	43.42	15.19
253490	BAKER	TONY		20000214	0.80	6.50	5.20
238685	BAKER	WILLIE	DWIGHT	20000228	0.55	7.50	4.12
238685	BAKER	WILLIE	DWIGHT	20000228	1.05	7.50	7.87
238685	BAKER	WILLIE	DWIGHT	20000313	0.35	49.47	17.31
238685	BAKER	WILLIE	DWIGHT	20000313	0.55	6.50	3.57
263398	BAKER, JR	HENRY	L	20011022	0.50	33.50	16.75

PLAINTIFF'S EXHIBIT F

1418

A - 0963
June 2004

To: Douglas Westbrook, Attorney at Law

From: Dr. Joseph Benich, Economic Loss Expert

Subject: Your 9/14/04 request

Date: 9/20/04

This note is in response to your "prevailing wage" request for work generally described by the Williams Technologies Job Description of Production Associate. You have asked for my opinion of the "prevailing wage" for work of a similar nature in the private sector for 1999/2001 (I assume that you mean 1999, 2000, and 2001). It is also my understanding that the term " prevailing wage" not only implies work of a similar nature, but that the work should be performed in the same general geographic area.

The U.S. Department of Labor (Bureau of Labor Statistics) publishes wage data for a range of occupations in the Charleston – North Charleston Metropolitan Area. The Installation, Maintenance and Repair Occupation Sub-Category of "Maintenance and Repair Workers, General" had mean hourly wages of $11.44 in1999, $12.62 in 2000, and $13.24 in 2001 for the Charleston - North Charleston Metropolitan Area. The Production Occupations Sub-Category of "Team Assemblers" had mean hourly wages of $10.49 in 1999, $10.56 in 2000, and $10.88 in 2001 for the Charleston – North Charleston Metropolitan Area. The average of these two Sub-Categories is $10.97 for 1999, $11.59 for 2000, and $12.06 for 2001.

The possibility exists that the average prison worker would be less experienced with his prison position than his non-prison counterpart. It is also possible that the average prison worker would require more supervision than the average non-prison worker performing the same tasks. The concept of "prevailing wage" implies the average wage for a specific category of average workers. The Installation, Maintenance and Repair Occupation Sub Category of "Helpers—Installation, Maintenance, and Repair Workers" had mean hourly wages of $9.53 in 1999, $11.21 in 2000, and $10.45 in 2001. The Production Occupations Sub-Category of "Helpers--Production Workers" had mean hourly wages of $7.61 in 1999, $8.27 in 2000, and $9.09 in 2001. The average of these two "Helpers" Sub Categories is $8.40 for 1999, $9.74 for 2000, and $10.10 for 2001.
These "Helpers" Sub Category averages represent the lower end of the "prevailing wage" range for the Williams Technologies Job Description of Production Associate for 1999, 2000, and 2001. Thus the "prevailing wage" range estimate for prison workers for the Williams Technologies Job Description of Production Associate is $10.97 - $8.40 for 1999, $11.59 - $9.74 for 2000, and $12.06 - $10.10 for 2001.

1419

RESUME-3/03
Dr. Joseph J. Benich

FAMILY STATUS
Wife - Roberta; two children - Kiersten and J.J.

EDUCATION

9/68 - 6/72	Doctor of Business Administration Majors: Production Management and Marketing Kent State University, Kent, Ohio
1/66 - 5/68	Masters of Business Administration Majors: Economics and Marketing Case Western Reserve University, Cleveland, Ohio
9/65 - 1/66	Western Reserve University, Cleveland, Ohio Major: Law
9/61 - 6/65	Bachelor of Science in Chemical Engineering Case Institute of Technology, Cleveland, Ohio

ACADEMIC EXPERIENCE

9/93 –2003	Professor of Business Administration College of Charleston, Charleston, South Carolina
9/78 - 8/93	Associate Professor of Business Administration College of Charleston, Charleston, South Carolina
9/76 - 9/78	Associate Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/72 - 9/76	Assistant Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/69 - 6/72	Full-time Instructor, Economics Department Kent State University, Kent, Ohio
1/69 - 6/69	Teaching Fellow, Statistics Kent State University
9/68 - 12/68	Graduate Assistant Kent State University

NON-ACADEMIC EXPERIENCE

6/74 -	Expert Witness, Economic Litigation, Charleston, South Carolina, analyses of economic loss to individuals and/or businesses, with presentations in State and Federal courts
7/78 -	Manager of Summertime Properties, Charleston, South Carolina
6/73 -	Business Consulting, J. Benich and Associates, Charleston, South Carolina
1/68 - 11/72	Business Advisor to Director of American Screw Products, Warrensville, Ohio
1/68 - 10/68	Staff Specialist (Systems Optimizations), Cleveland Electric Illuminating Company, Cleveland, Ohio
1/66 - 9/67	Industrial Market Research, Harshaw Chemical, Cleveland, Ohio
19/65 - 1/66	Phosphor Efficiency Development, General Electric Co., Cleveland, Ohio (worked independently on a second shift due to day law school)
6/65 - 9/65	Research Chemical Engineering, Sohio Research, Warrensville, Ohio (catalyst efficiency testing and associated acetonitrile purification development).

PUBLICATIONS

"Signal-Averaged P-Wave Analysis of Normal Controls and Patients with Paroxysmal Atrial Fibrillation: A Study in Gender Differences, Age Dependence, and Reproducibility", with A Dhala, B. Leman, et al, Clinical Cardiology, November, 2002, p-525-531

"The High Resolution Signal-Averaged P-Wave Duration in Normal Patients: Influence of Race and Gender", with M. Little, B. Leman, and B. Hainer, North American Society of Pacing and Electrophysiology, abstracted, *Pacing and Clinical Electrophysiology*, April, 1997, Vol.20:4:1219

"Alternative Approaches to Tax Adjustments in Appraising Economic Loss: A Comment", *Journal of Legal Economics*, Fall 1996

"Updated Estimates of Work-Life Expectancies Based upon The Increment-Decrement Model: Comment", *Journal of Legal Economics*, Winter 1995

"Intra-Year Discounting Assumptions and Bias in Lost Earnings Analysis: A Comment", *Journal of Forensic Economics*, Winter 1993, 7(1)

"Comment: On the Relative Stability and Predictability of the Interest Rate and Earnings Growth Rate", *Journal of Forensic Economics*, Winter 1992, 6(1)

"Determining Tax-Adjusted Awards for Spouses' Lost Future Earnings", For *The Defense*, Nov. 1992

"The Just Better (JB) Method of Calculating The Present Value of Lost Future Income", *Journal of Legal Economics*, July 1992

11-7-04

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Quentin Baker
SCDC NUMBER: 297868 NOV 04 2004
INSTITUTION: ~~Lieber Corr. Inst~~ ACI
HOUSING UNIT: CA-24
WORK ASSIGNMENT: PI #2

Office Use Only
Grievance No. LCI-0711-04
Code: General mg
Policy
Disc. Hear.
Class.
Date Received NOV 08 2004
IGC Initials

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

Atkins & Wicker Do Require Payment of Prevailing Wages Grievants were Employed by WTI, and SCDC was WTI's "Agent" in Paying our Wages. Atkins & Wicker Further allo This Issue of Payment of Wages under SC Code 24-3- To Be Grieved. Pursuant to SCDC's Grievance Procedur Grievant incorporates by Reference all Exhibits attached to Grievances Filed by Darrell Williams and Attorney Douglas Westbe on 9-22-04.

Quentin Baker Quintin Baker 9-22-04
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

5-14-07
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.

Quentin B. Baker 5-22-07 Ken Ring 5/22/07
Grievant Signature Date IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

SCDC 10-5A (November 1997)

1422

Ackerman 5-6-11 1060

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.

BAKER LCI-0711-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 4, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 27, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on March 30, 2004 and that your participation in this project ended on January 29, 2007.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 2 appeal.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 nearly six (6) months after SCDC first paid you for your participation in the project located at Lieber and more than 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.
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 any of the relief you demand in your Step 1 grievance or your Step 2 appeal.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made in your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "inmate/employee" within your appeal and grievance to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

To the extent that you demand overtime wages in your appeal or grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your appeal and grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal or grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Quentin Baker, #297868

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

DOCKET NO. _07___-ALJ-04-_____-____
GRIEVANCE NO.: _____

Notice is hereby given that Quentin Baker does hereby appeal the final decision of the South Carolina Department of Corrections dated 5-14-07 and received on 5-22-07, 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)):

1. Grievance seeks back wages, contesting SCDC policy/procedure of paying below prevailing/negotiated wages. Thus, there was no time limit to file grievance under Grievance Policy §13.9.

2. Appellant had reasonable cause under §13.9 as his right to grieve did not accrue until Adkins/Wicker and filed within a reasonable time.

3. Applying §13.1 to these facts violated due process.

4. Under 4-19-07 Court order, SCDC was required to accept filing and consider on the merits Appellant's Amendment/Exhibits.

5. Grievance proved all elements of claim for prevailing/negot. wages.

6. Dr. Benich's report is the only evidence of prevailing wages in the record. Appellant is entitled to prevailing/negotiated wages.

7. To extent Appellant worked OT he is entitled to it under SCDC policy

8. Appellant claims pre/post judgment interest, costs and attorney fees

Quentin Baker
Appellant's Name
Allendale C.I.
Hy 47, P.O. Box 1151
Mailing Address
Fairfax, SC 29827
City, State, Zip Code
none
Telephone Number

Signed
6-19-07
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

1427

STATE OF SOUTH CAROLINA QUENTIN BAKER, #297868 Grievant/Appellant, vs. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, Respondent/Appellee.	IN THE ADMINISTRATIVE LAW COURT CERTIFICATE OF SERVICE

I certify that on the 20th day of June, 2007, I mailed by first class postage Appellant's Notice of Appeal, and final decision, to the following:

(1) The original ~~and one copy~~ were mailed for filing with the Administrative Law Court, to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC, to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

D H Westbrook
Douglas H. Westbrook

1428

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Michael C. Baylor INMATE GRIEVANCE FORM

STEP 1

Office Use Only
Grievance No. Lieber 0755-04
Code: General MH
Policy
Disc. Hear.
Class.
Date Received SEP 30 2004
IGC Initials CC

INMATE NAME: individually, and on behalf of all inmate employees (IE's) listed on attached Exh. A *

SCDC NUMBER: 265682

INSTITUTION: Lieber Corr. Inst.

HOUSING UNIT: Stono B-24 ✓

WORK ASSIGNMENT: Dorm Worker

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) From 1999 to present, IE's were/are employed in the Williams Tech/Lieber service work program. From 1999 to July 2001, WTI/Lieber were required by S.C. Code 24-3-430 to pay IE's the "prevailing wage" for work of a similar nature in the private sector. This prevailing wage was $8.40 to $10.97 for 1999, $9.74 to $11.59 for 2000, and $10.10 to $12.06 for 2001 (Exh. G, H). Since July 2001, WTI/Lieber were required to pay IE's the negotiated wage of $4.00 per hour (Statutes at Large, No. 66, S37.31, eff. July 1, 2001; Exh. B, C). In fact, WTI/Lieber's policy was to pay IE's, in most cases, under $1.00 per hour. Exhibits documen a $.35 per hour base pay rate, maximum pay of $1.00 per hour, the September 30 1998 WTI/Lieber contract specifying a wage of $4 per hour, the names and employment periods of all 1000 plus class members, and the pay dates, rates, hours, and pay for all class members from 1999 to June 2004 (Exh. D, E, C, A, and F).

* "Exh." denotes exhibits attached to Darrell Williams' Grievance, which are incorporated by reference herein.

ACTION REQUESTED: That IE's be paid back wages at the prevailing wage rate for 1999 to July 2001; and at $4 per hour for July 2001 to present, and in the future; all as determined from Exhibits A-H; and the time cards, pay stubs, and other records for class members shown to IE's counsel July 20, 2004 at Lieber in Jack Staudt's custody. IE's also request pre/post judgment interest, costs ~~and attorney fees.~~

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT: IE's have verbally requested WTI/Lieber to pay them prevailing wages. Darrell Williams in 2001 formally protested the improper wages, and filed a grievance which was dismissed for want of jurisdiction. In 2002, Williams filed a lawsuit (Williams et al. v. SCDC, et al., Case No. 02-CP-18-134, now pending) which was certified a class action representing the class identified in Exh. A. On August 23, 2004 the S.C. Supreme Court held in the Adkins and Wicker cases that 24-3-430's prevailing wage provision was mandatory, and IE's could file a grievance for back wages.

Michael Baylor 9/27/04
Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's response.

L Carlton 10/28/04
IGC Signature Date

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

N/A
Grievant Signature Date

SCDC 10-5 (Rev. November 1997) 1429

WARDEN'S DECISION AND REASON:

See attachment

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.

1430

Mr. M. Baylor, # 265682 LC10755-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

1432

AMENDMENT TO GRIEVANCE OF MICHAEL BAYLOR, #265682

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; hours in 2000 at $10.66 per hour; 118.73 hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 801.26 hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

(Grievant Signature) (Date)

* Attached are Exh. A, 0776; C, 0081,0086; F, 0965; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

283052	BARBER	DONALD		20020715	0.50	40.72	20.36
283052	BARBER	DONALD		20020729	0.50	45.98	22.99
283052	BARBER	DONALD		20020812	0.50	46.84	23.42
283052	BARBER	DONALD		20020826	0.50	74.72	37.36
283052	BARBER	DONALD		20020909	0.50	5.25	2.62
164001	BAREFIELD	JOHN		20000731	0.50	24.59	12.29
164001	BAREFIELD	JOHN		20000731	0.50	33.33	16.66
164001	BAREFIELD	JOHN		20000814	0.50	13.60	6.80
245185	BARKER	CHRIS	L.	20010409	0.50	62.27	31.13
245185	BARKER	CHRIS	L	20010423	0.50	82.46	41.23
245185	BARKER	CHRIS	L.	20010507	0.50	73.98	36.99
245185	BARKER	CHRIS	L	20010521	0.50	70.11	35.05
280608	BARNIE	RONALD		20020422	0.50	26.25	13.12
280608	BARNIE	RONALD		20020506	0.50	71.05	35.52
280608	BARNIE	RONALD		20020520	0.50	39.47	19.73
280608	BARNIE	RONALD		20020603	0.50	47.24	23.62
280608	BARNIE	RONALD		20020617	0.50	65.17	32.58
280608	BARNIE	RONALD		20020701	0.50	76.90	38.45
280608	BARNIE	RONALD		20020715	0.50	50.15	25.07
280608	BARNIE	RONALD		20020729	0.50	40.79	20.39
280608	BARNIE	RONALD		20020812	0.50	69.42	34.71
280608	BARNIE	RONALD		20020826	0.50	83.94	41.97
280608	BARNIE	RONALD		20020909	0.50	54.77	27.38
280608	BARNIE	RONALD		20020923	0.50	18.00	9.00
257687	BARR	CHRISTOPHE	G.	19990830	0.35	79.25	27.73
257687	BARR	CHRISTOPHE	G.	19990830	0.55	4.50	2.47
257687	BARR	CHRISTOPHE	G.	19990913	0.35	11.00	3.85
257687	BARR	CHRISTOPHE	G.	19990913	0.55	3.00	1.65
257687	BARR	CHRISTOPHE	G.	20000103	0.35	20.00	7.00
257687	BARR	CHRISTOPHE	G.	20000103	2.50	2.00	5.00
257687	BARR	CHRISTOPHE	G.	20000103	0.35	34.92	12.22
257687	BARR	CHRISTOPHE	G.	20000103	0.55	7.50	4.12
247638	BASKIN	TERRY	LEE	20020909	0.50	30.87	15.43
265682	BAYLOR	MICHAEL	C.	20010604	0.50	29.94	14.97
265682	BAYLOR	MICHAEL	C.	20010618	0.50	15.75	7.87
265682	BAYLOR	MICHAEL	C.	20010702	0.50	73.04	36.52
265682	BAYLOR	MICHAEL	C.	20010716	0.50	43.81	21.90
265682	BAYLOR	MICHAEL	C.	20010730	0.50	68.88	34.44
265682	BAYLOR	MICHAEL	C.	20010813	0.50	74.92	37.46
265682	BAYLOR	MICHAEL	C.	20010827	0.50	71.87	35.93
265682	BAYLOR	MICHAEL	C.	20010910	0.50	71.84	35.92
265682	BAYLOR	MICHAEL	C.	20010924	0.50	42.00	21.00
265682	BAYLOR	MICHAEL	C.	20011008	0.50	105.67	52.83
265682	BAYLOR	MICHAEL	C.	20011022	0.50	87.66	43.83
265682	BAYLOR	MICHAEL	C.	20011105	0.50	66.12	33.06
265682	BAYLOR	MICHAEL	C.	20011119	0.50	69.64	34.82
265682	BAYLOR	MICHAEL	C.	20011203	0.50	65.02	32.51
265682	BAYLOR	MICHAEL	C.	20011217	0.50	33.83	16.91
222388	BEASLEY	DARRYEL		20020506	0.50	60.77	30.38
222388	BEASLEY	DARRYEL		20020506	0.50	15.62	7.81
222388	BEASLEY	DARRYEL		20020520	0.50	59.70	29.85
222388	BEASLEY	DARRYEL		20020603	0.50	45.06	22.53
222388	BEASLEY	DARRYEL		20020617	0.50	49.33	24.66
222388	BEASLEY	DARRYEL		20020701	0.50	61.43	30.71

PLAINTIFF'S EXHIBIT F

A - 0965
June 2004

1434

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Michael C. Baylor

SCDC NUMBER: 265682

INSTITUTION: Lieber

HOUSING UNIT: Dorm B-24

WORK ASSIGNMENT: Data Work

NOV 8 3 2004

PP

Office Use Only
Grievance No. Lieber 0755-04
Code: General mny
Policy
Disc. Hear.
Class.
Date Received
IGC Initials

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): Atkins and Wicker do require payment of Prevailing Wage. Grievants were employed by WTI, and SCDC was WTI's "Agent" in paying our wages. Atkins & Wickee further allow this issue of payment of wages under S.C Code 24-3-430 to be Grieved Pursuant to SCDC's Grievance Procedure. Grievant Incorporates by reference Attorney Douglas Westbrookon 9-22-04

Michael C. Baylor 11/2/04
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I/m Release 9-1-07

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)

SCDC 10-5A (November 1997)

1435

Lieber PI Back Wage Claim Step 2 Reply

Inmate Name	SCDC #	Grievance #
Baylor, Michael	265682 Released 8/31/2007	LCI-0755-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 2, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 27, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that your participation in the prison industries project at Lieber started on June 4, 2001, and ended on December 17, 2001.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March

Inmate Name	SCDC #	Grievance #
Baylor, Michael	265682 Released 8/31/2007	LCI-0755-04

21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 three (3) years after SCDC first paid you for your participation in the project located at Lieber, just less than three (3) years after your participation in this project concluded, and over 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.

Inmate Name	SCDC #	Grievance #
Baylor, Michael	265682 Released 8/31/2007	LCI-0755-04

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 any of the relief you demand in your grievance.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "employee" within your supporting documents to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or

Inmate Name	SCDC #	Grievance #
Baylor, Michael	265682 Released 8/31/2007	LCI-0755-04

other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your appeal and grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal and grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION

Michael Baylor, #265682

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

Docket No. 00-ALJ-04-_____-AP

Notice is hereby given that Michael Baylor does hereby appeal the final decision of the South Carolina Department of Corrections dated 1-28-08 and received on 2-1-08, 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)): Grievant seeks back wages contesting SCDC policy/procedure of paying below prevailing/negotiated wages and under §13.9 there was no time limit to file. Grievant had reasonable cause under §13.9 as right to grieve did not accrue until Adkins/Wicker and he filed within reasonable time. Applying §13.1 denied grievant reasonable time to file and thus due process. SCDC failed to plead §13.1 in step 1 and filed/considered Amendments/Exhibits on the merits and thus waived §13.1. Grievant proved all elements of claim and disputes work period(s) alleged by SCDC. Dr. Benich's report is the only evidence of prevailing wages in record and grievant is entitled to prevailing/negotiated wages. To extent grievant worked OT he is entitled to it under SCDC policy. Grievant claims pre/post judgment interest, costs and attorney fees. Darrell Williams' 9-22-04 grievance, and many others, was filed individually and on behalf of all inmates and SCDC should process grievance for all who worked in program regardless of filin

Michael Baylor
Appellant's Name

c/o Mr. Joseph Baylor
109 Pine Needle
Mailing Address

Spartanburg, SC 29301
City, State, Zip Code

none available
Telephone Number

Signed

2-5-08
Dated:

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

(See reverse side for instructions)

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STATE OF SOUTH CAROLINA MICHAEL BAYLOR, #265682 GRIEVANT/APPELLANT, VS. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, RESPONDENT/APPELLEE.	)	IN THE ADMINISTRATIVE LAW COURT CERTIFICATE OF SERVICE

I certify that on the 22nd day of Feb., 2008, I mailed by first class postage Appellant's Notice of Appeal, and final decision, to the following:

(1) The original was mailed for filing with the Administrative Law Court to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
Edgar A. Brown Building
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to Directive to SCDC Policy GA-01.12, §4.3, effective Jan. 30, 2008, to:

South Carolina Department of Corrections
Office of General Counsel
P.O. Box 21787
Columbia, SC 29221-1787

Douglas H. Westbrook

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS 6/5/07

Jacob Beach JNMATE GRIEVANCE FORM

individually, and on behalf of all inmate employees (IE's) STEP 1

INMATE NAME: listed on attached Exh. A *

SCDC NUMBER: 301270

INSTITUTION: Lieber

HOUSING UNIT: Cooper - B-25.43 WA2B

WORK ASSIGNMENT: P.I. #2

Office Use Only
Grievance No. Lieber-0230-04
Code: General CMI
Policy
Disc. Hear
Class.
Date Received SEP 30 2004
IGC Initials LC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) From 1999 to present, IE's were/are employed in the Williams Tech/Lieber service work program. From 1999 to July 2001, WTI/Lieber were required by S.C. Code 24-3-430 to pay IE's the "prevailing wage" for work of a similar nature in the private sector. This prevailing wage was $8.40 to $10.97 for 1999, $9.74 to $11.59 fo 2000, and $10.10 to $12.06 for 2001 (Exh. G, H). Since July 2001, WTI/Lieber were required to pay IE's the negotiated wage of $4.00 per hour (Statutes at Large, No. 66, S37.31, eff. July 1, 2001; Exh. B, C). In fact, WTI/Lieber's policy was to pay IE's, in most cases, under $1.00 per hour. Exhibits documen a $.35 per hour base pay rate, maximum pay of $1.00 per hour, the September 30 1998 WTI/Lieber contract specifying a wage of $4 per hour, the names and emplc ment periods of all 1000 plus class members, and the pay dates, rates, hours, and pay for all class members from 1999 to June 2004 (Exh. D, E, C, A, and F).

* "Exh." denotes exhibits attached to Darrell Williams' Grievance, which are incorporated by reference herein.

ACTION REQUESTED: That IE's be paid back wages at the prevailing wage rate fc 1999 to July 2001; and at $4 per hour for July 2001 to present, and in the future; all as determined from Exhibits A-H; and the time cards, pay stubs, and other records for class members shown to IE's counsel July 20, 2004 at Lieber in Jack Staudt's custody. IE's also request pre/post judgment interest, costs and attorney fees.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT: IE's have verbally requested WTI/Lieber to pay them prevailing wages. Darrell Williams in 2001 formally protested the improper wages, and filed a grievance which was dismissed for want of jurisdiction. In 2002, Williams filed a lawsuit (Willia et al. v. SCDC, et al., Case No. 02-CP-18-134, now pending) which was certifie a class action representing the class identified in Exh. A. On August 23, 200 the S.C. Supreme Court held in the Adkins and Wicker cases that 24-3-430's prevailing wage provision was mandatory, and IE's could file a grievance for back wages.

Jacob Beach 9-27-04
Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's response.

L Carlton 10/28/04
IGC Signature Date

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

N/A
Grievant Signature Date

SCDC 10-5 (Rev. November 1997)

(CONTINUED ON REVERSE SIDE)

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WARDEN'S DECISION AND REASON:

SEE ATTACHED

5-24-07
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.

Jacob Beach 5-30-07
Grievant Signature Date

5/30/07
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.

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J/M J. Beach, #301270 CE10730-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

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To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

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BEACH LCI-0730-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 1 grievance form dated September 27, 2004 as well as any and all documents you submitted in support of your Step 1 grievance form.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that your first voluntary work assignment in the prison industries project at Lieber began on May 24, 2004 and ended January 24, 2005. Additionally, these records reflect that you returned to this project for a second work assignment that began April 4, 2006 and, as of the date of this response, your participation continues.

After carefully considering your grievance and the arguments you made justifying the relief you request, I deny your grievance in its entirety.

As I said at the very beginning of my response, I reviewed your Step 1 form and the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 1 grievance.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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

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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. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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. I made this finding, because you did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430.

My position is also supported by Administrative Law Judge Anderson's order in Wright, #200123, vs. SCDC, Docket No. 06-ALJ-04-00114-AP and Administrative Law Judge McLeod's order in Henry Williams, #187203, vs. SCDC, Docket No. 06-ALJ-04-00622-AP.

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 any of the relief you demand in your grievance. In making this finding, I consulted with Lieber's Inmate Grievance Coordinator's [IGC] Office. Representatives of Lieber's IGC Office, in turn, consulted with SCDC's General Counsel's Office and the outside counsel retained by SCDC to defend the inmates' class action lawsuit in the case now known as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Through these consultations, I learned that inmate Darrell Williams, the class representative identified in the inmates' class action lawsuit, filed a Step 1 grievance on September 22, 2004 demanding relief that was similar if not identical to the relief you demanded in your Step 1 grievance. I also learned that Mr. Williams' grievance claimed to be a "class action" grievance on behalf of inmates including you. As a review of your Step 1 grievance clearly shows, you referenced the Step 1 grievance filed by Williams on September 22, 2004 throughout your Step 1 grievance.

Contrary to the claims you made in your Step 1 grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made in your Step 1 grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Therefore, to the extent you use the term "inmate/employee" within your Step 1 grievance to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

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I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.
Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

Therefore, I, again, deny your grievance in its entirety.

1448

AMENDMENT TO GRIEVANCE OF JACOB BEACH, #301270

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for _____ hours in 1999 at $9.68 per hour; _____ hours in 2000 at $10.66 per hour; _____ hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 850 hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees. Exh F had no info for Griev't.

Jacob Beach 2-7-06
(Grievant Signature) (Date)

* Attached are Exh. A, 0776; C, 0081,0086; H, 1-3. Hrs/pay not in Exh.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

1449

	NAME	SCDC	DORM	SHIFT	HIRED	RELEASED
	BARFIELD, JOHN	164001	A B 35	1	6/27/00	8/7/00
	BARKER, CHRIS	245185	E B 12	1	2/23/01	5/15/01
MI 3	BARNIE, RONALD	280608	C A 22	2	4/10/02	9/13/02
	BARR, CHRISTOPHER	257687	C 0	1	12/3/99	1/5/00
	BARRETT, BRANDON	254581	C 0	1	1/18/00	2/18/00
MI 2	BASKIN, TERRY	247638	E A 14	2	8/21/02	9/3/02
MI 3	BAYLOR, MICHAEL	265682	S B 31	1	5/23/01	10/2/02
MI 3	BEACH, JACOB R.	301270	E B 16	1	6/7/04	6/24/04
MI 2	BEASLEY, DARRYEL	222388	C B 18	1	4/5/02	5/19/03
MI 2	BEASLEY, DARRYEL	222388	C A 21	1	12/4/03	6/24/04
	BECKMAN, DENNIS	260735	M X 0	2	1/4/00	12/14/01
MI 3	BELL, L.	258056	C A 0	0		10/11/99
	BELLINGER, DAREN	258008	E B 17	2	5/31/00	8/23/00
	BELT, KEVIN	232614	C A 8	1	6/6/00	11/29/00
	BENNET, CHARLES	263729	S B 39	1	6/27/00	7/14/00
	BENNETT, CHARLES	177073	C A 19	1	10/25/01	2/25/02
MI 2	BENNETT, NORMAN	280779	C A 27	2	3/11/02	11/7/02
	BENNINGER, MICHAEL	264212	S A 42	2	6/19/02	8/22/02
	BERNTSEN, LEROY	101252	S A 1	1	9/3/00	6/21/02
MI 2	BEST, EDWARD	229627	C B 43	1	10/25/01	9/17/02
	BETHEA, ROOSEVELT	257442	E B 16	1	8/11/99	12/29/99
	BETHEL, CHARLIE	254366	S A 14	2	10/20/99	12/31/99
	BINNEY, JONATHON	274644	S B 21	1	5/23/01	6/29/01
MI 2	BISHOP, DAVID	285935	E B 16	1	9/26/02	10/3/02
	BLAKE, ISAAC	170831	C B 29	1	3/6/01	5/6/02
	BLAKE, JERAMI	228213	M X 0	2	1/4/00	12/18/01
	BLEWER, FRAMPTON	165348	E B 62	1	1/15/00	4/2/00
MI 3	BLOM, WILLIAM	279206	E A 32	0	3/16/04	3/24/04
MI 1B	BLOODWORTH, JAMIE	216949	C A 36	1	4/26/00	3/11/03
	BLURTON, GREGORY	247130	S B 17	1	10/19/00	5/14/01
MI 3	BOGAN, JAMES	288111	C B 19	1	6/26/03	6/24/04
	BOLT, RICHARD	261913	S A 57	2	9/10/01	4/15/02
MI 2	BOOTH, PERCY	156682	C A 28	2	9/12/01	1/13/03
MI 3	BOSTICK, ROGERS	196898	W A220	1	6/7/04	6/8/04
MI 3	BOWMAN, STEVEN	280642	C A 52	1	8/7/03	11/10/03
MI 1B	BOWMAN, TAURUS	252745	C B 56	1	9/27/01	6/26/03
	BOYD, MONTEZ	241604	A B 59	2	9/26/01	12/12/01
MI 2	BRACEY, DONNIE	255164	C B 50	1	9/26/01	9/25/02
	BRADFORD, ROY	208445	S B 26	1	11/4/99	12/29/99
MI 2	BRAGG, ERIC	250113	C A 4	2	2/15/00	12/16/02
	BRANCH, LEROY	257167	C B 40	2	8/30/01	7/22/02
MI 3	BRANNON, LAZARUS	227847	C B 46	1	3/15/02	12/20/02
MI 3	BRAXTON, H	254647	C A 0	0		11/22/99
	BRAZZLE, DARRELL	275042	A A 20	1	5/20/02	6/4/02
	BRELAND, TONY	261319	M X 0	2	1/6/00	7/7/00

PLAINTIFF'S EXHIBIT 74

A - 0776
June 2004

745-0

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

LEASE

THE AGREEMENT is entered into this 30th day of September, 1998, by and between the South Carolina Department of Corrections (hereinafter called "SCDC") by its duly authorized agent Michael W. Moore, Director and Williams Technologies, Inc., (hereafter referred to as "Williams") by its duly authorized agent William S. Williams, Chairman.

WHEREAS, Prison Industries is a division of the South Carolina Department of Corrections charged with establishing business relationships with private enterprise so as to fulfill the intent of Section 24-3-310 Code of Laws of South Carolina, 1976 as amended; and has all necessary authorization to enter into this agreement and to bind the State of South Carolina to all the terms contained herein; and,

WHEREAS, Williams represents and warrants that it is a duly qualified South Carolina corporation, licensed to conduct business in South Carolina; and,

WHEREAS, Williams intends to engage in the business of disassembly and/or remanufacturing of its product lines at Lieber Correctional Institution (hereinafter referred to as"LCI"); and ,

WHEREAS, this agreement is made in the best interest of the State of South Carolina:

NOW, THEREFORE, the parties hereto do agree as follows:

ARTICLE 1 General:

In consideration of Williams' expenditures to construct on behalf of the State of South Carolina a building of up to 45,000 square feet on the LCI premises (the "Building") , SCDC hereby enters into this Agreement to permit Williams to use such Building and related premises during the term and in accordance with the provisions of this Agreement. The State Engineer's approval of all building plans is required. Attachment A hereto shall indicate the location of the Building and the related premises, which shall include circulation space for delivery and shipping via tractor-trailers, parking outside of the secured area sufficient for a minimum of six (6) trailers and access to the facility via access roads. SCDC shall be responsible for maintenance of such roadways and related premises.

The Building shall be constructed according to plans approved by the state in accordance with all applicable federal and state and local rules and regulations and SCDC security requirements. The State Engineer's approval of all building plans is required. The cost of the Building (excluding personal property located in the Building such as furnishings and equipment) is estimated to be $ 1,200,000. Within 90 days of completion of the Building, Williams shall provide to SCDC documentation of the expenditures to construct the Building for its review and acknowledgment.

PLAINTIFF'S EXHIBIT C

145-1

to and from LCI reasonable access up to twelve (12) hours per day, subject to the Department's security requirements in Section 3.1.4.

(c) Other access. SCDC will provide access to the facility during Williams' hours of operation for Williams' employees, agents, and business invitees, subject to SCDC's security requirements.

3.3 Mutual Duties of the Parties:

1. Payment for Services: Williams agrees to pay SCDC $4.00 per hour per inmate for work performed including training hours and hours in excess of the inmate's normal shift. SCDC shall be responsible to pay inmate workers, cover security costs and P.I. overhead, including any costs for health, safety and welfare of the inmates, taxes or other payroll deduction. No compensation will be paid for time not worked. In order to accommodate holidays not observed by Williams, SCDC and Williams may agree to work ahead or to work on holidays if a mutually acceptable agreement can be reached.

Thirty (30) days prior to each anniversary date of this agreement, SCDC and Williams may negotiate an increase in the per hour rate paid by Williams to SCDC. If such an increase is requested, it shall be limited to a maximum of five percent (5%) annually or the annual percentage increase in the Consumer Price Index, whichever is lower. It is the intent of the parties that such increase shall only reflect SCDC's increased costs of prison overhead.

Williams and SCDC may mutually agree upon a bonus plan for inmates based on productivity and quality control. Such bonus will be paid in its entirety by Williams to SCDC for distribution to inmates.

2. Compliance with Convict Labor Laws: Williams and SCDC agree that no goods produced under this agreement shall be placed in commerce in violation of the laws of the State of South Carolina or the United States as they relate to the utilization of prison labor. Should either Federal or State Law (or the interpretation thereof) change preventing interstate shipments of goods produced under this Agreement, this Agreement shall terminate as provided in Sections 4.0.7 and 4.0.9.

ARTICLE 4 General Terms and Conditions:

4.0 General:

Williams, its employees or agents performing under the agreement are not to be deemed to be employees of SCDC nor as agents of SCDC in any manner whatsoever. Williams will not hold itself out nor claim to be an officer or employee of SCDC or of the State of South Carolina by reason hereof and will not make any claim, demand, or application to, or for any right or privilege applicable to an officer or employee of SCDC or the State of South Carolina, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security benefits, or retirement membership or credit.

The State of South Carolina, SCDC, their employees (including inmates performing labor pursuant to this Agreement) and agents, are not to be deemed employees of Williams nor agents of Williams in any manner

PLAINTIFF'S EXHIBIT C

To: Douglas Westbrook, Attorney at Law

From: Dr. Joseph Benich, Economic Loss Expert

Subject: Your 9/14/04 request

Date: 9/20/04

This note is in response to your "prevailing wage" request for work generally described by the Williams Technologies Job Description of Production Associate. You have asked for my opinion of the "prevailing wage" for work of a similar nature in the private sector for 1999/2001 (I assume that you mean 1999, 2000, and 2001). It is also my understanding that the term " prevailing wage" not only implies work of a similar nature, but that the work should be performed in the same general geographic area.

The U.S. Department of Labor (Bureau of Labor Statistics) publishes wage data for a range of occupations in the Charleston – North Charleston Metropolitan Area. The Installation, Maintenance and Repair Occupation Sub-Category of "Maintenance and Repair Workers, General" had mean hourly wages of $11.44 in1999, $12.62 in 2000, and $13.24 in 2001 for the Charleston - North Charleston Metropolitan Area. The Production Occupations Sub-Category of "Team Assemblers" had mean hourly wages of $10.49 in 1999, $10.56 in 2000, and $10.88 in 2001 for the Charleston – North Charleston Metropolitan Area. The average of these two Sub-Categories is $10.97 for 1999, $11.59 for 2000, and $12.06 for 2001.

The possibility exists that the average prison worker would be less experienced with his prison position than his non-prison counterpart. It is also possible that the average prison worker would require more supervision than the average non-prison worker performing the same tasks. The concept of "prevailing wage" implies the average wage for a specific category of average workers. The Installation, Maintenance and Repair Occupation Sub Category of "Helpers--- Installation, Maintenance, and Repair Workers" had mean hourly wages of $9.53 in 1999, $11.21 in 2000, and $10.45 in 2001. The Production Occupations Sub-Category of "Helpers-- Production Workers" had mean hourly wages of $7.61 in 1999, $8.27 in 2000, and $9.09 in 2001. The average of these two "Helpers" Sub Categories is $8.40 for 1999, $9.74 for 2000, and $10.10 for 2001.

These "Helpers" Sub Category averages represent the lower end of the "prevailing wage" range for the Williams Technologies Job Description of Production Associate for 1999, 2000, and 2001. Thus the "prevailing wage" range estimate for prison workers for the Williams Technologies Job Description of Production Associate is $10.97 - $8.40 for 1999, $11.59 - $9.74 for 2000, and $12.06 - $10.10 for 2001.

1453

RESUME-3/03
Dr. Joseph J. Benich

FAMILY STATUS
Wife - Roberta; two children - Kiersten and J.J.

EDUCATION

9/68 - 6/72	Doctor of Business Administration Majors: Production Management and Marketing Kent State University, Kent, Ohio
1/66 - 5/68	Masters of Business Administration Majors: Economics and Marketing Case Western Reserve University, Cleveland, Ohio
9/65 - 1/66	Western Reserve University, Cleveland, Ohio Major: Law
9/61 - 6/65	Bachelor of Science in Chemical Engineering Case Institute of Technology, Cleveland, Ohio

ACADEMIC EXPERIENCE

9/93 –2003	Professor of Business Administration College of Charleston, Charleston, South Carolina
9/78 - 8/93	Associate Professor of Business Administration College of Charleston, Charleston, South Carolina
9/76 - 9/78	Associate Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/72 - 9/76	Assistant Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/69 - 6/72	Full-time Instructor, Economics Department Kent State University, Kent, Ohio
1/69 - 6/69	Teaching Fellow, Statistics Kent State University
9/68 - 12/68	Graduate Assistant Kent State University

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NON-ACADEMIC EXPERIENCE

6/74 -	Expert Witness, Economic Litigation, Charleston, South Carolina, analyses of economic loss to individuals and/or businesses, with presentations in State and Federal courts
7/78 -	Manager of Summertime Properties, Charleston, South Carolina
6/73 -	Business Consulting, J. Benich and Associates, Charleston, South Carolina
1/68 - 11/72	Business Advisor to Director of American Screw Products, Warrensville, Ohio
1/68 - 10/68	Staff Specialist (Systems Optimizations), Cleveland Electric Illuminating Company, Cleveland, Ohio
1/66 - 9/67	Industrial Market Research, Harshaw Chemical, Cleveland, Ohio
19/65 - 1/66	Phosphor Efficiency Development, General Electric Co., Cleveland, Ohio (worked independently on a second shift due to day law school)
6/65 - 9/65	Research Chemical Engineering, Sohio Research, Warrensville, Ohio (catalyst efficiency testing and associated acetonitrile purification development).

PUBLICATIONS

"Signal-Averaged P-Wave Analysis of Normal Controls and Patients with Paroxysmal Atrial Fibrillation: A Study in Gender Differences, Age Dependence, and Reproducibility", with A Dhala, B. Leman, et al, Clinical Cardiology, November, 2002, p-525-531

"The High Resolution Signal-Averaged P-Wave Duration in Normal Patients: Influence of Race and Gender", with M. Little, B. Leman, and B. Hainer, North American Society of Pacing and Electrophysiology, abstracted, *Pacing and Clinical Electrophysiology*, April, 1997, Vol.20:4:1219

"Alternative Approaches to Tax Adjustments in Appraising Economic Loss: A Comment", *Journal of Legal Economics*, Fall 1996

"Updated Estimates of Work-Life Expectancies Based upon The Increment-Decrement Model: Comment", *Journal of Legal Economics*, Winter 1995

"Intra-Year Discounting Assumptions and Bias in Lost Earnings Analysis: A Comment", *Journal of Forensic Economics*, Winter 1993, 7(1)

"Comment: On the Relative Stability and Predictability of the Interest Rate and Earnings Growth Rate", *Journal of Forensic Economics*, Winter 1992, 6(1)

"Determining Tax-Adjusted Awards for Spouses' Lost Future Earnings", For *The Defense*, Nov. 1992

"The Just Better (JB) Method of Calculating The Present Value of Lost Future Income", *Journal of Legal Economics*, July 1992

1455

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

Office Use Only 07-07750-04

INMATE NAME: Jacob Beach
SCDC NUMBER: 301270
INSTITUTION: Lieber
HOUSING UNIT: WA-213
WORK ASSIGNMENT: P.I. #2

RECEIVED
JUN 14 2007
INMATE GRIEVANCE

Grievance No. [redacted]
Code: General MY
Policy
Disc. Hear
Class.
Date Received 6-4-07
IGC Initials AK
✔ IGA - ABH 7-12-07

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

Adkins and Wicker held that §24-3-430's wage provisions were "mandatory", and created a "statutory right to the payment of a prevailing wage". These cases further held that inmates can grieve SCDC's failure to pay prevailing wages under §24-3-430, with review by the ALJ.

SCDC owes Grievant back wages, because it failed to pay prevailing wages prior to July 1, 2001, and $4/hour thereafter. And what it did pay was but a fraction of these amounts. Thus, the wage rate SCDC paid was not correct, and back wages are owed.

Grievant incorporates by reference Exhibits A-H attached to grievances filed by Darrell Williams and counsel on September 22, 2004.

Jacob Beach 6-3-'07
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

Signature 7-20-07 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.

Jacob Beach 8/8/07
Grievant Signature Date

[redacted] 8/8/07
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

1456

SCDC 10-5A (November 1997)

BEACH LCI-0730-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated June 3, 2007. Along with reviewing your Step 2 appeal, I have also reviewed all of the materials you submitted in support of your Step 1 grievance dated September 27, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that your first voluntary work assignment in the prison industries project at Lieber began on May 24, 2004 and ended January 24, 2005. Additionally, these records reflect that you returned to this project for a second work assignment that began April 4, 2006 and, as of the date of this response, your participation continues.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. The events which lead me to review your Step 2 appeal at the current time were detailed for you in the response you received to your Step 1 grievance.

As was also explained to you in the response you received to your Step 1 grievance, the South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430.

Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy. SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 four (4) months after SCDC first paid you for your participation in the project located at Lieber and over 30 days 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.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.

Furthermore, even if you had met the time frames established in paragraphs 13.1 and 13.9, I completely adopt and endorse the written decision denying your Step 1 grievance, and I find that you are not entitled to any of the relief you demand in your Step 1 grievance.

Therefore, I 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.

1457

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Jacob Beach, #301270,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

DOCKET NO. _07___-ALJ-04-_____-____
GRIEVANCE NO.: _____

Notice is hereby given that Jacob Beach does hereby appeal the final decision of the South Carolina Department of Corrections dated 7-20-07 and received on 8-8-07, 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)):

1. Grievance seeks back wages, contesting SCDC policy/procedure of paying below prevailing/negotiated wages. Thus, there was no time limit to file grievance under Grievance Policy §13.9.

2. Appellant had reasonable cause under §13.9 as his right to grieve did not accrue until Adkins/Wicker and filed within a reasonable time.

3. Applying §13.1 to these facts violated due process.

4. Under 4-19-07 Court order, SCDC was required to accept filing and consider on the merits Appellant's Amendment/Exhibits.

5. Grievance proved all elements of claim for prevailing/negot. wages.

6. Dr. Benich's report is the only evidence of prevailing wages in the record. Appellant is entitled to prevailing/negotiated wages.

7. To extent Appellant worked OT he is entitled to it under SCDC policy

8. Appellant claims pre/post judgment interest, costs and attorney fees

Jacob Beach
Appellant's Name
Lieber C.I.
P.O. Box 205
Mailing Address
Ridgeville, SC 29472
City, State, Zip Code
none
Telephone Number

Signed

8-30-07
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

1458

STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
JACOB BEACH, #301270	)	
Grievant/Appellant,	)	
vs.	)	CERTIFICATE OF SERVICE
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
Respondent/Appellee.	)	

I certify that on the 31st day of August, 2007, I mailed by first class postage Appellant's Notice of Appeal, and final decision, to the following:

(1) The original ~~and one copy~~ were mailed for filing with the Administrative Law Court, to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC, to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

D H Westbrook
Douglas H. Westbrook

1459

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: Darryel Beasley
SCDC NUMBER: 222388
INSTITUTION: Lieber
HOUSING UNIT: Cooper A-21
WORK ASSIGNMENT: Carpentry Class

Office Use Only
Grievance No. _____
Code: General _____
Policy _____
Disc. Hear. _____
Class. _____
Date Received _____
IGC Initials _____

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

The department is Asked to Reciew and detremine whether I am Entitled to Recive back wages due to me fro working at Lieber Prison In dustry Program when the only Paid me. 35 Cents an hour and not Prevailing wage as Required under south caroling code Ann. Sec. 24-3-430 (A-7) AS well as Fact that From 1998-03 the denied me Prevailing wage

ACTION REQUESTED:

All money due to me be paid Prevailing wage and overtin Rate and Prevailing wage be paid now

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Law suit was Filed ordered to File Grievance by court wicker

v. SC DC, Adkins v. SCDC

Darryel Beasley
Grievant Signature Date

ACTION TAKEN BY IGC:

Inmate Beasley; Current court decision addressing wages does not apply to Lieber Prison Industry Service Program; therefore, this is being returned to you unprocessed.

L Corrigan 9-22-04
IGC Signature Date

N/A

☐ I accept the action taken by the IGC and consider the matter closed.
☐ I do not accept the action taken and wish to appeal. 1460

Ackerman 5-6-11 1098

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

Darryel Beasley individually, and on behalf of all inmate employees (IE's) listed on attached Exh. A * — STEP 1

INMATE NAME:

SCDC NUMBER: 222388

INSTITUTION: Lieber

HOUSING UNIT: Cooper A-21

WORK ASSIGNMENT: PI-2

NOV 03 2004 P.P.

Office Use Only
Grievance No. 10961-04
Code: General 04
Policy
Disc. Hear.
Class.
Date Received NOV 04 2004
IGC Initials
12/14/04

STATE GRIEVANCE (Include documentation, and date of incident; if SCDC Policy, indicate which policy) From 1999 to present, IE's were/are employed in the Williams Tech/Lieber service work program. From 1999 to July 2001, WTI/Lieber were required by S.C. Code 24-3-430 to pay IE's the "prevailing wage" for work of a similar nature in the private sector. This prevailing wage was $8.40 to $10.97 for 1999, $9.74 to $11.59 f 2000, and $10.10 to $12.06 for 2001 (Exh. G, H). Since July 2001, WTI/Lieber were required to pay IE's the negotiated wage of $4.00 per hour (Statutes at Large, No. 66, S37.31, eff. July 1, 2001; Exh. B, C). In fact, WTI/Lieber's policy was to pay IE's, in most cases, under $1.00 per hour. Exhibits docume a $.35 per hour base pay rate, maximum pay of $1.00 per hour, the September 3 1998 WTI/Lieber contract specifying a wage of $4 per hour, the names and empl ment periods of all 1000 plus class members, and the pay dates, rates, hours, and pay for all class members from 1999 to June 2004 (Exh. D, E, C, A, and F)

* "Exh." denotes exhibits attached to Darrell Williams' Grievance, which are incorporated by reference herein.

ACTION REQUESTED: That IE's be paid back wages at the prevailing wage rate. f 1999 to July 2001; and at $4 per hour for July 2001 to present, and in the fu ture; all as determined from Exhibits A-H; and the time cards, pay stubs, ar other records for class members shown to IE's counsel July 20, 2004 at Lieber in Jack Staudt's custody. IE's also request pre/post judgment interest, cost and attorney fees.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT: IE's hav verbally requested WTI/Lieber to pay them prevailing wages. Darrell Williams in 2001 formally protested the improper wages, and filed a grievance which wa dismissed for want of jurisdiction. In 2002, Williams filed a lawsuit (Willi et al. v. SCDC, et al., Case No. 02-CP-18-134, now pending) which was certif a class action representing the class identified in Exh. A. On August 23, 2(the S.C. Supreme Court held in the Adkins and Wicker cases that 24-3-430's prevailing wage provision was mandatory, and IE's could file a grievance for back wages.

Darryel Beasley 11-9-04
Grievant Signature Date

ACTION TAKEN BY IGC:

SEE WARDEN'S RESPONSE

Inmate Released 9-29-05 GA-01.12 Section 19.1

Dan Hallman 1-28-05
IGC Signature Date

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

D H Whitmire 2-1-05
Grievant Signature Date
Atty for Grievant

SCDC 10-5 (Rev. November 1997)

(CONTINUED ON REVERSE SIDE)

1461

WARDEN'S DECISION AND REASON:

SEE ATTACHED

Warden Signature Date 1/30/08

☐ 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~~ IGA Signature Date 1-31-08

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.

1462

BEASLEY, DARRYEL #222388 LCI-0961-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, [redacted]

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. [redacted]

After carefully considering your grievance and the arguments you made justifying the relief you request, I deny your grievance in its entirety.

As I said at the very beginning of my response, I reviewed your Step 1 form and the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

1463

BEASLEY, DARRYEL #222388 LCI-0961-04

SCDC Policy Number 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. I made this finding, because you did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430.

My position is also supported by Administrative Law Judge Anderson's order in Wright, #200123, vs. SCDC, Docket No. 06-ALJ-04-00114-AP and Administrative Law Judge McLeod's order in Henry Williams, #187203, vs. SCDC, Docket No. 06-ALJ-04-00622-AP.

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 any of the relief you demand in your grievance. In making this finding, I consulted with Lieber's Inmate Grievance Coordinator's [IGC] Office. Representatives of Lieber's IGC Office, in turn, consulted with SCDC's General Counsel's Office and the outside counsel retained by SCDC to defend the inmates' class action lawsuit in the case now known as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Through these consultations, I learned that inmate Darrell Williams, the class representative identified in the inmates' class action lawsuit, filed a Step 1 grievance on September 22, 2004 demanding relief that was similar if not identical to the relief you demanded in your Step 1 grievance. I also learned that Mr. Williams' grievance claimed to be a "class action" grievance on behalf of inmates including you. As a review of the documents submitted in support of your Step 1 grievance form clearly shows, you referenced the Step 1 grievance filed by Williams on September 22, 2004.

Contrary to the claims you made in these supporting documents, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made your supporting documents, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Therefore, to the extent you use the term "employee" within your supporting documents to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work

BEASLEY, DARRYEL #222388 LCI-0961-04

of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your supporting documents the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

Therefore, I, again, deny your grievance in its entirety.

1465

AMENDMENT TO GRIEVANCE OF DARRYEL BEASLEY, #222388

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 4-22-04 are incorporated herein by reference). * Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; hours in 2000 at $10.66 per hour; hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 3572.35 plus hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

(Grievant Signature) (Date)

* Attached are Exh. A, 0776; C, 0081,0086; F, 0965-0966; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

Due: March 2, 2008

Office Use Only
Grievance No. LCI-0961-04
Code: General 1 MY-PI
Policy
Disc. Hear.
Class.
Date Received
IGC Initials

INMATE NAME: Darryel Beasley
SCDC NUMBER: 222388 (former)
INSTITUTION: ~~released~~
HOUSING UNIT:
WORK ASSIGNMENT:

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): Inmate began working 5-6-02 and ended 7-11-05 . §13.1 does not apply as grievance seeks back wages, contesting SCDC policy/ procedure of paying below prevailing/negotiated wages. Thus, there was no time limit to file grievance under §13.9. Inmate had reasonable cause under §13.9 as his right to grieve did not accrue until Adkins/Wicker and he filed within a reasonable time. Applying §13.1 to these facts violated due process. Under court order SCDC was required to accept filing/consider on the merits inmate's Amendments/Exhibits, SCDC did so, and thereby waived right to rely on §13.1. Dr. Benich report is the only evidence of prevailing wages in the record, and inmate is entitled to prevailing negotiated wages. To extent inmate worked overtime he is entitled to it under SCDC policy. Darrel Williams' 9-22-04 grievance, and many others, was filed individually and on behalf of all inmates who worked in this program, and SCDC should thus process grievances for all inmates whether they filed or not. Grievance proved all elements of claim for prevailing/negotiated wages. Inmate claims pre/post judgment interest, costs and attorney fees under §15-77-300, applicable other statutes and fee agreements, in addition to back wages. Inmate incorporates by reference Darrell Williams' 9-22-04 grievance and Exh. A-H attached thereto.

Darryel Beasley 2-19-08
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

Atty for Warden

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)

1467

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION

Darryel Beasley, #222388 released Appellant, vs. South Carolina Department of Corrections, Respondent.	NOTICE OF APPEAL Docket No. 0 -ALJ-04-_____-AP Grievance No. _____

Notice is hereby given that Darryel Beasley does hereby appeal the final decision of the South Carolina Department of Corrections dated _____ and received on no final decision issued, 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)): 1. Automatic appeal is proper under grievance policy §§13.5, 13.8 and 28 C.F.R. Part 40.7(e) because SCDC did not timely respond to grievance and the 105 day grievance processing period expired without final decision. 2. Grievance contests SCDC wage policy and "concerns policy/procedure" under §13.9 with no time limit to file. 3. There was reasonable cause under §13.9 and (1) no time limit to file and (2) compliance with §13.1. 4. Inmates' class action tolled §13.1. 5. §13.1 denied grievant reasonable time to file and thus due process. 6. SCDC failed to plead §13.1 in step 1 response and considered Amendments on the merits and thus waived §13.1. 7. SCDC was judicially estopped to raise §13.1. 8. Grievant proved all elements of claim, including prevailing wage, period(s) worked and any overtime due. 9. Grievant claims back wages, pre/post judgment interest, costs and attorney fees. 10. SCDC should process grievance for all who worked in program whether or not they personally filed a grievance.

Darryel Beasley
Appellant's Name

c/o Mr. Lee Beasley (father)
Mailing Address

3235 N. West 80th St.

Miami, FL 33147
City, State, Zip Code

(305) 693-1737
Telephone Number

Signed

11-6-04
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

(See reverse side for instructions)

1468

STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
	)	
DARRYEL BEASLEY, #222388	)	
	)	
Grievant/Appellant,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
	)	
	)	
Respondent/Appellee.	)	
	)	

I certify that on the 15 day of Nov., 2008, I mailed by first class postage Appellant's Notice of Appeal, and any grievance response provided to me by SCDC, to the following:

(1) The original was mailed for filing with the Administrative Law Court to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

(3) One copy was mailed pursuant to Directive to SCDC Policy GA-01.12 to:

South Carolina Department of Corrections
Office of General Counsel
P.O. Box 21787
Columbia, SC 29221-1787

D H Westbrook

Douglas H. Westbrook

1469

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: Michael Benninger
SCDC NUMBER: 264212
INSTITUTION: Lieber
HOUSING UNIT: E-A-22
WORK ASSIGNMENT: Dorm Worker

Office Use Only
Grievance No. Lieber 00001 04
Code: General MY
Policy
Disc. Hear.
Class.
Date Received SEP 22 2004
IGC Initials CC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

Would you review and determine, whether I am entitled to receive back wages which are due to me from working at Lieber Prison Industries Program. I was only paid .35¢ an hour and not prevailing, as under South Carolina Code Ann. Sec. 24-3-430 (A-7), as well as the fact that the South Carolina Dept Of Corrections, was being paid $4.00 and hour, for the work I did. They denied me prevailing wages.

ACTION REQUESTED: That all money due to me be paid at prevailing wage, as well as overtime rate, moreover the prevailing wage be paid now.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Lawsuit was filed and I was ordered to file a Grievance by Court, Wicker v. SCDC and Adkins v. SCDC

Michael Benninger
Grievant Signature Date

ACTION TAKEN BY IGC:

Inmate Benninger: See Warden's Response

L Carlton 10/28/04
IGC Signature Date

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

N/A
Grievant Signature Date

SCDC 10-5 (Rev. November 1997)

1470

Ackerman 5-6-11 1108

WARDEN'S DECISION AND REASON:

See Attachment.

Warden Signature Date 10.28.04

☐ 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 10/29/04

IGC Signature Date 10/29/04

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.

1471

Inmate Michael Bennings, #261212 LC10000-01

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

1472

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

1473

AMENDMENT TO GRIEVANCE OF MICHAEL BENNINGER, #264212

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; hours in 2000 at $10.66 per hour; hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 120.47 hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

(Grievant Signature) (Date)

* Attached are Exh. A, 0776; C, 0081,0086; F, 0969; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

1474

	NAME	SCDC	DORM	SHIFT	HIRED	RELEASED
	BARFIELD, JOHN	164001	A B 35	1	6/27/00	8/7/00
	BARKER, CHRIS	245185	E B 12	1	2/23/01	5/15/01
MI 3	BARNIE, RONALD	280608	C A 22	2	4/10/02	9/13/02
	BARR, CHRISTOPHER	257687	C 0	1	12/3/99	1/5/00
	BARRETT, BRANDON	254581	C 0	1	1/18/00	2/18/00
MI 2	BASKIN, TERRY	247638	E A 14	2	8/21/02	9/3/02
MI 3	BAYLOR, MICHAEL	265682	S B 31	1	5/23/01	10/2/02
MI 3	BEACH, JACOB R.	301270	E B 16	1	6/7/04	6/24/04
MI 2	BEASLEY, DARRYEL	222388	C B 18	1	4/5/02	5/19/03
MI 2	BEASLEY, DARRYEL	222388	C A 21	1	12/4/03	6/24/04
	BECKMAN, DENNIS	260735	M X 0	2	1/4/00	12/14/01
MI 3	BELL, L.	258056	C A 0	0		10/11/99
	BELLINGER, DAREN	258008	E B 17	2	5/31/00	8/23/00
	BELT, KEVIN	232614	C A 8	1	6/6/00	11/29/00
	BENNET, CHARLES	263729	S B 39	1	6/27/00	7/14/00
	BENNETT, CHARLES	177073	C A 19	1	10/25/01	2/15/02
MI 2	BENNETT, NORMAN	280779	C A 27	2	3/11/02	11/7/02
	BENNINGER, MICHAEL	264212	S A 42	2	6/19/02	8/22/02
	BERNTSEN, LEROY	101252	S A 1	1	9/3/00	6/21/02
MI 2	BEST, EDWARD	229627	C B 43	1	10/25/01	9/17/02
	BETHEA, ROOSEVELT	257442	E B 16	1	8/11/99	12/29/99
	BETHEL, CHARLIE	254366	S A 14	2	10/20/99	12/31/99
	BINNEY, JONATHON	274644	S B 21	1	5/23/01	6/29/01
MI 2	BISHOP, DAVID	285935	E B 16	1	9/26/02	10/3/02
	BLAKE, ISAAC	170831	C B 29	1	3/6/01	5/6/02
	BLAKE, JERAMI	228213	M X 0	2	1/4/00	12/18/01
	BLEWER, FRAMPTON	165348	E B 62	1	1/15/00	4/2/00
MI 3	BLOM, WILLIAM	279206	E A 32	0	3/16/04	3/24/04
MI 1B	BLOODWORTH, JAMIE	216949	C A 36	1	4/26/00	3/11/03
	BLURTON, GREGORY	247130	S B 17	1	10/19/00	5/14/01
MI 3	BOGAN, JAMES	288111	C B 19	1	6/26/03	6/24/04
	BOLT, RICHARD	261913	S A 57	2	9/10/01	4/15/02
MI 2	BOOTH, PERCY	156682	C A 28	2	9/12/01	1/13/03
MI 3	BOSTICK, ROGERS	196898	W A220	1	6/7/04	6/8/04
MI 3	BOWMAN, STEVEN	280642	C A 52	1	8/7/03	11/10/03
MI 1B	BOWMAN, TAURUS	252745	C B 56	1	9/27/01	6/26/03
	BOYD, MONTEZ	241604	A B 59	2	9/26/01	12/12/01
MI 2	BRACEY, DONNIE	255164	C B 50	1	9/26/01	9/25/02
	BRADFORD, ROY	208445	S B 26	1	11/4/99	12/29/99
MI 2	BRAGG, ERIC	250113	C A 4	2	2/15/00	12/16/02
	BRANCH, LEROY	257167	C B 40	2	8/30/01	7/22/02
MI 3	BRANNON, LAZARUS	227847	C B 46	1	3/15/02	12/20/02
MI 3	BRAXTON, H	254647	C A 0	0		11/22/99
	BRAZZLE, DARRELL	275042	A A 20	1	5/20/02	6/4/02
	BRELAND, TONY	261319	M X 0	2	1/6/00	7/7/00

PLAINTIFF'S EXHIBIT A

A - 0776
June 2004

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STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

LEASE

THE AGREEMENT is entered into this 30th day of September, 199 8, by and between the South Carolina Department of Corrections (hereinafter called "SCDC") by its duly authorized agent Michael W. Moore, Director and Williams Technologies, Inc., (hereafter referred to as "Williams") by its duly authorized agent William S. Williams, Chairman.

WHEREAS, Prison Industries is a division of the South Carolina Department of Corrections charged with establishing business relationships with private enterprise so as to fulfill the intent of Section 24-3-310 Code of Laws of South Carolina, 1976 as amended; and has all necessary authorization to enter into this agreement and to bind the State of South Carolina to all the terms contained herein; and,

WHEREAS, Williams represents and warrants that it is a duly qualified South Carolina corporation, licensed to conduct business in South Carolina; and,

WHEREAS, Williams intends to engage in the business of disassembly and/or remanufacturing of its product lines at Lieber Correctional Institution (hereinafter referred to as"LCI"); and ,

WHEREAS, this agreement is made in the best interest of the State of South Carolina:

NOW, THEREFORE, the parties hereto do agree as follows:

ARTICLE 1 General:

In consideration of Williams' expenditures to construct on behalf of the State of South Carolina a building of up to 45,000 square feet on the LCI premises (the "Building") , SCDC hereby enters into this Agreement to permit Williams to use such Building and related premises during the term and in accordance with the provisions of this Agreement. The State Engineer's approval of all building plans is required. Attachment A hereto shall indicate the location of the Building and the related premises, which shall include circulation space for delivery and shipping via tractor-trailers, parking outside of the secured area sufficient for a minimum of six (6) trailers and access to the facility via access roads. SCDC shall be responsible for maintenance of such roadways and related premises.

The Building shall be constructed according to plans approved by the state in accordance with all applicable federal and state and local rules and regulations and SCDC security requirements. The State Engineer's approval of all building plans is required. The cost of the Building (excluding personal property located in the Building such as furnishings and equipment) is estimated to be $ 1,200,000 Within 90 days of completion of the Building, Williams shall provide to SCDC documentation of the expenditures to construct the Building for its review and acknowledgment.

PLAINTIFF'S EXHIBIT C

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to and from LCI reasonable access up to twelve (12) hours per day, subject to the Department's security requirements in Section 3.1.4.

(c) Other access. SCDC will provide access to the facility during Williams' hours of operation for Williams' employees, agents, and business invitees, subject to SCDC's security requirements.

3.3 Mutual Duties of the Parties:

1. Payment for Services: Williams agrees to pay SCDC $4.00 per hour per inmate for work performed including training hours and hours in excess of the inmate's normal shift. SCDC shall be responsible to pay inmate workers, cover security costs and P.I. overhead, including any costs for health, safety and welfare of the inmates, taxes or other payroll deduction. No compensation will be paid for time not worked. In order to accommodate holidays not observed by Williams, SCDC and Williams may agree to work ahead or to work on holidays if a mutually acceptable agreement can be reached.

Thirty (30) days prior to each anniversary date of this agreement, SCDC and Williams may negotiate an increase in the per hour rate paid by Williams to SCDC. If such an increase is requested, it shall be limited to a maximum of five percent (5%) annually or the annual percentage increase in the Consumer Price Index, whichever is lower. It is the intent of the parties that such increase shall only reflect SCDC's increased costs of prison overhead.

Williams and SCDC may mutually agree upon a bonus plan for inmates based on productivity and quality control. Such bonus will be paid in its entirety by Williams to SCDC for distribution to inmates.

2. Compliance with Convict Labor Laws: Williams and SCDC agree that no goods produced under this agreement shall be placed in commerce in violation of the laws of the State of South Carolina or the United States as they relate to the utilization of prison labor. Should either Federal or State Law (or the interpretation thereof) change preventing interstate shipments of goods produced under this Agreement, this Agreement shall terminate as provided in Sections 4.0.7 and 4.0.9.

ARTICLE 4 General Terms and Conditions:

4.0 General:
Williams, its employees or agents performing under the agreement are not to be deemed to be employees of SCDC nor as agents of SCDC in any manner whatsoever. Williams will not hold itself out nor claim to be an officer or employee of SCDC or of the State of South Carolina by reason hereof and will not make any claim, demand, or application to, or for any right or privilege applicable to an officer or employee of SCDC or the State of South Carolina, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security benefits, or retirement membership or credit.

The State of South Carolina, SCDC, their employees (including inmates performing labor pursuant to this Agreement) and agents, are not to be deemed employees of Williams nor agents of Williams in any manner

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Ackerman 5-6-11 1115

Inmate #	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Hours	Pay Amount
177073	BENNETT	CHARLES		20000522	0.25	7.50	1.87
177073	BENNETT	CHARLES		20000605	0.35	39.62	13.86
177073	BENNETT	CHARLES		20000619	0.65	72.13	46.88
177073	BENNETT	CHARLES		20000703	0.50	31.68	15.84
177073	BENNETT	CHARLES		20011231	0.50	36.20	18.10
177073	BENNETT	CHARLES		20020114	0.50	51.62	25.81
177073	BENNETT	CHARLES		20020128	0.50	65.38	32.69
177073	BENNETT	CHARLES		20020211	0.50	89.06	44.53
280779	BENNETT	NORMAN	LEE	20020422	0.50	52.50	26.25
280779	BENNETT	NORMAN	LEE	20020506	0.50	53.22	26.61
280779	BENNETT	NORMAN	LEE	20020520	0.50	79.50	39.75
280779	BENNETT	NORMAN	LEE	20020603	0.50	52.50	26.25
280779	BENNETT	NORMAN	LEE	20020617	0.50	67.50	33.75
280779	BENNETT	NORMAN	LEE	20020701	0.50	90.00	45.00
280779	BENNETT	NORMAN	LEE	20020715	0.50	54.00	27.00
280779	BENNETT	NORMAN	LEE	20020729	0.50	80.99	40.49
280779	BENNETT	NORMAN	LEE	20020812	0.50	45.00	22.50
280779	BENNETT	NORMAN	LEE	20020826	0.50	98.94	49.47
280779	BENNETT	NORMAN	LEE	20020909	0.50	83.84	41.92
280779	BENNETT	NORMAN	LEE	20020923	0.50	91.08	45.54
280779	BENNETT	NORMAN	LEE	20021007	0.50	114.75	57.37
280779	BENNETT	NORMAN	LEE	20021021	0.50	112.50	56.25
280779	BENNETT	NORMAN	LEE	20021104	0.50	112.50	56.25
280779	BENNETT	NORMAN	LEE	20021118	0.50	41.63	20.81
264212	BENNINGER	MICHAEL		20020715	0.50	37.64	18.82
264212	BENNINGER	MICHAEL		20020729	0.50	47.18	23.59
264212	BENNINGER	MICHAEL		20020812	0.50	35.65	17.82
101252	BERNTSEN	L.	A.	20010521	0.50	146.10	73.05
101252	BERNTSEN	L.	A.	20010604	0.50	127.00	63.50
101252	BERNTSEN	L.	A.	20010618	0.50	148.38	74.19
101252	BERNTSEN	L.	A.	20010702	0.50	157.41	78.70
101252	BERNTSEN	L.	A.	20010716	0.50	143.66	71.83
101252	BERNTSEN	L.	A.	20010730	0.50	166.68	83.34
101252	BERNTSEN	L.	A.	20010813	0.50	190.95	95.47
101252	BERNTSEN	L.	A.	20010827	0.50	145.69	72.84
101252	BERNTSEN	L.	A.	20010910	0.50	146.29	73.14
101252	BERNTSEN	L.	A.	20010924	0.50	178.85	89.42
101252	BERNTSEN	L.	A.	20011008	0.50	226.53	113.26
101252	BERNTSEN	L.	A.	20011022	0.50	231.08	115.54
101252	BERNTSEN	L.	A.	20011105	0.50	208.45	104.22
101252	BERNTSEN	L.	A.	20011119	0.50	219.26	109.63
101252	BERNTSEN	L.	A.	20011203	0.50	90.05	45.02
101252	BERNTSEN	L.	A.	20011231	0.50	83.61	41.80
101252	BERNTSEN	L.	A.	20020114	0.50	87.75	43.87
101252	BERNTSEN	L.	A.	20020128	0.50	138.51	69.25
101252	BERNTSEN	L.	A.	20020211	0.50	178.21	89.10
101252	BERNTSEN	L.	A.	20020225	0.50	204.68	102.34
101252	BERNTSEN	L.	A.	20020311	0.50	185.73	92.86
101252	BERNTSEN	L.	A.	20020325	0.50	163.00	81.50
101252	BERNTSEN	L.	A.	20020408	0.50	150.61	75.30
101252	BERNTSEN	L.	A.	20020422	0.50	157.24	78.62
101252	BERNTSEN	L.	A.	20020506	0.50	147.99	73.99
101252	BERNTSEN	L.	A.	20020520	0.50	125.14	62.57
101252	BERNTSEN	L.	A.	20020603	0.50	69.60	34.80

PLAINTIFF'S EXHIBIT
F
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A - 0969
June 2004

To: Douglas Westbrook, Attorney at Law

From: Dr. Joseph Benich, Economic Loss Expert

Subject: Your 9/14/04 request

Date: 9/20/04

This note is in response to your "prevailing wage" request for work generally described by the Williams Technologies Job Description of Production Associate. You have asked for my opinion of the "prevailing wage" for work of a similar nature in the private sector for 1999/2001 (I assume that you mean 1999, 2000, and 2001). It is also my understanding that the term " prevailing wage" not only implies work of a similar nature, but that the work should be performed in the same general geographic area.

The U.S. Department of Labor (Bureau of Labor Statistics) publishes wage data for a range of occupations in the Charleston – North Charleston Metropolitan Area. The Installation, Maintenance and Repair Occupation Sub-Category of "Maintenance and Repair Workers, General" had mean hourly wages of $11.44 in1999, $12.62 in 2000, and $13.24 in 2001 for the Charleston - North Charleston Metropolitan Area. The Production Occupations Sub-Category of "Team Assemblers" had mean hourly wages of $10.49 in 1999, $10.56 in 2000, and $10.88 in 2001 for the Charleston – North Charleston Metropolitan Area. The average of these two Sub-Categories is $10.97 for 1999, $11.59 for 2000, and $12.06 for 2001.

The possibility exists that the average prison worker would be less experienced with his prison position than his non-prison counterpart. It is also possible that the average prison worker would require more supervision than the average non-prison worker performing the same tasks. The concept of "prevailing wage" implies the average wage for a specific category of average workers. The Installation, Maintenance and Repair Occupation Sub Category of "Helpers—Installation, Maintenance, and Repair Workers" had mean hourly wages of $9.53 in 1999, $11.21 in 2000, and $10.45 in 2001. The Production Occupations Sub-Category of "Helpers–Production Workers" had mean hourly wages of $7.61 in 1999, $8.27 in 2000, and $9.09 in 2001. The average of these two "Helpers" Sub Categories is $8.40 for 1999, $9.74 for 2000, and $10.10 for 2001.

These "Helpers" Sub Category averages represent the lower end of the "prevailing wage" range for the Williams Technologies Job Description of Production Associate for 1999, 2000, and 2001. Thus the "prevailing wage" range estimate for prison workers for the Williams Technologies Job Description of Production Associate is $10.97 - $8.40 for 1999, $11.59 - $9.74 for 2000, and $12.06 - $10.10 for 2001.

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RESUME-3/03
Dr. Joseph J. Benich

FAMILY STATUS
Wife - Roberta; two children - Kiersten and J.J.

EDUCATION

9/68 - 6/72	Doctor of Business Administration Majors: Production Management and Marketing Kent State University, Kent, Ohio
1/66 - 5/68	Masters of Business Administration Majors: Economics and Marketing Case Western Reserve University, Cleveland, Ohio
9/65 - 1/66	Western Reserve University, Cleveland, Ohio Major: Law
9/61 - 6/65	Bachelor of Science in Chemical Engineering Case Institute of Technology, Cleveland, Ohio

ACADEMIC EXPERIENCE

9/93 –2003	Professor of Business Administration College of Charleston, Charleston, South Carolina
9/78 - 8/93	Associate Professor of Business Administration College of Charleston, Charleston, South Carolina
9/76 - 9/78	Associate Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/72 - 9/76	Assistant Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/69 - 6/72	Full-time Instructor, Economics Department Kent State University, Kent, Ohio
1/69 - 6/69	Teaching Fellow, Statistics Kent State University
9/68 - 12/68	Graduate Assistant Kent State University

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NON-ACADEMIC EXPERIENCE

6/74 -	Expert Witness, Economic Litigation, Charleston, South Carolina, analyses of economic loss to individuals and/or businesses, with presentations in State and Federal courts
7/78 -	Manager of Summertime Properties, Charleston, South Carolina
6/73 -	Business Consulting, J. Benich and Associates, Charleston, South Carolina
1/68 - 11/72	Business Advisor to Director of American Screw Products, Warrensville, Ohio
1/68 - 10/68	Staff Specialist (Systems Optimizations), Cleveland Electric Illuminating Company, Cleveland, Ohio
1/66 - 9/67	Industrial Market Research, Harshaw Chemical, Cleveland, Ohio
19/65 - 1/66	Phosphor Efficiency Development, General Electric Co., Cleveland, Ohio (worked independently on a second shift due to day law school)
6/65 - 9/65	Research Chemical Engineering, Sohio Research, Warrensville, Ohio (catalyst efficiency testing and associated acetonitrile purification development).

PUBLICATIONS

"Signal-Averaged P-Wave Analysis of Normal Controls and Patients with Paroxysmal Atrial Fibrillation: A Study in Gender Differences, Age Dependence, and Reproducibility", with A Dhala, B. Leman, et al, Clinical Cardiology, November, 2002, p-525-531

"The High Resolution Signal-Averaged P-Wave Duration in Normal Patients: Influence of Race and Gender", with M. Little, B. Leman, and B. Hainer, North American Society of Pacing and Electrophysiology, abstracted, *Pacing and Clinical Electrophysiology*, April, 1997, Vol.20:4:1219

"Alternative Approaches to Tax Adjustments in Appraising Economic Loss: A Comment", *Journal of Legal Economics*, Fall 1996

"Updated Estimates of Work-Life Expectancies Based upon The Increment-Decrement Model: Comment", *Journal of Legal Economics*, Winter 1995

"Intra-Year Discounting Assumptions and Bias in Lost Earnings Analysis: A Comment", *Journal of Forensic Economics*, Winter 1993, 7(1)

"Comment: On the Relative Stability and Predictability of the Interest Rate and Earnings Growth Rate", *Journal of Forensic Economics*, Winter 1992, 6(1)

"Determining Tax-Adjusted Awards for Spouses' Lost Future Earnings", For *The Defense*, Nov. 1992

"The Just Better (JB) Method of Calculating The Present Value of Lost Future Income", *Journal of Legal Economics*, July 1992

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Michael Benninger
SCDC NUMBER: 264212 Nov. 2, 04 P.P
INSTITUTION: Lieber
HOUSING UNIT: E-A-22
WORK ASSIGNMENT: Dorm

Office Use Only
Grievance No. LCI 0600-04
Code: General MM
Policy
Disc. Hear.
Class.
Date Received NOV 0 2 2004
IGC Initials

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): Adkins & Wicker do require payment of prevailing wages. Grievants were employed by WTI and SCDC was WTI's "agent" in paying our wages. Adkins & Wicker further allow this issue of payment of wages under SC Code 24-3-430 to be grieved pursant to SCDC's grievance procedure. Grievant incorporates by reference all exhibits attached to grievances ~~filed~~ filed by Darrell Williams and Attorney Douglas Westbrook on 9-22-04.

Michael Benninger 11/1/04
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

Signature 5-14-07
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.

Michael Benninger 5/23/07 5/23/07
Grievant Signature Date IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

SCDC 10-5A (November 1997)

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Ackerman 5-6-11 1120

BENNINGER LCI-0600-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 1, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 22, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on January 15, 2003 and that your participation in this project ended on June 26, 2003.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 2 appeal.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 two (2) years after SCDC first paid you for your participation in the project located at Lieber, over two (2) years after your participation in the project at Lieber ended, and over 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.
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 any of the relief you demand in your grievance.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "employee" within your supporting documents to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.
Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your appeal and grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal and grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

1495

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Michael Benninger, #264212,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

DOCKET NO. _07__-ALJ-04-_____-___
GRIEVANCE NO.: _____

Notice is hereby given that Michael Benninger does hereby appeal the final decision of the South Carolina Department of Corrections dated 5-14-07 and received on 5-23-07, 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)):

1. Grievance seeks back wages, contesting SCDC policy/procedure of paying below prevailing/negotiated wages. Thus, there was no time limit to file grievance under Grievance Policy §13.9.

2. Appellant had reasonable cause under §13.9 as his right to grieve did not accrue until Adkins/Wicker and filed within a reasonable time.

3. Applying §13.1 to these facts violated due process.

4. Under 4-19-07 Court order, SCDC was required to accept filing and consider on the merits Appellant's Amendment/Exhibits.

5. Grievance proved all elements of claim for prevailing/negot. wages.

6. Dr. Benich's report is the only evidence of prevailing wages in the record. Appellant is entitled to prevailing/negotiated wages.

7. To extent Appellant worked OT he is entitled to it under SCDC policy

8. Appellant claims pre/post judgment interest, costs and attorney fees

Michael Benninger
Appellant's Name
Lieber C.I.
P.O. Box 205
Mailing Address
Ridgeville, SC 29472
City, State, Zip Code
none
Telephone Number

Signed

5-30-07
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

1486

STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
	)	
MICHAEL BENNINGER, #264212	)	
	)	
Grievant/Appellant,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
	)	
Respondent/Appellee.	)	

I certify that on the 5th day of Jan, 2007, I mailed by first class postage Appellant's Notice of Appeal, and final decision, to the following:

(1) The original and one copy were mailed for filing with the Administrative Law Court, to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC, to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

D.H. Westbrook
Douglas H. Westbrook

1487

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

Office Use Only
Grievance No. Lieber 0675-04
Code: General MJ
Policy
Disc. Hear.
Class.
Date Received SEP 23 2004
IGC Initials LC

INMATE NAME: James Nelson Bogan
SCDC NUMBER: 220111
INSTITUTION: Lieber Corr. Inst.
HOUSING UNIT: Cooper B-19
WORK ASSIGNMENT: PI-2

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

The Department is asked to review and determine whether I am entitled to receive back wages due to me from working at Lieber Prison Industry Program when they paid me only $.35/hr. and not prevailing wage as required under South Carolina Code Ann. §24-3-430(A),(B) as well as fact that from 1998-2003 they denied me prevailing wage.

ACTION REQUESTED:

All money due to me be paid at prevailing wage and overtime rate and prevailing wage be paid now.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Lawsuit has been filed, court order to file a grievance by the court; Wicker v. SCDC and Ackins v. SCDC.

James Bogan 9/23/04
Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's response.

L Caraway 10/28/04
IGC Signature Date

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

N/A
Grievant Signature Date

SCDC 10.5 (Rev. November 1997)

1488

Ackerman 5-6-11 1126

WARDEN'S DECISION AND REASON:

See Attachment.

Warden Signature Date Oct. 28, 04

☐ 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 11-2-04

IGC Signature Date 11-2-04

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.

1489

D/R J. Bogan, #288111 2010675-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

1490

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

1491

AMENDMENT TO GRIEVANCE OF JAMES BOGAN, #288111

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; hours in 2000 at $10.66 per hour; hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 1871.92 plus hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

(Grievant Signature) (Date)

* Attached are Exh. A, 0776; C, 0081,0086; F, 0974; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

LCI-0675-04.

AMENDMENT TO GRIEVANCE OF JAMES BOGAN, #288111

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. E The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; hours in 2000 at $10.66 per hour; hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 1871.92 plus hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

James Bogan 11-30-05
(Grievant Signature) (Date)

* Attached are Exh. A, 0776; C, 0081,0086; F, 0974; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

1493

	NAME	SCDC	DORM	SHIFT	HIRED	RELEASED
	BARFIELD, JOHN	164001	A B 35	1	6/27/00	8/7/00
	BARKER, CHRIS	245185	E B 12	1	2/23/01	5/15/01
MI 3	BARNIE, RONALD	280608	C A 22	2	4/10/02	9/13/02
	BARR, CHRISTOPHER	257687	C 0	1	12/3/99	1/5/00
	BARRETT, BRANDON	254581	C 0	1	1/18/00	2/18/00
MI 2	BASKIN, TERRY	247638	E A 14	2	8/21/02	9/3/02
MI 3	BAYLOR, MICHAEL	265682	S B 31	1	5/23/01	10/2/02
MI 3	BEACH, JACOB R.	301270	E B 16	1	6/7/04	6/24/04
MI 2	BEASLEY, DARRYEL	222388	C B 18	1	4/5/02	5/19/03
MI 2	BEASLEY, DARRYEL	222388	C A 21	1	12/4/03	6/24/04
	BECKMAN, DENNIS	260735	MX 0	2	1/4/00	12/14/01
MI 3	BELL, L.	258056	C A 0	0		10/11/99
	BELLINGER, DAREN	258008	E B 17	2	5/31/00	8/23/00
	BELT, KEVIN	232614	C A 8	1	6/6/00	11/29/00
	BENNET, CHARLES	263729	S B 39	1	6/27/00	7/14/00
	BENNETT, CHARLES	177073	C A 19	1	10/25/01	2/25/02
MI 2	BENNETT, NORMAN	280779	C A 27	2	3/11/02	11/7/02
	BENNINGER, MICHAEL	264212	S A 42	2	6/19/02	8/22/02
	BERNTSEN, LEROY	101252	S A 1	1	9/3/00	6/21/02
MI 2	BEST, EDWARD	229627	C B 43	1	10/25/01	9/17/02
	BETHEA, ROOSEVELT	257442	E B 16	1	8/11/99	12/29/99
	BETHEL, CHARLIE	254366	S A 14	2	10/20/99	12/31/99
	BINNEY, JONATHON	274644	S B 21	1	5/23/01	6/29/01
MI 2	BISHOP, DAVID	285935	E B 16	1	9/26/02	10/3/02
	BLAKE, ISAAC	170831	C B 29	1	3/6/01	5/6/02
	BLAKE, JERAMI	228213	MX 0	2	1/4/00	12/18/01
	BLEWER, FRAMPTON	165348	E B 62	1	1/15/00	4/2/00
MI 3	BLOM, WILLIAM	279206	E A 32	0	3/16/04	3/24/04
MI 1B	BLOODWORTH, JAMIE	216949	C A 36	1	4/26/00	3/11/03
	BLURTON, GREGORY	247130	S B 17	1	10/19/00	5/14/01
MI 3	BOGAN, JAMES	288111	C B 19	1	6/26/03	6/24/04
	BOLT, RICHARD	261913	S A 57	2	9/10/01	4/15/02
MI 2	BOOTH, PERCY	156682	C A 28	2	9/12/01	1/13/03
MI 3	BOSTICK, ROGERS	196898	WA220	1	6/7/04	6/8/04
MI 3	BOWMAN, STEVEN	280642	C A 52	1	8/7/03	11/10/03
MI 1B	BOWMAN, TAURUS	252745	C B 56	1	9/27/01	6/26/03
	BOYD, MONTEZ	241604	A B 59	2	9/26/01	12/12/01
MI 2	BRACEY, DONNIE	255164	C B 50	1	9/26/01	9/25/02
	BRADFORD, ROY	208445	S B 26	1	11/4/99	12/29/99
MI 2	BRAGG, ERIC	250113	C A 4	2	2/15/00	12/16/02
	BRANCH, LEROY	257167	C B 40	2	8/30/01	7/22/02
MI 3	BRANNON, LAZARUS	227847	C B 46	1	3/15/02	12/20/02
MI 3	BRAXTON, H	254647	C A 0	0		11/22/99
	BRAZZLE, DARRELL	275042	A A 20	1	5/20/02	6/4/02
	BRELAND, TONY	261319	MX 0	2	1/6/00	7/7/00

RECEIVED
DEC 01 2005
ACI
WARDEN'S OFFICE

PLAINTIFF'S EXHIBIT 1494

A - 0776
June 2004

	NAME	SCDC	DORM	SHIFT	HIRED	RELEASED
	BARFIELD, JOHN	164001	A B 35	1	6/27/00	8/7/00
	BARKER, CHRIS	245185	E B 12	1	2/23/01	5/15/01
MI 3	BARNIE, RONALD	280608	C A 22	2	4/10/02	9/13/02
	BARR, CHRISTOPHER	257687	C 0	1	12/3/99	1/5/00
	BARRETT, BRANDON	254581	C 0	1	1/18/00	2/18/00
MI 2	BASKIN, TERRY	247638	E A 14	2	8/21/02	9/3/02
MI 3	BAYLOR, MICHAEL	265682	S B 31	1	5/23/01	10/2/02
MI 3	BEACH, JACOB R.	301270	E B 16	1	6/7/04	6/24/04
MI 2	BEASLEY, DARRYEL	222388	C B 18	1	4/5/02	5/19/03
MI 2	BEASLEY, DARRYEL	222388	C A 21	1	12/4/03	6/24/04
	BECKMAN, DENNIS	260735	M X 0	2	1/4/00	12/14/01
MI 3	BELL, L.	258056	C A 0	0		10/11/99
	BELLINGER, DAREN	258008	E B 17	2	5/31/00	8/23/00
	BELT, KEVIN	232614	C A 8	1	6/6/00	11/29/00
	BENNET, CHARLES	263729	S B 39	1	6/27/00	7/14/00
	BENNETT, CHARLES	177073	C A 19	1	10/25/01	2/25/02
MI 2	BENNETT, NORMAN	280779	C A 27	2	3/11/02	11/7/02
	BENNINGER, MICHAEL	264212	S A 42	2	6/19/02	8/22/02
	BERNTSEN, LEROY	101252	S A 1	1	9/3/00	6/21/02
MI 2	BEST, EDWARD	229627	C B 43	1	10/25/01	9/17/02
	BETHEA, ROOSEVELT	257442	E B 16	1	8/11/99	12/29/99
	BETHEL, CHARLIE	254366	S A 14	2	10/20/99	12/31/99
	BINNEY, JONATHON	274644	S B 21	1	5/23/01	6/29/01
MI 2	BISHOP, DAVID	285935	E B 16	1	9/26/02	10/3/02
	BLAKE, ISAAC	170831	C B 29	1	3/6/01	5/6/02
	BLAKE, JERAMI	228213	M X 0	2	1/4/00	12/18/01
	BLEWER, FRAMPTON	165348	E B 62	1	1/15/00	4/2/00
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MI 1B	BLOODWORTH, JAMIE	216949	C A 36	1	4/26/00	3/11/03
	BLURTON, GREGORY	247130	S B 17	1	10/19/00	5/14/01
MI 3	BOGAN, JAMES	288111	C B 19	1	6/26/03	6/24/04
	BOLT, RICHARD	261913	S A 57	2	9/10/01	4/15/02
MI 2	BOOTH, PERCY	156682	C A 28	2	9/12/01	1/13/03
MI 3	BOSTICK, ROGERS	196898	W A 20	1	6/7/04	6/8/04
MI 3	BOWMAN, STEVEN	280642	C A 52	1	8/7/03	11/10/03
MI 1B	BOWMAN, TAURUS	252745	C B 56	1	9/27/01	6/26/03
	BOYD, MONTEZ	241604	A B 59	2	9/26/01	12/12/01
MI 2	BRACEY, DONNIE	255164	C B 50	1	9/26/01	9/25/02
	BRADFORD, ROY	208445	S B 26	1	11/4/99	12/29/99
MI 2	BRAGG, ERIC	250113	C A 4	2	2/15/00	12/16/02
	BRANCH, LEROY	257167	C B 40	2	8/30/01	7/22/02
MI 3	BRANNON, LAZARUS	227847	C B 46	1	3/15/02	12/20/02
MI 3	BRAXTON, H	254647	C A 0	0		11/22/99
	BRAZZLE, DARRELL	275042	A A 20	1	5/20/02	6/4/02
	BRELAND, TONY	261319	M X 0	2	1/6/00	7/7/00

PLAINTIFF'S EXHIBIT A

A - 0776
June 2004

1495

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

LEASE

THE AGREEMENT is entered into this 30th day of September, 1998, by and between the South Carolina Department of Corrections (hereinafter called "SCDC") by its duly authorized agent Michael W. Moore, Director and Williams Technologies, Inc., (hereafter referred to as "Williams") by its duly authorized agent William S. Williams, Chairman.

WHEREAS, Prison Industries is a division of the South Carolina Department of Corrections charged with establishing business relationships with private enterprise so as to fulfill the intent of Section 24-3-310 Code of Laws of South Carolina, 1976 as amended; and has all necessary authorization to enter into this agreement and to bind the State of South Carolina to all the terms contained herein; and,

WHEREAS, Williams represents and warrants that it is a duly qualified South Carolina corporation, licensed to conduct business in South Carolina; and,

WHEREAS, Williams intends to engage in the business of disassembly and/or remanufacturing of its product lines at Lieber Correctional Institution (hereinafter referred to as"LCI"); and ,

WHEREAS, this agreement is made in the best interest of the State of South Carolina:

NOW, THEREFORE, the parties hereto do agree as follows:

ARTICLE 1 General:

In consideration of Williams' expenditures to construct on behalf of the State of South Carolina a building of up to 45,000 square feet on the LCI premises (the "Building") , SCDC hereby enters into this Agreement to permit Williams to use such Building and related premises during the term and in accordance with the provisions of this Agreement. The State Engineer's approval of all building plans is required. Attachment A hereto shall indicate the location of the Building and the related premises, which shall include circulation space for delivery and shipping via tractor-trailers, parking outside of the secured area sufficient for a minimum of six (6) trailers and access to the facility via access roads. SCDC shall be responsible for maintenance of such roadways and related premises.

The Building shall be constructed according to plans approved by the state in accordance with all applicable federal and state and local rules and regulations and SCDC security requirements. The State Engineer's approval of all building plans is required. The cost of the Building (excluding personal property located in the Building such as furnishings and equipment) is estimated to be $ 1,200,000. Within 90 days of completion of the Building, Williams shall provide to SCDC documentation of the expenditures to construct the Building for its review and acknowledgment.

PLAINTIFF'S EXHIBIT

1496

to and from LCI reasonable access up to twelve (12) hours per day, subject to the Department's security requirements in Section 3.1.4.

(c) Other access. SCDC will provide access to the facility during Williams' hours of operation for Williams' employees, agents, and business invitees, subject to SCDC's security requirements.

3.3 Mutual Duties of the Parties:

1. Payment for Services: Williams agrees to pay SCDC $4.00 per hour per inmate for work performed including training hours and hours in excess of the inmate's normal shift. SCDC shall be responsible to pay inmate workers, cover security costs and P.I. overhead, including any costs for health, safety and welfare of the inmates, taxes or other payroll deduction. No compensation will be paid for time not worked. In order to accommodate holidays not observed by Williams, SCDC and Williams may agree to work ahead or to work on holidays if a mutually acceptable agreement can be reached.

Thirty (30) days prior to each anniversary date of this agreement, SCDC and Williams may negotiate an increase in the per hour rate paid by Williams to SCDC. If such an increase is requested, it shall be limited to a maximum of five percent (5%) annually or the annual percentage increase in the Consumer Price Index, whichever is lower. It is the intent of the parties that such increase shall only reflect SCDC's increased costs of prison overhead.

Williams and SCDC may mutually agree upon a bonus plan for inmates based on productivity and quality control. Such bonus will be paid in its entirety by Williams to SCDC for distribution to inmates.

2. Compliance with Convict Labor Laws: Williams and SCDC agree that no goods produced under this agreement shall be placed in commerce in violation of the laws of the State of South Carolina or the United States as they relate to the utilization of prison labor. Should either Federal or State Law (or the interpretation thereof) change preventing interstate shipments of goods produced under this Agreement, this Agreement shall terminate as provided in Sections 4.0.7 and 4.0.9.

ARTICLE 4 General Terms and Conditions:

4.0 General:
Williams, its employees or agents performing under the agreement are not to be deemed to be employees of SCDC nor as agents of SCDC in any manner whatsoever. Williams will not hold itself out nor claim to be an officer or employee of SCDC or of the State of South Carolina by reason hereof and will not make any claim, demand, or application to, or for any right or privilege applicable to an officer or employee of SCDC or the State of South Carolina, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security benefits, or retirement membership or credit.

The State of South Carolina, SCDC, their employees (including inmates performing labor pursuant to this Agreement) and agents, are not to be deemed employees of Williams nor agents of Williams in any manner

PLAINTIFF'S EXHIBIT
A - 0086
June 2004
1497
000026

Ackerman 5-6-11 1135

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

LEASE

THE AGREEMENT is entered into this 30th day of September 1998, by and between the South Carolina Department of Corrections (hereinafter called "SCDC") by its duly authorized agent Michael W. Moore, Director and Williams Technologies, Inc., (hereafter referred to as "Williams") by its duly authorized agent William S. Williams, Chairman.

WHEREAS, Prison Industries is a division of the South Carolina Department of Corrections charged with establishing business relationships with private enterprise so as to fulfill the intent of Section 24-3-310 Code of Laws of South Carolina, 1976 as amended; and has all necessary authorization to enter into this agreement and to bind the State of South Carolina to all the terms contained herein; and,

WHEREAS, Williams represents and warrants that it is a duly qualified South Carolina corporation, licensed to conduct business in South Carolina; and,

WHEREAS, Williams intends to engage in the business of disassembly and/or remanufacturing of its product lines at Lieber Correctional Institution (hereinafter referred to as"LCI"); and ,

WHEREAS, this agreement is made in the best interest of the State of South Carolina:

NOW, THEREFORE, the parties hereto do agree as follows:

ARTICLE 1 General:

In consideration of Williams' expenditures to construct on behalf of the State of South Carolina a building of up to 45,000 square feet on the LCI premises (the "Building") , SCDC hereby enters into this Agreement to permit Williams to use such Building and related premises during the term and in accordance with the provisions of this Agreement. The State Engineer's approval of all building plans is required. Attachment A hereto shall indicate the location of the Building and the related premises, which shall include circulation space for delivery and shipping via tractor-trailers, parking outside of the secured area sufficient for a minimum of six (6) trailers and access to the facility via access roads. SCDC shall be responsible for maintenance of such roadways and related premises.

The Building shall be constructed according to plans approved by the state in accordance with all applicable federal and state and local rules and regulations and SCDC security requirements. The State Engineer's approval of all building plans is required. The cost of the Building (excluding personal property located in the Building such as furnishings and equipment) is estimated to be $ 1,200,000. Within 90 days of completion of the Building, Williams shall provide to SCDC documentation of the expenditures to construct the Building for its review and acknowledgment.

PLAINTIFF'S EXHIBIT

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Inmate #	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Hours	Pay Amount
216949	BLOODWORTH	JAMIE		20021007	0.50	162.30	81.15
216949	BLOODWORTH	JAMIE		20021021	0.50	123.17	61.58
216949	BLOODWORTH	JAMIE		20021104	0.50	121.59	60.79
216949	BLOODWORTH	JAMIE		20021118	0.50	136.29	68.14
216949	BLOODWORTH	JAMIE		20021202	0.50	35.82	17.91
216949	BLOODWORTH	JAMIE		20021216	0.50	119.39	59.69
216949	BLOODWORTH	JAMIE		20021230	0.50	59.08	29.54
216949	BLOODWORTH	JAMIE		20030113	0.50	81.81	40.90
216949	BLOODWORTH	JAMIE		20030127	0.50	93.10	46.55
216949	BLOODWORTH	JAMIE		20030210	0.50	112.05	56.02
216949	BLOODWORTH	JAMIE		20030224	0.50	91.12	45.56
216949	BLOODWORTH	JAMIE		20030310	0.50	120.87	60.43
216949	BLOODWORTH	JAMIE		20030324	0.50	19.96	9.98
247130	BLURTON	GREGORY		20001106	0.50	92.92	46.46
247130	BLURTON	GREGORY		20001120	0.50	67.79	33.89
247130	BLURTON	GREGORY		20001204	0.50	76.51	38.25
247130	BLURTON	GREGORY		20001204	0.55	0.48	0.26
247130	BLURTON	GREGORY		20001218	0.50	89.58	44.79
247130	BLURTON	GREGORY		20010101	0.50	39.48	19.74
247130	BLURTON	GREGORY		20010115	0.50	28.01	14.00
247130	BLURTON	GREGORY		20010129	0.50	87.47	43.73
247130	BLURTON	GREGORY		20010212	0.50	90.48	45.24
247130	BLURTON	GREGORY		20010226	0.50	83.81	41.90
247130	BLURTON	GREGORY		20010312	0.50	74.98	37.49
247130	BLURTON	GREGORY		20010326	0.50	69.75	34.87
247130	BLURTON	GREGORY		20010409	0.50	81.26	40.63
247130	BLURTON	GREGORY		20010423	0.50	63.40	31.70
247130	BLURTON	GREGORY		20010507	0.50	92.01	46.00
247130	BLURTON	GREGORY		20010521	0.50	27.67	13.83
288111	BOGAN	JAMES	NELSON	20030714	0.50	61.62	30.81
288111	BOGAN	JAMES	NELSON	20030728	0.50	43.51	21.75
288111	BOGAN	JAMES	NELSON	20030811	0.50	45.97	22.98
288111	BOGAN	JAMES	NELSON	20030825	0.50	48.56	24.28
288111	BOGAN	JAMES	NELSON	20030908	0.50	58.13	29.06
288111	BOGAN	JAMES	NELSON	20030922	0.50	61.78	30.89
288111	BOGAN	JAMES	NELSON	20031006	0.50	55.18	27.59
288111	BOGAN	JAMES	NELSON	20031020	0.50	61.78	30.89
288111	BOGAN	JAMES	NELSON	20031103	0.50	63.24	31.62
288111	BOGAN	JAMES	NELSON	20031117	0.50	71.89	35.94
288111	BOGAN	JAMES	NELSON	20031201	0.50	52.80	26.40
288111	BOGAN	JAMES	NELSON	20031215	0.50	58.78	29.39
288111	BOGAN	JAMES	NELSON	20031229	0.50	73.34	36.67
288111	BOGAN	JAMES	NELSON	20040112	0.50	51.08	25.54
288111	BOGAN	JAMES	NELSON	20040126	0.50	94.76	47.38
288111	BOGAN	JAMES	NELSON	20040209	0.50	103.77	51.88
288111	BOGAN	JAMES	NELSON	20040223	0.50	118.38	59.19
288111	BOGAN	JAMES	NELSON	20040308	0.50	111.05	55.52
288111	BOGAN	JAMES	NELSON	20040322	0.50	99.83	49.91
288111	BOGAN	JAMES	NELSON	20040405	0.50	113.93	56.96
288111	BOGAN	JAMES	NELSON	20040419	0.50	98.75	49.37
288111	BOGAN	JAMES	NELSON	20040503	0.50	106.05	53.02
288111	BOGAN	JAMES	NELSON	20040517	0.50	114.93	57.46
288111	BOGAN	JAMES	NELSON	20040531	0.50	102.81	51.40
261913	BOLT	RICHARD	ASHLEY	20011008	0.50	52.50	26.25

PLAINTIFF'S EXHIBIT

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A - 0974
June 2004

To: Douglas Westbrook, Attorney at Law

From: Dr. Joseph Benich, Economic Loss Expert

Subject: Your 9/14/04 request

Date: 9/20/04

This note is in response to your "prevailing wage" request for work generally described by the Williams Technologies Job Description of Production Associate. You have asked for my opinion of the "prevailing wage" for work of a similar nature in the private sector for 1999/2001 (I assume that you mean 1999, 2000, and 2001). It is also my understanding that the term " prevailing wage" not only implies work of a similar nature, but that the work should be performed in the same general geographic area.

The U.S. Department of Labor (Bureau of Labor Statistics) publishes wage data for a range of occupations in the Charleston – North Charleston Metropolitan Area. The Installation, Maintenance and Repair Occupation Sub-Category of "Maintenance and Repair Workers, General" had mean hourly wages of $11.44 in1999, $12.62 in 2000, and $13.24 in 2001 for the Charleston - North Charleston Metropolitan Area. The Production Occupations Sub-Category of "Team Assemblers" had mean hourly wages of $10.49 in 1999, $10.56 in 2000, and $10.88 in 2001 for the Charleston – North Charleston Metropolitan Area. The average of these two Sub-Categories is $10.97 for 1999, $11.59 for 2000, and $12.06 for 2001.

The possibility exists that the average prison worker would be less experienced with his prison position than his non-prison counterpart. It is also possible that the average prison worker would require more supervision than the average non-prison worker performing the same tasks. The concept of "prevailing wage" implies the average wage for a specific category of average workers. The Installation, Maintenance and Repair Occupation Sub Category of "Helpers—Installation, Maintenance, and Repair Workers" had mean hourly wages of $9.53 in 1999, $11.21 in 2000, and $10.45 in 2001. The Production Occupations Sub-Category of "Helpers–Production Workers" had mean hourly wages of $7.61 in 1999, $8.27 in 2000, and $9.09 in 2001. The average of these two "Helpers" Sub Categories is $8.40 for 1999, $9.74 for 2000, and $10.10 for 2001.

These "Helpers" Sub Category averages represent the lower end of the "prevailing wage" range for the Williams Technologies Job Description of Production Associate for 1999, 2000, and 2001. Thus the "prevailing wage" range estimate for prison workers for the Williams Technologies Job Description of Production Associate is $10.97 - $8.40 for 1999, $11.59 - $9.74 for 2000, and $12.06 - $10.10 for 2001.

1500

RESUME-3/03
Dr. Joseph J. Benich

FAMILY STATUS
Wife - Roberta; two children - Kiersten and J.J.

EDUCATION

9/68 - 6/72	Doctor of Business Administration Majors: Production Management and Marketing Kent State University, Kent, Ohio
1/66 - 5/68	Masters of Business Administration Majors: Economics and Marketing Case Western Reserve University, Cleveland, Ohio
9/65 - 1/66	Western Reserve University, Cleveland, Ohio Major: Law
9/61 - 6/65	Bachelor of Science in Chemical Engineering Case Institute of Technology, Cleveland, Ohio

ACADEMIC EXPERIENCE

9/93 –2003	Professor of Business Administration College of Charleston, Charleston, South Carolina
9/78 - 8/93	Associate Professor of Business Administration College of Charleston, Charleston, South Carolina.
9/76 - 9/78	Associate Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/72 - 9/76	Assistant Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/69 - 6/72	Full-time Instructor, Economics Department Kent State University, Kent, Ohio
1/69 - 6/69	Teaching Fellow, Statistics Kent State University
9/68 - 12/68	Graduate Assistant Kent State University

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NON-ACADEMIC EXPERIENCE

6/74 -	Expert Witness, Economic Litigation, Charleston, South Carolina, analyses of economic loss to individuals and/or businesses, with presentations in State and Federal courts
7/78 -	Manager of Summertime Properties, Charleston, South Carolina
6/73 -	Business Consulting, J. Benich and Associates, Charleston, South Carolina
1/68 - 11/72	Business Advisor to Director of American Screw Products, Warrensville, Ohio
1/68 - 10/68	Staff Specialist (Systems Optimizations), Cleveland Electric Illuminating Company, Cleveland, Ohio
1/66 - 9/67	Industrial Market Research, Harshaw Chemical, Cleveland, Ohio
19/65 - 1/66	Phosphor Efficiency Development, General Electric Co., Cleveland, Ohio (worked independently on a second shift due to day law school)
6/65 - 9/65	Research Chemical Engineering, Sohio Research, Warrensville, Ohio (catalyst efficiency testing and associated acetonitrile purification development).

PUBLICATIONS

"Signal-Averaged P-Wave Analysis of Normal Controls and Patients with Paroxysmal Atrial Fibrillation: A Study in Gender Differences, Age Dependence, and Reproducibility", with A Dhala, B. Leman, et al, Clinical Cardiology, November, 2002, p-525-531

"The High Resolution Signal-Averaged P-Wave Duration in Normal Patients: Influence of Race and Gender", with M. Little, B. Leman, and B. Hainer, North American Society of Pacing and Electrophysiology, abstracted, *Pacing and Clinical Electrophysiology*, April, 1997, Vol.20:4:1219

"Alternative Approaches to Tax Adjustments in Appraising Economic Loss: A Comment", *Journal of Legal Economics*, Fall 1996

"Updated Estimates of Work-Life Expectancies Based upon The Increment-Decrement Model: Comment", *Journal of Legal Economics*, Winter 1995

"Intra-Year Discounting Assumptions and Bias in Lost Earnings Analysis: A Comment", *Journal of Forensic Economics*, Winter 1993, 7(1)

"Comment: On the Relative Stability and Predictability of the Interest Rate and Earnings Growth Rate", *Journal of Forensic Economics*, Winter 1992, 6(1)

"Determining Tax-Adjusted Awards for Spouses' Lost Future Earnings", For *The Defense*, Nov. 1992

"The Just Better (JB) Method of Calculating The Present Value of Lost Future Income", *Journal of Legal Economics*, July 1992

n.d.-04

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Bogan, James Nelson

SCDC NUMBER: 128111 NOV 08 2004

INSTITUTION: Lieber Corr. Inst. pp

HOUSING UNIT: Cooper B-15

WORK ASSIGNMENT: PI-2

Office Use Only
Grievance No. LCI 0675-04
Code: General RMY
Policy
Disc. Hear.
Class.
Date Received NOV 08 2004
IGC Initials

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

Adkins and Wicker do require payment of prevailing wages. Grievants were employed by WTI and SCDC was WTI's "agent" in paying our wages. Adkins and Wicker further allow this issue of payment of wages under S.C.Code Ann.§24-3-430 to be grieved pursuant to SCDC's grievance procedure. Grievant incorporates by reference all exhibits attached to grievances filed by Darrell Williams and attorney Douglas Westbrook on 9/22/04.

James Bogan 11-3-04
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

5-14-07
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.

James Bogan 5-22-07
Grievant Signature Date

IGC Signature 5/22/07
Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

SCDC 10-5A (November 1997)

1503

BOGAN LCI-0675-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 3, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 22, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on June 26, 2003 and that your participation in this project ended on November 2, 2005.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 2 appeal.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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

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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. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 nearly 15 months after SCDC first paid you for your participation in the project located at Lieber and 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.
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 any of the relief you demand in your grievance.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "employee" within your supporting documents to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

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I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.
Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your appeal and grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal and grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

1506

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

James Bogan, #288111,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

DOCKET NO. _07___-ALJ-04-_____-____
GRIEVANCE NO.: _____

Notice is hereby given that James Bogan does hereby appeal the final decision of the South Carolina Department of Corrections dated 5-14-07 and received on 5-22-07, 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)):

1. Grievance seeks back wages, contesting SCDC policy/procedure of paying below prevailing/negotiated wages. Thus, there was no time limit to file grievance under Grievance Policy §13.9.

2. Appellant had reasonable cause under §13.9 as his right to grieve did not accrue until Adkins/Wicker and filed within a reasonable time.

3. Applying §13.1 to these facts violated due process.

4. Under 4-19-07 Court order, SCDC was required to accept filing and consider on the merits Appellant's Amendment/Exhibits.

5. Grievance proved all elements of claim for prevailing/negot. wages.

6. Dr. Benich's report is the only evidence of prevailing wages in the record. Appellant is entitled to prevailing/negotiated wages.

7. To extent Appellant worked OT he is entitled to it under SCDC policy.

8. Appellant claims pre/post judgment interest, costs and attorney fees.

James Bogan
Appellant's Name
Allendale C.I.
P.O. Box 1151
Mailing Address
Fairfax, SC 29827-1151
City, State, Zip Code
none
Telephone Number

/s/ Douglas H. Westbrook
Signed
6-11-07
Dated
Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

1507

STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
	)	
JAMES BOGAN, #288111	)	
	)	
	)	
Grievant/Appellant,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
	)	
	)	
Respondent/Appellee.	)	

I certify that on the 15th day of June, 2007, I mailed by first class postage Appellant's Notice of Appeal, and final decision, to the following:

(1) The original ~~and one copy~~ were mailed for filing with the Administrative Law Court, to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC, to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

D. H. Westbrook
Douglas H. Westbrook

1508

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: Taurus S. Bowman
SCDC NUMBER: 252745
INSTITUTION: Lieber Correctons Inst.
HOUSING UNIT: Cooper B-56 ✓
WORK ASSIGNMENT: Carpentry Student

Office Use Only
Grievance No. Lieber 0683-04
Code: General MW
Policy
Disc. Hear.
Class.
Date Received SEP 22 2004
IGC Initials TC

STATE GRIEVANCE (Include documentation, and date of incident; if SCDC Policy, indicate which policy)

The Department is asked to review and determine whether I am entitled to recieved back wages due to me from working at Lieber Prison Industry Program when they only paid me 35 cents an hour and not prevailing wages as required under South Carolina Code Ann. Sec. 24-3-430 (A-7) as well as fact that from 1998 - 2003 they denied me prevailing wages.

ACTION REQUESTED: All money due me, to be paid at prevailing wages and over-time rate and prevailing wages be paid now.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Lawsuit was filed ordered to file Grievance by Court Wicker V. SCDC, Adkins V. SCDC

Taurus Bowman 9/23/04
Grievant Signature Date

ACTION TAKEN BY IGC:

See Wardens Response.

J Carlton 10/28/04
IGC Signature Date

☐ I accept the action taken by the IGC and consider the matter closed.
☐ I do not accept the action taken and wish to appeal. 1509

N/A
Grievant Signature Date

SCDC 10.5 (Rev. November 1997)

Ackerman 5-6-11 1147

WARDEN'S DECISION AND REASON:

See Attachment.

Warden Signature Oct. 28, 04
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 11-2-04
Date

IGC Signature 11-2-04
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. 15-10

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

RECEIVED OCT 11 2005 SN
OCT 13 2005

INMATE NAME: Taurus Bowman
SCDC NUMBER: 252745
INSTITUTION: Walden
HOUSING/GRIEVANCE: Building I C 14 Top
WORK ASSIGNMENT: Construction

Office Use Only
Grievance No. WCI-10-26-05
Code: General
Policy
Disc. Hear.
Class.
Date Received 10/11/05
IGC Initials

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

I am grieving the lack of proper wages having been paid me by SCDC and NTI - Adkins and Wicker further allow this issue to be grieved, pursuant to SCDC's grievance policy and payment of wages under S.C. Code Ann. §24-3-430. Under agreement SCDC was to pay (workers) me 4 (four) dollars an hour starting July 2001

ACTION REQUESTED: I am requesting back wages to be paid in full.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Taurus D. Bowman 10 9 05
Grievant Signature Date

ACTION TAKEN BY IGC:

Duplicate LCI-0683-04

[X] 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~~ IGA Signature Date 10-13-05

N/A
Grievant Signature Date

SCDC 10-5 (Rev. November 1997)

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(CONTINUED ON REVERSE SIDE)

Jon D. Bowman, #252745 LCI 0683-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

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To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

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AMENDMENT TO GRIEVANCE OF TAURUS BOWMAN, #252745

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; hours in 2000 at $10.66 per hour; hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 3146.88 hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

(Grievant Signature) (Date)

* Attached are Exh. A, 0776; C, 0081,0086; F, 0976-0977; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

	NAME	SCDC	DORM	SHIFT	HIRED	RELEASED
	BARFIELD, JOHN	164001	A B 35	1	6/27/00	8/7/00
	BARKER, CHRIS	245185	E B 12	1	2/23/01	5/15/01
MI 3	BARNIE, RONALD	280608	C A 22	2	4/10/02	9/13/02
	BARR, CHRISTOPHER	257687	C 0	1	12/3/99	1/5/00
	BARRETT, BRANDON	254581	C 0	1	1/18/00	2/18/00
MI 2	BASKIN, TERRY	247638	E A 14	2	8/21/02	9/3/02
MI 3	BAYLOR, MICHAEL	265682	S B 31	1	5/23/01	10/2/02
MI 3	BEACH, JACOB R.	301270	E B 16	1	6/7/04	6/24/04
MI 2	BEASLEY, DARRYEL	222388	C B 18	1	4/5/02	5/19/03
MI 2	BEASLEY, DARRYEL	222388	C A 21	1	12/4/03	6/24/04
	BECKMAN, DENNIS	260735	MX 0	2	1/4/00	12/14/01
MI 3	BELL, L.	258056	C A 0	0		10/11/99
	BELLINGER, DAREN	258008	E B 17	2	5/31/00	8/23/00
	BELT, KEVIN	232614	C A 8	1	6/6/00	11/29/00
	BENNET, CHARLES	263729	S B 39	1	6/27/00	7/14/00
	BENNETT, CHARLES	177073	C A 19	1	10/25/01	2/25/02
MI 2	BENNETT, NORMAN	280779	C A 27	2	3/11/02	11/7/02
	BENNINGER, MICHAEL	264212	S A 42	2	6/19/02	8/22/02
	BERNTSEN, LEROY	101252	S A 1	1	9/3/00	6/21/02
MI 2	BEST, EDWARD	229627	C B 43	1	10/25/01	9/17/02
	BETHEA, ROOSEVELT	257442	E B 16	1	8/11/99	12/29/99
	BETHEL, CHARLIE	254366	S A 14	2	10/20/99	12/31/99
	BINNEY, JONATHON	274644	S B 21	1	5/23/01	6/29/01
MI 2	BISHOP, DAVID	285935	E B 16	1	9/26/02	10/3/02
	BLAKE, ISAAC	170831	C B 29	1	3/6/01	5/6/02
	BLAKE, JERAMI	228213	MX 0	2	1/4/00	12/18/01
	BLEWER, FRAMPTON	165348	B B 62	1	1/15/00	4/2/00
MI 3	BLOM, WILLIAM	279206	E A 32	0	3/16/04	3/24/04
MI 1B	BLOODWORTH, JAMIE	216949	C A 36	1	4/26/00	3/11/05
	BLURTON, GREGORY	247130	S B 17	1	10/19/00	5/14/01
MI 3	BOGAN, JAMES	288111	C B 19	1	6/26/03	6/24/04
	BOLT, RICHARD	261913	S A 57	2	9/10/01	4/15/02
MI 2	BOOTH, PERCY	156682	C A 28	2	9/12/01	1/13/03
MI 3	BOSTICK, ROGERS	196898	WA220	1	6/7/04	6/8/04
MI 3	BOWMAN, STEVEN	280642	C A 52	1	8/7/03	11/10/03
MI 1B	BOWMAN, TAURUS	252745	C B 56	1	9/27/01	6/26/03
	BOYD, MONTEZ	241604	A B 59	2	9/26/01	12/12/01
MI 2	BRACEY, DONNIE	255164	C B 50	1	9/26/01	9/25/02
	BRADFORD, ROY	208445	S B 26	1	11/4/99	12/29/99
MI 2	BRAGG, ERIC	250113	C A 4	2	2/15/00	12/16/02
	BRANCH, LEROY	257167	C B 40	2	8/30/01	7/22/02
MI 3	BRANNON, LAZARUS	227847	C B 46	1	3/15/02	12/20/02
MI 3	BRAXTON, H	254647	C A 0	0		11/22/99
	BRAZZLE, DARRELL	275042	A A 20	1	3/20/02	6/e/02
	BRELAND, TONY	261319	MX 0	2	1/6/00	7/7/00

PLAINTIFF'S EXHIBIT 4

A - 0776
June 2004

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STATE OF SOUTH CAROLINA)

LEASE

COUNTY OF RICHLAND)

THE AGREEMENT is entered into this 30th day of September, 199 8, by and between the South Carolina Department of Corrections (hereinafter called "SCDC") by its duly authorized agent Michael W. Moore, Director and Williams Technologies, Inc., (hereafter referred to as "Williams") by its duly authorized agent William S. Williams, Chairman.

WHEREAS, Prison Industries is a division of the South Carolina Department of Corrections charged with establishing business relationships with private enterprise so as to fulfill the intent of Section 24-3-310 Code of Laws of South Carolina, 1976 as amended; and has all necessary authorization to enter into this agreement and to bind the State of South Carolina to all the terms contained herein; and,

WHEREAS, Williams represents and warrants that it is a duly qualified South Carolina corporation, licensed to conduct business in South Carolina; and,

WHEREAS, Williams intends to engage in the business of disassembly and/or remanufacturing of its product lines at Lieber Correctional Institution (hereinafter referred to as"LCI"); and ,

WHEREAS, this agreement is made in the best interest of the State of South Carolina:

NOW, THEREFORE, the parties hereto do agree as follows:

ARTICLE 1 General:

In consideration of Williams' expenditures to construct on behalf of the State of South Carolina a building of up to 45,000 square feet on the LCI premises (the "Building") , SCDC hereby enters into this Agreement to permit Williams to use such Building and related premises during the term and in accordance with the provisions of this Agreement. The State Engineer's approval of all building plans is required. Attachment A hereto shall indicate the location of the Building and the related premises, which shall include circulation space for delivery and shipping via tractor-trailers, parking outside of the secured area sufficient for a minimum of six (6) trailers and access to the facility via access roads. SCDC shall be responsible for maintenance of such roadways and related premises.

The Building shall be constructed according to plans approved by the state in accordance with all applicable federal and state and local rules and regulations and SCDC security requirements. The State Engineer's approval of all building plans is required. The cost of the Building (excluding personal property located in the Building such as furnishings and equipment) is estimated to be $ 1,200,000 Within 90 days of completion of the Building, Williams shall provide to SCDC documentation of the expenditures to construct the Building for its review and acknowledgment.

to and from LCI reasonable access up to twelve (12) hours per day, subject to the Department's security requirements in Section 3.1.4.

(c) Other access. SCDC will provide access to the facility during Williams' hours of operation for Williams' employees, agents, and business invitees, subject to SCDC's security requirements.

3.3 Mutual Duties of the Parties:

1. Payment for Services: Williams agrees to pay SCDC $4.00 per hour per inmate for work performed including training hours and hours in excess of the inmate's normal shift. SCDC shall be responsible to pay inmate workers, cover security costs and P.I. overhead, including any costs for health, safety and welfare of the inmates, taxes or other payroll deduction. No compensation will be paid for time not worked. In order to accommodate holidays not observed by Williams, SCDC and Williams may agree to work ahead or to work on holidays if a mutually acceptable agreement can be reached.

Thirty (30) days prior to each anniversary date of this agreement, SCDC and Williams may negotiate an increase in the per hour rate paid by Williams to SCDC. If such an increase is requested, it shall be limited to a maximum of five percent (5%) annually or the annual percentage increase in the Consumer Price Index, whichever is lower. It is the intent of the parties that such increase shall only reflect SCDC's increased costs of prison overhead.

Williams and SCDC may mutually agree upon a bonus plan for inmates based on productivity and quality control. Such bonus will be paid in its entirety by Williams to SCDC for distribution to inmates.

2. Compliance with Convict Labor Laws: Williams and SCDC agree that no goods produced under this agreement shall be placed in commerce in violation of the laws of the State of South Carolina or the United States as they relate to the utilization of prison labor. Should either Federal or State Law (or the interpretation thereof) change preventing interstate shipments of goods produced under this Agreement, this Agreement shall terminate as provided in Sections 4.0.7 and 4.0.9.

ARTICLE 4 General Terms and Conditions:

4.0 General:
Williams, its employees or agents performing under the agreement are not to be deemed to be employees of SCDC nor as agents of SCDC in any manner whatsoever. Williams will not hold itself out nor claim to be an officer or employee of SCDC or of the State of South Carolina by reason hereof and will not make any claim, demand, or application to, or for any right or privilege applicable to an officer or employee of SCDC or the State of South Carolina, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security benefits, or retirement membership or credit.

The State of South Carolina, SCDC, their employees (including inmates performing labor pursuant to this Agreement) and agents, are not to be deemed employees of Williams nor agents of Williams in any manner

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June 2004 00026

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Inmate ID	Last Name	First Name	Middle Name	PayDate	PayRate	Hours	PayAmount
156682	BOOTH	PERCY		20011008	0.50	43.40	21.70
156682	BOOTH	PERCY		20011022	0.50	52.50	26.25
156682	BOOTH	PERCY		20011105	0.50	76.85	38.42
156682	BOOTH	PERCY		20011119	0.50	92.26	46.13
156682	BOOTH	PERCY		20011203	0.50	72.00	36.00
156682	BOOTH	PERCY		20011217	0.50	100.00	50.00
156682	BOOTH	PERCY		20011231	0.50	52.50	26.25
156682	BOOTH	PERCY		20020114	0.50	73.50	36.75
156682	BOOTH	PERCY		20020128	0.50	112.19	56.09
156682	BOOTH	PERCY		20020211	0.50	110.81	55.40
156682	BOOTH	PERCY		20020225	0.50	107.71	53.85
156682	BOOTH	PERCY		20020311	0.50	95.30	47.65
156682	BOOTH	PERCY		20020325	0.50	105.00	52.50
156682	BOOTH	PERCY		20020408	0.50	102.88	51.44
156682	BOOTH	PERCY		20020422	0.50	127.50	63.75
156682	BOOTH	PERCY		20020506	0.50	55.52	27.76
156682	BOOTH	PERCY		20020520	0.50	152.58	76.29
156682	BOOTH	PERCY		20020603	0.50	152.19	76.09
156682	BOOTH	PERCY		20020617	0.50	128.28	64.14
156682	BOOTH	PERCY		20020701	0.50	127.50	63.75
156682	BOOTH	PERCY		20020715	0.50	89.25	44.62
156682	BOOTH	PERCY		20020729	0.50	124.92	62.46
156682	BOOTH	PERCY		20020812	0.50	126.00	63.00
156682	BOOTH	PERCY		20020826	0.50	133.40	66.70
156682	BOOTH	PERCY		20020909	0.50	113.08	56.54
156682	BOOTH	PERCY		20020923	0.50	152.40	76.20
156682	BOOTH	PERCY		20021007	0.50	153.84	76.92
156682	BOOTH	PERCY		20021021	0.50	159.47	79.73
156682	BOOTH	PERCY		20021104	0.50	142.50	71.25
156682	BOOTH	PERCY		20021118	0.50	138.95	69.47
156682	BOOTH	PERCY		20021202	0.50	133.16	66.58
156682	BOOTH	PERCY		20021216	0.50	106.90	53.45
156682	BOOTH	PERCY		20021230	0.50	61.71	30.85
156682	BOOTH	PERCY		20030113	0.50	85.94	42.97
156682	BOOTH	PERCY		20030127	0.50	6.99	3.49
280642	BOWMAN	STEVEN		20030728	0.50	17.50	8.75
280642	BOWMAN	STEVEN		20030811	0.50	17.50	8.75
280642	BOWMAN	STEVEN		20030825	0.50	17.50	8.75
280642	BOWMAN	STEVEN		20030922	0.50	45.12	22.56
280642	BOWMAN	STEVEN		20031006	0.50	38.66	19.33
280642	BOWMAN	STEVEN		20031020	0.50	53.28	26.64
280642	BOWMAN	STEVEN		20031103	0.50	48.70	24.35
280642	BOWMAN	STEVEN		20031117	0.50	28.15	14.07
252745	BOWMAN	TAURUS		20011203	0.50	55.05	27.52
252745	BOWMAN	TAURUS		20011217	0.50	85.00	42.50
252745	BOWMAN	TAURUS		20011231	0.50	31.98	15.99
252745	BOWMAN	TAURUS		20020114	0.50	61.15	30.57
252745	BOWMAN	TAURUS		20020128	0.50	41.64	20.82
252745	BOWMAN	TAURUS		20020211	0.50	113.29	56.64
252745	BOWMAN	TAURUS		20020225	0.50	82.54	41.27
252745	BOWMAN	TAURUS		20020311	0.50	88.60	44.30
252745	BOWMAN	TAURUS		20020325	0.50	42.00	21.00
252745	BOWMAN	TAURUS		20020408	0.50	70.76	35.38
252745	BOWMAN	TAURUS		20020422	0.50	112.50	56.25

PLAINTIFF'S EXHIBIT

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A - 0976
June 2004

Inmate	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Total Hours	Pay Amount
252745	BOWMAN	TAURUS		20020506	0.50	101.25	50.62
252745	BOWMAN	TAURUS		20020520	0.50	116.25	58.12
252745	BOWMAN	TAURUS		20020603	0.50	96.80	48.40
252745	BOWMAN	TAURUS		20020617	0.50	102.56	51.28
252745	BOWMAN	TAURUS		20020701	0.50	106.35	53.17
252745	BOWMAN	TAURUS		20020715	0.50	80.55	40.27
252745	BOWMAN	TAURUS		20020729	0.50	98.40	49.20
252745	BOWMAN	TAURUS		20020812	0.50	103.40	51.70
252745	BOWMAN	TAURUS		20020826	0.50	105.90	52.95
252745	BOWMAN	TAURUS		20020909	0.50	107.93	53.96
252745	BOWMAN	TAURUS		20020923	0.50	111.00	55.50
252745	BOWMAN	TAURUS		20021007	0.50	100.53	50.26
252745	BOWMAN	TAURUS		20021021	0.50	114.09	57.04
252745	BOWMAN	TAURUS		20021104	0.50	127.50	63.75
252745	BOWMAN	TAURUS		20021118	0.50	98.46	49.23
252745	BOWMAN	TAURUS		20021202	0.50	92.17	46.08
252745	BOWMAN	TAURUS		20021216	0.50	78.05	39.02
252745	BOWMAN	TAURUS		20021230	0.50	38.25	19.12
252745	BOWMAN	TAURUS		20030113	0.50	83.44	41.72
252745	BOWMAN	TAURUS		20030127	0.50	72.68	36.34
252745	BOWMAN	TAURUS		20030210	0.50	72.56	36.28
252745	BOWMAN	TAURUS		20030224	0.50	70.30	35.15
252745	BOWMAN	TAURUS		20030224	0.50	70.30	35.15
252745	BOWMAN	TAURUS		20030310	0.50	64.18	32.09
252745	BOWMAN	TAURUS		20030324	0.50	86.24	43.12
252745	BOWMAN	TAURUS		20030407	0.50	28.98	14.49
252745	BOWMAN	TAURUS		20030630	0.50	34.24	17.12
241604	BOYD	EDWIN	MONTEZ	20011008	0.50	40.50	20.25
241604	BOYD	EDWIN	MONTEZ	20011022	0.50	55.80	27.90
241604	BOYD	EDWIN	MONTEZ	20011105	0.50	52.50	26.25
241604	BOYD	EDWIN	MONTEZ	20011119	0.50	59.95	29.97
241604	BOYD	EDWIN	MONTEZ	20011203	0.50	61.03	30.51
241604	BOYD	EDWIN	MONTEZ	20011217	0.50	40.73	20.36
255164	BRACEY	DONNIE	R.	20011022	0.50	51.26	25.63
255164	BRACEY	DONNIE	R.	20011105	0.50	44.63	22.31
255164	BRACEY	DONNIE	R.	20011119	0.50	33.60	16.80
255164	BRACEY	DONNIE	R.	20011203	0.50	30.34	15.17
255164	BRACEY	DONNIE	R.	20011217	0.50	38.96	19.48
255164	BRACEY	DONNIE	R.	20011231	0.50	27.07	13.53
255164	BRACEY	DONNIE	R.	20020114	0.50	51.27	25.63
255164	BRACEY	DONNIE	R.	20020128	0.50	29.31	14.65
255164	BRACEY	DONNIE	R.	20020211	0.50	42.36	21.18
255164	BRACEY	DONNIE	R.	20020225	0.50	90.77	45.38
255164	BRACEY	DONNIE	R.	20020311	0.50	84.50	42.25
255164	BRACEY	DONNIE	R.	20020325	0.50	80.16	40.08
255164	BRACEY	DONNIE	R.	20020408	0.50	36.16	18.08
255164	BRACEY	DONNIE	R.	20020422	0.50	102.41	51.20
255164	BRACEY	DONNIE	R.	20020506	0.50	90.65	45.32
255164	BRACEY	DONNIE	R.	20020520	0.50	96.16	48.08
255164	BRACEY	DONNIE	R.	20020603	0.50	51.90	25.95
255164	BRACEY	DONNIE	R.	20020617	0.50	101.18	50.59
255164	BRACEY	DONNIE	R.	20020701	0.50	90.98	45.49
255164	BRACEY	DONNIE	R.	20020715	0.50	78.38	39.19
255164	BRACEY	DONNIE	R.	20020729	0.50	71.40	35.70

1519

A - 0977
June 2004

To: Douglas Westbrook, Attorney at Law

From: Dr. Joseph Benich, Economic Loss Expert

Subject: Your 9/14/04 request

Date: 9/20/04

This note is in response to your "prevailing wage" request for work generally described by the Williams Technologies Job Description of Production Associate. You have asked for my opinion of the "prevailing wage" for work of a similar nature in the private sector for 1999/2001 (I assume that you mean 1999, 2000, and 2001). It is also my understanding that the term " prevailing wage" not only implies work of a similar nature, but that the work should be performed in the same general geographic area.

The U.S. Department of Labor (Bureau of Labor Statistics) publishes wage data for a range of occupations in the Charleston – North Charleston Metropolitan Area. The Installation, Maintenance and Repair Occupation Sub-Category of "Maintenance and Repair Workers, General" had mean hourly wages of $11.44 in1999, $12.62 in 2000, and $13.24 in 2001 for the Charleston - North Charleston Metropolitan Area. The Production Occupations Sub-Category of "Team Assemblers" had mean hourly wages of $10.49 in 1999, $10.56 in 2000, and $10.88 in 2001 for the Charleston – North Charleston Metropolitan Area. The average of these two Sub-Categories is $10.97 for 1999, $11.59 for 2000, and $12.06 for 2001.

The possibility exists that the average prison worker would be less experienced with his prison position than his non-prison counterpart. It is also possible that the average prison worker would require more supervision than the average non-prison worker performing the same tasks. The concept of "prevailing wage" implies the average wage for a specific category of average workers. The Installation, Maintenance and Repair Occupation Sub Category of "Helpers—Installation, Maintenance, and Repair Workers" had mean hourly wages of $9.53 in 1999, $11.21 in 2000, and $10.45 in 2001. The Production Occupations Sub-Category of "Helpers–Production Workers" had mean hourly wages of $7.61 in 1999, $8.27 in 2000, and $9.09 in 2001. The average of these two "Helpers" Sub Categories is $8.40 for 1999, $9.74 for 2000, and $10.10 for 2001.
These "Helpers" Sub Category averages represent the lower end of the "prevailing wage" range for the Williams Technologies Job Description of Production Associate for 1999, 2000, and 2001. Thus the "prevailing wage" range estimate for prison workers for the Williams Technologies Job Description of Production Associate is $10.97 - $8.40 for 1999, $11.59 - $9.74 for 2000, and $12.06 - $10.10 for 2001.

1520

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS 11-7-04
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Bowman, Taurus S.
SCDC NUMBER: #252745 NOV 08 2004 PP
INSTITUTION: Lieber Corr. Inst.
HOUSING UNIT: Cooper B-56
WORK ASSIGNMENT: PI-2

Office Use Only
Grievance No: LCI 0683-04
Code: General MH
Policy
Disc. Hear.
Class.
Date Received NOV 08 2004
IGC Initials

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

Adkins and Wicker do require payment of prevailing wages. Grievants were employed by WTI and SCDC was WTI's "agent" in paying our wages. Adkins and Wicker further allow this issue of payment of wages under S.C.Code Ann.§24-3-430 to be grieved pursuant to SCDC's grievance procedure. Grievant incorporates by reference all exhibits attached to grievances filed by Darrell Williams and attorney Douglas Westbrook on 9/22/04.

Grievant Signature 11-3-04 Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

Released 9-1-07

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)

SCDC 10-5A (November 1997)

1521

Ackerman 5-6-11 1159

Lieber PI Back Wage Claim Step 2 Reply

Inmate Name	SCDC #	Grievance #
Bowman, Taurus	252745 RELEASED 2/1/07	LCI-0683-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 3, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 22, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that your participation in the prison industries project at Lieber first started on December 3, 2001 and ended June 30, 2003.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March

Inmate Name	SCDC #	Grievance #
Bowman, Taurus	252745 RELEASED 2/1/07	LCI-0683-04

21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 nearly three (3) years after SCDC first paid you for your participation in the project located at Lieber, nearly 15 months after your participation in this project concluded, and 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.

Inmate Name	SCDC #	Grievance #
Bowman, Taurus	252745 RELEASED 2/1/07	LCI-0683-04

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 any of the relief you demand in your grievance.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "employee" within your supporting documents to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or

Inmate Name	SCDC #	Grievance #
Bowman, Taurus	252745 RELEASED 2/1/07	LCI-0683-04

other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your appeal and grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal and grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION

Taurus Bowman, #252745

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

Docket No. 00-ALJ-04-_____-AP

Notice is hereby given that Taurus Bowman does hereby appeal the final decision of the South Carolina Department of Corrections dated 1-28-08 and received on 2-1-08, 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)): Grievant seeks back wages contesting SCDC policy/procedure of paying below prevailing/negotiated wages and under §13.9 there was no time limit to file. Grievant had reasonable cause under §13.9 as right to grieve did not accrue until Adkins/Wicker and he filed within reasonable time. Applying §13.1 denied grievant reasonable time to file and thus due process. SCDC failed to plead §13.1 in step 1 and filed/considered Amendments/Exhibits on the merits and thus waived §13.1. Grievant proved all elements of claim and disputes work period(s) alleged by SCDC. Dr. Benich's report is the only evidence of prevailing wages in record and grievant is entitled to prevailing/negotiated wages. To extent grievant worked OT he is entitled to it under SCDC policy. Grievant claims pre/post judgment interest, costs and attorney fees. Darrell Williams' 9-22-04 grievance, and many others, was filed individually and on behalf of all inmates and SCDC should process grievance for all who worked in program regardless of filir

Taurus Bowman
Appellant's Name
c/o Mrs. Tracey Bowman
901 Caronna Dr., 3C
Mailing Address

Orangeburg, SC 29115
City, State, Zip Code

none available
Telephone Number

Signed

2-5-08
Dated:

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

(See reverse side for instructions) 1526

STATE OF SOUTH CAROLINA	IN THE ADMINISTRATIVE LAW COURT
TAURUS BOWMAN, #252745	
GRIEVANT/APPELLANT,	
VS.	CERTIFICATE OF SERVICE
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	
RESPONDENT/APPELLEE.	

I certify that on the 22nd day of Feb. , 2008, I mailed by first class postage Appellant's Notice of Appeal, and final decision, to the following:

(1) The original was mailed for filing with the Administrative Law Court to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
Edgar A. Brown Building
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to Directive to SCDC Policy GA-01.12, §4.3, effective Jan. 30, 2008, to:

South Carolina Department of Corrections
Office of General Counsel
P.O. Box 21787
Columbia, SC 29221-1787

D H Westbrook

Douglas H. Westbrook

1527

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION

Lazarus Brannon, #227847

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

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

Grievance No. _____

Notice is hereby given that Lazarus Brannon. does hereby appeal the final decision of the South Carolina Department of Corrections dated _____ and received on no final decision issued, 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)): 1. Automatic appeal is proper under grievance policy §§13.5, 13.8 and 28 C.F.R. Part 40.7(e) because SCDC did not timely respond to grievance and the 105 day grievance processing period expired without final decision. 2. Grievance contests SCDC wage policy and "concerns policy/procedure" under §13.9 with no time limit to file. 3. There was reasonable cause under §13.9 and (1) no time limit to file and (2) compliance with §13.1. 4. Inmates' class action tolled §13.1. 5. §13.1 denied grievant reasonable time to file and thus due process. 6. SCDC failed to plead §13.1 in step 1 response and considered Amendments on the merits and thus waived §13.1. 7. SCDC was judicially estopped to raise §13.1. 8. Grievant proved all elements of claim, including prevailing wage, period(s worked and any overtime due. 9. Grievant claims back wages, pre/post judgment interest, costs and attorney fees. 10. SCDC should process grievance for all who worked in program whether or not they personally filed a grievance.

Lazarus Brannon
Appellant's Name

Lieber C.I.
Mailing Address

P.O. Box 205

Ridgeville, SC 29472
City, State, Zip Code

none
Telephone Number

Signed

11 - 6 - 08
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

(See reverse side for instructions) 1528

Ackerman 5-6-11 1166

STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
LAZARUS BRANNON, #227847	)	
Grievant/Appellant,	)	
vs.	)	CERTIFICATE OF SERVICE
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
Respondent/Appellee.	)	

I certify that on the 7th day of Nov., 2008, I mailed by first class postage Appellant's Notice of Appeal, and any grievance response provided to me by SCDC, to the following:

(1) The original was mailed for filing with the Administrative Law Court to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

/s/ Douglas H. Westbrook
Douglas H. Westbrook

1529

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: Ronald Brewer
SCDC NUMBER: 285756
INSTITUTION: Lieber
HOUSING UNIT: Stono B-59
WORK ASSIGNMENT: Max

Office Use Only
Grievance No. Lieber 06806-04
Code: General mj
Policy
Disc. Hear.
Class.
Date Received SEP 22 2004
IGC Initials LC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

THE DEPARTMENT IS ASKED TO Review AND determine whether I Am entitled o Recieve back wages which ARE do to me from working AT Lieber Prison Industries ogram when they only PAid me $.35 per hour AND NOT prevailing wage AS under outh Carolina Ann. Sec. 24-30430 (A-7) AS well AS fact they were getting $4.00 er hour and still did not give me my money from 2002-2004 they denied e prevailing wage

ACTION REQUESTED:
That All money due to me be paid at prevailing wage AS well AS overtime rate. Moreover, the prevailing wage paid now.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:
Lawsuit was filed ordered to file grevaince by court under Wicker v. SCDC, Adkins v. SCDC

Ron Brewer Sep 8, 2004
Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's Response.

G Carlone 10-28-04
IGC Signature Date

☐ I accept the action taken by the IGC and consider the matter closed.
☐ I do not accept the action taken and wish to appeal. 1530

N/A
Grievant Signature Date

Ackerman 5-6-11 1168

WARDEN'S DECISION AND REASON:

See attachment.

Warden Signature Date Oct. 28, 04

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

Ron Brewer 11-2-04
Grievant Signature Date

IGC Signature Date 11-2-04

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

1531

Mr K. Brewer, #285752. CI/0086-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

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To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

1533

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Ronald Brewer
SCDC NUMBER: 285756
INSTITUTION: Lieber
HOUSING UNIT: Stone B-59
WORK ASSIGNMENT: Unit

RECEIVED
MAY 29 2007
INMATE GRIEVANCE

Office Use Only
Grievance No. LCI 0686-04
Code: General NM
Policy
Disc. Hear
Class.
Date Received NOV 03 2004
IGC Initials LC

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): Adkins And Wicker do Require payment of prevailing wages. Grievantes were employed by N.T.I, And SCDC Is WTI's "Agent" In paying our wages under SCDC code/Adkin/wick -4-3-340 to be grieved pursuant to SCDC's grievance procedure. Grevant incorperates by reference All exibits Attached to grievance filed by Darrell Williams And Attorney Douglas Westbrook on 9-22-04.

285752
Ron Brewer 11-02-04
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

5-14-07
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.

Ron Brewer 5-22-07
Grievant Signature Date

IGC Signature 5/22/07
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

SCDC 10-5A (November 1997).

1534

Lieber PI Back Wage Claim Step 2 Reply

Inmate Name	SCDC #	Grievance #
Brewer, Ronald	285756	LCI-0686-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 2, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 22, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on June 27, 2003 and that your participation in this project ended on July 18, 2003.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court

Inmate Name	SCDC #	Grievance #
Brewer, Ronald	285756	LCI-0686-04

for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 2 appeal.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 nearly 15 months after SCDC first paid you for your participation in the project located at Lieber, over 14 months after your participation in the project at Lieber ended, and over 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.

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Inmate Name	SCDC #	Grievance #
Brewer, Ronald	285756	LCI-0686-04

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 any of the relief you demand in your grievance.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "employee" within your supporting documents to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Inmate Name	SCDC #	Grievance #
Brewer, Ronald	285756	LCI-0686-04

Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your appeal and grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal and grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION

Ronald Brewer, #285756,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

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

Grievance No. _____

Notice is hereby given that Ronald Brewer does hereby appeal the final decision of the South Carolina Department of Corrections dated _____ and received on no final decision issued, 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)): 1. Automatic appeal is proper under grievance policy §§13.5, 13.8 and 28 C.F.R. Part 40.7(e) because SCDC did not timely respond to grievance and the 105 day grievance processing period expired without final decision. 2. Grievance contests SCDC wage policy and "concerns policy, procedure" under §13.9 with no time limit to file. 3. There was reasonable cause under §13.9 and (1) no time limit to file and (2) compliance with §13.1. 4. Inmates' class action tolled §13.1. 5. §13.1 denied grievant reasonable time to file and thus due process. 6. SCDC failed to plead §13.1 in step 1 response and considered Amendments on the merits and thus waived §13.1. 7. SCDC was judicially estopped to raise §13.1. 8. Grievant proved all elements of claim, including prevailing wage, period(s worked and any overtime due. 9. Grievant claims back wages, pre/post judgment interest, costs and attorney fees. 10. SCDC should process grievance for all who worked in program whether or not they personally filed a grievance.

Ronald Brewer
Appellant's Name

Perry C.I.
Mailing Address
430 Oak Lawn Rd.

Pelzer, SC 29669
City, State, Zip Code
none
Telephone Number

Signed

11-6-08
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

(See reverse side for instructions)

1539

STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
	)	
RONALD BREWER, #285756	)	
	)	
Grievant/Appellant,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
	)	
Respondent/Appellee.	)	
	)	

I certify that on the 13th day of Nov., 2008, I mailed by first class postage Appellant's Notice of Appeal, and any grievance response provided to me by SCDC, to the following:

(1) The original was mailed for filing with the Administrative Law Court to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

D. H. Westbrook
Douglas H. Westbrook

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Frederick Lee Brown INMATE GRIEVANCE FORM

individually, and on behalf of all inmate employees (IE's) STEP 1

INMATE NAME: listed on attached Exh. A *

SCDC NUMBER: 289602

INSTITUTION: Lieber C. I.

HOUSING UNIT: Cooper B-64

WORK ASSIGNMENT: P.I. 2

Office Use Only

Grievance No. Lieber 0946-04

Code: General MH

Policy

Disc. Hear.

Class.

Date Received SEP 30 2004

IGC Initials CC

STATE GRIEVANCE (Include documentation, and date of incident; if SCDC Policy, indicate which policy) From 1999 to present, IE's were/are employed in the Williams Tech/Lieber service work program. From 1999 to July 2001, WTI/Lieber were required by S.C. Code 24-3-430 to pay IE's the "prevailing wage" for work of a similar nature in the private sector. This prevailing wage was $8.40 to $10.97 for 1999, $9.74 to $11.59 for 2000, and $10.10 to $12.06 for 2001 (Exh. G, H). Since July 2001, WTI/Lieber were required to pay IE's the negotiated wage of $4.00 per hour (Statutes at Large, No. 66, 837.31, eff. July 1, 2001; Exh. B, C). In fact, WTI/Lieber's policy was to pay IE's, in most cases, under $1.00 per hour. Exhibits document a $.35 per hour base pay rate, maximum pay of $1.00 per hour, the September 30 1998 WTI/Lieber contract specifying a wage of $4 per hour, the names and employment periods of all 1000 plus class members, and the pay dates, rates, hours, and pay for all class members from 1999 to June 2004 (Exh. D, E, C, A, and F).

* "Exh." denotes exhibits attached to Darrell Williams' Grievance, which are incorporated by reference herein.

ACTION REQUESTED: That IE's be paid back wages at the prevailing wage rate for 1999 to July 2001; and at $4 per hour for July 2001 to present, and in the future; all as determined from Exhibits A-H; and the time cards, pay stubs, and other records for class members shown to IE's counsel July 20, 2004 at Lieber in Jack Staudt's custody. IE's also request pre/post judgment interest, costs and attorney fees.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT: IE's have verbally requested WTI/Lieber to pay them prevailing wages. Darrell Williams in 2001 formally protested the improper wages, and filed a grievance which was dismissed for want of jurisdiction. In 2002, Williams filed a lawsuit (Williams et al. v. SCDC, et al., Case No. 02-CP-18-134, now pending) which was certified a class action representing the class identified in Exh. A. On August 23, 200 the S.C. Supreme Court held in the Adkins and Wicker cases that 24-3-430's prevailing wage provision was mandatory, and IE's could file a grievance for back wages.

Frederick L. Brown 9-27-04

Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's response.

L Carlton 10/28/04

IGC Signature Date

☐ I accept the action taken by the IGC and consider the matter closed.

☐ I do not accept the action taken and wish to appeal.

1541

N/A

Grievant Signature Date

SCDC 10-5 (Rev. November 1997)

Ackerman 5-6-11 1179

WARDEN'S DECISION AND REASON:

See Attachment.

Warden Signature — Date: Oct. 28, 04

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

Frederick Brown 11-2-04
Grievant Signature — Date

IGC Signature — Date: 11-2-04

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.

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J/R O. Brown, # 289602 LC10746-01

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

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To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

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AMENDMENT TO GRIEVANCE OF FREDERICK BROWN, #289602

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; hours in 2000 at $10.66 per hour; hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 223.53 plus hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

Frederick L. Brown 2-4-06
(Grievant Signature) (Date)

* Attached are Exh. A, 0777; C, 0081,0086; F, 0986; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

	NAME	SCDC	DORM	SHIFT	HIRED	RELEASED
	BRENNAN, MICHAEL	235444	C B 23	1	3/21/01	6/20/01
MI 3	BREWER, RON	285756	C A 17	1	6/27/03	7/18/03
	BREWER, TODD	251799	C A 36	1	8/11/99	6/6/02
	BRINSON, JOSEPH	130818	S A 34	1	9/11/00	2/27/01
MI 3	BROCK, B	239975	C A 0	0		12/20/99
MI 3	BROOKINS, GREGORY	295747	C B 27	1	3/22/04	4/14/04
MI 3	BROOKS, EDWARD	286980	C B 44	1	6/30/03	1/16/04
	BROWN, AARON	248841	C B 27	1	9/26/01	1/23/02
	BROWN, ANTHONY	279248	E A 33	1	11/21/01	1/11/02
	BROWN, ANTHONY D.	153895	C B 46	1	8/11/99	8/27/01
	BROWN, ANTHONY L.	138214	C A 39	1	8/17/01	7/5/02
MI 3	BROWN, BRANDON	286326	C B 24	1	12/16/03	12/23/03
	BROWN, CHARLES	250064	C 0	1	2/15/00	2/28/00
	BROWN, ERIK	199101	C A 31	1	5/18/01	8/2/01
MI 3	BROWN, FREDERICK	289602	C B 64	1	3/29/04	6/24/04
MI 2	BROWN, HENRY	286147	C B 22	1	10/10/02	10/24/02
	BROWN, HUBERT	161888	C A 3	1	8/23/01	3/11/02
MI 3	BROWN, J	256481	C A 0	0		12/20/99
	BROWN, JEREMY	272135	S B 27	2	8/1/01	9/10/01
	BROWN, JOHN	281130	C A 15	1	3/11/02	4/19/02
MI 3	BROWN, KEITH	295762	C B 24	1	3/24/04	6/24/04
ME 3	BROWN, KEVIN	215073	A A 19	1	9/30/02	12/5/02
	BROWN, LESLEY	280068	C A 22	1	12/19/01	6/18/02
	BROWN, TIMOTHY	262617	C B 60	1	1/4/00	8/31/00
MI 3	BROWN, TIMOTHY	238461	C A 5	1	3/29/00	6/24/04
MI 3	BROWN, VICTOR	259876	C A 32	1	9/10/01	10/31/02
	BROWN, WAYNE # 271677	269050	E A 29	1	10/16/00	11/16/01
MI 3	BRYANT, EDWARD	255998	C B 14	1	2/27/04	6/24/04
MI 3	BRYANT, GARY	258972	C B 41	2	3/11/02	8/16/02
	BRYANT, GARY	258972	C B 41	1	9/9/99	1/5/01
	BRYANT, MELVIN	266264	C A 10	1	6/29/00	12/20/01
ME 3	BRYANT, PETE	242370	C B 32	2	1/17/02	10/7/02
MI 3	BRYANT, PETE	242370	C A 26	1	12/22/03	6/24/04
	BRYANT, TOMMY	269010	C B 49	1	10/18/00	1/26/01
	BRYANT, TYRONE # 279679	248553	A B 17	2	6/15/00	6/27/00
	BUCHANAN, CHARLES	228070	C A 2	1	10/1/99	10/16/00
MI 3	BUCHANON, TERRELL	277262	C A 60	1	12/1/03	4/23/04
MI 3	BUDE, DOUGLAS	263537	C B 41	1	6/12/01	10/31/02
	BUFKIN, JIMMY	269021	C A 3	1	10/16/00	2/15/02
	BUFORD, JAMES	276035	C B 50	1	7/23/01	5/31/02
MI 3	BUIE, D	256609	C A 0	0		8/30/99
	BURKE, BRENDON	266661	E B 27	1	6/29/00	8/21/00
MI 3	BURKE, LARRY	281911	C A 40	1	10/1/02	6/24/04
	BURROUGH, CHARLES	231746	C A 31	1	9/4/01	1/22/02
MI 3	BUSH, CHRISTOPHER D.	300690	E B 21	1	6/9/04	6/24/04
MI 3	BUTLER, JERRY	184469	C B 10	1	10/24/01	1/13/03

PLAINTIFF'S EXHIBIT A 1546

A - 0777
June 2004

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

LEASE

THE AGREEMENT is entered into this 30th day of September, 1998, by and between the South Carolina Department of Corrections (hereinafter called "SCDC") by its duly authorized agent Michael W. Moore, Director and Williams Technologies, Inc., (hereafter referred to as "Williams") by its duly authorized agent William S. Williams, Chairman.

WHEREAS, Prison Industries is a division of the South Carolina Department of Corrections charged with establishing business relationships with private enterprise so as to fulfill the intent of Section 24-3-310 Code of Laws of South Carolina, 1976 as amended; and has all necessary authorization to enter into this agreement and to bind the State of South Carolina to all the terms contained herein; and,

WHEREAS, Williams represents and warrants that it is a duly qualified South Carolina corporation, licensed to conduct business in South Carolina; and,

WHEREAS, Williams intends to engage in the business of disassembly and/or remanufacturing of its product lines at Lieber Correctional Institution (hereinafter referred to as"LCI"); and ,

WHEREAS, this agreement is made in the best interest of the State of South Carolina:

NOW, THEREFORE, the parties hereto do agree as follows:

ARTICLE 1 General:

In consideration of Williams' expenditures to construct on behalf of the State of South Carolina a building of up to 45,000 square feet on the LCI premises (the "Building") , SCDC hereby enters into this Agreement to permit Williams to use such Building and related premises during the term and in accordance with the provisions of this Agreement. The State Engineer's approval of all building plans is required. Attachment A hereto shall indicate the location of the Building and the related premises, which shall include circulation space for delivery and shipping via tractor-trailers, parking outside of the secured area sufficient for a minimum of six (6) trailers and access to the facility via access roads. SCDC shall be responsible for maintenance of such roadways and related premises.

The Building shall be constructed according to plans approved by the state in accordance with all applicable federal and state and local rules and regulations and SCDC security requirements. The State Engineer's approval of all building plans is required. The cost of the Building (excluding personal property located in the Building such as furnishings and equipment) is estimated to be $ 1,200,000 Within 90 days of completion of the Building, Williams shall provide to SCDC documentation of the expenditures to construct the Building for its review and acknowledgment.

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Ackerman 5-6-11 1185

to and from LCI reasonable access up to twelve (12) hours per day, subject to the Department's security requirements in Section 3.1.4.

(c) Other access. SCDC will provide access to the facility during Williams' hours of operation for Williams' employees, agents, and business invitees, subject to SCDC's security requirements.

3.3 Mutual Duties of the Parties:

1. Payment for Services: Williams agrees to pay SCDC $4.00 per hour per inmate for work performed including training hours and hours in excess of the inmate's normal shift. SCDC shall be responsible to pay inmate workers, cover security costs and P.I. overhead, including any costs for health, safety and welfare of the inmates, taxes or other payroll deduction. No compensation will be paid for time not worked. In order to accommodate holidays not observed by Williams, SCDC and Williams may agree to work ahead or to work on holidays if a mutually acceptable agreement can be reached.

Thirty (30) days prior to each anniversary date of this agreement, SCDC and Williams may negotiate an increase in the per hour rate paid by Williams to SCDC. If such an increase is requested, it shall be limited to a maximum of five percent (5%) annually or the annual percentage increase in the Consumer Price Index, whichever is lower. It is the intent of the parties that such increase shall only reflect SCDC's increased costs of prison overhead.

Williams and SCDC may mutually agree upon a bonus plan for inmates based on productivity and quality control. Such bonus will be paid in its entirety by Williams to SCDC for distribution to inmates.

2. Compliance with Convict Labor Laws: Williams and SCDC agree that no goods produced under this agreement shall be placed in commerce in violation of the laws of the State of South Carolina or the United States as they relate to the utilization of prison labor. Should either Federal or State Law (or the interpretation thereof) change preventing interstate shipments of goods produced under this Agreement, this Agreement shall terminate as provided in Sections 4.0.7 and 4.0.9.

ARTICLE 4 General Terms and Conditions:

4.0 General:
Williams, its employees or agents performing under the agreement are not to be deemed to be employees of SCDC nor as agents of SCDC in any manner whatsoever. Williams will not hold itself out nor claim to be an officer or employee of SCDC or of the State of South Carolina by reason hereof and will not make any claim, demand, or application to, or for any right or privilege applicable to an officer or employee of SCDC or the State of South Carolina, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security benefits, or retirement membership or credit.

The State of South Carolina, SCDC, their employees (including inmates performing labor pursuant to this Agreement) and agents, are not to be deemed employees of Williams nor agents of Williams in any manner

Inmate #	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Hours	Pay Amount
153895	BROWN	ANTHONY		20010312	0.50	173.04	86.52
153895	BROWN	ANTHONY		20010326	0.50	167.42	83.71
153895	BROWN	ANTHONY		20010409	0.50	230.00	115.00
153895	BROWN	ANTHONY		20010423	0.50	131.14	65.57
153895	BROWN	ANTHONY		20010507	0.50	149.46	74.73
153895	BROWN	ANTHONY		20010521	0.50	194.57	97.28
153895	BROWN	ANTHONY		20010604	0.50	103.11	51.55
153895	BROWN	ANTHONY		20010618	0.50	120.79	60.39
153895	BROWN	ANTHONY		20010702	0.50	108.15	54.07
153895	BROWN	ANTHONY		20010716	0.50	91.68	45.84
153895	BROWN	ANTHONY		20010730	0.50	112.02	56.01
153895	BROWN	ANTHONY		20010813	0.05	121.90	6.09
153895	BROWN	ANTHONY		20010827	0.50	123.04	61.52
286326	BROWN	BRANDON	L.	20030714	0.50	42.14	21.07
286326	BROWN	BRANDON	L.	20030728	0.50	49.22	24.61
286326	BROWN	BRANDON	L.	20030811	0.50	3.51	1.75
286326	BROWN	BRANDON	L.	20030922	0.50	17.50	8.75
286326	BROWN	BRANDON	L.	20031006	0.50	17.50	8.75
286326	BROWN	BRANDON	L.	20031020	0.50	17.50	8.75
286326	BROWN	BRANDON	L.	20031103	0.50	17.50	8.75
286326	BROWN	BRANDON	L.	20031117	0.50	17.50	8.75
286326	BROWN	BRANDON	L.	20031201	0.50	17.50	8.75
286326	BROWN	BRANDON	L.	20031215	0.50	17.50	8.75
286326	BROWN	BRANDON	L.	20031229	0.50	26.51	13.25
250064	BROWN	CHARLES		20000228	0.50	8.92	4.46
250064	BROWN	CHARLES		20000228	1.05	7.50	7.87
199101	BROWN	ERIC		20010618	0.50	49.07	24.53
199101	BROWN	ERIC		20010702	0.50	34.72	17.36
199101	BROWN	ERIC		20010716	0.50	62.05	31.02
199101	BROWN	ERIC		20010730	0.50	72.30	36.15
199101	BROWN	ERIC		20010813	0.50	24.15	12.07
289602	BROWN	FREDRICK	LEE	20040405	0.50	15.91	7.95
289602	BROWN	FREDRICK	LEE	20040419	0.50	45.47	22.73
289602	BROWN	FREDRICK	LEE	20040503	0.50	47.10	23.55
289602	BROWN	FREDRICK	LEE	20040517	0.50	57.95	28.97
289602	BROWN	FREDRICK	LEE	20040531	0.50	57.10	28.55
286147	BROWN	HENRY		20021104	0.50	20.27	10.13
272135	BROWN	JEREMY		20010813	0.50	21.78	10.89
272135	BROWN	JEREMY		20010827	0.50	10.99	5.49
272135	BROWN	JEREMY		20010910	0.50	37.58	18.79
256481	BROWN	JERRY		19991108	0.35	7.50	2.62
256481	BROWN	JERRY		19991122	0.35	66.48	23.26
256481	BROWN	JERRY		19991206	0.35	54.34	19.01
256481	BROWN	JERRY		19991220	0.35	48.45	16.95
281130	BROWN	JOHN	PAUL	20020325	0.50	26.40	13.20
281130	BROWN	JOHN	PAUL	20020408	0.50	39.13	19.56
281130	BROWN	JOHN	PAUL	20020422	0.50	44.18	22.09
281130	BROWN	JOHN	PAUL	20020506	0.50	0.78	0.39
295762	BROWN	KEITH	VINCENT	20040405	0.50	23.28	11.64
295762	BROWN	KEITH	VINCENT	20040419	0.50	45.97	22.98
295762	BROWN	KEITH	VINCENT	20040503	0.50	49.86	24.93
295762	BROWN	KEITH	VINCENT	20040517	0.50	47.25	23.62
295762	BROWN	KEITH	VINCENT	20040531	0.50	65.17	32.58
215073	BROWN	KEVIN		20021021	0.50	50.07	25.03

PLAINTIFF'S EXHIBIT F

To: Douglas Westbrook, Attorney at Law

From: Dr. Joseph Benich, Economic Loss Expert

Subject: Your 9/14/04 request

Date: 9/20/04

This note is in response to your "prevailing wage" request for work generally described by the Williams Technologies Job Description of Production Associate. You have asked for my opinion of the "prevailing wage" for work of a similar nature in the private sector for 1999/2001 (I assume that you mean 1999, 2000, and 2001). It is also my understanding that the term " prevailing wage" not only implies work of a similar nature, but that the work should be performed in the same general geographic area.

The U.S. Department of Labor (Bureau of Labor Statistics) publishes wage data for a range of occupations in the Charleston – North Charleston Metropolitan Area. The Installation, Maintenance and Repair Occupation Sub-Category of "Maintenance and Repair Workers, General" had mean hourly wages of $11.44 in1999, $12.62 in 2000, and $13.24 in 2001 for the Charleston - North Charleston Metropolitan Area. The Production Occupations Sub-Category of "Team Assemblers" had mean hourly wages of $10.49 in 1999, $10.56 in 2000, and $10.88 in 2001 for the Charleston – North Charleston Metropolitan Area. The average of these two Sub-Categories is $10.97 for 1999, $11.59 for 2000, and $12.06 for 2001.

The possibility exists that the average prison worker would be less experienced with his prison position than his non-prison counterpart. It is also possible that the average prison worker would require more supervision than the average non-prison worker performing the same tasks. The concept of "prevailing wage" implies the average wage for a specific category of average workers. The Installation, Maintenance and Repair Occupation Sub Category of "Helpers—Installation, Maintenance, and Repair Workers" had mean hourly wages of $9.53 in 1999, $11.21 in 2000, and $10.45 in 2001. The Production Occupations Sub-Category of "Helpers—Production Workers" had mean hourly wages of $7.61 in 1999, $8.27 in 2000, and $9.09 in 2001. The average of these two "Helpers" Sub Categories is $8.40 for 1999, $9.74 for 2000, and $10.10 for 2001.

These "Helpers" Sub Category averages represent the lower end of the "prevailing wage" range for the Williams Technologies Job Description of Production Associate for 1999, 2000, and 2001. Thus the "prevailing wage" range estimate for prison workers for the Williams Technologies Job Description of Production Associate is $10.97 - $8.40 for 1999, $11.59 - $9.74 for 2000, and $12.06 - $10.10 for 2001.

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RESUME-3/03
Dr. Joseph J. Benich

FAMILY STATUS
Wife - Roberta; two children - Kiersten and J.J.

EDUCATION

9/68 - 6/72	Doctor of Business Administration Majors: Production Management and Marketing Kent State University, Kent, Ohio
1/66 - 5/68	Masters of Business Administration Majors: Economics and Marketing Case Western Reserve University, Cleveland, Ohio
9/65 - 1/66	Western Reserve University, Cleveland, Ohio Major: Law
9/61 - 6/65	Bachelor of Science in Chemical Engineering Case Institute of Technology, Cleveland, Ohio

ACADEMIC EXPERIENCE

9/93 –2003	Professor of Business Administration College of Charleston, Charleston, South Carolina
9/78 - 8/93	Associate Professor of Business Administration College of Charleston, Charleston, South Carolina
9/76 - 9/78	Associate Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/72 - 9/76	Assistant Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/69 - 6/72	Full-time Instructor, Economics Department Kent State University, Kent, Ohio
1/69 - 6/69	Teaching Fellow, Statistics Kent State University
9/68 - 12/68	Graduate Assistant Kent State University

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NON-ACADEMIC EXPERIENCE

6/74 -	Expert Witness, Economic Litigation, Charleston, South Carolina, analyses of economic loss to individuals and/or businesses, with presentations in State and Federal courts
7/78 -	Manager of Summertime Properties, Charleston, South Carolina
6/73 -	Business Consulting, J. Benich and Associates, Charleston, South Carolina
1/68 - 11/72	Business Advisor to Director of American Screw Products, Warrensville, Ohio
1/68 - 10/68	Staff Specialist (Systems Optimizations), Cleveland Electric Illuminating Company, Cleveland, Ohio
1/66 - 9/67	Industrial Market Research, Harshaw Chemical, Cleveland, Ohio
19/65 - 1/66	Phosphor Efficiency Development, General Electric Co., Cleveland, Ohio (worked independently on a second shift due to day law school)
6/65 - 9/65	Research Chemical Engineering, Sohio Research, Warrensville, Ohio (catalyst efficiency testing and associated acetonitrile purification development).

PUBLICATIONS

"Signal-Averaged P-Wave Analysis of Normal Controls and Patients with Paroxysmal Atrial Fibrillation: A Study in Gender Differences, Age Dependence, and Reproducibility", with A Dhala, B. Leman, et al, Clinical Cardiology, November, 2002, p-525-531

"The High Resolution Signal-Averaged P-Wave Duration in Normal Patients: Influence of Race and Gender", with M. Little, B. Leman, and B. Hainer, North American Society of Pacing and Electrophysiology, abstracted, *Pacing and Clinical Electrophysiology*, April, 1997, Vol.20:4:1219

"Alternative Approaches to Tax Adjustments in Appraising Economic Loss: A Comment", *Journal of Legal Economics*, Fall 1996

"Updated Estimates of Work-Life Expectancies Based upon The Increment-Decrement Model: Comment", *Journal of Legal Economics*, Winter 1995

"Intra-Year Discounting Assumptions and Bias in Lost Earnings Analysis: A Comment", *Journal of Forensic Economics*, Winter 1993, 7(1)

"Comment: On the Relative Stability and Predictability of the Interest Rate and Earnings Growth Rate", *Journal of Forensic Economics*, Winter 1992, 6(1)

"Determining Tax-Adjusted Awards for Spouses' Lost Future Earnings", For *The Defense*, Nov. 1992

"The Just Better (JB) Method of Calculating The Present Value of Lost Future Income", *Journal of Legal Economics*, July 1992

11-7-04

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

Office Use Only
Grievance No. LCI 07460
Code: General RM
Policy
Disc. Hear.
Class.
Date Received NOV 05 2004
IGC Initials

INMATE NAME: Brown, Frederick L.
SCDC NUMBER: #289602 NOV 08 2004 PP
INSTITUTION: Lieber Corr.Inst.
HOUSING UNIT: Cooper B-64
WORK ASSIGNMENT: PI-2

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

Adkins and Wicker do require payment of prevailing wages. Grievants were employed by WTI and SCDC was WTI's "agent" in paying our wages. Adkins and Wicker further allow this issue of payment of wages under S.C.Code Ann.§24-3-430 to be grieved purusant to SCDC's grievance procedure. Grievant incorporates by reference all exhibits attached to grievances filed by Darrell Williams and attorney Douglas Westbrook on 9/22/04.

Frederick Brown 11-3-04
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

5-14-07
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.

Frederick L. Brown 5-22-07
Grievant Signature Date

Ann Walkman 5-22-07
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

SCDC 10-5A (November 1997)

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BROWN LCI-0746-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 3, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 27, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on March 29, 2004 and that, as of the date of this response, you are still participating in this project.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order..

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 2 appeal.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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

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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. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 nearly six (6) months after SCDC first paid you for your participation in the project located at Lieber and more than 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.
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 any of the relief you demand in your Step 1 grievance or your Step 2 appeal.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made in your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "inmate/employee" within your appeal and grievance to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

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I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

To the extent that you demand overtime wages in your appeal or grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your appeal and grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal or grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Frederick Brown, #289602

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

DOCKET NO. _07___-ALJ-04-_____-___
GRIEVANCE NO.: _____

Notice is hereby given that Frederick Brown does hereby appeal the final decision of the South Carolina Department of Corrections dated 5-14-07 and received on 5-22-07, 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)):

1. Grievance seeks back wages, contesting SCDC policy/procedure of paying below prevailing/negotiated wages. Thus, there was no time limit to file grievance under Grievance Policy §13.9.

2. Appellant had reasonable cause under §13.9 as his right to grieve did not accrue until Adkins/Wicker and filed within a reasonable time.

3. Applying §13.1 to these facts violated due process.

4. Under 4-19-07 Court order, SCDC was required to accept filing and consider on the merits Appellant's Amendment/Exhibits.

5. Grievance proved all elements of claim for prevailing/negot. wages.

6. Dr. Benich's report is the only evidence of prevailing wages in the record. Appellant is entitled to prevailing/negotiated wages.

7. To extent Appellant worked OT he is entitled to it under SCDC policy.

8. Appellant claims pre/post judgment interest, costs and attorney fees.

Frederick Brown
Appellant's Name
Lieber C.I.
P.O. Box 205
Mailing Address
Ridgeville, SC 29472
City, State, Zip Code
none
Telephone Number

Signed
5-30-07
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29472
(843) 853-9600
Attorney for Appellant

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STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
	)	
FREDERICK BROWN, #289602	)	
	)	
	)	
Grievant/Appellant,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
	)	
	)	
Respondent/Appellee.	)	

I certify that on the 5th day of June, 2007, I mailed by first class postage Appellant's Notice of Appeal, and final decision, to the following:

(1) The original and one copy were mailed for filing with the Administrative Law Court, to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC, to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

DHWestbrook
Douglas H. Westbrook

1558

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Keith Vincent Brown INMATE GRIEVANCE FORM

individually, and on STEP 1

behalf of all inmate employees (IE's)

INMATE NAME: listed on attached Exh. A *

SCDC NUMBER: 295762

INSTITUTION: Lieber

HOUSING UNIT: Cooper A-48 ✓

WORK ASSIGNMENT: Prison Industry

Office Use Only

Grievance No. Lieber 0718-04

Code: General MH

Policy

Disc. Hear.

Class.

Date Received SEP 30 2004

IGC Initials LC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) From 1999 to present, IE's were/are employed in the Williams Tech/Lieber service work program. From 1999 to July 2001, WTI/Lieber were required by S.C. Code 24-3-430 to pay IE's the "prevailing wage" for work of a similar nature in the private sector. This prevailing wage was $8.40 to $10.97 for 1999, $9.74 to $11.59 fo 2000, and $10.10 to $12.06 for 2001 (Exh. G, H). Since July 2001, WTI/Lieber were required to pay IE's the negotiated wage of $4.00 per hour (Statutes at Large, No. 66, S37.31, eff. July 1, 2001; Exh. B, C). In fact, WTI/Lieber's policy was to pay IE's, in most cases, under $1.00 per hour. Exhibits documen a $.35 per hour base pay rate, maximum pay of $1.00 per hour, the September 30 1998 WTI/Lieber contract specifying a wage of $4 per hour, the names and employment periods of all 1000 plus class members, and the pay dates, rates, hours, and pay for all class members from 1999 to June 2004 (Exh. D, E, C, A, and F).

* "Exh." denotes exhibits attached to Darrell Williams' Grievance, which are incorporated by reference herein.

ACTION REQUESTED: That IE's be paid back wages at the prevailing wage rate fo 1999 to July 2001; and at $4 per hour for July 2001 to present, and in the future; all as determined from Exhibits A-H; and the time cards, pay stubs, and other records for class members shown to IE's counsel July 20, 2004 at Lieber in Jack Staudt's custody. IE's also request pre/post judgment interest, costs and attorney fees.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT: IE's have verbally requested WTI/Lieber to pay them prevailing wages. Darrell Williams in 2001 formally protested the improper wages, and filed a grievance which was dismissed for want of jurisdiction. In 2002, Williams filed a lawsuit (Willia et al. v. SCDC, et al., Case No. 02-CP-18-134, now pending) which was certifie a class action representing the class identified in Exh. A. On August 23, 200 the S.C. Supreme Court held in the Adkins and Wicker cases that 24-3-430's prevailing wage provision was mandatory, and IE's could file a grievance for back wages.

Mr. Keith Vincent Brown 9-27-04

Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's response.

J Carlton 10/28/04

IGC Signature Date

☐ I accept the action taken by the IGC and consider the matter closed.

☐ I do not accept the action taken and wish to appeal. 1559

N/A

Grievant Signature Date

SCDC 10-5 (Rev. November 1997)

Ackerman 5-6-11 1197

WARDEN'S DECISION AND REASON:

See Attachment.

Warden Signature — Date: Oct. 28 04

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

Keith Brown — 11-2-04
Grievant Signature — Date

IGC Signature — 11-2-04
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.

15-60

Jon K. Brown, #295762 LG 0718-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

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To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

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AMENDMENT TO GRIEVANCE OF KEITH V. BROWN, #295762

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; hours in 2000 at $10.66 per hour; hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 231.53 plus hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

Keith Brown Feb 20, 2006
(Grievant Signature) (Date)

* Attached are Exh. A, 0777; C, 0081,0086; F, 0986; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

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	NAME	SCDC	DORM	SHIFT	HIRED	RELEASED
	BRENNAN, MICHAEL	235444	C B 23	1	3/21/01	6/20/01
MI 3	BREWER, RON	285756	C A 17	1	6/27/03	7/18/03
	BREWER, TODD	251799	C A 36	1	8/11/99	6/6/02
	BRINSON, JOSEPH	130818	S A 34	1	9/11/00	2/27/01
MI 3	BROCK, B	239975	C A 0	0		12/20/99
MI 3	BROOKINS, GREGORY	295747	C B 27	1	3/22/04	4/14/04
MI 3	BROOKS, EDWARD	286910	C B 44	1	6/30/03	1/16/04
	BROWN, AARON	243341	C B 27	1	9/26/01	1/23/02
	BROWN, ANTHONY	279248	E A 33	1	11/21/01	1/11/02
	BROWN, ANTHONY D.	153895	C B 46	1	8/11/99	8/27/01
	BROWN, ANTHONY L.	138214	C A 39	1	8/17/01	7/5/02
MI 3	BROWN, BRANDON	286326	C B 24	1	12/16/03	12/23/03
	BROWN, CHARLES	250064	C 0	1	2/15/00	2/28/00
	BROWN, ERIK	199101	C A 31	1	5/18/01	8/2/01
MI 3	BROWN, FREDERICK	289602	C B 64	1	3/29/04	6/24/04
MI 2	BROWN, HENRY	286147	C B 22	1	10/10/02	10/24/02
	BROWN, HUBERT	161888	C A 3	1	8/23/01	3/11/02
MI 3	BROWN, J.	256481	C A 0	0		12/20/99
	BROWN, JEREMY	272135	S B 27	2	8/1/01	9/10/01
	BROWN, JOHN	281130	C A 15	1	3/11/02	4/19/02
MI 3	BROWN, KEITH	295762	C B 24	1	3/24/04	6/24/04
ME 3	BROWN, KEVIN	215073	A A 19	1	9/30/02	12/5/02
	BROWN, LESLEY	280068	C A 22	1	12/19/01	6/18/02
	BROWN, TIMOTHY	262617	C B 60	1	1/4/00	8/31/00
MI 3	BROWN, TIMOTHY	238461	C A 5	1	3/29/00	6/24/04
MI 3	BROWN, VICTOR	259876	C A 32	1	9/10/01	10/31/02
	BROWN, WAYNE	269050	E A 29	1	10/16/00	11/16/01
MI 3	BRYANT, EDWARD	255998	C B 14	1	2/27/04	6/24/04
MI 3	BRYANT, GARY	258972	C B 41	2	3/11/02	8/16/02
	BRYANT, GARY	258972	C B 41	1	9/9/99	1/5/01
	BRYANT, MELVIN	266264	C A 10	1	6/29/00	12/20/01
ME 3	BRYANT, PETE	242370	C B 32	2	1/17/02	10/7/02
MI 3	BRYANT, PETE	242370	C A 26	1	12/22/03	6/24/04
	BRYANT, TOMMY	269010	C B 49	1	10/18/00	1/26/01
	BRYANT, TYRONE	248553	A B 17	2	6/15/00	6/27/00
	BUCHANAN, CHARLES	228070	C A 2	1	10/1/99	10/16/00
MI 3	BUCHANON, TERRELL	277262	C A 60	1	12/1/03	4/23/04
MI 3	BUDE, DOUGLAS	263537	C B 41	1	6/12/01	10/31/02
	BUFKIN, JIMMY	269021	C A 3	1	10/16/00	2/15/02
	BUFORD, JAMES	276035	C B 50	1	7/23/01	5/31/02
MI 3	BUIE, D	256609	C A 0	0		8/30/99
	BURKE, BRENDON	266661	E B 27	1	6/29/00	8/21/00
MI 3	BURKE, LARRY	281911	C A 40	1	10/1/02	6/24/04
	BURROUGH, CHARLES	231746	C A 31	1	9/4/01	1/22/02
MI 3	BUSH, CHRISTOPHER D.	300690	E B 21	1	6/9/04	6/24/04
MI 3	BUTLER, JERRY	184469	C B 10	1	10/24/01	1/13/03

PLAINTIFF'S EXHIBIT A

A - 0777
June 2004

1564

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Keith Vincent Brown
SCDC NUMBER: 295762 NOV 08 2004
INSTITUTION: Lieber Lee PP
HOUSING UNIT: Cooper Unit, A-Pod, 2118
WORK ASSIGNMENT: Yardkeeper

Office Use Only
Grievance No. LCI 0218-04
Code: General MV
Policy
Disc. Hear.
Class.
Date Received NOV 08 2004
IGC Initials

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): Adkins & Wicker do require payment of Prevailing Wages. Grievants were employed by WTI, and SCDC was WTI's "Agent" in paying our wages. Adkins & Wicker further allow this issue of payment of wages under S.C. Code Ann. § 24-3-430 to be grieved pursuant to SCDC's grievance procedure. Grievant incorporates by Reference all exhibits attached to grievances filed by Darrell Williams and Attorney Douglas Westbrook on 9-22-04

Keith V. Brown 11-02-04
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

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.

Keith Brown 2/5/08
Grievant Signature Date

IGC Signature 2/5/08
Date

SCDC 10-5A (November 1997)

(SEE REVERSE SIDE FOR INSTRUCTIONS)

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Ackerman 5-6-11 1203

Lieber PI Back Wage Claim Step 2 Reply

Inmate Name	SCDC #	Grievance #
Brown, Keith	295762	LCI-0718-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 2, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 27, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that your participation in the prison industries project at Lieber started on April 5, 2004 and ended on February 7, 2005.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court

Inmate Name	SCDC #	Grievance #
Brown, Keith	295762	LCI-0718-04

for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 nearly six (6) months after SCDC first paid you for your participation in the project located at Lieber and over 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.

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 any of the relief you demand in your grievance.

Inmate Name	SCDC #	Grievance #
Brown, Keith	295762	LCI-0718-04

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "employee" within your supporting documents to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor

Inmate Name	SCDC #	Grievance #
Brown, Keith	295762	LCI-0718-04

to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your appeal and grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal and grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION

Keith Brown, #295762,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

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

Grievance No. _____

Notice is hereby given that Keith Brown does hereby appeal the final decision of the South Carolina Department of Corrections dated _____ and received on no final decision issued, 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)): 1. Automatic appeal is proper under grievance policy §§13.5, 13.8 and 28 C.F.R. Part 40.7(e) because SCDC did not timely respond to grievance and the 105 day grievance processing period expired without final decision. 2. Grievance contests SCDC wage policy and "concerns policy/procedure" under §13.9 with no time limit to file. 3. There was reasonable cause under §13.9 and (1) no time limit to file and (2) compliance with §13.1. 4. Inmates' class action tolled §13.1. 5. §13.1 denied grievant reasonable time to file and thus due process. 6. SCDC failed to plead §13.1 in step 1 response and considered Amendments on the merits and thus waived §13.1. 7. SCDC was judicially estopped to raise §13.1. 8. Grievant proved all elements of claim, including prevailing wage, period(s) worked and any overtime due. 9. Grievant claims back wages, pre/post judgment interest, costs and attorney fees. 10. SCDC should process grievance for all who worked in program whether or not they personally filed a grievance.

Keith Brown
Appellant's Name

Lee C.I.
Mailing Address

990 Wisacky Hwy

Bishopville, SC 29010
City, State, Zip Code

none
Telephone Number

Signed

11-6-08
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

(See reverse side for instructions)

1570

Ackerman 5-6-11 1208

STATE OF SOUTH CAROLINA KEITH BROWN, #295762 Grievant/Appellant, vs. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, Respondent/Appellee.	)	IN THE ADMINISTRATIVE LAW COURT CERTIFICATE OF SERVICE

I certify that on the 7th day of Nov., 2008, I mailed by first class postage Appellant's Notice of Appeal, and any grievance response provided to me by SCDC, to the following:

(1) The original was mailed for filing with the Administrative Law Court to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

Douglas H. Westbrook

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: Timothy BROWN
SCDC NUMBER: 238461
INSTITUTION: Lieber C.I
HOUSING UNIT: Cooper A-05
WORK ASSIGNMENT: P.I WORKER 2

Office Use Only
Grievance No. Lieber0633-04
Code: General RM
Policy
Disc. Hear.
Class.
Date Received SEP 22 2004
IGC Initials LC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

The depARtMENT is asked to review and determine whether I am entitled to receive back wages due to me from working at Lieber PRISON Industry PROGRAM where they only PAid me: 35 cents on hour and not PRevailing wag as required under South CaroLing Code ANN. sec. 24-3-430 (A-7) as well as fACt thatFRom 1998-03 the denied me PREVAiLing wage.

ACTION REQUESTED:
All money due to me be PAid AT PREVAiLing wage and overtime Rate and PREVAiLing wage be paid Now.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:
LawSuit was filed ORdeRed to file GRieVANCe by Court WicKeR V. SCOC AdKiNS V. SCDC

Timothy Brown 9-23-04
Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's response.

L Carrone 10/28/04
IGC Signature Date

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

N/A
Grievant Signature Date

SCDC 10-5 (Rev. November 1997)

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Ackerman 5-6-11 1210

WARDEN'S DECISION AND REASON:

See Attachment.

Warden Signature Date 10.28.04

☐ 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 11-2-04

IGC Signature Date 11-2-04

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.

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Inmate D. Brown #238461 LC/06033-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

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To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

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AMENDMENT TO GRIEVANCE OF TIMOTHY BROWN, #238461

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; 1585.03 hours in 2000 at $10.66 per hour; 1491.59 hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 10,014.51 plus hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

Timothy Brown 2-3-06
(Grievant Signature) (Date)

* Attached are Exh. A, 0777; C, 0081,0086; F, 0987-0989; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

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	NAME	SCDC	DORM	SHIFT	HIRED	RELEASED
	BRENNAN, MICHAEL	235444	C B 23	1	3/21/01	6/20/01
MI 3	BREWER, RON	285756	C A 17	1	6/27/03	7/18/03
	BREWER, TODD	251799	C A 36	1	8/11/99	6/6/02
	BRINSON, JOSEPH	130818	S A 34	1	9/11/00	2/27/01
MI 3	BROCK, B	239975	C A 0	0		12/20/99
MI 3	BROOKINS, GREGORY	295747	C B 27	1	3/22/04	4/14/04
MI 3	BROOKS, EDWARD	286980	C B 44	1	6/30/03	1/16/04
	BROWN, AARON	248841	C B 27	1	9/26/01	1/23/02
	BROWN, ANTHONY	279248	E A 33	1	11/21/01	1/11/02
	BROWN, ANTHONY D.	153895	C B 46	1	8/11/99	8/27/01
	BROWN, ANTHONY L.	138214	C A 39	1	8/17/01	7/5/02
MI 3	BROWN, BRANDON	286326	C B 24	1	12/16/03	12/23/03
	BROWN, CHARLES	250064	C 0	1	2/15/00	2/28/00
	BROWN, ERIK	199101	C A 31	1	5/18/01	8/2/01
MI 3	BROWN, FREDERICK	289602	C B 64	1	3/29/04	6/24/04
MI 2	BROWN, HENRY	286147	C B 22	1	10/10/02	10/24/02
	BROWN, HUBERT	161888	C A 3	1	8/23/01	3/11/02
MI 3	BROWN, J.	256481	C A 0	0		12/20/99
	BROWN, JEREMY	272135	S B 27	2	8/1/01	9/10/01
	BROWN, JOHN	281130	C A 15	1	3/11/02	4/19/02
MI 3	BROWN, KEITH	295762	C B 24	1	3/24/04	6/24/04
ME 3	BROWN, KEVIN	215073	A A 19	1	9/30/02	12/5/02
	BROWN, LESLEY	280068	C A 22	1	12/19/01	6/18/02
	BROWN, TIMOTHY	262617	C B 60	1	1/4/00	8/31/00
MI 3	BROWN, TIMOTHY	238461	C A 5	1	3/29/00	6/24/04
MI 3	BROWN, VICTOR	259876	C A 32	1	9/10/01	10/31/02
	BROWN, WAYNE # 271677	269050	E A 29	1	10/16/00	11/16/01
MI 3	BRYANT, EDWARD	255998	C B 14	1	2/27/04	6/24/04
MI 3	BRYANT, GARY	258972	C B 41	2	3/11/02	8/16/02
	BRYANT, GARY	258972	C B 41	1	9/9/99	1/5/01
	BRYANT, MELVIN	266264	C A 10	1	6/29/00	12/20/01
ME 3	BRYANT, PETE	242370	C B 32	2	1/17/02	10/7/02
MI 3	BRYANT, PETE	242370	C A 26	1	12/22/03	6/24/04
	BRYANT, TOMMY	269010	C B 49	1	10/18/00	1/26/01
	BRYANT, TYRONE # 271677	248553	A B 17	2	6/15/00	6/27/00
	BUCHANAN, CHARLES	228070	C A 2	1	10/1/99	10/16/00
MI 3	BUCHANON, TERRELL	277262	C A 60	1	12/1/03	4/23/04
MI 3	BUDE, DOUGLAS	263537	C B 41	1	6/12/01	10/31/02
	BUFKIN, JIMMY	269021	C A 3	1	10/16/00	2/15/02
	BUFORD, JAMES	276035	C B 50	1	7/23/01	5/31/02
MI 3	BUIE, D	256609	C A 0	0		8/30/99
	BURKE, BRENDON	266661	E B 27	1	6/29/00	8/21/00
MI 3	BURKE, LARRY	281911	C A 40	1	10/1/02	6/24/04
	BURROUGH, CHARLES	231746	C A 31	1	9/4/01	1/22/02
MI 3	BUSH, CHRISTOPHER D.	300690	E B 21	1	6/9/04	6/24/04
MI 3	BUTLER, JERRY	184469	C B 10	1	10/24/01	1/13/03

PLAINTIFF'S EXHIBIT A 1577

A - 0777
June 2004

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

LEASE

THE AGREEMENT is entered into this 30th day of September, 1998, by and between the South Carolina Department of Corrections (hereinafter called "SCDC") by its duly authorized agent Michael W. Moore, Director and Williams Technologies, Inc., (hereafter referred to as "Williams") by its duly authorized agent William S. Williams, Chairman.

WHEREAS, Prison Industries is a division of the South Carolina Department of Corrections charged with establishing business relationships with private enterprise so as to fulfill the intent of Section 24-3-310 Code of Laws of South Carolina, 1976 as amended; and has all necessary authorization to enter into this agreement and to bind the State of South Carolina to all the terms contained herein; and,

WHEREAS, Williams represents and warrants that it is a duly qualified South Carolina corporation, licensed to conduct business in South Carolina; and,

WHEREAS, Williams intends to engage in the business of disassembly and/or remanufacturing of its product lines at Lieber Correctional Institution (hereinafter referred to as"LCI"); and ,

WHEREAS, this agreement is made in the best interest of the State of South Carolina:

NOW, THEREFORE, the parties hereto do agree as follows:

ARTICLE 1 General:

In consideration of Williams' expenditures to construct on behalf of the State of South Carolina a building of up to 45,000 square feet on the LCI premises (the "Building") , SCDC hereby enters into this Agreement to permit Williams to use such Building and related premises during the term and in accordance with the provisions of this Agreement. The State Engineer's approval of all building plans is required. Attachment A hereto shall indicate the location of the Building and the related premises, which shall include circulation space for delivery and shipping via tractor-trailers, parking outside of the secured area sufficient for a minimum of six (6) trailers and access to the facility via access roads. SCDC shall be responsible for maintenance of such roadways and related premises.

The Building shall be constructed according to plans approved by the state in accordance with all applicable federal and state and local rules and regulations and SCDC security requirements. The State Engineer's approval of all building plans is required. The cost of the Building (excluding personal property located in the Building such as furnishings and equipment) is estimated to be $ 1,200,000. Within 90 days of completion of the Building, Williams shall provide to SCDC documentation of the expenditures to construct the Building for its review and acknowledgment.

PLAINTIFF'S EXHIBIT C

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to and from LCI reasonable access up to twelve (12) hours per day, subject to the Department's security requirements in Section 3.1.4.

(c) Other access. SCDC will provide access to the facility during Williams' hours of operation for Williams' employees, agents, and business invitees, subject to SCDC's security requirements.

3.3 Mutual Duties of the Parties:

1. Payment for Services: Williams agrees to pay SCDC $4.00 per hour per inmate for work performed including training hours and hours in excess of the inmate's normal shift. SCDC shall be responsible to pay inmate workers, cover security costs and P.I. overhead, including any costs for health, safety and welfare of the inmates, taxes or other payroll deduction. No compensation will be paid for time not worked. In order to accommodate holidays not observed by Williams, SCDC and Williams may agree to work ahead or to work on holidays if a mutually acceptable agreement can be reached.

Thirty (30) days prior to each anniversary date of this agreement, SCDC and Williams may negotiate an increase in the per hour rate paid by Williams to SCDC. If such an increase is requested, it shall be limited to a maximum of five percent (5%) annually or the annual percentage increase in the Consumer Price Index, whichever is lower. It is the intent of the parties that such increase shall only reflect SCDC's increased costs of prison overhead.

Williams and SCDC may mutually agree upon a bonus plan for inmates based on productivity and quality control. Such bonus will be paid in its entirety by Williams to SCDC for distribution to inmates.

2. Compliance with Convict Labor Laws: Williams and SCDC agree that no goods produced under this agreement shall be placed in commerce in violation of the laws of the State of South Carolina or the United States as they relate to the utilization of prison labor. Should either Federal or State Law (or the interpretation thereof) change preventing interstate shipments of goods produced under this Agreement, this Agreement shall terminate as provided in Sections 4.0.7 and 4.0.9.

ARTICLE 4 General Terms and Conditions:

4.0 General:
Williams, its employees or agents performing under the agreement are not to be deemed to be employees of SCDC nor as agents of SCDC in any manner whatsoever. Williams will not hold itself out nor claim to be an officer or employee of SCDC or of the State of South Carolina by reason hereof and will not make any claim, demand, or application to, or for any right or privilege applicable to an officer or employee of SCDC or the State of South Carolina, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security benefits, or retirement membership or credit.

The State of South Carolina, SCDC, their employees (including inmates performing labor pursuant to this Agreement) and agents, are not to be deemed employees of Williams nor agents of Williams in any manner

PLAINTIFF'S EXHIBIT C

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A - 0086
June 2004

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Inmate #	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Hours	Pay Amount
215073	BROWN	KEVIN		20021021	0.50	20.02	10.01
215073	BROWN	KEVIN		20021104	0.50	48.04	24.02
215073	BROWN	KEVIN		20021118	0.50	51.66	25.83
215073	BROWN	KEVIN		20021202	0.50	56.53	28.26
215073	BROWN	KEVIN		20021216	0.50	32.77	16.38
280068	BROWN	LESLEY		20020128	0.50	42.44	21.22
280068	BROWN	LESLEY		20020211	0.50	30.92	15.46
280068	BROWN	LESLEY		20020225	0.50	61.38	30.69
280068	BROWN	LESLEY		20020311	0.50	33.36	16.68
280068	BROWN	LESLEY		20020325	0.50	67.88	33.94
280068	BROWN	LESLEY		20020408	0.50	72.04	36.02
280068	BROWN	LESLEY		20020422	0.50	74.34	37.17
280068	BROWN	LESLEY		20020506	0.50	34.97	17.48
280068	BROWN	LESLEY		20020520	0.50	20.67	10.33
280068	BROWN	LESLEY		20020603	0.50	22.02	11.01
280068	BROWN	LESLEY		20020617	0.50	38.86	19.43
238461	BROWN	TIMOTHY		20000410	0.35	53.07	18.57
238461	BROWN	TIMOTHY		20000424	0.35	52.83	18.49
238461	BROWN	TIMOTHY		20000508	0.35	75.00	26.25
238461	BROWN	TIMOTHY		20000522	0.35	67.50	23.62
238461	BROWN	TIMOTHY		20000522	0.55	5.88	3.23
238461	BROWN	TIMOTHY		20000605	0.50	67.50	33.75
238461	BROWN	TIMOTHY		20000605	0.55	4.00	2.20
238461	BROWN	TIMOTHY		20000619	0.50	75.00	37.50
238461	BROWN	TIMOTHY		20000619	0.55	1.92	1.05
238461	BROWN	TIMOTHY		20000703	0.50	60.00	30.00
238461	BROWN	TIMOTHY		20000703	0.55	10.17	5.59
238461	BROWN	TIMOTHY		20000703	0.35	4.72	1.65
238461	BROWN	TIMOTHY		20000717	0.50	71.43	35.71
238461	BROWN	TIMOTHY		20000731	0.50	82.72	41.36
238461	BROWN	TIMOTHY		20000814	0.50	71.10	35.55
238461	BROWN	TIMOTHY		20000828	0.50	74.28	37.14
238461	BROWN	TIMOTHY		20000911	0.50	69.43	34.71
238461	BROWN	TIMOTHY		20000925	0.50	75.42	37.71
238461	BROWN	TIMOTHY		20001009	0.50	74.85	37.42
238461	BROWN	TIMOTHY		20001023	0.50	118.58	59.29
238461	BROWN	TIMOTHY		20001106	0.50	102.75	51.37
238461	BROWN	TIMOTHY		20001120	0.50	87.75	43.87
238461	BROWN	TIMOTHY		20001204	0.50	81.59	40.79
238461	BROWN	TIMOTHY		20001218	0.50	144.12	72.06
238461	BROWN	TIMOTHY		20010101	0.50	53.42	26.71
238461	BROWN	TIMOTHY		20010115	0.50	94.32	47.16
238461	BROWN	TIMOTHY		20010129	0.50	108.30	54.15
238461	BROWN	TIMOTHY		20010212	0.50	125.69	62.84
238461	BROWN	TIMOTHY		20010226	0.50	102.22	51.11
238461	BROWN	TIMOTHY		20010312	0.50	97.31	48.65
238461	BROWN	TIMOTHY		20010326	0.50	96.88	48.44
238461	BROWN	TIMOTHY		20010409	0.50	108.57	54.28
238461	BROWN	TIMOTHY		20010423	0.50	125.15	62.57
238461	BROWN	TIMOTHY		20010507	0.50	137.07	68.53
238461	BROWN	TIMOTHY		20010507	0.50	62.40	31.20
238461	BROWN	TIMOTHY		20010521	0.50	112.29	56.14
238461	BROWN	TIMOTHY		20010604	0.50	95.78	47.89
238461	BROWN	TIMOTHY		20010618	0.50	111.22	55.61

PLAINTIFF'S EXHIBIT

A - 0987
June 2004

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Inmate#	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Hours	Pay Amount
238461	BROWN	TIMOTHY		20010702	0.50	114.39	57.19
238461	BROWN	TIMOTHY		20010716	0.50	110.70	55.35
238461	BROWN	TIMOTHY		20010730	0.50	141.98	70.99
238461	BROWN	TIMOTHY		20010813	0.50	137.21	68.60
238461	BROWN	TIMOTHY		20010827	0.50	143.60	71.80
238461	BROWN	TIMOTHY		20010910	0.50	141.34	70.67
238461	BROWN	TIMOTHY		20010924	0.50	147.72	73.86
238461	BROWN	TIMOTHY		20011008	0.50	176.77	88.38
238461	BROWN	TIMOTHY		20011022	0.50	139.97	69.98
238461	BROWN	TIMOTHY		20011105	0.50	146.86	73.43
238461	BROWN	TIMOTHY		20011119	0.50	144.60	72.30
238461	BROWN	TIMOTHY		20011203	0.50	53.02	26.51
238461	BROWN	TIMOTHY		20011217	0.50	171.58	85.79
238461	BROWN	TIMOTHY		20011231	0.50	90.69	45.34
238461	BROWN	TIMOTHY		20020114	0.50	98.99	49.49
238461	BROWN	TIMOTHY		20020128	0.50	132.45	66.22
238461	BROWN	TIMOTHY		20020211	0.50	147.77	73.88
238461	BROWN	TIMOTHY		20020225	0.50	163.95	81.97
238461	BROWN	TIMOTHY		20020311	0.50	168.55	84.27
238461	BROWN	TIMOTHY		20020325	0.50	164.32	82.16
238461	BROWN	TIMOTHY		20020408	0.50	128.35	64.17
238461	BROWN	TIMOTHY		20020422	0.50	150.00	75.00
238461	BROWN	TIMOTHY		20020506	0.50	155.96	77.98
238461	BROWN	TIMOTHY		20020520	0.50	174.67	87.33
238461	BROWN	TIMOTHY		20020603	0.50	133.80	66.90
238461	BROWN	TIMOTHY		20020617	0.50	161.86	80.93
238461	BROWN	TIMOTHY		20020701	0.50	150.00	75.00
238461	BROWN	TIMOTHY		20020715	0.50	133.90	66.95
238461	BROWN	TIMOTHY		20020729	0.50	135.46	67.73
238461	BROWN	TIMOTHY		20020812	0.50	137.50	68.75
238461	BROWN	TIMOTHY		20020826	0.50	160.00	80.00
238461	BROWN	TIMOTHY		20020909	0.50	137.16	68.58
238461	BROWN	TIMOTHY		20020923	0.50	159.20	79.60
238461	BROWN	TIMOTHY		20021007	0.50	149.94	74.97
238461	BROWN	TIMOTHY		20021021	0.50	150.00	75.00
238461	BROWN	TIMOTHY		20021104	0.50	144.04	72.02
238461	BROWN	TIMOTHY		20021118	0.50	151.89	75.94
238461	BROWN	TIMOTHY		20021202	0.50	128.54	64.27
238461	BROWN	TIMOTHY		20021216	0.50	110.71	55.35
238461	BROWN	TIMOTHY		20021230	0.50	62.24	31.12
238461	BROWN	TIMOTHY		20030113	0.50	67.72	33.86
238461	BROWN	TIMOTHY		20030127	0.50	73.12	36.56
238461	BROWN	TIMOTHY		20030210	0.50	81.86	40.93
238461	BROWN	TIMOTHY		20030224	0.50	77.44	38.72
238461	BROWN	TIMOTHY		20030310	0.50	56.43	28.21
238461	BROWN	TIMOTHY		20030324	0.50	99.90	49.95
238461	BROWN	TIMOTHY		20030407	0.50	91.66	45.83
238461	BROWN	TIMOTHY		20030421	0.50	91.77	45.88
238461	BROWN	TIMOTHY		20030505	0.50	79.74	39.87
238461	BROWN	TIMOTHY		20030519	0.50	147.59	73.79
238461	BROWN	TIMOTHY		20030602	0.50	126.50	63.25
238461	BROWN	TIMOTHY		20030616	0.50	151.78	75.89
238461	BROWN	TIMOTHY		20030630	0.50	142.50	71.25
238461	BROWN	TIMOTHY		20030714	0.50	154.10	77.05

Inmate #	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Hours	Pay Amount
238461	BROWN	TIMOTHY		20030728	0.50	114.76	57.38
238461	BROWN	TIMOTHY		20030811	0.50	124.45	62.22
238461	BROWN	TIMOTHY		20030825	0.50	137.14	68.57
238461	BROWN	TIMOTHY		20030908	0.50	123.54	61.77
238461	BROWN	TIMOTHY		20030922	0.50	136.61	68.30
238461	BROWN	TIMOTHY		20031006	0.50	125.82	62.91
238461	BROWN	TIMOTHY		20031020	0.50	117.57	58.78
238461	BROWN	TIMOTHY		20031103	0.50	124.89	62.44
238461	BROWN	TIMOTHY		20031117	0.50	129.41	64.70
238461	BROWN	TIMOTHY		20031201	0.50	112.73	56.36
238461	BROWN	TIMOTHY		20031215	0.50	130.57	65.28
238461	BROWN	TIMOTHY		20031229	0.50	110.95	55.47
238461	BROWN	TIMOTHY		20040112	0.50	93.71	46.85
238461	BROWN	TIMOTHY		20040126	0.50	133.93	66.96
238461	BROWN	TIMOTHY		20040209	0.50	148.72	74.36
238461	BROWN	TIMOTHY		20040223	0.50	157.41	78.70
238461	BROWN	TIMOTHY		20040308	0.50	143.55	71.77
238461	BROWN	TIMOTHY		20040322	0.50	160.86	80.43
238461	BROWN	TIMOTHY		20040405	0.50	143.70	71.85
238461	BROWN	TIMOTHY		20040419	0.50	144.82	72.41
238461	BROWN	TIMOTHY		20040503	0.50	163.96	81.98
238461	BROWN	TIMOTHY		20040517	0.50	189.20	94.60
238461	BROWN	TIMOTHY		20040531	0.50	166.81	83.40
262617	BROWN	TIMOTHY	J.	20000117	0.55	7.50	4.12
262617	BROWN	TIMOTHY	J.	20000117	0.35	46.18	16.16
262617	BROWN	TIMOTHY	J.	20000131	0.35	66.02	23.10
262617	BROWN	TIMOTHY	J.	20000131	0.35	1.00	0.35
262617	BROWN	TIMOTHY	J.	20000214	0.35	75.00	26.25
262617	BROWN	TIMOTHY	J.	20000228	0.35	67.50	23.62
262617	BROWN	TIMOTHY	J.	20000228	0.55	7.50	4.12
262617	BROWN	TIMOTHY	J.	20000228	1.05	15.00	15.75
262617	BROWN	TIMOTHY	J.	20000313	0.50	67.62	33.81
262617	BROWN	TIMOTHY	J.	20000313	0.55	6.50	3.57
262617	BROWN	TIMOTHY	J.	20000327	0.35	59.52	20.83
262617	BROWN	TIMOTHY	J.	20000410	0.35	63.08	22.07
262617	BROWN	TIMOTHY	J.	20000424	0.50	75.00	37.50
262617	BROWN	TIMOTHY	J.	20000424	0.80	7.00	5.60
262617	BROWN	TIMOTHY	J.	20000508	0.35	52.05	18.21
262617	BROWN	TIMOTHY	J.	20000522	0.50	67.50	33.75
262617	BROWN	TIMOTHY	J.	20000522	0.55	9.47	5.20
262617	BROWN	TIMOTHY	J.	20000522	0.25	7.50	1.87
262617	BROWN	TIMOTHY	J.	20000605	0.50	66.38	33.19
262617	BROWN	TIMOTHY	J.	20000605	0.25	7.02	1.75
262617	BROWN	TIMOTHY	J.	20000619	0.50	73.00	36.50
262617	BROWN	TIMOTHY	J.	20000703	0.50	60.00	30.00
262617	BROWN	TIMOTHY	J.	20000703	0.55	15.30	8.41
262617	BROWN	TIMOTHY	J.	20000703	0.35	4.73	1.65
262617	BROWN	TIMOTHY	J.	20000703	0.25	7.22	1.80
262617	BROWN	TIMOTHY	J.	20000717	0.50	58.75	29.37
262617	BROWN	TIMOTHY	J.	20000731	0.50	111.98	55.99
262617	BROWN	TIMOTHY	J.	20000814	0.50	83.10	41.55
262617	BROWN	TIMOTHY	J.	20000828	0.50	92.79	46.39
262617	BROWN	TIMOTHY	J.	20000911	0.50	37.51	18.75
262617	BROWN	TIMOTHY	J.	20010101	0.50	33.25	16.62

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To: Douglas Westbrook, Attorney at Law

From: Dr. Joseph Benich, Economic Loss Expert

Subject: Your 9/14/04 request

Date: 9/20/04

This note is in response to your "prevailing wage" request for work generally described by the Williams Technologies Job Description of Production Associate. You have asked for my opinion of the "prevailing wage" for work of a similar nature in the private sector for 1999/2001 (I assume that you mean 1999, 2000, and 2001). It is also my understanding that the term " prevailing wage" not only implies work of a similar nature, but that the work should be performed in the same general geographic area.

The U.S. Department of Labor (Bureau of Labor Statistics) publishes wage data for a range of occupations in the Charleston – North Charleston Metropolitan Area. The Installation, Maintenance and Repair Occupation Sub-Category of "Maintenance and Repair Workers, General" had mean hourly wages of $11.44 in1999, $12.62 in 2000, and $13.24 in 2001 for the Charleston - North Charleston Metropolitan Area. The Production Occupations Sub-Category of "Team Assemblers" had mean hourly wages of $10.49 in 1999, $10.56 in 2000, and $10.88 in 2001 for the Charleston – North Charleston Metropolitan Area. The average of these two Sub-Categories is $10.97 for 1999, $11.59 for 2000, and $12.06 for 2001.

The possibility exists that the average prison worker would be less experienced with his prison position than his non-prison counterpart. It is also possible that the average prison worker would require more supervision than the average non-prison worker performing the same tasks. The concept of "prevailing wage" implies the average wage for a specific category of average workers. The Installation, Maintenance and Repair Occupation Sub Category of "Helpers—Installation, Maintenance, and Repair Workers" had mean hourly wages of $9.53 in 1999, $11.21 in 2000, and $10.45 in 2001. The Production Occupations Sub-Category of "Helpers–Production Workers" had mean hourly wages of $7.61 in 1999, $8.27 in 2000, and $9.09 in 2001. The average of these two "Helpers" Sub Categories is $8.40 for 1999, $9.74 for 2000, and $10.10 for 2001.

These "Helpers" Sub Category averages represent the lower end of the "prevailing wage" range for the Williams Technologies Job Description of Production Associate for 1999, 2000, and 2001. Thus the "prevailing wage" range estimate for prison workers for the Williams Technologies Job Description of Production Associate is $10.97 - $8.40 for 1999, $11.59 - $9.74 for 2000, and $12.06 - $10.10 for 2001.

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RESUME-3/03
Dr. Joseph J. Benich

FAMILY STATUS
Wife - Roberta; two children - Kiersten and J.J.

EDUCATION

9/68 - 6/72	Doctor of Business Administration Majors: Production Management and Marketing Kent State University, Kent, Ohio
1/66 - 5/68	Masters of Business Administration Majors: Economics and Marketing Case Western Reserve University, Cleveland, Ohio
9/65 - 1/66	Western Reserve University, Cleveland, Ohio Major: Law
9/61 - 6/65	Bachelor of Science in Chemical Engineering Case Institute of Technology, Cleveland, Ohio

ACADEMIC EXPERIENCE

9/93 –2003	Professor of Business Administration College of Charleston, Charleston, South Carolina
9/78 - 8/93	Associate Professor of Business Administration College of Charleston, Charleston, South Carolina
9/76 - 9/78	Associate Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/72 - 9/76	Assistant Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/69 - 6/72	Full-time Instructor, Economics Department Kent State University, Kent, Ohio
1/69 - 6/69	Teaching Fellow, Statistics Kent State University
9/68 - 12/68	Graduate Assistant Kent State University

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NON-ACADEMIC EXPERIENCE

6/74 -	Expert Witness, Economic Litigation, Charleston, South Carolina, analyses of economic loss to individuals and/or businesses, with presentations in State and Federal courts
7/78 -	Manager of Summertime Properties, Charleston, South Carolina
6/73 -	Business Consulting, J. Benich and Associates, Charleston, South Carolina
1/68 - 11/72	Business Advisor to Director of American Screw Products, Warrensville, Ohio
1/68 - 10/68	Staff Specialist (Systems Optimizations), Cleveland Electric Illuminating Company, Cleveland, Ohio
1/66 - 9/67	Industrial Market Research, Harshaw Chemical, Cleveland, Ohio
19/65 - 1/66	Phosphor Efficiency Development, General Electric Co., Cleveland, Ohio (worked independently on a second shift due to day law school)
6/65 - 9/65	Research Chemical Engineering, Sohio Research, Warrensville, Ohio (catalyst efficiency testing and associated acetonitrile purification development).

PUBLICATIONS

"Signal-Averaged P-Wave Analysis of Normal Controls and Patients with Paroxysmal Atrial Fibrillation: A Study in Gender Differences, Age Dependence, and Reproducibility", with A Dhala, B. Leman, et al, Clinical Cardiology, November, 2002, p-525-531.

"The High Resolution Signal-Averaged P-Wave Duration in Normal Patients: Influence of Race and Gender", with M. Little, B. Leman, and B. Hainer, North American Society of Pacing and Electrophysiology, abstracted, *Pacing and Clinical Electrophysiology*, April, 1997, Vol.20:4:1219

"Alternative Approaches to Tax Adjustments in Appraising Economic Loss: A Comment", *Journal of Legal Economics*, Fall 1996

"Updated Estimates of Work-Life Expectancies Based upon The Increment-Decrement Model: Comment", *Journal of Legal Economics*, Winter 1995

"Intra-Year Discounting Assumptions and Bias in Lost Earnings Analysis: A Comment", *Journal of Forensic Economics*, Winter 1993, 7(1)

"Comment: On the Relative Stability and Predictability of the Interest Rate and Earnings Growth Rate", *Journal of Forensic Economics*, Winter 1992, 6(1)

"Determining Tax-Adjusted Awards for Spouses' Lost Future Earnings", For *The Defense*, Nov. 1992

"The Just Better (JB) Method of Calculating The Present Value of Lost Future Income", *Journal of Legal Economics*, July 1992

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

11-7-04

INMATE NAME: Timothy Brown
SCDC NUMBER: 238461 NOV 04 2004
INSTITUTION: Lieber CI PP
HOUSING UNIT: Cooper A-05
WORK ASSIGNMENT: PI 2

Office Use Only
Grievance No. LCI 0633-04
Code: General MY
Policy
Disc. Heat
Class.
Date Received NOV 08 2004
IGC Initials

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): Adkins & Wicker do require payment of prevailing wage. Greavants were employed by WTI, and SCDC is WII's "agent" in paying our Wages. Adkins & Wicker further allows this issue of payment of wages under SC Code 24-3-430. to be greaved pursuant to SCDC's Greavance procedure. Greavant incorperates all exhibits attached to greavances filed by Darrell Willian and Attorney Douglas Westbrook on 9-22-04

Timothy Brown 11-2-04
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

5-14-07
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.

Timothy Brown 5.22.07 5/22/07
Grievant Signature Date IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

SCDC 10-5A (November 1997)

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Ackerman 5-6-11 1224

BROWN LCI-0638-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 2, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 22, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on March 29, 2000 and that, as of the date of this response, you are still participating in this project.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 2 appeal.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 nearly 4 ½ years after SCDC first paid you for your participation in the project located at Lieber and 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.
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 any of the relief you demand in your grievance.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "employee" within your supporting documents to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

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I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.
Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your appeal and grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal and grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Timothy Brown, #238461, Appellant, vs. South Carolina Department of Corrections, Respondent.	NOTICE OF APPEAL DOCKET NO. 07-ALJ-04-_____ GRIEVANCE NO.: _____

Notice is hereby given that Timothy Brown does hereby appeal the final decision of the South Carolina Department of Corrections dated 5-14-07 and received on 5-22-07, 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)):

1. Grievance seeks back wages, contesting SCDC policy/procedure of paying below prevailing/negotiated wages. Thus, there was no time limit to file grievance under Grievance Policy §13.9.
2. Appellant had reasonable cause under §13.9 as his right to grieve did not accrue until Adkins/Wicker and filed within a reasonable time.
3. Applying §13.1 to these facts violated due process.
4. Under 4-19-07 Court order, SCDC was required to accept filing and consider on the merits Appellant's Amendment/Exhibits.
5. Grievance proved all elements of claim for prevailing/negot. wages.
6. Dr. Benich's report is the only evidence of prevailing wages in the record. Appellant is entitled to prevailing/negotiated wages.
7. To extent Appellant worked OT he is entitled to it under SCDC policy
8. Appellant claims pre/post judgment interest, costs and attorney fees

Timothy Brown
Appellant's Name
Lieber C.I.
P.O. Box 205
Mailing Address
Ridgeville, SC 29472
City, State, Zip Code
none
Telephone Number

Signed
5-31-07
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

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STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
	)	
TIMOTHY BROWN, #238461	)	
	)	
Grievant/Appellant,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
	)	
Respondent/Appellee.	)	

I certify that on the 5TH day of June, 2007, I mailed by first class postage Appellant's Notice of Appeal, and final decision, to the following:

(1) The original and one copy were mailed for filing with the Administrative Law Court, to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC, to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

D. H. Westbrook
Douglas H. Westbrook

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

0

INMATE NAME: Edward C Bryant
SCDC NUMBER: 255998
INSTITUTION: Lieber Corr. Inst.
HOUSING UNIT: Cooper B-14 ✓
WORK ASSIGNMENT: PI-2

Office Use Only
Grievance No Lieber 0648-04
Code: General CM
Policy
Disc. Hear.
Class.
Date Received SEP 29 2004
IGC Initials LC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

The Department is asked to review and determine whether I am entitled to receive back wages due to me from working at Lieber Prison industry program when they paid me only $.35/hr. and not prevailing wage as required under South Carolina Code Ann. §24-3-430 (A),(H) as well as fact that from 1998-2003 they denied me prevailing wage.

ACTION REQUESTED:

All money due to me be paid at prevailing wage and overtime rate and prevailing wage be paid now.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Lawsuit has been filed, court order to file a grievance by the court, Wicker V. SCDC and Adkins V. SCDC

Edward Bryant 9/23/04
Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's Response.

J. Carlton 10/28/04
IGC Signature Date

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

N/A
Grievant Signature. Date

SCDC 10-5 (Rev. November 1997)

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Ackerman 5-6-11 1230

WARDEN'S DECISION AND REASON:

SEE ATTACHED

5-15-07
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.

Edward C. Bullock 5-22-07
Grievant Signature Date

Ann Hallmon 5-15-07
~~IGC~~ IGA Signature Date

Served by: [signature] 5-22-07

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.

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BRYANT LCI-0648-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 1 grievance form dated September 22, 2004 as well as any and all documents you submitted in support of your Step 1 grievance form.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on February 27, 2004 and that you are still currently participating in this project.

After carefully considering your grievance and the arguments you made justifying the relief you request, I deny your grievance in its entirety.

As I said at the very beginning of my response, I reviewed your Step 1 form and the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 1 grievance.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and,

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specifically, 24-3-430. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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. I made this finding, because you did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430.

My position is also supported by Administrative Law Judge Anderson's order in Wright, #200123, vs. SCDC, Docket No. 06-ALJ-04-00114-AP and Administrative Law Judge McLeod's order in Henry Williams, #187203, vs. SCDC, Docket No. 06-ALJ-04-00622-AP.

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 any of the relief you demand in your grievance. In making this finding, I consulted with Lieber's Inmate Grievance Coordinator's [IGC] Office. Representatives of Lieber's IGC Office, in turn, consulted with SCDC's General Counsel's Office and the outside counsel retained by SCDC to defend the inmates' class action lawsuit in the case now known as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Through these consultations, I learned that inmate Darrell Williams, the class representative identified in the inmates' class action lawsuit, filed a Step 1 grievance on September 22, 2004 demanding relief that was similar if not identical to the relief you demanded in your Step 1 grievance. I also learned that Mr. Williams' grievance claimed to be a "class action" grievance on behalf of inmates including you. As a review of the documents submitted in support of your Step 1 grievance form clearly shows, you referenced the Step 1 grievance filed by Williams on September 22, 2004.

Contrary to the claims you made in these supporting documents, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made your supporting documents, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Therefore, to the extent you use the term "employee" within your supporting documents to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

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I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.
Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your supporting documents the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

Therefore, I, again, deny your grievance in its entirety.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Edward C. Bryant 5-31-07
SCDC NUMBER: #255998
INSTITUTION: Lieber
HOUSING UNIT: Woods B-228
WORK ASSIGNMENT: P.I-2

RECEIVED
JUN 12 2007
INMATE GRIEVANCE

Office Use Only
Grievance No. LCI-0648-04
Code: General ✓ M4-PI
Policy
Disc. Hear.
Class.
Date Received 6/31
IGC Initials JK
✓ IGA - ABH 7-12-07

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

Adkins and Wicker held that §24-3-430's wage provisions were "mandatory", and created a "statutory right to the payment of a prevailing wage". These cases further held that inmates can grieve SCDC's failure to pay prevailing wages under §24-3-430, with review by the ALJ.

SCDC owes Grievant back wages, because it failed to pay prevailing wages prior to July 1, 2001, and $4/hour thereafter. And what it did pay was but a fraction of these amounts. Thus, the wage rate SCDC paid was not correct, and back wages are owed.

Grievant incorporates by reference Exhibits A-H attached to grievances filed by Darrell Williams and counsel on September 22, 2004.

Edward C. Bryant 5-25-07
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

Signature 7-20-07 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.

Edward Bryant 8-8-07
Grievant Signature Date

IGC Signature 8/8/07
Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

1597

SCDC 10-5A (November 1997)

BRYANT LCI-0648-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated May 23, 2007. Along with reviewing your Step 2 appeal, I have also reviewed all of the materials you submitted in support of your Step 1 grievance dated September 22, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that your voluntary participation in the prison industries project at Lieber began on February 27, 2004 and, as of the date of this response, your participation continues.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. The events which lead me to review your Step 2 appeal at the current time were detailed for you in the response you received to your Step 1 grievance.

As was also explained to you in the response you received to your Step 1 grievance, the South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430.

Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy. SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 2 ½ years after SCDC first paid you for your participation in the project located at Lieber and 30 days 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.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.

Furthermore, even if you had met the time frames established in paragraphs 13.1 and 13.9, I completely adopt and endorse the written decision denying your Step 1 grievance, and I find that you are not entitled to any of the relief you demand in your Step 1 grievance.

Therefore, I 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.

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Edward Bryant, #255998,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

DOCKET NO. _07___-ALJ-04-_____-____
GRIEVANCE NO.: _____

Notice is hereby given that Edward Bryant does hereby appeal the final decision of the South Carolina Department of Corrections dated 7-20-07 and received on 8-8-07, 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)):

1. Grievance seeks back wages, contesting SCDC policy/procedure of paying below prevailing/negotiated wages. Thus, there was no time limit to file grievance under Grievance Policy §13.9.

2. Appellant had reasonable cause under §13.9 as his right to grieve did not accrue until Adkins/Wicker and filed within a reasonable time.

3. Applying §13.1 to these facts violated due process.

4. Under 4-19-07 Court order, SCDC was required to accept filing and consider on the merits Appellant's Amendment/Exhibits.

5. Grievance proved all elements of claim for prevailing/negot. wages.

6. Dr. Benich's report is the only evidence of prevailing wages in the record. Appellant is entitled to prevailing/negotiated wages.

7. To extent Appellant worked OT he is entitled to it under SCDC policy

8. Appellant claims pre/post judgment interest, costs and attorney fees

Edward Bryant
Appellant's Name
Lieber C.I.
P.O. Box 205
Mailing Address
Ridgeville, SC 29472
City, State, Zip Code
none
Telephone Number

Signed
9-7-07
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

1599

STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
	)	
EDWARD BRYANT, #255998	)	
	)	
Grievant/Appellant,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
	)	
Respondent/Appellee.	)	

I certify that on the 7th day of Sept., 2007, I mailed by first class postage Appellant's Notice of Appeal, and final decision, to the following:

(1) The original ~~and one copy~~ were mailed for filing with the Administrative Law Court, to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC, to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

Douglas H. Westbrook

1600

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Gary Bryant/INMATE GRIEVANCE FORM

individually, and on behalf of all inmate employees (IE's) STEP 1

INMATE NAME: listed on attached Exh. A *

SCDC NUMBER: 258972

INSTITUTION: Lieber

HOUSING UNIT: C-B-41

WORK ASSIGNMENT: Dorm Worker

Office Use Only

Grievance No. Lieber 0737-04

Code: General MY

Policy

Disc. Hear.

Class.

Date Received SEP 30 2004

IGC Initials LC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) From 1999 to present, IE's were/are employed in the Williams Tech/Lieber service work program. From 1999 to July 2001, WTI/Lieber were required by S.C. Code 24-3-430 to pay IE's the "prevailing wage" for work of a similar nature in the private sector. This prevailing wage was $8.40 to $10.97 for 1999, $9.74 to $11.59 f 2000, and $10.10 to $12.06 for 2001 (Exh. G, H). Since July 2001, WTI/Lieber were required to pay IE's the negotiated wage of $4.00 per hour (Statutes at Large, No. 66, S37.31, eff. July 1, 2001; Exh. B, C). In fact, WTI/Lieber's policy was to pay IE's, in most cases, under $1.00 per hour. Exhibits docume a $.35 per hour base pay rate, maximum pay of $1.00 per hour, the September 3 1998 WTI/Lieber contract specifying a wage of $4 per hour, the names and empl ment periods of all 1000 plus class members, and the pay dates, rates, hours, and pay for all class members from 1999 to June 2004 (Exh. D, E, C, A, and F)

* "Exh." denotes exhibits attached to Darrell Williams' Grievance, which are incorporated by reference herein.

ACTION REQUESTED: That IE's be paid back wages at the prevailing wage rate f 1999 to July 2001; and at $4 per hour for July 2001 to present, and in the fu ture; all as determined from Exhibits A-H; and the time cards, pay stubs, an other records for class members shown to IE's counsel July 20, 2004 at Lieber in Jack Staudt's custody. IE's also request pre/post judgment interest, cost and attorney fees.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT: IE's hav verbally requested WTI/Lieber to pay them prevailing wages. Darrell Williams in 2001 formally protested the improper wages, and filed a grievance which wa dismissed for want of jurisdiction. In 2002, Williams filed a lawsuit (Willi et al. v. SCDC, et al., Case No. 02-CP-18-134, now pending) which was certifi a class action representing the class identified in Exh. A. On August 23, 20 the S.C. Supreme Court held in the Adkins and Wicker cases that 24-3-430's prevailing wage provision was mandatory, and IE's could file a grievance for back wages.

Gary Bryant 9-27-0
Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's Response.

L Carlton 10/28/04
IGC Signature Date

☐ I accept the action taken by the IGC and consider the matter closed.

☐ I do not accept the action taken and wish to appeal.

Gary W Bryant 5-28-007
Grievant Signature Date

SCDC 10-5 (Rev. November 1997)

(CONTINUED ON REVERSE SIDE)

1601

Ackerman 5-6-11 1239

WARDEN'S DECISION AND REASON:

See Attachment.

Warden Signature Oct. 28, 04
Date

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

Gary Bryant 11-2-04
Grievant Signature Date

IGC Signature 11-2-04
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.

1602

11/03/2008 12:33 8038933400 I/M GRIEVANCE BRANCH PAGE 03

Attention Mrs Michel

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM OCT 24 2008
STEP 1

LCI-8015-08

INMATE NAME: Gary Bryant
SCDC NUMBER: 258972
INSTITUTION: Keeshaw
HOUSING UNIT: Palmetto A
WORK ASSIGNMENT: Dorm Worker

RECEIVED
OCT 30 2008
INMATE GRIEVANCE

Office Use Only
Grievance No. Kev-CI-1336-2
Code: General MY LCI PI
Policy
Disc. Hear.
Class.
Date Received 10/27/08 10-30-08
IGC Initials

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) I worked at the Williams Technologies, INC Prison Industries Project at Lieber CI from 9-99 until 10-01 and from 3-02 until 8-02. I am filing this grievance pursuant to the notice of 10-20-08. I was paid an average of 50 cents per hour which I believe violates S.C. statute 24-3-430(D) which requires payment of the prevailing wage. In Wicker v. SCDC, 360 S.C. 421, 602 S.E.2d 56 (2004) the courts ruled that the SCDC was required to pay prevailing wages for private sector work.

ACTION REQUESTED: I want to be paid back wages due to me for the hours I worked.

3-10-09

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:
I was a party to the class Action Suit.

Gary W Bryant 10-23-08
Grievant Signature Date

ACTION TAKEN BY IGC:
Closed & Fwd to Central Grievance for review. Attendin 10/28/08

Unprocessed issue addressed on LCI-0737-04 that received an Agency Final response 5-14-07

Dan Hallman 11-3-08
IGC Signature Date

☐ 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

Grievant Signature Date

SCDC 10-5 (Rev. November 1997)

(CONTINUED ON REVERSE SIDE)

1603

Ackerman 5-6-11 1241

Jim D. Bryant #258972 CC10737-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

1604

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

1605

AMENDMENT TO GRIEVANCE OF GARY BRYANT, #258972

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for 491.87 hours in 1999 at $9.68 per hour; 2064.71 hours in 2000 at $10.66 per hour; 1321.60 hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 1264.65 hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

_____ _____
(Grievant Signature) (Date)

* Attached are Exh. A, 0777; C, 0081,0086; F, 0992-0993; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

AMENDMENT TO GRIEVANCE OF GARY BRYANT, #258972

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference). * Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for 491.87 hours in 1999 at $9.68 per hour; 2064.71 hours in 2000 at $10.66 per hour; 1321.60 hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 1264.65 hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

Gary W Bryant (Grievant Signature) 5-28-007 (Date)

* Attached are Exh. A, 0777; C, 0081,0086; F, 0992-0993; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

Ackerman 5-6-11 1245

AMENDMENT TO GRIEVANCE OF GARY BRYANT, #258972

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference). * Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for 491.87 hours in 1999 at $9.68 per hour; 2064.71 hours in 2000 at $10.66 per hour; 1321.60 hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 1264.65 hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

Gary W Bryant (Grievant Signature) 5-28-007 (Date)

* Attached are Exh. A, 0777; C, 0081,0086; F, 0992-0993; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

	NAME	SCDC	DORM	SHIFT	HIRED	RELEASED
	BRENNAN, MICHAEL	235444	C B 23	1	3/21/01	6/20/01
MI 3	BREWER, RON	285756	C A 17	1	6/27/03	7/18/03
	BREWER, TODD	251799	C A 36	1	8/11/99	6/6/02
	BRINSON, JOSEPH	130818	S A 34	1	9/11/00	2/27/01
MI 3	BROCK, B	239975	C A 0	0		12/20/99
MI 3	BROOKINS, GREGORY	295747	C B 27	1	3/22/04	4/14/04
MI 3	BROOKS, EDWARD	286980	C B 44	1	6/30/03	1/16/04
	BROWN, AARON	248841	C B 27	1	9/26/01	1/23/02
	BROWN, ANTHONY	279248	E A 33	1	11/21/01	1/11/02
	BROWN, ANTHONY D.	153895	C B 46	1	8/11/99	8/27/01
	BROWN, ANTHONY L.	138214	C A 39	1	8/17/01	7/5/02
MI 3	BROWN, BRANDON	286326	C B 24	1	12/16/03	12/23/03
	BROWN, CHARLES	250064	C 0	1	2/15/00	2/28/00
	BROWN, ERIK	199101	C A 31	1	5/18/01	8/2/01
MI 3	BROWN, FREDERICK	289602	C B 64	1	3/29/04	6/24/04
MI 2	BROWN, HENRY	286147	C B 22	1	10/10/02	10/24/02
	BROWN, HUBERT	161888	C A 3	1	8/23/01	3/11/02
MI 3	BROWN, J.	256481	C A 0	0		12/20/99
	BROWN, JEREMY	272135	S B 27	2	8/1/01	9/10/01
	BROWN, JOHN	281130	C A 15	1	3/11/02	4/19/02
MI 3	BROWN, KEITH	295762	C B 24	1	3/24/04	6/24/04
ME 3	BROWN, KEVIN	215073	A A 19	1	9/30/02	12/5/02
	BROWN, LESLEY	280068	C A 22	1	12/19/01	6/18/02
	BROWN, TIMOTHY	262617	C B 60	1	1/4/00	8/31/00
MI 3	BROWN, TIMOTHY	238461	C A 5	1	3/29/00	6/24/04
MI 3	BROWN, VICTOR	259876	C A 32	1	9/10/01	10/31/02
	BROWN, WAYNE	269050	E A 29	1	10/16/00	11/16/01
MI 3	BRYANT, EDWARD	255998	C B 14	1	2/27/04	6/24/04
MI 3	BRYANT, GARY	258972	C B 41	2	3/11/02	8/16/02
	BRYANT, GARY	258972	C B 41	1	9/9/99	1/5/01
	BRYANT, MELVIN	266264	C A 10	1	6/29/00	12/20/01
ME 3	BRYANT, PETE	242370	C B 32	2	1/17/02	10/7/02
MI 3	BRYANT, PETE	242370	C A 26	1	12/22/03	6/24/04
	BRYANT, TOMMY	269010	C B 49	1	10/18/00	1/26/01
	BRYANT, TYRONE	248553	A B 17	2	6/15/00	6/27/00
	BUCHANAN, CHARLES	228070	C A 2	1	10/1/99	10/16/00
MI 3	BUCHANON, TERRELL	277262	C A 60	1	12/1/03	4/23/04
MI 3	BUDE, DOUGLAS	263537	C B 41	1	6/12/01	10/31/02
	BUFKIN, JIMMY	269021	C A 3	1	10/16/00	2/15/02
	BUFORD, JAMES	276035	C B 50	1	7/23/01	5/31/02
MI 3	BUIE, D	256609	C A 0	0		8/30/99
	BURKE, BRENDON	266661	E B 27	1	6/29/00	8/21/00
MI 3	BURKE, LARRY	281911	C A 40	1	10/1/02	6/24/04
	BURROUGH, CHARLES	231746	C A 31	1	9/4/01	1/22/02
MI 3	BUSH, CHRISTOPHER D.	300690	E B 21	1	6/9/04	6/24/04
MI 3	BUTLER, JERRY	184469	C B 10	1	10/24/01	1/13/03

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PLAINTIFF'S EXHIBIT A

A - 0777
June 2004

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

LEASE

THE AGREEMENT is entered into this 30th day of September, 1998, by and between the South Carolina Department of Corrections (hereinafter called "SCDC") by its duly authorized agent Michael W. Moore, Director and Williams Technologies, Inc., (hereafter referred to as "Williams") by its duly authorized agent William S. Williams, Chairman.

WHEREAS, Prison Industries is a division of the South Carolina Department of Corrections charged with establishing business relationships with private enterprise so as to fulfill the intent of Section 24-3-310 Code of Laws of South Carolina, 1976 as amended; and has all necessary authorization to enter into this agreement and to bind the State of South Carolina to all the terms contained herein; and,

WHEREAS, Williams represents and warrants that it is a duly qualified South Carolina corporation, licensed to conduct business in South Carolina; and,

WHEREAS, Williams intends to engage in the business of disassembly and/or remanufacturing of its product lines at Lieber Correctional Institution (hereinafter referred to as"LCI"); and ,

WHEREAS, this agreement is made in the best interest of the State of South Carolina:

NOW, THEREFORE, the parties hereto do agree as follows:

ARTICLE 1 General:

In consideration of Williams' expenditures to construct on behalf of the State of South Carolina a building of up to 45,000 square feet on the LCI premises (the "Building") , SCDC hereby enters into this Agreement to permit Williams to use such Building and related premises during the term and in accordance with the provisions of this Agreement. The State Engineer's approval of all building plans is required. Attachment A hereto shall indicate the location of the Building and the related premises, which shall include circulation space for delivery and shipping via tractor-trailers, parking outside of the secured area sufficient for a minimum of six (6) trailers and access to the facility via access roads. SCDC shall be responsible for maintenance of such roadways and related premises.

The Building shall be constructed according to plans approved by the state in accordance with all applicable federal and state and local rules and regulations and SCDC security requirements. The State Engineer's approval of all building plans is required. The cost of the Building (excluding personal property located in the Building such as furnishings and equipment) is estimated to be $ 1,200,000 Within 90 days of completion of the Building, Williams shall provide to SCDC documentation of the expenditures to construct the Building for its review and acknowledgment.

PLAINTIFF'S EXHIBIT

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to and from LCI reasonable access up to twelve (12) hours per day, subject to the Department's security requirements in Section 3.1.4.

(c) Other access. SCDC will provide access to the facility during Williams' hours of operation for Williams' employees, agents, and business invitees, subject to SCDC's security requirements.

3.3 Mutual Duties of the Parties:

1. Payment for Services: Williams agrees to pay SCDC $4.00 per hour per inmate for work performed including training hours and hours in excess of the inmate's normal shift. SCDC shall be responsible to pay inmate workers, cover security costs and P.I. overhead, including any costs for health, safety and welfare of the inmates, taxes or other payroll deduction. No compensation will be paid for time not worked. In order to accommodate holidays not observed by Williams, SCDC and Williams may agree to work ahead or to work on holidays if a mutually acceptable agreement can be reached.

Thirty (30) days prior to each anniversary date of this agreement, SCDC and Williams may negotiate an increase in the per hour rate paid by Williams to SCDC. If such an increase is requested, it shall be limited to a maximum of five percent (5%) annually or the annual percentage increase in the Consumer Price Index, whichever is lower. It is the intent of the parties that such increase shall only reflect SCDC's increased costs of prison overhead.

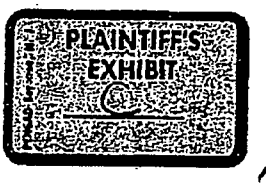
Williams and SCDC may mutually agree upon a bonus plan for inmates based on productivity and quality control. Such bonus will be paid in its entirety by Williams to SCDC for distribution to inmates.

2. Compliance with Convict Labor Laws: Williams and SCDC agree that no goods produced under this agreement shall be placed in commerce in violation of the laws of the State of South Carolina or the United States as they relate to the utilization of prison labor. Should either Federal or State Law (or the interpretation thereof) change preventing interstate shipments of goods produced under this Agreement, this Agreement shall terminate as provided in Sections 4.0.7 and 4.0.9.

ARTICLE 4 General Terms and Conditions:

4.0 General:
Williams, its employees or agents performing under the agreement are not to be deemed to be employees of SCDC nor as agents of SCDC in any manner whatsoever. Williams will not hold itself out nor claim to be an officer or employee of SCDC or of the State of South Carolina by reason hereof and will not make any claim, demand, or application to, or for any right or privilege applicable to an officer or employee of SCDC or the State of South Carolina, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security benefits, or retirement membership or credit.

The State of South Carolina, SCDC, their employees (including inmates performing labor pursuant to this Agreement) and agents, are not to be deemed employees of Williams nor agents of Williams in any manner



Ackerman 5-6-11 1249

Inmate #	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Hours	Pay Amount
255998	BRYANT	EDWARD	CALVIN	20040126	0.50	17.50	8.75
255998	BRYANT	EDWARD	CALVIN	20040308	0.50	45.72	22.86
255998	BRYANT	EDWARD	CALVIN	20040322	0.50	88.90	44.45
255998	BRYANT	EDWARD	CALVIN	20040405	0.50	51.95	25.97
255998	BRYANT	EDWARD	CALVIN	20040419	0.50	48.70	24.35
255998	BRYANT	EDWARD	CALVIN	20040503	0.50	78.00	39.00
255998	BRYANT	EDWARD	CALVIN	20040517	0.50	89.15	44.57
255998	BRYANT	EDWARD	CALVIN	20040531	0.50	84.41	42.20
258972	BRYANT	GARY		19990927	0.35	53.50	18.72
258972	BRYANT	GARY		19990927	0.55	11.75	6.46
258972	BRYANT	GARY		19991011	0.50	56.50	28.25
258972	BRYANT	GARY		19991011	0.55	4.25	2.33
258972	BRYANT	GARY		19991025	0.50	62.00	31.00
258972	BRYANT	GARY		19991108	0.50	67.75	33.87
258972	BRYANT	GARY		19991122	0.50	66.20	33.10
258972	BRYANT	GARY		19991206	0.50	51.15	25.57
258972	BRYANT	GARY		19991220	0.50	73.60	36.80
258972	BRYANT	GARY		19991220	2.50	2.00	5.00
258972	BRYANT	GARY		20000103	0.50	37.50	18.75
258972	BRYANT	GARY		20000103	0.55	5.67	3.11
258972	BRYANT	GARY		20000117	0.50	75.00	37.50
258972	BRYANT	GARY		20000117	0.55	7.50	4.12
258972	BRYANT	GARY		20000117	0.50	15.00	7.50
258972	BRYANT	GARY		20000117	0.55	3.00	1.65
258972	BRYANT	GARY		20000131	0.50	59.93	29.96
258972	BRYANT	GARY		20000131	0.55	7.50	4.12
258972	BRYANT	GARY		20000214	0.50	70.26	35.13
258972	BRYANT	GARY		20000214	0.80	6.50	5.20
258972	BRYANT	GARY		20000214	0.55	7.50	4.12
258972	BRYANT	GARY		20000214	0.55	5.50	3.02
258972	BRYANT	GARY		20000228	0.50	65.23	32.61
258972	BRYANT	GARY		20000228	1.05	15.00	15.75
258972	BRYANT	GARY		20000313	0.50	72.57	36.28
258972	BRYANT	GARY		20000327	0.50	75.00	37.50
258972	BRYANT	GARY		20000410	0.50	74.95	37.47
258972	BRYANT	GARY		20000410	0.55	1.92	1.05
258972	BRYANT	GARY		20000410	0.80	7.50	6.00
258972	BRYANT	GARY		20000424	0.65	75.00	48.75
258972	BRYANT	GARY		20000424	0.55	8.97	4.93
258972	BRYANT	GARY		20000424	0.25	7.00	1.75
258972	BRYANT	GARY		20000508	0.65	75.00	48.75
258972	BRYANT	GARY		20000508	0.75	11.70	8.77
258972	BRYANT	GARY		20000508	0.25	7.10	1.77
258972	BRYANT	GARY		20000522	0.65	67.50	43.87
258972	BRYANT	GARY		20000522	0.75	1.73	1.29
258972	BRYANT	GARY		20000522	0.25	7.50	1.87
258972	BRYANT	GARY		20000605	0.65	67.40	43.81
258972	BRYANT	GARY		20000619	0.65	70.73	45.97
258972	BRYANT	GARY		20000619	1.00	4.00	4.00
258972	BRYANT	GARY		20000703	0.65	60.00	39.00
258972	BRYANT	GARY		20000703	0.75	9.93	7.44
258972	BRYANT	GARY		20000703	0.35	4.60	1.61
258972	BRYANT	GARY		20000703	0.25	7.50	1.87
258972	BRYANT	GARY		20000717	0.50	52.30	26.15

PLAINTIFF'S EXHIBIT F

1612

A - 0992
June 2004

Ackerman 5-6-11 1250

Inmate #	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Hours	Pay Amount
258972	BRYANT	GARY		20000731	0.50	63.08	31.54
258972	BRYANT	GARY		20000814	0.50	66.67	33.33
258972	BRYANT	GARY		20000828	0.50	64.62	32.31
258972	BRYANT	GARY		20000911	0.50	55.45	27.72
258972	BRYANT	GARY		20000925	0.50	86.35	43.17
258972	BRYANT	GARY		20001009	0.50	50.27	25.13
258972	BRYANT	GARY		20001023	0.50	103.50	51.75
258972	BRYANT	GARY		20001106	0.50	106.69	53.34
258972	BRYANT	GARY		20001120	0.50	94.44	47.22
258972	BRYANT	GARY		20001204	0.50	73.92	36.96
258972	BRYANT	GARY		20001218	0.50	136.10	68.05
258972	BRYANT	GARY		20010101	0.50	55.80	27.90
258972	BRYANT	GARY		20010115	0.50	79.38	39.69
258972	BRYANT	GARY		20010129	0.50	100.32	50.16
258972	BRYANT	GARY		20010212	0.50	101.01	50.50
258972	BRYANT	GARY		20010226	0.50	89.36	44.68
258972	BRYANT	GARY		20010312	0.50	112.32	56.16
258972	BRYANT	GARY		20010326	0.50	108.71	54.35
258972	BRYANT	GARY		20010409	0.50	117.44	58.72
258972	BRYANT	GARY		20010423	0.50	113.40	56.70
258972	BRYANT	GARY		20010507	0.50	111.08	55.54
258972	BRYANT	GARY		20010521	0.50	105.08	52.54
258972	BRYANT	GARY		20010604	0.50	102.24	51.12
258972	BRYANT	GARY		20010618	0.50	67.50	33.75
258972	BRYANT	GARY		20010702	0.50	113.76	56.88
258972	BRYANT	GARY		20010716	0.50	71.18	35.59
258972	BRYANT	GARY		20010730	0.50	81.26	40.63
258972	BRYANT	GARY		20010813	0.50	131.44	65.72
258972	BRYANT	GARY		20010827	0.50	71.70	35.85
258972	BRYANT	GARY		20010910	0.50	54.02	27.01
258972	BRYANT	GARY		20010924	0.50	135.00	67.50
258972	BRYANT	GARY		20011008	0.50	29.25	14.62
258972	BRYANT	GARY		20020325	0.50	42.00	21.00
258972	BRYANT	GARY		20020408	0.50	47.25	23.62
258972	BRYANT	GARY		20020422	0.50	52.50	26.25
258972	BRYANT	GARY		20020506	0.50	31.50	15.75
258972	BRYANT	GARY		20020520	0.50	71.25	35.62
258972	BRYANT	GARY		20020603	0.50	60.00	30.00
258972	BRYANT	GARY		20020617	0.50	71.88	35.94
258972	BRYANT	GARY		20020701	0.50	88.26	44.13
258972	BRYANT	GARY		20020715	0.50	66.04	33.02
258972	BRYANT	GARY		20020729	0.50	31.78	15.89
258972	BRYANT	GARY		20020812	0.50	83.34	41.67
258972	BRYANT	GARY		20020826	0.50	45.00	22.50
266264	BRYANT	MELVIN	KEITH	20000717	0.50	33.60	16.80
266264	BRYANT	MELVIN	KEITH	20000731	0.50	40.11	20.05
266264	BRYANT	MELVIN	KEITH	20000814	0.50	50.14	25.07
266264	BRYANT	MELVIN	KEITH	20000828	0.50	67.15	33.57
266264	BRYANT	MELVIN	KEITH	20000911	0.50	37.06	18.53
266264	BRYANT	MELVIN	KEITH	20000925	0.50	83.71	41.85
266264	BRYANT	MELVIN	KEITH	20001009	0.50	72.20	36.10
266264	BRYANT	MELVIN	KEITH	20001023	0.50	41.06	20.53
266264	BRYANT	MELVIN	KEITH	20001106	0.50	72.03	36.01
266264	BRYANT	MELVIN	KEITH	20001120	0.50	72.46	36.23

11-7-04

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

Office Use Only
Grievance No. 07237-04
Code: General RM
Policy
Disc. Hear.
Class.
Date Received NOV 08 2004
IGC Initials

INMATE NAME: Bryant, Gary
SCDC NUMBER: 258978 / NOV 08 2004
INSTITUTION: ~~Wicker Sc. Trn.~~ TYCI
HOUSING UNIT: Cooper B-41
WORK ASSIGNMENT: PI-2/Farm Worker

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

Adkins and Wicker do require payment of prevailing wages. Grievants were employed by WTI and SCDC was WTI's "agent" in paying our wages. Adkins and Wicker further allow this issue of payment of wages under S.C.Code Ann.§41-3-430 to be grieved pursuant to SCDC's grievance procedure. Grievant incorporates by reference all exhibits attached to grievances filed by Darrell Williams and attorney Douglas Bostrock on 9/22/04.

Gary Bryant 11-3-04
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

5-14-07
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.

Gary W Bryant 5-28-07
Grievant Signature Date

5/22/07
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

SCDC 10-5A (November 1997)

1614

Ackerman 5-6-11 1252

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.

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BRYANT LCI-0737-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 3, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 27, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on September 30, 2000 and that your participation in this project ended on June 21, 2002.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 2 appeal.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 four (4) years after SCDC first paid you for your participation in the project located at Lieber, over two (2) years after your participation in the project at Lieber ended, and over 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.
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 any of the relief you demand in your Step 1 grievance or your Step 2 appeal.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made in your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "inmate/employee" within your appeal and grievance to describe your position, I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

To the extent that you demand overtime wages in your appeal or grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your appeal and grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal or grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Gary Bryant, #258972,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

DOCKET NO. 07-ALJ-04-____

GRIEVANCE NO.: ____

Notice is hereby given that Gary Bryant does hereby appeal the final decision of the South Carolina Department of Corrections dated 5-14-07 and received on 5-22-07, 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)):

1. Grievance seeks back wages, contesting SCDC policy/procedure of paying below prevailing/negotiated wages. Thus, there was no time limit to file grievance under Grievance Policy §13.9.

2. Appellant had reasonable cause under §13.9 as his right to grieve did not accrue until Adkins/Wicker and filed within a reasonable time.

3. Applying §13.1 to these facts violated due process.

4. Under 4-19-07 Court order, SCDC was required to accept filing and consider on the merits Appellant's Amendment/Exhibits.

5. Grievance proved all elements of claim for prevailing/negot. wages.

6. Dr. Benich's report is the only evidence of prevailing wages in the record. Appellant is entitled to prevailing/negotiated wages.

7. To extent Appellant worked OT he is entitled to it under SCDC policy

8. Appellant claims pre/post judgment interest, costs and attorney fees

Gary Bryant
Appellant's Name

Tyger River C.I.
~~200 Prison Rd.~~
Mailing Address

Enoree, SC 29335
City, State, Zip Code

none
Telephone Number

Signed

6-5-07
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

1619

STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
GARY BRYANT, #258972	)	
Grievant/Appellant,	)	
vs.	)	CERTIFICATE OF SERVICE
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
Respondent/Appellee.	)	

I certify that on the 7th day of June, 2007, I mailed by first class postage Appellant's Notice of Appeal, and final decision, to the following:

(1) The original and one copy were mailed for filing with the Administrative Law Court, to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC, to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

Douglas H. Westbrook

1620

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: Pete Bryant
SCDC NUMBER: 248376
INSTITUTION: Lieber C.I.
HOUSING UNIT: Cooper A-26 ✓
WORK ASSIGNMENT: P.I. 2

Office Use Only
Grievance No. Lieber 0632-04
Code: General INM
Policy
Disc. Hear.
Class.
Date Received SEP 22 2004
IGC Initials LC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

I The department of Corrections is asked to Review and determine whether I am entitled to Receive back wages due to me from Working at Lieber Prison Industry Program when they only paid me .35 cents an hour And not Prevailing wage AS Required under South Carolina Code Ann. Sec. 24-3-430 (A-7) AS well AS fact that from 1998 -03 they denied me prevailing wage.

ACTION REQUESTED: All money due to me be paid at Prevailing wage and overtime Rate and Prevailing wage be paid now

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:
Lawsuit was filed ordered to File Grievance by Court, Wicker v. S.C.D.C., Adkins v. SCDC.

Pete Bryant 9/23/04
Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's response.

J Carlton 10/28/04
IGC Signature Date

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

1621

N/A

Ackerman 5-6-11 1259

WARDEN'S DECISION AND REASON:

See Attachment.

Oct. 28, 04

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.

Pete Bryant 11-2-04

Grievant Signature Date

11-2-04

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.

1622

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Pete Bryant JNMATE GRIEVANCE FORM

individually, and on behalf of all inmate employees (IE's) listed on attached Exh. A * STEP 1

INMATE NAME:

SCDC NUMBER: 242370

INSTITUTION: Lieber

HOUSING UNIT: Cooper

WORK ASSIGNMENT: P.I.2

Office Use Only
Grievance No. 6
Code: General
Policy
Disc. Hear.
Class.
Date Received SEP 30 2004
IGC Initials

STATE GRIEVANCE (Include documentation, and date of incident; if SCDC Policy, indicate which policy) From 1999 to present, IE's were/are employed in the Williams Tech/Lieber service work program. From 1999 to July 2001, WTI/Lieber were required by S.C. Code 24-3-430 to pay IE's the "prevailing wage" for work of a similar nature in the private sector. This prevailing wage was $8.40 to $10.97 for 1999, $9.74 to $11.59 for 2000, and $10.10 to $12.06 for 2001 (Exh. G, H). Since July 2001, WTI/Lieber were required to pay IE's the negotiated wage of $4.00 per hour (Statutes at Large, No. 66, 837.31, eff. July 1, 2001; Exh. B, C). In fact, WTI/Lieber's policy was to pay IE's, in most cases, under $1.00 per hour. Exhibits document a $.35 per hour base pay rate, maximum pay of $1.00 per hour, the September 30 1998 WTI/Lieber contract specifying a wage of $4 per hour, the names and employment periods of all 1000 plus class members, and the pay dates, rates, hours, and pay for all class members from 1999 to June 2004 (Exh. D, E, C, A, and F).

* "Exh." denotes exhibits attached to Darrell Williams' Grievance, which are incorporated by reference herein.

ACTION REQUESTED: That IE's be paid back wages at the prevailing wage rate for 1999 to July 2001; and at $4 per hour for July 2001 to present, and in the future; all as determined from Exhibits A-H; and the time cards, pay stubs, and other records for class members shown to IE's counsel July 20, 2004 at Lieber in Jack Staudt's custody. IE's also request pre/post judgment interest, costs and attorney fees.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT: IE's have verbally requested WTI/Lieber to pay them prevailing wages. Darrell Williams in 2001 formally protested the improper wages, and filed a grievance which was dismissed for want of jurisdiction. In 2002, Williams filed a lawsuit (Williams et al. v. SCDC, et al., Case No. 02-CP-18-134, now pending) which was certified a class action representing the class identified in Exh. A. On August 23, 200 the S.C. Supreme Court held in the Adkins and Wicker cases that 24-3-430's prevailing wage provision was mandatory, and IE's could file a grievance for back wages.

Pete Bryant 9/27/04
Grievant Signature Date

ACTION TAKEN BY IGC:

See Attached Response

IGC Signature Date

☐ I accept the action taken by the IGC and consider the matter closed.
☐ I do not accept the action taken and wish to appeal. 1623

Grievant Signature Date

SCDC 10-5 (Rev. November 1997)

Ackerman 5-6-11 1261

WARDEN'S DECISION AND REASON:

See attachment.

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.

1624

Inmate B. Bryant, #242370 LCI 0632-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

1625

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

1626.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS 11-7-04
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Pete Bryant
SCDC NUMBER: 242370
INSTITUTION: Lieber
HOUSING UNIT: Cooper A-26
WORK ASSIGNMENT: P.I. 2

RECEIVED
MAY 29 2007
INMATE GRIEVANCE

Office Use Only
Grievance No. LCI 0632-04
Code: General RW
Policy
Disc. Hear
Class.
Date Received NOV 08 2004
IGC Initials

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

Adkins & Wicker do acquire payment of prevailing wages. Grievants were employed by WTI, and S.C.D.C. was WTI's "Agent" in paying our wages. Adkins & Wicker further allow this issue of payment of wages under S.C. Code 24-3-430 to be grieved ~~[illegible]~~ pursuant to SCDC's ~~grie~~ grievance procedure. Grievant incorporates by Reference All exhibits Attached to grievances Filed by Darrell Williams and Attorney Douglas Westbrook on 9-22-04

Pete Bryant 11-02-04
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

Signature 5-14-07
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.

Pete Bryant 5/22/07
Grievant Signature Date

IGC Signature 5/22/07
Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

SCDC 10-5A (November 1997)

1627

Lieber PI Back Wage Claim Step 2 Reply

Inmate Name	SCDC #	Grievance #
Bryant, Pete	242370	LCI-0632-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 2, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 22, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on December 22, 2003 and that your participation in this project ended on August 16, 2005.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court

Inmate Name	SCDC #	Grievance #
Bryant, Pete	242370	LCI-0632-04

for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 2 appeal.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 nine (9) months after SCDC first paid you for your participation in the project located at Lieber and 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.

Inmate Name	SCDC #	Grievance #
Bryant, Pete	242370	LCI-0632-04

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 any of the relief you demand in your grievance.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "employee" within your supporting documents to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Inmate Name	SCDC #	Grievance #
Bryant, Pete	242370	LCI-0632-04

Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your appeal and grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal and grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION

Pete Bryant, #242370

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

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

Grievance No. _____

Notice is hereby given that Pete Bryant does hereby appeal the final decision of the South Carolina Department of Corrections dated _____ and received on no final decision issued, 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)): 1. Automatic appeal is proper under grievance policy §§13.5, 13.8 and 28 C.F.R. Part 40.7(e) because SCDC did not timely respond to grievance and the 105 day grievance processing period expired without final decision. 2. Grievance contests SCDC wage policy and "concerns policy, procedure" under §13.9 with no time limit to file. 3. There was reasonable cause under §13.9 and (1) no time limit to file and (2) compliance with §13.1. 4. Inmates' class action tolled §13.1. 5. §13.1 denied grievant reasonable time to file and thus due process. 6. SCDC failed to plead §13.1 in step 1 response and considered Amendments on the merits and thus waived §13.1. 7. SCDC was judicially estopped to raise §13.1. 8. Grievant proved all elements of claim, including prevailing wage, period(s worked and any overtime due. 9. Grievant claims back wages, pre/post judgment interest, costs and attorney fees. 10. SCDC should process grievance for all who worked in program whether or not they personally filed a grievance.

Pete Bryant
Appellant's Name

McCormick C.I.
Mailing Address

Rt. 2, Box 100

McCormick, SC 29899
City, State, Zip Code

none
Telephone Number

Signed

11-6-08
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

(See reverse side for instructions) 1672

STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
PETE BRYANT, #242370	)	
Grievant/Appellant,	)	
vs.	)	CERTIFICATE OF SERVICE
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
Respondent/Appellee.	)	

I certify that on the 7th day of Nov., 2008, I mailed by first class postage Appellant's Notice of Appeal, and any grievance response provided to me by SCDC, to the following:

(1) The original was mailed for filing with the Administrative Law Court to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

Douglas H. Westbrook

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: Terrell Buchanon
SCDC NUMBER: 277262
INSTITUTION: LIEBER C.I.
HOUSING UNIT: COOPER A-60
WORK ASSIGNMENT: Unassigned

Office Use Only
Grievance No. Lieber 0639-04
Code: General RH4
Policy
Disc. Hear.
Class.
Date Received SEP 23 2004
IGC Initials LC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

The department is asked to review and determine whether I am entitled to receive back wages due to me from working at Lieber Prison Industry Program when they only paid me .35 cents an hour and not Prevailing wage as required under South Carolina Code ANN. Sec. 24-3-430 (A-7) as fact from 1998-03 they denied me Prevailing wage.

ACTION REQUESTED:

All money due to me be paid at Prevailing wage and overtime rate and Prevailing wage be paid now.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Lawsuit was filed ordered to file grievance by court

Wicker V. SCDC Adkins V. SCDC

Terrell Buchanon 9-23-04
Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's Response.

L Carlton 10/28/04
IGC Signature Date

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

1634

N/A
Grievant Signature Date

SCDC 10.5 (8) — November 1992)

Ackerman 5-6-11 1272

WARDEN'S DECISION AND REASON:

See Attachment.

Warden Signature — Date Oct. 27 04

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

Jewell Buchanan 11-2-04
Grievant Signature — Date

IGC Signature — 11-2-04 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.

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

Terrell Buchanon individually, and on behalf of all inmate employees (IE's) STEP 1

INMATE NAME: listed on attached Exh. A *

SCDC NUMBER: 277262

INSTITUTION: LIEBER

HOUSING UNIT: COOPER - A-60

WORK ASSIGNMENT: UNASSIGNED

Office Use Only

Grievance No.

Code: General

Policy

Disc. Hear.

Class.

Date Received SEP 30 2004

IGC Initials

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) From 1999 to present, IE's were/are employed in the Williams Tech/Lieber service work program. From 1999 to July 2001, WTI/Lieber were required by S.C. Code 24-3-430 to pay IE's the "prevailing wage" for work of a similar nature in the private sector. This prevailing wage was $8.40 to $10.97 for 1999, $9.74 to $11.59 for 2000, and $10.10 to $12.06 for 2001 (Exh. G, H). Since July 2001, WTI/Lieber were required to pay IE's the negotiated wage of $4.00 per hour (Statutes at Large, No. 66, S37.31, eff. July 1, 2001; Exh. B, C). In fact, WTI/Lieber's policy was to pay IE's, in most cases, under $1.00 per hour. Exhibits document a $.35 per hour base pay rate, maximum pay of $1.00 per hour, the September 30 1998 WTI/Lieber contract specifying a wage of $4 per hour, the names and employment periods of all 1000 plus class members, and the pay dates, rates, hours, and pay for all class members from 1999 to June 2004 (Exh. D, E, C, A, and F).

* "Exh." denotes exhibits attached to Darrell Williams' Grievance, which are incorporated by reference herein.

ACTION REQUESTED: That IE's be paid back wages at the prevailing wage rate for 1999 to July 2001; and at $4 per hour for July 2001 to present, and in the future; all as determined from Exhibits A-H; and the time cards, pay stubs, and other records for class members shown to IE's counsel July 20, 2004 at Lieber in Jack Staudt's custody. IE's also request pre/post judgment interest, costs and attorney fees.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT: IE's have verbally requested WTI/Lieber to pay them prevailing wages. Darrell Williams in 2001 formally protested the improper wages, and filed a grievance which was dismissed for want of jurisdiction. In 2002, Williams filed a lawsuit (Williams et al. v. SCDC, et al., Case No. 02-CP-18-134, now pending) which was certified a class action representing the class identified in Exh. A. On August 23, 200 the S.C. Supreme Court held in the Adkins and Wicker cases that 24-3-430's prevailing wage provision was mandatory, and IE's could file a grievance for back wages.

Terrell Buchanon 9-27-04

Grievant Signature Date

ACTION TAKEN BY IGC:

See attached response

IGC Signature Date

☐ I accept the action taken by the IGC and consider the matter closed.

☐ I do not accept the action taken and wish to appeal.

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Grievant Signature Date

Ackerman 5-6-11 1274

WARDEN'S DECISION AND REASON:

See attachment.

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.

163.7

Inmate D. Buchanon, #277262 LC10639-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

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To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

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AMENDMENT TO GRIEVANCE OF TERRELL BUCHANON, #277262

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; hours in 2000 at $10.66 per hour; hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 2286.61 plus hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

(Grievant Signature) (Date)

* Attached are Exh. A, 0777; C, 0081,0086; F, 0996-0997; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 2

INMATE NAME: Terrell Buchanon

SCDC NUMBER: 277262

INSTITUTION: ~~LIEBER~~ MCI NOV 04 2004

HOUSING UNIT: COOPER A-60 pf

WORK ASSIGNMENT: CARPENTRY

Office Use Only

Grievance No. CCI 0639-04

Code: General M4

Policy

Disc. Hear.

Class

Date Received NOV 08 2004

IGC Initials

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

Adkins & Wicker do require payment of prevailing wages. Grievants were employed by WTI and SCDC was WTI's "Agent in paying our wages. Adkins & Wicker further allows this issue of payment of wages under S.C. Code 24-3-430 to be grieved pursuant to S.C.D.C. Grievance Procedures. Grievants incorperates by reference all exhibits attached to grievance filed by Darrell Williams And attorney Dougks Westbrook on 9-22-04.

Terrell Buchanon 11-02-04

Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

Signature 5-14-07 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.

Terrell Buchanon 5-16-07

Grievant Signature Date

L. Holmes 5-16-07

IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

SCDC 10-5A (November 1997)

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Ackerman 5-6-11 1279

BUCHANON LCI-0639-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 2, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 22, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on June 27, 2003 and that your participation in this project ended on July 18, 2003.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 2 appeal.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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

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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. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 nearly 22 months after SCDC first paid you for your participation in the project located at Lieber, nearly five (5) months after your participation in the project at Lieber ended, and 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.
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 any of the relief you demand in your grievance.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "employee" within your supporting documents to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.
Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your appeal and grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal and grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Terrell Buchanon, #277262

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

DOCKET NO. 07 -ALJ-04- - -
GRIEVANCE NO.:

Notice is hereby given that Terrell Buchanon does hereby appeal the final decision of the South Carolina Department of Corrections dated 5-14-07 and received on 5-16-07, 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)):

1. Grievance seeks back wages, contesting SCDC policy/procedure of paying below prevailing/negotiated wages. Thus, there was no time limit to file grievance under Grievance Policy §13.9.

2. Appellant had reasonable cause under §13.9 as his right to grieve did not accrue until Adkins/Wicker and filed within a reasonable time.

3. Applying §13.1 to these facts violated due process.

4. Under 4-19-07 Court order, SCDC was required to accept filing and consider on the merits Appellant's Amendment/Exhibits.

5. Grievance proved all elements of claim for prevailing/negot. wages.

6. Dr. Benich's report is the only evidence of prevailing wages in the record. Appellant is entitled to prevailing/negotiated wages.

7. To extent Appellant worked OT he is entitled to it under SCDC policy.

8. Appellant claims pre/post judgment interest, costs and attorney fees.

Terrell Buchanon
Appellant's Name
McCormick C.I.
386 Redemption Way
Mailing Address
McCormick, SC 29899
City, State, Zip Code
none
Telephone Number

Signed

5-30-07
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

1645

STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
	)	
TERRELL BUCHANON, #277262	)	
	)	
Grievant/Appellant,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
	)	
Respondent/Appellee.	)	

I certify that on the 5th day of June, 2007, I mailed by first class postage Appellant's Notice of Appeal, and final decision, to the following:

(1) The original and one copy were mailed for filing with the Administrative Law Court, to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC, to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

Douglas H. Westbrook

1646

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 1

Douglas A Bucks individually, and on behalf of all inmate employees (IE's.)

INMATE NAME: listed on attached Exh. A *

SCDC NUMBER: 263537

INSTITUTION: ~~Lieber~~ Evans

HOUSING UNIT: ~~Cooper B 4A~~

WORK ASSIGNMENT: P.I. 1 3B243

Office Use Only

Grievance No. Lieber-0928-04

Code: General CM

Policy

Disc. Hear.

Class.

Date Received SEP 30 2004

IGC Initials CC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) From 1999 to present, IE's were/are employed in the Williams Tech/Lieber service work program. From 1999 to July 2001, WTI/Lieber were required by S.C. Code 24-3-430 to pay IE's the "prevailing wage" for work of a similar nature in the private sector. This prevailing wage was $8.40 to $10.97 for 1999, $9.74 to $11.59 fo 2000, and $10.10 to $12.06 for 2001 (Exh. G, H). Since July 2001, WTI/Lieber were required to pay IE's the negotiated wage of $4.00 per hour (Statutes at Large, No. 66, 837.31, eff. July 1, 2001; Exh. B, C). In fact, WTI/Lieber's policy was to pay IE's, in most cases, under $1.00 per hour. Exhibits documen a $.35 per hour base pay rate, maximum pay of $1.00 per hour, the September 30 1998 WTI/Lieber contract specifying a wage of $4 per hour, the names and employment periods of all 1000 plus class members, and the pay dates, rates, hours, and pay for all class members from 1999 to June 2004 (Exh. D, E, C, A, and F).

* "Exh." denotes exhibits attached to Darrell Williams' Grievance, which are incorporated by reference herein.

ACTION REQUESTED: That IE's be paid back wages at the prevailing wage rate fo 1999 to July 2001; and at $4 per hour for July 2001 to present, and in the future; all as determined from Exhibits A-H; and the time cards, pay stubs, and other records for class members shown to IE's counsel July 20, 2004 at Lieber in Jack Staudt's custody. IE's also request pre/post judgment interest, costs ~~and attorney fees.~~

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT: IE's have verbally requested WTI/Lieber to pay them prevailing wages. Darrell Williams in 2001 formally protested the improper wages, and filed a grievance which was dismissed for want of jurisdiction. In 2002, Williams filed a lawsuit (Williams et al. v. SCDC, et al., Case No. 02-CP-18-134, now pending) which was certified a class action representing the class identified in Exh. A. On August 23, 200 the S.C. Supreme Court held in the Adkins and Wicker cases that 24-3-430's prevailing wage provision was mandatory, and IE's could file a grievance for back wages.

Douglas A. Bucks 9-27-04

Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's Response.

G Carlton 10/28/04

IGC Signature Date

☐ I accept the action taken by the IGC and consider the matter closed.

☐ I do not accept the action taken and wish to appeal.

N/A

Grievant Signature Date

SCDC 10-5 (Rev. November 1997)

(CONTINUED ON REVERSE SIDE)

1647

Ackerman 5-6-11 1285

WARDEN'S DECISION AND REASON:

SEE ATTACHED

5-15-07
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.

5-16-07
Grievant Signature Date

5.15.07
~~IGC~~ IGA Signature Date

Served by: S. Skipper 5.16.07

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.

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I/M D. Burdy #263537 LC10728-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

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To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

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BUDE LCI-0728-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 1 grievance form dated September 27, 2004 as well as any and all documents you submitted in support of your Step 1 grievance form.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on June 12, 2001 and that you concluded your participation in this project on October 31, 2002.

After carefully considering your grievance and the arguments you made justifying the relief you request, I deny your grievance in its entirety.

As I said at the very beginning of my response, I reviewed your Step 1 form and the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 1 grievance.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and,

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specifically, 24-3-430. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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. I made this finding, because you did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430.

My position is also supported by Administrative Law Judge Anderson's order in Wright, #200123, vs. SCDC, Docket No. 06-ALJ-04-00114-AP and Administrative Law Judge McLeod's order in Henry Williams, #187203, vs. SCDC, Docket No. 06-ALJ-04-00622-AP..

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 any of the relief you demand in your grievance. In making this finding, I consulted with Lieber's Inmate Grievance Coordinator's [IGC] Office. Representatives of Lieber's IGC Office, in turn, consulted with SCDC's General Counsel's Office and the outside counsel retained by SCDC to defend the inmates' class action lawsuit in the case now known as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Through these consultations, I learned that inmate Darrell Williams, the class representative identified in the inmates' class action lawsuit, filed a Step 1 grievance on September 22, 2004 demanding relief that was similar if not identical to the relief you demanded in your Step 1 grievance. I also learned that Mr. Williams' grievance claimed to be a "class action" grievance on behalf of inmates including you. As a review of your Step 1 grievance clearly shows, you referenced the Step 1 grievance filed by Williams on September 22, 2004 throughout your Step 1 grievance.

Contrary to the claims you made in your Step 1 grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made in your Step 1 grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Therefore, to the extent you use the term "inmate/employee" within your Step 1 grievance to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

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I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.
Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

Therefore, I, again, deny your grievance in its entirety.

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Due 5.21.07

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Douglas A. Bude
SCDC NUMBER: 263537
INSTITUTION: Evans
HOUSING UNIT: Cheraw
WORK ASSIGNMENT: Dorm worker

MAY 21 RECD
MAY 25 2007

Office Use Only
Grievance No. LCE 728-04
Code: General MY
Policy
Disc. Hear.
Class.
Date Received 5.21.07
IGC Initials SS
✓ IGA - ABH 7-12-07

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): The Step 1 was filed timely. The rates of pay provided to inmates for their labor have remained constant and consistantly applied to every inmate for every hour of labor provided from August, 1999, to present. Even in the absence of written policy, the Dept's constant and consistant adherance to a definate and predictable practice constitutes policy and procedure. Accordingly, the timing of the Step 1 Grievance was pursuant to paragraph 13.9 of the Grievance Policy, which allows exceptions to the 15 day time limit when grievances concern policies and procedures.

As to the issue of wages. Pursuant to Wicker, S.C. Code §24-3-430(B) mandates payment of a prevailing wage for my labor provided in private sector prison industry; and, there is nothing in the statutory scheme which authorizes the SCDC to pay less. Accordingly, because I was payed substantially less than prevailing wages for my labor, I am entitled to back pay as shown in my Step 1 Grievance.

Douglas Bude 5-20-07
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

Signature 7-20-07 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

Douglas Bude 7-30-07
Grievant Signature Date

S. Skipper 7-30-07
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

SCDC 10-SA (November 1997)

1654

Ackerman 5-6-11 1292

BUDE LCI-0728-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated May 20, 2007. Along with reviewing your Step 2 appeal, I have also reviewed all of the materials you submitted in support of your Step 1 grievance dated September 27, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on June 12, 2001 and that your participation in this project ended on October 31, 2002.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. The events which lead me to review your Step 2 appeal at the current time were detailed for you in the response you received to your Step 1 grievance.

As was also explained to you in the response you received to your Step 1 grievance, the South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430.

Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy. SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 three (3) years after SCDC first paid you for your participation in the project located at Lieber, nearly two (2) years after your participation in the project at Lieber ended, and over 30 days 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.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.

Furthermore, even if you had met the time frames established in paragraphs 13.1 and 13.9, I completely adopt and endorse the written decision denying your Step 1 grievance, and I find that you are not entitled to any of the relief you demand in your Step 1 grievance.

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Moreover, I specifically conclude that the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Therefore, I 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.

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Lieber PI Back Wage Claim Step 2 Reply

Inmate Name	SCDC #	Grievance #
Bude, Douglas	263537	LCI-0728-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated May 20, 2007. Along with reviewing your Step 2 appeal, I have also reviewed all of the materials you submitted in support of your Step 1 grievance dated September 27, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on June 12, 2001 and that your participation in this project ended on October 31, 2002.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. The events which lead me to review your Step 2 appeal at the current time were detailed for you in the response you received to your Step 1 grievance.

As was also explained to you in the response you received to your Step 1 grievance, the South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430.

Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy. SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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.

Inmate Name	SCDC #	Grievance #
Bude, Douglas	263537	LCI-0728-04

Moreover, you filed your Step 1 grievance over three (3) years after SCDC first paid you for your participation in the project located at Lieber, nearly two (2) years after your participation in the project at Lieber ended, and over 30 days 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.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.

Furthermore, even if you had met the time frames established in paragraphs 13.1 and 13.9, I completely accept and endorse the decision denying your Step 1 grievance and I find that you are not entitled to any of the relief you demand in your Step 1 grievance.

Moreover, I specifically conclude that the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

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

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Douglas Bude, #263537, Appellant, vs. South Carolina Department of Corrections, Respondent.	NOTICE OF APPEAL DOCKET NO. 07-ALJ-04-_____ GRIEVANCE NO.: _____

Notice is hereby given that Douglas Bude does hereby appeal the final decision of the South Carolina Department of Corrections dated 7-20-07 and received on 7-30-07, 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)):

1. Grievance seeks back wages, contesting SCDC policy/procedure of paying below prevailing/negotiated wages. Thus, there was no time limit to file grievance under Grievance Policy §13.9.
2. Appellant had reasonable cause under §13.9 as his right to grieve did not accrue until Adkins/Wicker and filed within a reasonable time.
3. Applying §13.1 to these facts violated due process.
4. Under 4-19-07 Court order, SCDC was required to accept filing and consider on the merits Appellant's Amendment/Exhibits.
5. Grievance proved all elements of claim for prevailing/negot. wages.
6. Dr. Benich's report is the only evidence of prevailing wages in the record. Appellant is entitled to prevailing/negotiated wages.
7. To extent Appellant worked OT he is entitled to it under SCDC policy
8. Appellant claims pre/post judgment interest, costs and attorney fees

Douglas Bude
Appellant's Name
Evans C.I.
610 Hwy 9 West
Mailing Address
Bennettsville, SC 29512
City, State, Zip Code
none
Telephone Number

Signed
8-2-07
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

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STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
	)	
DOUGLAS BUDE, #263537	)	
	)	
Grievant/Appellant,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
	)	
Respondent/Appellee.	)	

I certify that on the 24th day of August, 2007, I mailed by first class postage Appellant's Notice of Appeal, and final decision, to the following:

(1) The original ~~and one copy~~ were mailed for filing with the Administrative Law Court, to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC, to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

D. H. Westbrook
Douglas H. Westbrook

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Larry Burke INMATE GRIEVANCE FORM

individually, and on behalf of all inmate employees (IE's) STEP 1

INMATE NAME: listed on attached Exh. A *

SCDC NUMBER: 281911

INSTITUTION: Lieber

HOUSING UNIT: CA-40 ✓

WORK ASSIGNMENT: PI - 2

Office Use Only

Grievance No. Lieber 0764-04

Code: General MM

Policy

Disc. Hear.

Class.

Date Received SEP 30 2004

IGC Initials

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) From 1999 to present, IE's were/are employed in the Williams Tech/Lieber service work program. From 1999 to July 2001, WTI/Lieber were required by S.C. Code 24-3-430 to pay IE's the "prevailing wage" for work of a similar nature in the private sector. This prevailing wage was $8.40 to $10.97 for 1999, $9.74 to $11.59 fo 2000, and $10.10 to $12.06 for 2001 (Exh. G, H). Since July 2001, WTI/Lieber were required to pay IE's the negotiated wage of $4.00 per hour (Statutes at Large, No. 66, 837.31, eff. July 1, 2001; Exh. B, C). In fact, WTI/Lieber's policy was to pay IE's, in most cases, under $1.00 per hour. Exhibits documen a $.35 per hour base pay rate, maximum pay of $1.00 per hour, the September 30 1998 WTI/Lieber contract specifying a wage of $4 per hour, the names and employment periods of all 1000 plus class members, and the pay dates, rates, hours, and pay for all class members from 1999 to June 2004 (Exh. D, E, C, A, and F).

* "Exh." denotes exhibits attached to Darrell Williams' Grievance, which are incorporated by reference herein.

ACTION REQUESTED: That IE's be paid back wages at the prevailing wage rate fo 1999 to July 2001; and at $4 per hour for July 2001 to present, and in the future; all as determined from Exhibits A-H; and the time cards, pay stubs, and other records for class members shown to IE's counsel July 20, 2004 at Lieber in Jack Staudt's custody. IE's also request pre/post judgment interest, costs and attorney fees.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT: IE's have verbally requested WTI/Lieber to pay them prevailing wages. Darrell Williams in 2001 formally protested the improper wages, and filed a grievance which was dismissed for want of jurisdiction. In 2002, Williams filed a lawsuit (Willia et al. v. SCDC, et al., Case No. 02-CP-18-134, now pending) which was certifie a class action representing the class identified in Exh. A. On August 23, 200 the S.C. Supreme Court held in the Adkins and Wicker cases that 24-3-430's prevailing wage provision was mandatory, and IE's could file a grievance for back wages.

Larry Burke 9-27-04

Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's response.

L Crawford 10/28/04

IGC Signature Date

☐ I accept the action taken by the IGC and consider the matter closed.

☐ I do not accept the action taken and wish to appeal.

N/A

Grievant Signature Date

SCDC 10-5 (Rev. November 1997)

CONTINUED ON REVERSE SIDE

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WARDEN'S DECISION AND REASON:

See Attachment

Warden Signature — Date: Oct. 28, 04

☐ 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: 11-2-04

IGC Signature — Date: 11-2-04

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.

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J/M L Burke, #281911 CC10764-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams'grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

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To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of it's review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

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AMENDMENT TO GRIEVANCE OF LARRY BURKE, #281911

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; hours in 2000 at $10.66 per hour; hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 2765.81 plus hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

Larry Burke 2-14-06
(Grievant Signature) (Date)

* Attached are Exh. A, 0777; C, 0081,0086; F, 0999; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

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	NAME	SCDC	DORM	SHIFT	HIRED	RELEASED
	BRENNAN, MICHAEL	235444	C B 23	1	3/21/01	6/20/01
MI 3	BREWER, RON	285756	C A 17	1	6/27/03	7/18/03
	BREWER, TODD	251799	C A 36	1	8/11/99	6/6/02
	BRINSON, JOSEPH	130818	S A 34	1	9/11/00	2/27/01
MI 3	BROCK, B	239975	C A 0	0		12/20/99
MI 3	BROOKINS, GREGORY	295747	C B 27	1	3/22/04	4/14/04
MI 3	BROOKS, EDWARD	286980	C B 44	1	6/30/03	1/16/04
	BROWN, AARON	248841	C B 27	1	9/26/01	1/23/02
	BROWN, ANTHONY	279248	E A 33	1	11/21/01	1/11/02
	BROWN, ANTHONY D.	153895	C B 46	1	8/11/99	8/27/01
	BROWN, ANTHONY L.	138214	C A 39	1	8/17/01	7/5/02
MI 3	BROWN, BRANDON	286326	C B 24	1	12/16/03	12/23/03
	BROWN, CHARLES	250064	C 0	1	2/15/00	2/28/00
	BROWN, ERIK	199101	C A 31	1	5/18/01	8/2/01
MI 3	BROWN, FREDERICK	289602	C B 64	1	3/29/04	6/24/04
MI 2	BROWN, HENRY	286147	C B 22	1	10/10/02	10/24/02
	BROWN, HUBERT	161888	C A 3	1	8/23/01	3/11/02
MI 3	BROWN, J.	256481	C A 0	0		12/20/99
	BROWN, JEREMY	272135	S B 27	2	8/1/01	9/10/01
	BROWN, JOHN	281130	C A 15	1	3/11/02	4/19/02
MI 3	BROWN, KEITH	295762	C B 24	1	3/24/04	6/24/04
ME 3	BROWN, KEVIN	215073	A A 19	1	9/30/02	12/5/02
	BROWN, LESLEY	280068	C A 22	1	12/19/01	6/18/02
	BROWN, TIMOTHY	262617	C B 60	1	1/4/00	8/31/00
MI 3	BROWN, TIMOTHY	238461	C A 5	1	3/29/00	6/24/04
MI 3	BROWN, VICTOR	259876	C A 32	1	9/10/01	10/31/02
	BROWN, WAYNE # 271677	269050	E A 29	1	10/16/00	11/16/01
MI 3	BRYANT, EDWARD	255998	C B 14	1	2/27/04	6/24/04
MI 3	BRYANT, GARY	258972	C B 41	2	3/11/02	8/16/02
	BRYANT, GARY	258972	C B 41	1	9/9/99	1/5/01
	BRYANT, MELVIN	266264	C A 10	1	6/29/00	12/20/01
ME 3	BRYANT, PETE	242370	C B 32	2	1/17/02	10/7/02
MI 3	BRYANT, PETE	242370	C A 26	1	12/22/03	6/24/04
	BRYANT, TOMMY	269010	C B 49	1	10/18/00	1/26/01
	BRYANT, TYRONE # 271677	248553	A B 17	2	6/15/00	6/27/00
	BUCHANAN, CHARLES	228070	C A 2	1	10/1/99	10/16/00
MI 3	BUCHANON, TERRELL	277262	C A 60	1	12/1/03	4/23/04
MI 3	BUDE, DOUGLAS	263537	C B 41	1	6/12/01	10/31/02
	BUFKIN, JIMMY	269021	C A 3	1	10/16/00	2/15/02
	BUFORD, JAMES	276035	C B 50	1	7/23/01	5/31/02
MI 3	BUIE, D	256609	C A 0	0		8/30/99
	BURKE, BRENDON	266661	E B 27	1	6/29/00	8/21/00
MI 3	BURKE, LARRY	281911	C A 40	1	10/1/02	6/24/04
	BURROUGH, CHARLES	231746	C A 31	1	9/4/01	1/22/02
MI 3	BUSH, CHRISTOPHER D.	300690	E B 21	1	6/9/04	6/24/04
MI 3	BUTLER, JERRY	184469	C B 10	1	10/24/01	1/13/03

PLAINTIFF'S EXHIBIT A

A - 0777
June 2004

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STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

LEASE

THE AGREEMENT is entered into this 30th day of September, 1998, by and between the South Carolina Department of Corrections (hereinafter called "SCDC") by its duly authorized agent Michael W. Moore, Director and Williams Technologies, Inc., (hereafter referred to as "Williams") by its duly authorized agent William S. Williams, Chairman.

WHEREAS, Prison Industries is a division of the South Carolina Department of Corrections charged with establishing business relationships with private enterprise so as to fulfill the intent of Section 24-3-310 Code of Laws of South Carolina, 1976 as amended; and has all necessary authorization to enter into this agreement and to bind the State of South Carolina to all the terms contained herein; and,

WHEREAS, Williams represents and warrants that it is a duly qualified South Carolina corporation, licensed to conduct business in South Carolina; and,

WHEREAS, Williams intends to engage in the business of disassembly and/or remanufacturing of its product lines at Lieber Correctional Institution (hereinafter referred to as"LCI"); and ,

WHEREAS, this agreement is made in the best interest of the State of South Carolina:

NOW, THEREFORE, the parties hereto do agree as follows:

ARTICLE 1 General:

In consideration of Williams' expenditures to construct on behalf of the State of South Carolina a building of up to 45,000 square feet on the LCI premises (the "Building") , SCDC hereby enters into this Agreement to permit Williams to use such Building and related premises during the term and in accordance with the provisions of this Agreement. The State Engineer's approval of all building plans is required. Attachment A hereto shall indicate the location of the Building and the related premises, which shall include circulation space for delivery and shipping via tractor-trailers, parking outside of the secured area sufficient for a minimum of six (6) trailers and access to the facility via access roads. SCDC shall be responsible for maintenance of such roadways and related premises.

The Building shall be constructed according to plans approved by the state in accordance with all applicable federal and state and local rules and regulations and SCDC security requirements. The State Engineer's approval of all building plans is required. The cost of the Building (excluding personal property located in the Building such as furnishings and equipment) is estimated to be $ 1,200,000 Within 90 days of completion of the Building, Williams shall provide to SCDC documentation of the expenditures to construct the Building for its review and acknowledgment.

PLAINTIFF'S EXHIBIT

to and from LCI reasonable access up to twelve (12) hours per day, subject to the Department's security requirements in Section 3.1.4.

(c) Other access. SCDC will provide access to the facility during Williams' hours of operation for Williams' employees, agents, and business invitees, subject to SCDC's security requirements.

3.3. Mutual Duties of the Parties:

1. Payment for Services: Williams agrees to pay SCDC $4.00 per hour per inmate for work performed including training hours and hours in excess of the inmate's normal shift. SCDC shall be responsible to pay inmate workers, cover security costs and P.I. overhead, including any costs for health, safety and welfare of the inmates, taxes or other payroll deduction. No compensation will be paid for time not worked. In order to accommodate holidays not observed by Williams, SCDC and Williams may agree to work ahead or to work on holidays if a mutually acceptable agreement can be reached.

Thirty (30) days prior to each anniversary date of this agreement, SCDC and Williams may negotiate an increase in the per hour rate paid by Williams to SCDC. If such an increase is requested, it shall be limited to a maximum of five percent (5%) annually or the annual percentage increase in the Consumer Price Index, whichever is lower. It is the intent of the parties that such increase shall only reflect SCDC's increased costs of prison overhead.

Williams and SCDC may mutually agree upon a bonus plan for inmates based on productivity and quality control. Such bonus will be paid in its entirety by Williams to SCDC for distribution to inmates.

2. Compliance with Convict Labor Laws: Williams and SCDC agree that no goods produced under this agreement shall be placed in commerce in violation of the laws of the State of South Carolina or the United States as they relate to the utilization of prison labor. Should either Federal or State Law (or the interpretation thereof) change preventing interstate shipments of goods produced under this Agreement, this Agreement shall terminate as provided in Sections 4.0.7 and 4.0.9.

ARTICLE 4 General Terms and Conditions:

4.0 General:
Williams, its employees or agents performing under the agreement are not to be deemed to be employees of SCDC nor as agents of SCDC in any manner whatsoever. Williams will not hold itself out nor claim to be an officer or employee of SCDC or of the State of South Carolina by reason hereof and will not make any claim, demand, or application to, or for any right or privilege applicable to an officer or employee of SCDC or the State of South Carolina, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security benefits, or retirement membership or credit.

The State of South Carolina, SCDC, their employees (including inmates performing labor pursuant to this Agreement) and agents, are not to be deemed employees of Williams nor agents of Williams in any manner

Inmate #	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Hours	Pay Amount
281911	BURKE	LARRY	EUGENE	20021007	0.50	15.75	7.87
281911	BURKE	LARRY	EUGENE	20021021	0.50	54.70	27.35
281911	BURKE	LARRY	EUGENE	20021104	0.50	47.97	23.98
281911	BURKE	LARRY	EUGENE	20021118	0.50	55.71	27.85
281911	BURKE	LARRY	EUGENE	20021202	0.50	66.73	33.36
281911	BURKE	LARRY	EUGENE	20021216	0.50	76.52	38.26
281911	BURKE	LARRY	EUGENE	20021230	0.50	40.32	20.16
281911	BURKE	LARRY	EUGENE	20030113	0.50	48.77	24.38
281911	BURKE	LARRY	EUGENE	20030127	0.50	70.64	35.32
281911	BURKE	LARRY	EUGENE	20030210	0.50	68.04	34.02
281911	BURKE	LARRY	EUGENE	20030224	0.50	80.96	40.48
281911	BURKE	LARRY	EUGENE	20030310	0.50	74.24	37.12
281911	BURKE	LARRY	EUGENE	20030324	0.50	64.84	32.42
281911	BURKE	LARRY	EUGENE	20030407	0.50	34.38	17.19
281911	BURKE	LARRY	EUGENE	20030714	0.50	122.08	61.04
281911	BURKE	LARRY	EUGENE	20030728	0.50	110.52	55.26
281911	BURKE	LARRY	EUGENE	20030811	0.50	84.71	42.35
281911	BURKE	LARRY	EUGENE	20030825	0.50	106.01	53.00
281911	BURKE	LARRY	EUGENE	20030908	0.50	69.08	34.54
281911	BURKE	LARRY	EUGENE	20030922	0.50	86.43	43.21
281911	BURKE	LARRY	EUGENE	20031006	0.50	89.67	44.83
281911	BURKE	LARRY	EUGENE	20031020	0.50	110.11	55.05
281911	BURKE	LARRY	EUGENE	20031103	0.50	60.72	30.36
281911	BURKE	LARRY	EUGENE	20031117	0.50	100.14	50.07
281911	BURKE	LARRY	EUGENE	20031201	0.50	88.52	44.26
281911	BURKE	LARRY	EUGENE	20031215	0.50	38.25	19.12
281911	BURKE	LARRY	EUGENE	20040112	0.50	17.50	8.75
281911	BURKE	LARRY	EUGENE	20040126	0.50	112.32	56.16
281911	BURKE	LARRY	EUGENE	20040209	0.50	89.34	44.67
281911	BURKE	LARRY	EUGENE	20040223	0.50	66.69	33.34
281911	BURKE	LARRY	EUGENE	20040308	0.50	102.63	51.31
281911	BURKE	LARRY	EUGENE	20040322	0.50	110.18	55.09
281911	BURKE	LARRY	EUGENE	20040405	0.50	115.94	57.97
281911	BURKE	LARRY	EUGENE	20040419	0.50	55.47	27.73
281911	BURKE	LARRY	EUGENE	20040503	0.50	34.90	17.45
281911	BURKE	LARRY	EUGENE	20040517	0.50	91.68	45.84
281911	BURKE	LARRY	EUGENE	20040531	0.50	103.35	51.67
231746	BURROUGH, JR.	CHARLES		20010924	0.50	45.08	22.54
231746	BURROUGH, JR.	CHARLES		20011008	0.50	51.78	25.89
231746	BURROUGH, JR.	CHARLES		20011022	0.50	64.97	32.48
231746	BURROUGH, JR.	CHARLES		20011105	0.50	65.12	32.56
231746	BURROUGH, JR.	CHARLES		20011119	0.50	66.82	33.41
231746	BURROUGH, JR.	CHARLES		20011203	0.50	56.25	28.12
231746	BURROUGH, JR.	CHARLES		20011217	0.50	90.63	45.31
231746	BURROUGH, JR.	CHARLES		20011231	0.50	32.74	16.37
231746	BURROUGH, JR.	CHARLES		20020114	0.50	63.60	31.80
231746	BURROUGH, JR.	CHARLES		20020128	0.50	18.77	9.38
184469	BUTLER	JERRY		20010312	0.50	97.42	48.71
184469	BUTLER	JERRY		20010326	0.50	5.25	2.62
184469	BUTLER	JERRY		20011231	0.50	45.00	22.50
184469	BUTLER	JERRY		20020114	0.50	52.50	26.25
184469	BUTLER	JERRY		20020128	0.50	76.08	38.04
184469	BUTLER	JERRY		20020211	0.50	95.94	47.97
184469	BUTLER	JERRY		20020225	0.50	123.76	61.88

PLAINTIFF'S EXHIBIT F

A - 0999
June 2004

1669

To: Douglas Westbrook, Attorney at Law

From: Dr. Joseph Benich, Economic Loss Expert

Subject: Your 9/14/04 request

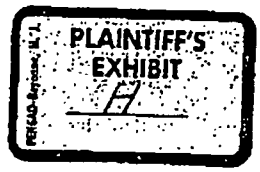
Date: 9/20/04

This note is in response to your "prevailing wage" request for work generally described by the Williams Technologies Job Description of Production Associate. You have asked for my opinion of the "prevailing wage" for work of a similar nature in the private sector for 1999/2001 (I assume that you mean 1999, 2000, and 2001). It is also my understanding that the term " prevailing wage" not only implies work of a similar nature, but that the work should be performed in the same general geographic area.

The U.S. Department of Labor (Bureau of Labor Statistics) publishes wage data for a range of occupations in the Charleston – North Charleston Metropolitan Area. The Installation, Maintenance and Repair Occupation Sub-Category of "Maintenance and Repair Workers, General" had mean hourly wages of $11.44 in1999, $12.62 in 2000, and $13.24 in 2001 for the Charleston - North Charleston Metropolitan Area. The Production Occupations Sub-Category of "Team Assemblers" had mean hourly wages of $10.49 in 1999, $10.56 in 2000, and $10.88 in 2001 for the Charleston – North Charleston Metropolitan Area. The average of these two Sub-Categories is $10.97 for 1999, $11.59 for 2000, and $12.06 for 2001.

The possibility exists that the average prison worker would be less experienced with his prison position than his non-prison counterpart. It is also possible that the average prison worker would require more supervision than the average non-prison worker performing the same tasks. The concept of "prevailing wage" implies the average wage for a specific category of average workers. The Installation, Maintenance and Repair Occupation Sub Category of "Helpers—Installation, Maintenance, and Repair Workers" had mean hourly wages of $9.53 in 1999, $11.21 in 2000, and $10.45 in 2001. The Production Occupations Sub-Category of "Helpers–Production Workers" had mean hourly wages of $7.61 in 1999, $8.27 in 2000, and $9.09 in 2001. The average of these two "Helpers" Sub Categories is $8.40 for 1999, $9.74 for 2000, and $10.10 for 2001.

These "Helpers" Sub Category averages represent the lower end of the "prevailing wage" range for the Williams Technologies Job Description of Production Associate for 1999, 2000, and 2001. Thus the "prevailing wage" range estimate for prison workers for the Williams Technologies Job Description of Production Associate is $10.97 - $8.40 for 1999, $11.59 - $9.74 for 2000, and $12.06 - $10.10 for 2001.



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RESUME-3/03
Dr. Joseph J. Benich

FAMILY STATUS
Wife - Roberta; two children - Kiersten and J.J.

EDUCATION

9/68 - 6/72	Doctor of Business Administration Majors: Production Management and Marketing Kent State University, Kent, Ohio
1/66 - 5/68	Masters of Business Administration Majors: Economics and Marketing Case Western Reserve University, Cleveland, Ohio
9/65 - 1/66	Western Reserve University, Cleveland, Ohio Major: Law
9/61 - 6/65	Bachelor of Science in Chemical Engineering Case Institute of Technology, Cleveland, Ohio

ACADEMIC EXPERIENCE

9/93 –2003	Professor of Business Administration College of Charleston, Charleston, South Carolina
9/78 - 8/93	Associate Professor of Business Administration College of Charleston, Charleston, South Carolina
9/76 - 9/78	Associate Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/72 - 9/76	Assistant Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/69 - 6/72	Full-time Instructor, Economics Department Kent State University, Kent, Ohio
1/69 - 6/69	Teaching Fellow, Statistics Kent State University
9/68 - 12/68	Graduate Assistant Kent State University

NON-ACADEMIC EXPERIENCE

6/74 -	Expert Witness, Economic Litigation, Charleston, South Carolina, analyses of economic loss to individuals and/or businesses, with presentations in State and Federal courts
7/78 -	Manager of Summertime Properties, Charleston, South Carolina
6/73 -	Business Consulting, J. Benich and Associates, Charleston, South Carolina
1/68 - 11/72	Business Advisor to Director of American Screw Products, Warrensville, Ohio
1/68 - 10/68	Staff Specialist (Systems Optimizations), Cleveland Electric Illuminating Company, Cleveland, Ohio
1/66 - 9/67	Industrial Market Research, Harshaw Chemical, Cleveland, Ohio
19/65 - 1/66	Phosphor Efficiency Development, General Electric Co., Cleveland, Ohio (worked independently on a second shift due to day law school)
6/65 - 9/65	Research Chemical Engineering, Sohio Research, Warrensville, Ohio (catalyst efficiency testing and associated acetonitrile purification development).

PUBLICATIONS

"Signal-Averaged P-Wave Analysis of Normal Controls and Patients with Paroxysmal Atrial Fibrillation: A Study in Gender Differences, Age Dependence, and Reproducibility", with A Dhala, B. Leman, et al, Clinical Cardiology, November, 2002, p-525-531

"The High Resolution Signal-Averaged P-Wave Duration in Normal Patients: Influence of Race and Gender", with M. Little, B. Leman, and B. Hainer, North American Society of Pacing and Electrophysiology, abstracted, *Pacing and Clinical Electrophysiology*, April, 1997, Vol.20:4:1219

"Alternative Approaches to Tax Adjustments in Appraising Economic Loss: A Comment", *Journal of Legal Economics*, Fall 1996

"Updated Estimates of Work-Life Expectancies Based upon The Increment-Decrement Model: Comment", *Journal of Legal Economics*, Winter 1995

"Intra-Year Discounting Assumptions and Bias in Lost Earnings Analysis: A Comment", *Journal of Forensic Economics*, Winter 1993, 7(1)

"Comment: On the Relative Stability and Predictability of the Interest Rate and Earnings Growth Rate", *Journal of Forensic Economics*, Winter 1992, 6(1)

"Determining Tax-Adjusted Awards for Spouses' Lost Future Earnings", For *The Defense*, Nov. 1992

"The Just Better (JB) Method of Calculating The Present Value of Lost Future Income", *Journal of Legal Economics*, July 1992

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11-7-04

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

Office Use Only
Grievance No. LCI 0764-04
Code: General RM4
Policy
Disc. Hear.
Class.
Date Received NOV 08 2004
IGC Initials

INMATE NAME: Larry Burke
SCDC NUMBER: 281911 NOV 08 2004
INSTITUTION: Lieber Corr. Inst PP
HOUSING UNIT: Cooper A-40
WORK ASSIGNMENT: P.I 2

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):
Adkins & Wicker do require payment of prevailing wages. Grievants were employed by W.T.I., and S.C.D.C. was W.T.I.'s "Agent" in paying our wages. Adkins & Wicker Further allow this issue of payment of wages under S.C. Code 24-3-430 to be grieved pursuant to S.C.D.C.'s grievance procedures. Grievants incorporate by reference all exhibits attached to grievances Filed By Darrel Williams and Attorney Douglas Westbrook on 9-22-04;

Larry Burke 11-3-04
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

5-14-07
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

5/23/07
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

CCTV 10 EA (November 1997)

1673

Ackerman 5-6-11 1311

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.

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BURKE LCI-0764-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 3, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 27, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on October 1, 2002 and that your participation in this project ended on August 26, 2005.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 2 appeal.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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

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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. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 nearly two (2) years after SCDC first paid you for your participation in the project located at Lieber and more than 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.
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 any of the relief you demand in your Step 1 grievance or your Step 2 appeal.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made in your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "inmate/employee" within your appeal and grievance to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

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I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

To the extent that you demand overtime wages in your appeal or grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your appeal and grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal or grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Larry Burke, #281911,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

DOCKET NO. _07___-ALJ-04-_____-___
GRIEVANCE NO.: _____

Notice is hereby given that Larry Burke does hereby appeal the final decision of the South Carolina Department of Corrections dated 5-14-07 and received on 5-23-07, 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)):

1. Grievance seeks back wages, contesting SCDC policy/procedure of paying below prevailing/negotiated wages. Thus, there was no time limit to file grievance under Grievance Policy §13.9.

2. Appellant had reasonable cause under §13.9 as his right to grieve did not accrue until Adkins/Wicker and filed within a reasonable time.

3. Applying §13.1 to these facts violated due process.

4. Under 4-19-07 Court order, SCDC was required to accept filing and consider on the merits Appellant's Amendment/Exhibits.

5. Grievance proved all elements of claim for prevailing/negot. wages.

6. Dr. Benich's report is the only evidence of prevailing wages in the record. Appellant is entitled to prevailing/negotiated wages.

7. To extent Appellant worked OT he is entitled to it under SCDC policy.

8. Appellant claims pre/post judgment interest, costs and attorney fees.

Larry Burke
Appellant's Name
Lieber C.I.
P.O. Box 205
Mailing Address
Ridgeville, SC 29472
City, State, Zip Code
none
Telephone Number

Signed
5-11-07
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

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STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
	)	
LARRY BURKE, #281911	)	
	)	
	)	
Grievant/Appellant,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
	)	
	)	
Respondent/Appellee.	)	

I certify that on the 15th day of June, 2007, I mailed by first class postage Appellant's Notice of Appeal, and final decision, to the following:

(1) The original ~~and one copy~~ were mailed for filing with the Administrative Law Court, to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC, to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

Douglas H. Westbrook

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: Chistopher Bush

SCDC NUMBER: #300690

INSTITUTION: Lieber Corr.Inst.

HOUSING UNIT: Cooper B-22 23 ✓

WORK ASSIGNMENT: PI-2

Office Use Only
Grievance No. Lieber 0791-04
Code: General MM
Policy
Disc. Hear.
Class.
Date Received SEP 30 2004
IGC Initials LC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

The Department is asked to review and determine whether I am entitled to receive back wages due to me from working at Lieber Prison Industry Program when they paid me only $.35/hr. and not prevailing wage as required under South Carolina Code Ann. §24-3-430(A),(B) as well as fact that from 1998-2003 they denied me prevailing wage.

ACTION REQUESTED:

All money due to me be paid at prevailing wage and overtime rate and prevailing wage be paid now.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Lawsuit has been filed, court order to file a grievance by the court: Wicker v. SCDC and Adkins v. SCDC.

Chris Bush 9/23/04
Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's Response.

L Carlton 10/28/04
IGC Signature Date

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

N/A
Grievant Signature Date

SCDC 10-5 (Rev November 1997)

1680

Ackerman 5-6-11 1318

WARDEN'S DECISION AND REASON:

See Attachment.

Warden Signature Oct. 28, 04 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 2 NOV 04 Date

IGC Signature 11-2-04 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.

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JMK E. Busk, #300690 CE1 0791-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

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To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

1683

AMENDMENT TO GRIEVANCE OF CHRISTOPHER BUSH, #300690

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; hours in 2000 at $10.66 per hour; hours in 1-1-01 to 6-30-01 at $11.08 per hour; and hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees. Exh. F had no info for Griev't.

Christopher Bush 03 FEB 06
(Grievant Signature) (Date)

* Attached are Exh. A, 0777; C, 0081,0086; H, 1-3. Hrs/pay not in Exh F.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

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	NAME	SCDC	DORM	SHIFT	HIRED	RELEASED
	BRENNAN, MICHAEL	235444	C B 23	1	3/21/01	6/20/01
MI 3	BREWER, RON	285756	C A 17	1	6/27/03	7/18/03
	BREWER, TODD	251799	C A 36	1	8/11/99	6/6/02
	BRINSON, JOSEPH	130818	S A 34	1	9/11/00	2/27/01
MI 3	BROCK, B	239975	C A 0	0		12/20/99
MI 3	BROOKINS, GREGORY	295747	C B 27	1	3/22/04	4/14/04
MI 3	BROOKS, EDWARD	286980	C B 44	1	6/30/03	1/16/04
	BROWN, AARON	248841	C B 27	1	9/26/01	1/23/02
	BROWN, ANTHONY	279248	E A 33	1	11/21/01	1/11/02
	BROWN, ANTHONY D.	153895	C B 46	1	8/11/99	8/27/01
	BROWN, ANTHONY L.	138214	C A 39	1	8/17/01	7/5/02
MI 3	BROWN, BRANDON	286326	C B 24	1	12/16/03	12/23/03
	BROWN, CHARLES	250064	C 0	1	2/15/00	2/28/00
	BROWN, ERIK	199101	C A 31	1	5/18/01	8/2/01
MI 3	BROWN, FREDERICK	289602	C B 64	1	3/29/04	6/24/04
MI 2	BROWN, HENRY	286147	C B 22	1	10/10/02	10/24/02
	BROWN, HUBERT	161888	C A 3	1	8/23/01	3/11/02
MI 3	BROWN, J.	256481	C A 0	0		12/20/99
	BROWN, JEREMY	272135	S B 27	2	8/1/01	9/10/01
	BROWN, JOHN	281130	C A 15	1	3/11/02	4/19/02
MI 3	BROWN, KEITH	295762	C B 24	1	3/24/04	6/24/04
ME 3	BROWN, KEVIN	215073	A A 19	1	9/30/02	12/5/02
	BROWN, LESLEY	280068	C A 22	1	12/19/01	6/18/02
	BROWN, TIMOTHY	262617	C B 60	1	1/4/00	8/31/00
MI 3	BROWN, TIMOTHY	238461	C A 5	1	3/29/00	6/24/04
MI 3	BROWN, VICTOR	259876	C A 32	1	9/10/01	10/31/02
	BROWN, WAYNE	269050	E A 29	1	10/16/00	11/16/01
MI 3	BRYANT, EDWARD	255998	C B 14	1	2/27/04	6/24/04
MI 3	BRYANT, GARY	258972	C B 41	2	3/11/02	8/16/02
	BRYANT, GARY	258972	C B 41	1	9/9/99	1/5/01
	BRYANT, MELVIN	266264	C A 10	1	6/29/00	12/20/01
ME 3	BRYANT, PETE	242370	C B 32	2	1/17/02	10/7/02
MI 3	BRYANT, PETE	242370	C A 26	1	12/22/03	6/24/04
	BRYANT, TOMMY	269010	C B 49	1	10/18/00	1/26/01
	BRYANT, TYRONE	248553	A B 17	2	6/15/00	6/27/00
	BUCHANAN, CHARLES	228070	C A 2	1	10/1/99	10/16/00
MI 3	BUCHANON, TERRELL	277262	C A 60	1	12/1/03	4/23/04
MI 3	BUDE, DOUGLAS	263537	C B 41	1	6/12/01	10/31/02
	BUFKIN, JIMMY	269021	C A 3	1	10/16/00	2/15/02
	BUFORD, JAMES	276035	C B 50	1	7/23/01	5/31/02
MI 3	BUIE, D	256609	C A 0	0		8/30/99
	BURKE, BRENDON	266661	E B 27	1	6/29/00	8/21/00
MI 3	BURKE, LARRY	281911	C A 40	1	10/1/02	6/24/04
	BURROUGH, CHARLES	231746	C A 31	1	9/4/01	1/22/02
MI 3	BUSH, CHRISTOPHER D.	300690	E B 21	1	6/9/04	6/24/04
MI 3	BUTLER, JERRY	184469	C B 10	1	10/24/01	1/13/03

PLAINTIFF'S EXHIBIT A

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A - 0777
June 2004

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

LEASE

THE AGREEMENT is entered into this 30th day of September, 1998, by and between the South Carolina Department of Corrections (hereinafter called "SCDC") by its duly authorized agent Michael W. Moore, Director and Williams Technologies, Inc., (hereafter referred to as "Williams") by its duly authorized agent William S. Williams, Chairman.

WHEREAS, Prison Industries is a division of the South Carolina Department of Corrections charged with establishing business relationships with private enterprise so as to fulfill the intent of Section 24-3-310 Code of Laws of South Carolina, 1976 as amended; and has all necessary authorization to enter into this agreement and to bind the State of South Carolina to all the terms contained herein; and,

WHEREAS, Williams represents and warrants that it is a duly qualified South Carolina corporation, licensed to conduct business in South Carolina; and,

WHEREAS, Williams intends to engage in the business of disassembly and/or remanufacturing of its product lines at Lieber Correctional Institution (hereinafter referred to as"LCI"); and ,

WHEREAS, this agreement is made in the best interest of the State of South Carolina:

NOW, THEREFORE, the parties hereto do agree as follows:

ARTICLE 1 General:

In consideration of Williams' expenditures to construct on behalf of the State of South Carolina a building of up to 45,000 square feet on the LCI premises (the "Building") , SCDC hereby enters into this Agreement to permit Williams to use such Building and related premises during the term and in accordance with the provisions of this Agreement. The State Engineer's approval of all building plans is required. Attachment A hereto shall indicate the location of the Building and the related premises, which shall include circulation space for delivery and shipping via tractor-trailers, parking outside of the secured area sufficient for a minimum of six (6) trailers and access to the facility via access roads. SCDC shall be responsible for maintenance of such roadways and related premises.

The Building shall be constructed according to plans approved by the state in accordance with all applicable federal and state and local rules and regulations and SCDC security requirements. The State Engineer's approval of all building plans is required. The cost of the Building (excluding personal property located in the Building such as furnishings and equipment) is estimated to be $ 1,200,000. Within 90 days of completion of the Building, Williams shall provide to SCDC documentation of the expenditures to construct the Building for its review and acknowledgment.

PLAINTIFF'S EXHIBIT C

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to and from LCI reasonable access up to twelve (12) hours per day, subject to the Department's security requirements in Section 3.1.4.

(c) Other access. SCDC will provide access to the facility during Williams' hours of operation for Williams' employees, agents, and business invitees, subject to SCDC's security requirements.

3.3 Mutual Duties of the Parties:

1. Payment for Services: Williams agrees to pay SCDC $4.00 per hour per inmate for work performed including training hours and hours in excess of the inmate's normal shift. SCDC shall be responsible to pay inmate workers, cover security costs and P.I. overhead, including any costs for health, safety and welfare of the inmates, taxes or other payroll deduction. No compensation will be paid for time not worked. In order to accommodate holidays not observed by Williams, SCDC and Williams may agree to work ahead or to work on holidays if a mutually acceptable agreement can be reached.

Thirty (30) days prior to each anniversary date of this agreement, SCDC and Williams may negotiate an increase in the per hour rate paid by Williams to SCDC. If such an increase is requested, it shall be limited to a maximum of five percent (5%) annually or the annual percentage increase in the Consumer Price Index, whichever is lower. It is the intent of the parties that such increase shall only reflect SCDC's increased costs of prison overhead.

Williams and SCDC may mutually agree upon a bonus plan for inmates based on productivity and quality control. Such bonus will be paid in its entirety by Williams to SCDC for distribution to inmates.

2. Compliance with Convict Labor Laws: Williams and SCDC agree that no goods produced under this agreement shall be placed in commerce in violation of the laws of the State of South Carolina or the United States as they relate to the utilization of prison labor. Should either Federal or State Law (or the interpretation thereof) change preventing interstate shipments of goods produced under this Agreement, this Agreement shall terminate as provided in Sections 4.0.7 and 4.0.9.

ARTICLE 4 General Terms and Conditions:

4.0 General:
Williams, its employees or agents performing under the agreement are not to be deemed to be employees of SCDC nor as agents of SCDC in any manner whatsoever. Williams will not hold itself out nor claim to be an officer or employee of SCDC or of the State of South Carolina by reason hereof and will not make any claim, demand, or application to, or for any right or privilege applicable to an officer or employee of SCDC or the State of South Carolina, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security benefits, or retirement membership or credit.

The State of South Carolina, SCDC, their employees (including inmates performing labor pursuant to this Agreement) and agents, are not to be deemed employees of Williams nor agents of Williams in any manner

Ackerman 5-6-11 1325

To: Douglas Westbrook, Attorney at Law

From: Dr. Joseph Benich, Economic Loss Expert

Subject: Your 9/14/04 request

Date: 9/20/04

This note is in response to your "prevailing wage" request for work generally described by the Williams Technologies Job Description of Production Associate. You have asked for my opinion of the "prevailing wage" for work of a similar nature in the private sector for 1999/2001 (I assume that you mean 1999, 2000, and 2001). It is also my understanding that the term " prevailing wage" not only implies work of a similar nature, but that the work should be performed in the same general geographic area.

The U.S. Department of Labor (Bureau of Labor Statistics) publishes wage data for a range of occupations in the Charleston – North Charleston Metropolitan Area. The Installation, Maintenance and Repair Occupation Sub-Category of "Maintenance and Repair Workers, General" had mean hourly wages of $11.44 in1999, $12.62 in 2000, and $13.24 in 2001 for the Charleston - North Charleston Metropolitan Area. The Production Occupations Sub-Category of "Team Assemblers" had mean hourly wages of $10.49 in 1999, $10.56 in 2000, and $10.88 in 2001 for the Charleston – North Charleston Metropolitan Area. The average of these two Sub-Categories is $10.97 for 1999, $11.59 for 2000, and $12.06 for 2001.

The possibility exists that the average prison worker would be less experienced with his prison position than his non-prison counterpart. It is also possible that the average prison worker would require more supervision than the average non-prison worker performing the same tasks. The concept of "prevailing wage" implies the average wage for a specific category of average workers. The Installation, Maintenance and Repair Occupation Sub Category of "Helpers—Installation, Maintenance, and Repair Workers" had mean hourly wages of $9.53 in 1999, $11.21 in 2000, and $10.45 in 2001. The Production Occupations Sub-Category of "Helpers–Production Workers" had mean hourly wages of $7.61 in 1999, $8.27 in 2000, and $9.09 in 2001. The average of these two "Helpers" Sub Categories is $8.40 for 1999, $9.74 for 2000, and $10.10 for 2001.
These "Helpers" Sub Category averages represent the lower end of the "prevailing wage" range for the Williams Technologies Job Description of Production Associate for 1999, 2000, and 2001. Thus the "prevailing wage" range estimate for prison workers for the Williams Technologies Job Description of Production Associate is $10.97 - $8.40 for 1999, $11.59 - $9.74 for 2000, and $12.06 - $10.10 for 2001.

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RESUME-3/03
Dr. Joseph J. Benich

FAMILY STATUS
Wife - Roberta; two children - Kiersten and J.J.

EDUCATION

9/68 - 6/72	Doctor of Business Administration Majors: Production Management and Marketing Kent State University, Kent, Ohio
1/66 - 5/68	Masters of Business Administration Majors: Economics and Marketing Case Western Reserve University, Cleveland, Ohio
9/65 - 1/66	Western Reserve University, Cleveland, Ohio Major: Law
9/61 - 6/65	Bachelor of Science in Chemical Engineering Case Institute of Technology, Cleveland, Ohio

ACADEMIC EXPERIENCE

9/93 –2003	Professor of Business Administration College of Charleston, Charleston, South Carolina
9/78 - 8/93	Associate Professor of Business Administration College of Charleston, Charleston, South Carolina
9/76 - 9/78	Associate Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/72 - 9/76	Assistant Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/69 - 6/72	Full-time Instructor, Economics Department Kent State University, Kent, Ohio
1/69 - 6/69	Teaching Fellow, Statistics Kent State University
9/68 - 12/68	Graduate Assistant Kent State University

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NON-ACADEMIC EXPERIENCE

6/74 -	Expert Witness, Economic Litigation, Charleston, South Carolina, analyses of economic loss to individuals and/or businesses, with presentations in State and Federal courts
7/78 -	Manager of Summertime Properties, Charleston, South Carolina
6/73 -	Business Consulting, J. Benich and Associates, Charleston, South Carolina
1/68 - 11/72	Business Advisor to Director of American Screw Products, Warrensville, Ohio
1/68 - 10/68	Staff Specialist (Systems Optimizations), Cleveland Electric Illuminating Company, Cleveland, Ohio
1/66 - 9/67	Industrial Market Research, Harshaw Chemical, Cleveland, Ohio
19/65 - 1/66	Phosphor Efficiency Development, General Electric Co., Cleveland, Ohio (worked independently on a second shift due to day law school)
6/65 - 9/65	Research Chemical Engineering, Sohio Research, Warrensville, Ohio (catalyst efficiency testing and associated acetonitrile purification development).

PUBLICATIONS

"Signal-Averaged P-Wave Analysis of Normal Controls and Patients with Paroxysmal Atrial Fibrillation: A Study in Gender Differences, Age Dependence, and Reproducibility", with A Dhala, B. Leman, et al, Clinical Cardiology, November, 2002, p-525-531

"The High Resolution Signal-Averaged P-Wave Duration in Normal Patients: Influence of Race and Gender", with M. Little, B. Leman, and B. Hainer, North American Society of Pacing and Electrophysiology, abstracted, *Pacing and Clinical Electrophysiology*, April, 1997, Vol.20:4:1219

"Alternative Approaches to Tax Adjustments in Appraising Economic Loss: A Comment", *Journal of Legal Economics*, Fall 1996

"Updated Estimates of Work-Life Expectancies Based upon The Increment-Decrement Model: Comment", *Journal of Legal Economics*, Winter 1995

"Intra-Year Discounting Assumptions and Bias in Lost Earnings Analysis: A Comment", *Journal of Forensic Economics*, Winter 1993, 7(1)

"Comment: On the Relative Stability and Predictability of the Interest Rate and Earnings Growth Rate", *Journal of Forensic Economics*, Winter 1992, 6(1)

"Determining Tax-Adjusted Awards for Spouses' Lost Future Earnings", For *The Defense*, Nov. 1992

"The Just Better (JB) Method of Calculating The Present Value of Lost Future Income", *Journal of Legal Economics*, July 1992

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

11-7-04

INMATE NAME: CHRISTOPHER BUSH
SCDC NUMBER: # 300690 RCI
INSTITUTION: ~~LIEBER~~ CORR. INST.
HOUSING UNIT: COOPER A-23
WORK ASSIGNMENT: PI-2

NOV 04 2004
pp

Office Use Only
Grievance No. CC 0791-04
Code: General RNJ
Policy
Disc. Hear.
Class.
Date Received NOV 08 2004
IGC Initials

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): ADKINS & WICKER REQUI PAYMENT OF PREVAILING WAGES. GRIEVANTS WERE EMPLOYED BY WTI AND SCDC WAS WTI'S "AGENT IN PAYING OUR WAGES. ADKINS & WICKER FURTHER ALLOW THIS ISSUE OF PAYMENT OF WAGES UNDER SC CODE 24-3-430 TO BE GRIEVED. PURSUANT TO SCDC'S GRIEVANCE PROCEDURE. GRIEVANT INCORPORATES BY REFEREN ALL EXHIBITS ATTACHED TO GRIEVANCES FILED BY DARRELL WILLIAMS AND ATTORNEY DOUGLAS WESTBROOK ON 9-22-04.

2 NOV 04
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

5-14-07
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.

5-18-07 — 5-18-07
Grievant Signature Date — IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

SCDC 10-5A (November 1997)

1691

Ackerman 5-6-11 1329

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. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 90 days after SCDC first paid you for your participation in the project located at Lieber and just over 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.
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 any of the relief you demand in your grievance.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "employee" within your supporting documents to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

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I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.
Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your appeal and grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal and grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Christopher Bush, #300690

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

DOCKET NO. 07 -ALJ-04- - .
GRIEVANCE NO.: _____

Notice is hereby given that Christopher Bush does hereby appeal the final decision of the South Carolina Department of Corrections dated 5-14-07 and received on 5-18-07, 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)):

1. Grievance seeks back wages, contesting SCDC policy/procedure of paying below prevailing/negotiated wages. Thus, there was no time limit to file grievance under Grievance Policy §13.9.

2. Appellant had reasonable cause under §13.9 as his right to grieve did not accrue until Adkins/Wicker and filed within a reasonable time.

3. Applying §13.1 to these facts violated due process.

4. Under 4-19-07 Court order, SCDC was required to accept filing and consider on the merits Appellant's Amendment/Exhibits.

5. Grievance proved all elements of claim for prevailing/negot. wages.

6. Dr. Benich's report is the only evidence of prevailing wages in the record. Appellant is entitled to prevailing/negotiated wages.

7. To extent Appellant worked OT he is entitled to it under SCDC policy.

8. Appellant claims pre/post judgment interest, costs and attorney fees.

Christopher Bush
Appellant's Name

Ridgeland C.I.
P.O. Box 2039
Mailing Address

Ridgeland, SC 29936.
City, State, Zip Code

none
Telephone Number

Signed

5-30-07
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

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STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
	)	
CHRISTOPHER BUSH, #300690	)	
	)	
Grievant/Appellant,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
	)	
Respondent/Appellee.	)	

I certify that on the 5th day of June, 2007, I mailed by first class postage Appellant's Notice of Appeal, and final decision, to the following:

(1) The original and one copy were mailed for filing with the Administrative Law Court, to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC, to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

Douglas H. Westbrook

1695

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Michael Busques INMATE GRIEVANCE FORM

STEP 1

individually, and on behalf of all inmate employees (IE's)

INMATE NAME: listed on attached Exh. A *

SCDC NUMBER: 19196

INSTITUTION: Lieber

HOUSING UNIT: C-B #28 ✓

WORK ASSIGNMENT: P.I. 2

Office Use Only

Grievance No. Lieber 0745-04

Code: General NU

Policy

Disc. Hear.

Class.

Date Received SEP 30 2004

IGC Initials LC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) From 1999 to present, IE's were/are employed in the Williams Tech/Lieber service work program. From 1999 to July 2001, WTI/Lieber were required by S.C. Code 24-3-430 to pay IE's the "prevailing wage" for work of a similar nature in the private sector. This prevailing wage was $8.40 to $10.97 for 1999, $9.74 to $11.59 for 2000, and $10.10 to $12.06 for 2001 (Exh. G, H). Since July 2001, WTI/Lieber were required to pay IE's the negotiated wage of $4.00 per hour (Statutes at Large, No. 66, 837.31, eff. July 1, 2001; Exh. B, C). In fact, WTI/Lieber's policy was to pay IE's, in most cases, under $1.00 per hour. Exhibits documen a $.35 per hour base pay rate, maximum pay of $1.00 per hour, the September 30 1998 WTI/Lieber contract specifying a wage of $4 per hour, the names and emplo ment periods of all 1000 plus class members, and the pay dates, rates, hours, and pay for all class members from 1999 to June 2004 (Exh. D, E, C, A, and F).

* "Exh." denotes exhibits attached to Darrell Williams' Grievance, which are incorporated by reference herein.

ACTION REQUESTED: That IE's be paid back wages at the prevailing wage rate fo 1999 to July 2001; and at $4 per hour for July 2001 to present, and in the future; all as determined from Exhibits A-H; and the time cards, pay stubs, and other records for class members shown to IE's counsel July 20, 2004 at Lieber in Jack Staudt's custody. IE's also request pre/post judgment interest, costs and attorney fees.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT: IE's have verbally requested WTI/Lieber to pay them prevailing wages. Darrell Williams in 2001 formally protested the improper wages, and filed a grievance which was dismissed for want of jurisdiction. In 2002, Williams filed a lawsuit (Willia et al. v. SCDC, et al., Case No. 02-CP-18-134, now pending) which was certifie a class action representing the class identified in Exh. A. On August 23, 200 the S.C. Supreme Court held in the Adkins and Wicker cases that 24-3-430's prevailing wage provision was mandatory, and IE's could file a grievance for back wages.

Michael Busques 9-27-04

Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's response.

G Carlton 10/28/04

IGC Signature Date

☐ I accept the action taken by the IGC and consider the matter closed.

☐ I do not accept the action taken and wish to appeal.

1696

N/A

Grievant Signature Date

Ackerman 5-6-11 1334

WARDEN'S DECISION AND REASON:

See Attachment.

Warden Signature Date Oct. 28, 14

☐ 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.

1697

Jack M. Burgess, #191961 LCI0745-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

1698

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

1699

AMENDMENT TO GRIEVANCE OF MICHAEL BUSQUES, #unknown

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; hours in 2000 at $10.66 per hour; hours in 1-1-01 to 6-30-01 at $11.08 per hour; and hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees. Exh F had no info for Griev't.

(Grievant Signature) (Date)

* Attached are Exh. C, 0081,0086; H, 1-3. Grievant not listed in Exh A,
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

/700

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Michael Busques

SCDC NUMBER: # unknown 19196 /

INSTITUTION: Lieber Allendale

HOUSING UNIT: F / A #21

WORK ASSIGNMENT: P.I. #2

MAR 15 2006

Office Use Only
Grievance No. LCI-0745-04
Code: General V MY
Policy
Disc. Heat
Class.
Date Received 3-15-06
IGC Initials KBZ

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

Adkins and Wicker held that §24-3-430's wage provisions were "mandatory", and created a "statutory right to the payment of a prevailing wage". These cases further held that inmates can grieve SCDC's failure to pay prevailing wages under §24-3-430, with review by the ALJ.

SCDC owes Grievant back wages, because it failed to pay prevailing wages prior to July 1, 2001, and $4/hour thereafter. And what it did pay was but a fraction of these amounts. Thus, the wage rate SCDC paid was not correct, and back wages are owed.

Grievant incorporates by reference Exhibits A-H attached to grievances filed by Darrell Williams and counsel on September 22, 2004.

Michael Busques 3-14-06
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

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)

SCDC 10-5A (November 1997)

1701

Due 5-22-07

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Michael Burgess
SCDC NUMBER: 191961
INSTITUTION: Allendale C.I.
HOUSING UNIT: F I A #24
WORK ASSIGNMENT: P I 2

RECEIVED MAY 23 2007 INMATE GRIEVANCE
RECEIVED MAY 30 2007

Office Use Only
Grievance No. ACI-0745-07
Code: General V MY 01
Policy
Disc. Hear.
Class.
Date Received 5-23-07
IGC Initials KB
✓ IGA - ABH 7-12-07

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

ADKINS AND WICKER HELD THAT 24-3-430's WAGE PROVISIONS WERE "MANDATORY" AND CREATED A "STATUTORY" RIGHT TO THE PAYMENT OF A PREVAILING WAGE. THESE CASES FURTHER HELD THAT INMATES CAN GRIEVE SCDC's FAILURE TO PAY PREVAILING WAGES UNDER 24-3-430, WITH REVIEW BY THE ALJ.
SCDE OWES GRIEVANT BACK WAGES, BECAUSE IT FAILED TO PAY PREVAILING WAGES PRIOR TO JULY 1, 2001, AND $4/HOUR THEREAFTER. AND WHAT IT DID PAY WAS BUT A FRACTION OF THESE AMOUNTS. THUS, THE WAGE RATE SCDC PAID WAS NOT CORRECT, AND BACK WAGES ARE OWED.

Michael Burgess 5-22-07
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

Inmate failed to report to the Grievance Office after signing an Order To Report.

SEE ATTACHED

Signature 7-20-07 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

Ken Lo 8-1-07
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

1702

Ackerman 5-6-11 1340

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Operations

ORDER TO REPORT

SCDC #	Name	Area
191961	Michael Busques	F-1A-24

REPORT TO Grievance Office AT 9:00am 8-1-07

Bring All Belongings ☐ Bring State Clothing ☐ Bring Nothing ☐

Date	Signed
7-31-07	Ken Ray
Date	Inmate's Signature
7-31-07	Michael Busques
Date	Staff Member's Signature

SCDC 19-45 (Rev August 1997)

1703

Lieber PI Back Wage Claim Step 2 Reply

Inmate Name	SCDC #	Grievance #
Busques, Michael	191961	LCI-0745-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated May 22, 2007. Along with reviewing your Step 2 appeal, I have also reviewed all of the materials you submitted in support of your Step 1 grievance dated September 27, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on August 3, 2004 and that your participation in this project ended on May 5, 2005.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. The events which lead me to review your Step 2 appeal at the current time were detailed for you in the response you received to your Step 1 grievance.

As was also explained to you in the response you received to your Step 1 grievance, the South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430.

Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy. SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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.

1709

Inmate Name	SCDC #	Grievance #
Busques, Michael	191961	LCI-0745-04

Moreover, you filed your Step 1 grievance nearly 60 days after SCDC first paid you for your participation in the project located at Lieber, and over 30 days 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.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.

Furthermore, even if you had met the time frames established in paragraphs 13.1 and 13.9, I completely adopt and endorse the written decision denying your Step 1 grievance, and I find that you are not entitled to any of the relief you demand in your Step 1 grievance.

Moreover, I specifically conclude that the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

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

1705

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION

Michael Busques, #191961

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

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

Grievance No. _____

Notice is hereby given that Michael Busques does hereby appeal the final decision of the South Carolina Department of Corrections dated _____ and received on no final decision issued, 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)): 1. Automatic appeal is proper under grievance policy §§13.5, 13.8 and 28 C.F.R. Part 40.7(e) because SCDC did not timely respond to grievance and the 105 day grievance processing period expired without final decision. 2. Grievance contests SCDC wage policy and "concerns policy/procedure" under §13.9 with no time limit to file. 3. There was reasonable cause under §13.9 and (1) no time limit to file and (2) compliance with §13.1. 4. Inmates' class action tolled §13.1. 5. §13.1 denied grievant reasonable time to file and thus due process. 6. SCDC failed to plead §13.1 in step 1 response and considered Amendments on the merits and thus waived §13.1. 7. SCDC was judicially estopped to raise §13.1. 8. Grievant proved all elements of claim, including prevailing wage, period(s) worked and any overtime due. 9. Grievant claims back wages, pre/post judgment interest, costs and attorney fees. 10. SCDC should process grievance for all who worked in program whether or not they personally filed a grievance.

Michael Busques
Appellant's Name

Allendale C.I.
Mailing Address

Hwy 47, P.O. Box 1151

Fairfax, SC 29827
City, State, Zip Code

none
Telephone Number

Signed

11-6-05
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

(See reverse side for instructions)

1706

STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
	)	
MICHAEL BUSQUES, #191961	)	
	)	
Grievant/Appellant,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
	)	
Respondent/Appellee.	)	
	)	

I certify that on the 7th day of Nov., 2008, I mailed by first class postage Appellant's Notice of Appeal, and any grievance response provided to me by SCDC, to the following:

(1) The original was mailed for filing with the Administrative Law Court to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

Douglas H. Westbrook

1707

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Richard Butler INMATE GRIEVANCE FORM

individually, and on behalf of all inmate employees (IE's) STEP 1

INMATE NAME: listed on attached Exh. A *

SCDC NUMBER: #162467

INSTITUTION: Lieber C.I.

HOUSING UNIT: Cooper A 67 ✓

WORK ASSIGNMENT: Dorm

Office Use Only

Grievance No. Lieber-072204

Code: General AY

Policy

Disc. Hear.

Class.

Date Received SEP 30 2004

IGC Initials CC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) From 1999 to present, IE's were/are employed in the Williams Tech/Lieber service work program. From 1999 to July 2001, WTI/Lieber were required by S.C. Code 24-3-430 to pay IE's the "prevailing wage" for work of a similar nature in the private sector. This prevailing wage was $8.40 to $10.97 for 1999, $9.74 to $11.59 for 2000, and $10.10 to $12.06 for 2001 (Exh. G, H). Since July 2001, WTI/Lieber were required to pay IE's the negotiated wage of $4.00 per hour (Statutes at Large, No. 66, §37.31, eff. July 1, 2001; Exh. B, C). In fact, WTI/Lieber's policy was to pay IE's, in most cases, under $1.00 per hour. Exhibits document a $.35 per hour base pay rate, maximum pay of $1.00 per hour, the September 30 1998 WTI/Lieber contract specifying a wage of $4 per hour, the names and employment periods of all 1000 plus class members, and the pay dates, rates, hours, and pay for all class members from 1999 to June 2004 (Exh. D, E, C, A, and F).

* "Exh." denotes exhibits attached to Darrell Williams' Grievance, which are incorporated by reference herein.

ACTION REQUESTED: That IE's be paid back wages at the prevailing wage rate for 1999 to July 2001; and at $4 per hour for July 2001 to present, and in the future; all as determined from Exhibits A-H; and the time cards, pay stubs, and other records for class members shown to IE's counsel July 20, 2004 at Lieber in Jack Staudt's custody. IE's also request pre/post judgment interest, costs and attorney fees.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT: IE's have verbally requested WTI/Lieber to pay them prevailing wages. Darrell Williams in 2001 formally protested the improper wages, and filed a grievance which was dismissed for want of jurisdiction. In 2002, Williams filed a lawsuit (Williams et al. v. SCDC, et al., Case No. 02-CP-18-134, now pending) which was certified a class action representing the class identified in Exh. A. On August 23, 200 the S.C. Supreme Court held in the Adkins and Wicker cases that 24-3-430's prevailing wage provision was mandatory, and IE's could file a grievance for back wages.

Richard Butler 9/27/04

Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's response.

L Carlton 10/28/04

IGC Signature Date

☐ I accept the action taken by the IGC and consider the matter closed.

☐ I do not accept the action taken and wish to appeal.

N/A

Grievant Signature Date

1708

Ackerman 5-6-11 1346

WARDEN'S DECISION AND REASON:

See Attachment.

Warden Signature — Date: Oct. 28 04

☐ 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: 11-2-04

IGC Signature — Date: 11-2-04

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.

1709

2/11 R. Butler, #162467 LCI0722-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

1710

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

1711

AMENDMENT TO GRIEVANCE OF RICHARD BUTLER, #162467

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; 774.79 hours in 2000 at $10.66 per hour; 1124.76 hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 5987.03 hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

(Grievant Signature) (Date)

* Attached are Exh. A, 0778; C, 0081,0086; F, 1000-1001; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

MAR 15 2006

AMENDMENT TO GRIEVANCE OF RICHARD BUTLER, #162467, LCI-0722-04

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; 774.79 hours in 2000 at $10.66 per hour; 1124.76 hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 5987.03 hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

Richard Butler 3/14/06
(Grievant Signature) (Date)

* Attached are Exh. A, 0778; C, 0081,0086; F, 1000-1001; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

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	NAME	SCDC	DORM	SHIFT	HIRED	RELEASED
	BUTLER, JOHN	268753	S B 15	1	9/25/00	10/12/00
MI 3	BUTLER, RICHARD	162467	C A 57	1	6/27/00	6/26/03
MI 3	BUTLER, THOMAS	257552	C B 28	1	4/20/04	5/14/04
MI 3	BYRD, CALVIN	257319	C B 57	1	10/1/99	4/21/03
MI 3	CADE, O	257075	C A 0	0		12/20/99
MI 3	CALLOWAY, COREY	285780	WC160	3		3/17/04
	CAMPBELL, DORAS	246508	S B 50	1	7/7/01	1/29/02
MI 2	CAMPBELL, MARCUS	273397	C A 31	2	7/10/01	10/7/02
	CAMPBELL, RODNEY	263521	C A 42	1	7/12/00	5/30/01
MI 2	CANTY, MITCHELL	237815	C A 2	1	2/15/00	10/31/02
	CARDER, KEVIN	262296	C 0	1	2/10/00	3/15/00
	CAREW, EL TAJARIS	264671	E B 22	1	5/31/00	7/12/00
MI 3	CARLSON, RUSSELL	292938	E A 52	1	3/11/04	3/15/04
MI 3	CARN, LAWRENCE	196852	C A 48	1	3/1/04	4/13/04
MI 3	CARR, STEVEN	296393	WC264	1	3/11/04	4/16/04
MI 2	CARSON, FRANKLIN	141667	C B 27	2	9/20/02	11/21/02
	CARSON, JONATHAN	255214	C 0	1	1/18/00	4/27/00
MI 3	CARSON, ROYCE	260228	S A 41	1	1/18/00	8/18/00
MI 1B	CARTER, CLIFFORD	247431	S B 20	3	12/3/03	4/8/04
MI 1B	CARTER, CLIFFORD	247431	S B 51	1	8/6/99	11/4/03
MI 3	CARTER, DEREK	275938	C A 2	1	7/10/01	6/24/04
MI 3	CARTER, K	243538	C A 0	0		3/25/02
MI 2	CARTER, THOMAS	249362	C A 28	1	3/15/04	6/24/04
MI 2	CASSADY, RUDY	238732	C B 15	1	4/19/02	6/24/04
MI 2	CASTANA, ERAVISTA	262067	C B 43	1	4/8/02	1/13/03
	CATCHINGS, ROBERT	242956	C A 48	1	3/29/00	3/5/01
	CAULDER, DAVID	270718	E A 24	1	1/2/01	1/8/01
	CAULDER, THOMAS	180602	C 0	1	11/3/99	1/6/00
	CHAPMAN, STEPHEN	125781	C B 50	1	10/16/00	9/24/01
MI 3	CHATMAN, CHARLES	181295	C B 58	2	10/17/00	11/4/02
	CHAVIS, DAVID	235867	MX 0	2	2/11/00	12/20/01
	CHEATHAM, LIONEL	262440	C 0	1	9/13/99	1/5/00
MI 3	CHEEKS, RICHARD	257571	C A 5	1	9/13/99	5/2/03
	CHILDS, DONALD	261121	E A 0	1	12/1/99	2/22/00
MI 3	CHISLOM, OTIS	279408	C B 19	1	1/7/02	3/20/03
MI 3	CHOICE, LEROY	113990	C B 52	1	11/10/99	6/24/04
	CHRISTOPHER, REGINALD	269130	C B 11	1	10/16/00	1/11/02
	CLARK, ERNEST	263319	C B 25	2	8/10/01	3/8/02
MI 3	CLARK, SHELDON	264772	C A 51	1	3/29/00	6/26/03
MI 3	CLARKE, HERIBERTO	276982	A B 36	3	9/11/03	10/21/03
MI 3	CLARKE, HERIBERTO	276982	C A 35	2	8/17/01	8/26/02
MI 3	CLEA, JOHN	297878	C B 27	3		3/17/04
MI 3	COBB, ZAWASKI	187136	C A 3	1	9/10/01	6/26/03
MI 3	COBBS, BARON	280479	C B 38	1	1/16/02	1/16/03
MI 3	COBBS, BARON	280479	C B 38	1	7/17/03	6/24/04

PLAINTIFF'S EXHIBIT A

A - 0778
June 2004

1714

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND .) LEASE

THE AGREEMENT is entered into this 30th day of September, 1998, by and between the South Carolina Department of Corrections (hereinafter called "SCDC") by its duly authorized agent Michael W. Moore, Director and Williams Technologies, Inc., (hereafter referred to as "Williams") by its duly authorized agent William S. Williams, Chairman.

WHEREAS, Prison Industries is a division of the South Carolina Department of Corrections charged with establishing business relationships with private enterprise so as to fulfill the intent of Section 24-3-310 Code of Laws of South Carolina, 1976 as amended; and has all necessary authorization to enter into this agreement and to bind the State of South Carolina to all the terms contained herein; and,

WHEREAS, Williams represents and warrants that it is a duly qualified South Carolina corporation, licensed to conduct business in South Carolina; and,

WHEREAS, Williams intends to engage in the business of disassembly and/or remanufacturing of its product lines at Lieber Correctional Institution (hereinafter referred to as"LCI"); and ,

WHEREAS, this agreement is made in the best interest of the State of South Carolina:

NOW, THEREFORE, the parties hereto do agree as follows:

ARTICLE 1 General:

In consideration of Williams' expenditures to construct on behalf of the State of South Carolina a building of up to 45,000 square feet on the LCI premises (the "Building") , SCDC hereby enters into this Agreement to permit Williams to use such Building and related premises during the term and in accordance with the provisions of this Agreement. The State Engineer's approval of all building plans is required. Attachment A hereto shall indicate the location of the Building and the related premises, which shall include circulation space for delivery and shipping via tractor-trailers, parking outside of the secured area sufficient for a minimum of six (6) trailers and access to the facility via access roads. SCDC shall be responsible for maintenance of such roadways and related premises.

The Building shall be constructed according to plans approved by the state in accordance with all applicable federal and state and local rules and regulations and SCDC security requirements. The State Engineer's approval of all building plans is required. The cost of the Building (excluding personal property located in the Building such as furnishings and equipment) is estimated to be $ 1,200,000. Within 90 days of completion of the Building, Williams shall provide to SCDC documentation of the expenditures to construct the Building for its review and acknowledgment.

PLAINTIFF'S EXHIBIT
1715

Ackerman 5-6-11 1353

to and from LCI reasonable access up to twelve (12) hours per day, subject to the Department's security requirements in Section 3.1.4.

(c) Other access. SCDC will provide access to the facility during Williams' hours of operation for Williams' employees, agents, and business invitees, subject to SCDC's security requirements.

3.3 Mutual Duties of the Parties:

1. Payment for Services: Williams agrees to pay SCDC $4.00 per hour per inmate for work performed including training hours and hours in excess of the inmate's normal shift. SCDC shall be responsible to pay inmate workers, cover security costs and P.I. overhead, including any costs for health, safety and welfare of the inmates, taxes or other payroll deduction. No compensation will be paid for time not worked. In order to accommodate holidays not observed by Williams, SCDC and Williams may agree to work ahead or to work on holidays if a mutually acceptable agreement can be reached.

Thirty (30) days prior to each anniversary date of this agreement, SCDC and Williams may negotiate an increase in the per hour rate paid by Williams to SCDC. If such an increase is requested, it shall be limited to a maximum of five percent (5%) annually or the annual percentage increase in the Consumer Price Index, whichever is lower. It is the intent of the parties that such increase shall only reflect SCDC's increased costs of prison overhead.

Williams and SCDC may mutually agree upon a bonus plan for inmates based on productivity and quality control. Such bonus will be paid in its entirety by Williams to SCDC for distribution to inmates.

2. Compliance with Convict Labor Laws: Williams and SCDC agree that no goods produced under this agreement shall be placed in commerce in violation of the laws of the State of South Carolina or the United States as they relate to the utilization of prison labor. Should either Federal or State Law (or the interpretation thereof) change preventing interstate shipments of goods produced under this Agreement, this Agreement shall terminate as provided in Sections 4.0.7 and 4.0.9.

ARTICLE 4 General Terms and Conditions:

4.0 General:
Williams, its employees or agents performing under the agreement are not to be deemed to be employees of SCDC nor as agents of SCDC in any manner whatsoever. Williams will not hold itself out nor claim to be an officer or employee of SCDC or of the State of South Carolina by reason hereof and will not make any claim, demand, or application to, or for any right or privilege applicable to an officer or employee of SCDC or the State of South Carolina, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security benefits, or retirement membership or credit.

The State of South Carolina, SCDC, their employees (including inmates performing labor pursuant to this Agreement) and agents, are not to be deemed employees of Williams nor agents of Williams in any manner

PLAINTIFF'S EXHIBIT C

1716

A - 0086
June 2004

00026

Inmate #	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Hours	Pay Amount
184469	BUTLER	JERRY		20020311	0.50	105.00	52.50
184469	BUTLER	JERRY		20020325	0.50	105.00	52.50
184469	BUTLER	JERRY		20020408	0.50	94.50	47.25
184469	BUTLER	JERRY		20020422	0.50	88.41	44.20
184469	BUTLER	JERRY		20020506	0.50	105.00	52.50
184469	BUTLER	JERRY		20020520	0.50	136.88	68.44
184469	BUTLER	JERRY		20020603	0.50	114.75	57.37
184469	BUTLER	JERRY		20020617	0.50	121.60	60.80
184469	BUTLER	JERRY		20020701	0.50	122.40	61.20
184469	BUTLER	JERRY		20020715	0.50	102.00	51.00
184469	BUTLER	JERRY		20020729	0.50	127.50	63.75
184469	BUTLER	JERRY		20020812	0.50	127.50	63.75
184469	BUTLER	JERRY		20020826	0.50	133.58	66.79
184469	BUTLER	JERRY		20020909	0.50	124.38	62.19
184469	BUTLER	JERRY		20020923	0.50	129.98	64.99
184469	BUTLER	JERRY		20021007	0.50	142.39	71.19
184469	BUTLER	JERRY		20021021	0.50	178.47	89.23
184469	BUTLER	JERRY		20021104	0.50	158.15	79.07
184469	BUTLER	JERRY		20021118	0.50	123.90	61.95
184469	BUTLER	JERRY		20021202	0.50	107.35	53.67
184469	BUTLER	JERRY		20021216	0.50	124.75	62.37
184469	BUTLER	JERRY		20021230	0.50	73.10	36.55
184469	BUTLER	JERRY		20030113	0.50	63.95	31.97
184469	BUTLER	JERRY		20030127	0.50	8.79	4.39
162467	BUTLER	RICHARD		20000703	0.35	30.00	10.50
162467	BUTLER	RICHARD		20000717	0.50	46.71	23.35
162467	BUTLER	RICHARD		20000731	0.50	52.43	26.21
162467	BUTLER	RICHARD		20000814	0.50	47.25	23.62
162467	BUTLER	RICHARD		20000828	0.50	75.00	37.50
162467	BUTLER	RICHARD		20000911	0.50	31.07	15.53
162467	BUTLER	RICHARD		20000925	0.50	71.24	35.62
162467	BUTLER	RICHARD		20001009	0.50	40.82	20.41
162467	BUTLER	RICHARD		20001023	0.50	74.88	37.44
162467	BUTLER	RICHARD		20001106	0.50	74.22	37.11
162467	BUTLER	RICHARD		20001120	0.50	61.53	30.76
162467	BUTLER	RICHARD		20001204	0.50	53.58	26.79
162467	BUTLER	RICHARD		20001218	0.50	83.33	41.66
162467	BUTLER	RICHARD		20010101	0.50	32.73	16.36
162467	BUTLER	RICHARD		20010115	0.50	76.88	38.44
162467	BUTLER	RICHARD		20010129	0.50	53.87	26.93
162467	BUTLER	RICHARD		20010212	0.50	85.22	42.61
162467	BUTLER	RICHARD		20010226	0.50	102.42	51.21
162467	BUTLER	RICHARD		20010312	0.50	97.27	48.63
162467	BUTLER	RICHARD		20010326	0.50	90.35	45.17
162467	BUTLER	RICHARD		20010409	0.50	87.75	43.87
162467	BUTLER	RICHARD		20010423	0.50	114.72	57.36
162467	BUTLER	RICHARD		20010507	0.50	67.48	33.74
162467	BUTLER	RICHARD		20010521	0.50	86.39	43.19
162467	BUTLER	RICHARD		20010604	0.50	82.72	41.36
162467	BUTLER	RICHARD		20010618	0.50	91.65	45.82
162467	BUTLER	RICHARD		20010702	0.50	88.04	44.02
162467	BUTLER	RICHARD		20010716	0.50	95.81	47.90
162467	BUTLER	RICHARD		20010730	0.50	111.53	55.76
162467	BUTLER	RICHARD		20010813	0.50	108.69	54.34

PLAINTIFF'S EXHIBIT

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A - 1000
June 2004

Inmate #	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Hours	Pay Amount
162467	BUTLER	RICHARD		20010910	0.50	114.50	57.25
162467	BUTLER	RICHARD		20010924	0.50	145.00	72.50
162467	BUTLER	RICHARD		20011008	0.50	184.52	92.26
162467	BUTLER	RICHARD		20011022	0.50	127.16	63.58
162467	BUTLER	RICHARD		20011105	0.50	90.07	45.03
162467	BUTLER	RICHARD		20011119	0.50	127.93	63.96
162467	BUTLER	RICHARD		20011203	0.50	106.95	53.47
162467	BUTLER	RICHARD		20011217	0.50	153.13	76.56
162467	BUTLER	RICHARD		20011231	0.50	67.45	33.72
162467	BUTLER	RICHARD		20020114	0.50	99.03	49.51
162467	BUTLER	RICHARD		20020128	0.50	149.38	74.69
162467	BUTLER	RICHARD		20020211	0.50	140.22	70.11
162467	BUTLER	RICHARD		20020225	0.50	121.98	60.99
162467	BUTLER	RICHARD		20020311	0.50	138.89	69.44
162467	BUTLER	RICHARD		20020325	0.50	133.91	66.95
162467	BUTLER	RICHARD		20020408	0.50	118.28	59.14
162467	BUTLER	RICHARD		20020422	0.50	139.71	69.85
162467	BUTLER	RICHARD		20020506	0.50	144.00	72.00
162467	BUTLER	RICHARD		20020520	0.50	125.40	62.70
162467	BUTLER	RICHARD		20020603	0.50	67.76	33.88
162467	BUTLER	RICHARD		20020617	0.50	142.50	71.25
162467	BUTLER	RICHARD		20020701	0.50	122.32	61.16
162467	BUTLER	RICHARD		20020715	0.50	125.86	62.93
162467	BUTLER	RICHARD		20020729	0.50	146.64	73.32
162467	BUTLER	RICHARD		20020812	0.50	187.64	93.82
162467	BUTLER	RICHARD		20020826	0.50	133.14	66.57
162467	BUTLER	RICHARD		20020909	0.50	62.92	31.46
162467	BUTLER	RICHARD		20020923	0.50	137.90	68.95
162467	BUTLER	RICHARD		20021007	0.50	146.36	73.18
162467	BUTLER	RICHARD		20021021	0.50	138.04	69.02
162467	BUTLER	RICHARD		20021104	0.50	96.50	48.25
162467	BUTLER	RICHARD		20021118	0.50	83.42	41.71
162467	BUTLER	RICHARD		20021202	0.50	124.66	62.33
162467	BUTLER	RICHARD		20021216	0.50	119.86	59.93
162467	BUTLER	RICHARD		20021230	0.50	41.54	20.77
162467	BUTLER	RICHARD		20030113	0.50	87.25	43.62
162467	BUTLER	RICHARD		20030127	0.50	100.40	50.20
162467	BUTLER	RICHARD		20030210	0.50	115.69	57.84
162467	BUTLER	RICHARD		20030224	0.50	93.82	46.91
162467	BUTLER	RICHARD		20030310	0.50	94.09	47.04
162467	BUTLER	RICHARD		20030324	0.50	101.75	50.87
162467	BUTLER	RICHARD		20030407	0.50	106.74	53.37
162467	BUTLER	RICHARD		20030421	0.50	111.92	55.96
162467	BUTLER	RICHARD		20030505	0.50	92.20	46.10
162467	BUTLER	RICHARD		20030519	0.50	135.62	67.81
162467	BUTLER	RICHARD		20030602	0.50	114.26	57.13
162467	BUTLER	RICHARD		20030616	0.50	128.48	64.24
162467	BUTLER	RICHARD		20030630	0.50	84.11	42.05
257552	BUTLER	THOMAS		20000228	0.50	26.38	13.19
257552	BUTLER	THOMAS		20000228	1.05	7.50	7.87
257552	BUTLER	THOMAS		20000313	0.50	74.52	37.26
257552	BUTLER	THOMAS		20000313	0.55	6.50	3.57
257552	BUTLER	THOMAS		20000327	0.35	15.95	5.58
257552	BUTLER	THOMAS		20000410	0.35	53.62	18.76

To: Douglas Westbrook, Attorney at Law

From: Dr. Joseph Benich, Economic Loss Expert

Subject: Your 9/14/04 request

Date: 9/20/04

This note is in response to your "prevailing wage" request for work generally described by the Williams Technologies Job Description of Production Associate. You have asked for my opinion of the "prevailing wage" for work of a similar nature in the private sector for 1999/2001 (I assume that you mean 1999, 2000, and 2001). It is also my understanding that the term " prevailing wage" not only implies work of a similar nature, but that the work should be performed in the same general geographic area.

The U.S. Department of Labor (Bureau of Labor Statistics) publishes wage data for a range of occupations in the Charleston – North Charleston Metropolitan Area. The Installation, Maintenance and Repair Occupation Sub-Category of "Maintenance and Repair Workers, General" had mean hourly wages of $11.44 in1999, $12.62 in 2000, and $13.24 in 2001 for the Charleston - North Charleston Metropolitan Area. The Production Occupations Sub-Category of "Team Assemblers" had mean hourly wages of $10.49 in 1999, $10.56 in 2000, and $10.88 in 2001 for the Charleston – North Charleston Metropolitan Area. The average of these two Sub-Categories is $10.97 for 1999, $11.59 for 2000, and $12.06 for 2001.

The possibility exists that the average prison worker would be less experienced with his prison position than his non-prison counterpart. It is also possible that the average prison worker would require more supervision than the average non-prison worker performing the same tasks. The concept of "prevailing wage" implies the average wage for a specific category of average workers. The Installation, Maintenance and Repair Occupation Sub Category of "Helpers—Installation, Maintenance, and Repair Workers" had mean hourly wages of $9.53 in 1999, $11.21 in 2000, and $10.45 in 2001. The Production Occupations Sub-Category of "Helpers--Production Workers" had mean hourly wages of $7.61 in 1999, $8.27 in 2000, and $9.09 in 2001. The average of these two "Helpers" Sub Categories is $8.40 for 1999, $9.74 for 2000, and $10.10 for 2001.

These "Helpers" Sub Category averages represent the lower end of the "prevailing wage" range for the Williams Technologies Job Description of Production Associate for 1999, 2000, and 2001. Thus the "prevailing wage" range estimate for prison workers for the Williams Technologies Job Description of Production Associate is $10.97 - $8.40 for 1999, $11.59 - $9.74 for 2000, and $12.06 - $10.10 for 2001.

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PLAINTIFF'S EXHIBIT H

RESUME-3/03
Dr. Joseph J. Benich

FAMILY STATUS
Wife - Roberta; two children - Kiersten and J.J.

EDUCATION

9/68 - 6/72	Doctor of Business Administration Majors: Production Management and Marketing Kent State University, Kent, Ohio
1/66 - 5/68	Masters of Business Administration Majors: Economics and Marketing Case Western Reserve University, Cleveland, Ohio
9/65 - 1/66	Western Reserve University, Cleveland, Ohio Major: Law
9/61 - 6/65	Bachelor of Science in Chemical Engineering Case Institute of Technology, Cleveland, Ohio

ACADEMIC EXPERIENCE

9/93 –2003	Professor of Business Administration College of Charleston, Charleston, South Carolina
9/78 - 8/93	Associate Professor of Business Administration College of Charleston, Charleston, South Carolina
9/76 - 9/78	Associate Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/72 - 9/76	Assistant Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/69 - 6/72	Full-time Instructor, Economics Department Kent State University, Kent, Ohio
1/69 - 6/69	Teaching Fellow, Statistics Kent State University
9/68 - 12/68	Graduate Assistant Kent State University

NON-ACADEMIC EXPERIENCE

6/74 -	Expert Witness, Economic Litigation, Charleston, South Carolina, analyses of economic loss to individuals and/or businesses, with presentations in State and Federal courts
7/78 -	Manager of Summertime Properties, Charleston, South Carolina
6/73 -	Business Consulting, J. Benich and Associates, Charleston, South Carolina
1/68 - 11/72	Business Advisor to Director of American Screw Products, Warrensville, Ohio
1/68 - 10/68	Staff Specialist (Systems Optimizations), Cleveland Electric Illuminating Company, Cleveland, Ohio
1/66 - 9/67	Industrial Market Research, Harshaw Chemical, Cleveland, Ohio
19/65 - 1/66	Phosphor Efficiency Development, General Electric Co., Cleveland, Ohio (worked independently on a second shift due to day law school)
6/65 - 9/65	Research Chemical Engineering, Sohio Research, Warrensville, Ohio (catalyst efficiency testing and associated acetonitrile purification development).

PUBLICATIONS

"Signal-Averaged P-Wave Analysis of Normal Controls and Patients with Paroxysmal Atrial Fibrillation: A Study in Gender Differences, Age Dependence, and Reproducibility", with A Dhala, B. Leman, et al, Clinical Cardiology, November, 2002, p-525-531

"The High Resolution Signal-Averaged P-Wave Duration in Normal Patients: Influence of Race and Gender", with M. Little, B. Leman, and B. Hainer, North American Society of Pacing and Electrophysiology, abstracted, *Pacing and Clinical Electrophysiology*, April, 1997, Vol.20:4:1219

"Alternative Approaches to Tax Adjustments in Appraising Economic Loss: A Comment", *Journal of Legal Economics*, Fall 1996

"Updated Estimates of Work-Life Expectancies Based upon The Increment-Decrement Model: Comment", *Journal of Legal Economics*, Winter 1995

"Intra-Year Discounting Assumptions and Bias in Lost Earnings Analysis: A Comment", *Journal of Forensic Economics*, Winter 1993, 7(1)

"Comment: On the Relative Stability and Predictability of the Interest Rate and Earnings Growth Rate", *Journal of Forensic Economics*, Winter 1992, 6(1)

"Determining Tax-Adjusted Awards for Spouses' Lost Future Earnings", For *The Defense*, Nov. 1992

"The Just Better (JB) Method of Calculating The Present Value of Lost Future Income", *Journal of Legal Economics*, July 1992

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 2

Office Use Only
Grievance No. CCI 0733-06
Code: General RMV
Policy
Disc. Hear
Class
Date Received NOV 08 2004
Initials

INMATE NAME: Richard Butler

SCDC NUMBER: 162407

INSTITUTION: ~~Lieber Corr. Inst.~~ ACI

HOUSING UNIT: Cooper F/1A47

WORK ASSIGNMENT: Dorm

NOV 08 2004

RECEIVED

MAY 30 2007

INMATE GRIEVANCE

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

Atkins + Wicker do require Payment Of Prevailing Wages: Grievants were employ of WTI. and SCDC was WTI's "Agent" in Paying our Wages, Atkins + Wicker Further allow this issue of Payment of Wages under S.C. Code § 24-3-430 to be grieved Pursuant to C.D.C.'s Grievance Procedure. Grievant incorporated by reference all exhibits attached to Grievants Filed by Darrell Williams ON 9-22-04 and Attorney Douglas Westbrook

Richard Butler 11-2-04
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

Inmate failed to report to the Grievance Office after signing two (2) Order To Report forms.

SEE ATTACHED

5-14-07
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

Ken Ray 5/24/07
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

1722

Ackerman 5-6-11 1360

Lieber PI Back Wage Claim Step 2 Response

Inmate Name	SCDC #	Grievance #
Butler, Richard	162487	LCI-0722-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated September 27, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated November 2, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on June 27, 2000 and that your participation in this project ended on June 23, 2003.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court

Inmate Name	SCDC #	Grievance #
Butler, Richard	162487	LCI-0722-04

for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 2 appeal.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 nearly three (3) years after SCDC first paid you for your participation in the project located at Lieber, over 15 months after your participation in the project at Lieber ended, and over 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.

Inmate Name	SCDC #	Grievance #
Butler, Richard	162487	LCI-0722-04

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 any of the relief you demand in your Step 1 grievance or your Step 2 appeal.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made in your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "inmate/employee" within your appeal and grievance to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or

Inmate Name	SCDC #	Grievance #
Butler, Richard	162487	LCI-0722-04

other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

To the extent that you demand overtime wages in your appeal or grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your appeal and grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal or grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION

Richard Butler, #162467,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

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

Grievance No. _____

Notice is hereby given that Richard Butler does hereby appeal the final decision of the South Carolina Department of Corrections dated _____ and received on no final decision issued, 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)): 1. Automatic appeal is proper under grievance policy §§13.5, 13.8 and 28 C.F.R. Part 40.7(e) because SCDC did not timely respond to grievance and the 105 day grievance processing period expired without final decision. 2. Grievance contests SCDC wage policy and "concerns policy/procedure" under §13.9 with no time limit to file. 3. There was reasonable cause under §13.9 and (1) no time limit to file and (2) compliance with §13.1. 4. Inmates' class action tolled §13.1. 5. §13.1 denied grievant reasonable time to file and thus due process. 6. SCDC failed to plead §13.1 in step 1 response and considered Amendments on the merits and thus waived §13.1. 7. SCDC was judicially estopped to raise §13.1. 8. Grievant proved all elements of claim, including prevailing wage, period(s) worked and any overtime due. 9. Grievant claims back wages, pre/post judgment interest, costs and attorney fees. 10. SCDC should process grievance for all who worked in program whether or not they personally filed a grievance.

Richard Butler
Appellant's Name

Allendale C.I.
Mailing Address

Hwy 47, P.O. Box 1151

Fairfax, SC 29827
City, State, Zip Code

none
Telephone Number

Signed

11-6-08
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

(See reverse side for instructions)

1727

STATE OF SOUTH CAROLINA RICHARD BUTLER, #162467 Grievant/Appellant, vs. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, Respondent/Appellee.	)	IN THE ADMINISTRATIVE LAW COURT CERTIFICATE OF SERVICE

I certify that on the 7th day of Nov, 2008, I mailed by first class postage Appellant's Notice of Appeal, and any grievance response provided to me by SCDC, to the following:

(1) The original was mailed for filing with the Administrative Law Court to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

Douglas H. Westbrook

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Thomas Butler INMATE GRIEVANCE FORM

individually, and on STEP 1
behalf of all inmate employees (IE's)

INMATE NAME: listed on attached Exh. A *

SCDC NUMBER: 257552

INSTITUTION: Lieber Correctional Institution

HOUSING UNIT: STONO-A 62

WORK ASSIGNMENT: Education

Office Use Only
Grievance No. Lieber-0812-04
Code: General DM
Policy
Disc. Hear
Class.
Date Received OCT 04 2004
IGC Initials

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) From 1999 to present, IE's were/are employed in the Williams Tech/Lieber service work program. From 1999 to July 2001, WTI/Lieber were required by S.C. Code 24-3-430 to pay IE's the "prevailing wage" for work of a similar nature in the private sector. This prevailing wage was $8.40 to $10.97 for 1999, $9.74 to $11.59 f 2000, and $10.10 to $12.06 for 2001 (Exh. G, H). Since July 2001, WTI/Lieber were required to pay IE's the negotiated wage of $4.00 per hour (Statutes at Large, No. 66, S37.31, eff. July 1, 2001; Exh. B, C). In fact, WTI/Lieber's policy was to pay IE's, in most cases, under $1.00 per hour. Exhibits docume a $.35 per hour base pay rate, maximum pay of $1.00 per hour, the September 3 1998 WTI/Lieber contract specifying a wage of $4 per hour, the names and empl ment periods of all 1000 plus class members, and the pay dates, rates, hours, and pay for all class members from 1999 to June 2004 (Exh. D, E, C, A, and F).

* "Exh." denotes exhibits attached to Darrell Williams' Grievance, which are incorporated by reference herein.

ACTION REQUESTED: That IE's be paid back wages at the prevailing wage rate f 1999 to July 2001; and at $4 per hour for July 2001 to present, and in the future; all as determined from Exhibits A-H; and the time cards, pay stubs, an other records for class members shown to IE's counsel July 20, 2004 at Lieber in Jack Staudt's custody. IE's also request pre/post judgment interest, cost ~~and attorney fees.~~

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT: IE's have verbally requested WTI/Lieber to pay them prevailing wages. Darrell Williams in 2001 formally protested the improper wages, and filed a grievance which was dismissed for want of jurisdiction. In 2002, Williams filed a lawsuit (Willia et al. v. SCDC, et al., Case No. 02-CP-18-134, now pending) which was certifie a class action representing the class identified in Exh. A. On August 23, 20 the S.C. Supreme Court held in the Adkins and ~~Wicker cases~~ that 24-3-430's prevailing wage provision was mandatory, and IE's could file a grievance for back wages.

Thomas Butler 9/28/04
Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's response.

D. Carlton 10/28/04
IGC Signature Date

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

N/A
Grievant Signature Date

SCDC 10-5 (Rev. November 1997)

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WARDEN'S DECISION AND REASON:

See Attachment

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.

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

6/6/07

INMATE NAME: Thomas Butler
SCDC NUMBER: 257852 SB
INSTITUTION: Lieber Correctional Institution
HOUSING UNIT: Waccamaw-D 285
WORK ASSIGNMENT: PI 2

RECEIVED
JUN 12 2007
INMATE GRIEVANCE

Office Use Only
Grievance No. LCI 0892-07
Code: General
Policy
Disc. Hear.
Class.
Date Received 6/8/07
IGC Initials

STATE GRIEVANCE (includes documentation, and date of incident if SCDC Policy indicate which policy) Grievant was/is employed in the WTI/Lieber service work program. From 1999/July 2001, S.C. Code 24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40 to $10.97 for 1999, $9.74 to $11.59 for 2000, and $10.10 to $12.06 for 2001 (Exh. G,R).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hr (Stat. at Large, No. 66, s37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of approx. $1/hr, and usually less. Exhibits document a .35/hr base rate (Exh. B,D,E), maximum of $1/hr (Exh B), the 9-30-98 contract specifying a $4/hr wage (Exh B,C), employee roster (Exh A), and pay dates, rates, hours, and pay for Grievant (Exh F).

* Exhibits A-H attached to two grievances filed by Darrell Williams #219730 and counsel on 9-22-04 are incorporated herein by reference. Attached in part are Exhibits A,C,F, & H.

ACTION REQUESTED: Back wages for hrs in 1999 at 9.68/hr; hrs in 2000 at 10.66/hr; hrs in 1-1-01/6-30-01 at 11.08/hr; and hrs * 7-1-01/present at $4/hr; less wages paid, $24-3-40 deductions, and soc. sec/medicare; plus interest, costs, and atty fees.

* Hours "plus" indicates possible work past latest date in Exh F, June 2004.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:
Workers have requested WTI/Lieber to pay prevailing wages, and Darrell Williams in 2001 grieved improper wages which was dismissed for want of jurisdiction. In 2002, Williams brought a class action for improper wages. On Aug. 23, 2004, the SC Sup. Court in Adkins and Wicker held the prevailing wage provision was mandatory and workers could file a grievance for back wages.

Thomas Butler
Grievant Signature Date

ACTION TAKEN BY IGC:

Fwd To Ann Hallman 6/8/07

SEE WARDEN'S RESPONSE

Ann Hallman 7-11-07
IGC 6/8/07
IGC Signature Date

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

Grievant Signature Date

SCDC 10-5 (Rev. November 1997)

(CONTINUED ON REVERSE SIDE)

WARDEN'S DECISION AND REASON:

SEE ATTACHED

Warden Signature 7/30/07 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 7/30/07 Date

IGC Signature 7/30/07 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.

D/M D. Butler, # 257552 CC10812-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

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To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

1734

AMENDMENT TO GRIEVANCE OF THOMAS BUTLER, #257552

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-B to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; 1539.65 hours in 2000 at $10.66 per hour; 1171.28 hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 4036.53 plus hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

(Grievant Signature) 2/9/06 (Date)

* Attached are Exh. A, 0778; C, 0081,0086; F, 1001-1003; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

1735

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

Office Use Only
Grievance No. LCI 0812-04
Code: General RNF
Policy
Disc. Hear.
Class.
Date Received NOV 0 2 '04
IGC Initials CC

INMATE NAME: Thomas Butler Nov. 2, 04 P.P
SCDC NUMBER: 257552
INSTITUTION: Lieber Correctional Institution
HOUSING UNIT: Storm-2b2
WORK ASSIGNMENT: Education

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): Adkins ; Wicker do require Payment of prevailing Wages Grievant's were employed by WTI, And SCDC was WTI's "Agent" inPaying our Wages. Adkins ; Wicker further allow this issue of payment of wages UNder SC. Code 24-3-430 to be grieval pursuant to SCDC's grievance proceedure. Grievant incorporates by refferance All exhibits Attached to grievance filled by Darrell Williams And Attorney Douglas Westbrook, ON 9-22-04

Thomas Butler 11/2/04
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

6-19-07
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)

SCDC 10-5A (November 1997)

1736

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Thomas Butler

SCDC NUMBER: 257552

INSTITUTION: Lieber Correctional Inst.

HOUSING UNIT: Wando D-285

WORK ASSIGNMENT: P.I. #2

Office Use Only
Grievance No. LCI-0511-07
Code: General ✓
Policy
Disc. Hear
Class.
Date Received
IGC Initials

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

Adkins and Wicker held that §24-3-430's wage provisions were "mandatory," and created a "statutory right to the payment of a prevailing wage." These cases further held that inmates can grieve SCDC's failure to pay prevailing wages under §24-3-430, with review by the ALJ.

SCDC owes Grievant back wages because it failed to pay prevailing wages prior to July 1, 2001 and $4/hour thereafter. And what it did pay was but a fraction of these amounts. Thus, the wage rate SCDC paid was incorrect and back wages are owed.

Grievant incorporates by reference Exhibits A-H attached to grievances filed by Darrell Williams and counsel on September 22, 2004.

Thomas Butler 7/30/07
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

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)

SCDC 10-5A (November 1997)

1737

BUTLER LCI-0812-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 2, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 28, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that your first voluntary work assignment in the prison industries project at Lieber began on April 20, 2004 and ended May 14, 2004. Additionally, these records reflect that you completed a second voluntary work assignment in this project that began on March 1, 2007 and ended March 27, 2007.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 2 appeal.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first determined that you could file a grievance by which to protest any provision of the "prevailing wage" statutes that applied to the

BUTLER LCI-0812-04

prison industries project in which you participated. These opinions are 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. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 five (5) months after SCDC began paying you for your participation in the project located at Lieber during your first work assignment there, over four (4) months after your first work assignment in this project ended, and 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.

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 any of the relief you demand in your Step 1 grievance or your Step 2 appeal.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made in your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

1739

BUTLER LCI-0812-04

Therefore, to the extent you use the term "inmate/employee" within your appeal and grievance to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

To the extent that you demand overtime wages in your appeal or grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your appeal and grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal or grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

1740

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION

Thomas Butler, #257552,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

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

Grievance No. _____

Notice is hereby given that Thomas Butler does hereby appeal the final decision of the South Carolina Department of Corrections dated _____ and received on no final decision issued, 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)): 1. Automatic appeal is proper under grievance policy §§13.5, 13.8 and 28 C.F.R. Part 40.7(e) because SCDC did not timely respond to grievance and the 105 day grievance processing period expired without final decision. 2. Grievance contests SCDC wage policy and "concerns policy/procedure" under §13.9 with no time limit to file. 3. There was reasonable cause under §13.9 and (1) no time limit to file and (2) compliance with §13.1. 4. Inmates' class action tolled §13.1. 5. §13.1 denied grievant reasonable time to file and thus due process. 6. SCDC failed to plead §13.1 in step 1 response and considered Amendments on the merits and thus waived §13.1. 7. SCDC was judicially estopped to raise §13.1. 8. Grievant proved all elements of claim, including prevailing wage, period(s worked and any overtime due. 9. Grievant claims back wages, pre/post judgment interest, costs and attorney fees. 10. SCDC should process grievance for all who worked in program whether or not they personally filed a grievance.

Thomas Butler
Appellant's Name

Lieber C.I.
Mailing Address

P.O. Box 205

Ridgeville, SC 29472
City, State, Zip Code

none
Telephone Number

D Westbrook
Signed

11-6-08
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

(See reverse side for instructions)

1741

STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
THOMAS BUTLER, #257552	)	
Grievant/Appellant,	)	
vs.	)	CERTIFICATE OF SERVICE
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
Respondent/Appellee.	)	

I certify that on the 7th day of Nov., 2008, I mailed by first class postage Appellant's Notice of Appeal, and any grievance response provided to me by SCDC, to the following:

(1) The original was mailed for filing with the Administrative Law Court to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

Douglas H. Westbrook

1742

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Derek S. Carter INMATE GRIEVANCE FORM

STEP 1

individually, and on behalf of all inmate employees (IE's)

INMATE NAME: listed on attached Exh. A *

SCDC NUMBER: 275938

INSTITUTION: Lieber Corr. Inst.

HOUSING UNIT: Cooper A-02 ✓

WORK ASSIGNMENT: P.I. #2

Office Use Only

Grievance No. Lieber 0006-04

Code: General MY

Policy

Disc. Hear.

Class.

Date Received SEP 30 2004

IGC Initials LC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) From 1999 to present, IE's were/are employed in the Williams Tech/Lieber service work program. From 1999 to July 2001, WTI/Lieber were required by S.C. Code 24-3-430 to pay IE's the "prevailing wage" for work of a similar nature in the private sector. This prevailing wage was $8.40 to $10.97 for 1999, $9.74 to $11.59 for 2000, and $10.10 to $12.06 for 2001 (Exh. G, H). Since July 2001, WTI/Lieber were required to pay IE's the negotiated wage of $4.00 per hour (Statutes at Large, No. 66, 837.31, eff. July 1, 2001; Exh. B, C). In fact, WTI/Lieber's policy was to pay IE's, in most cases, under $1.00 per hour. Exhibits document a $.35 per hour base pay rate, maximum pay of $1.00 per hour, the September 30 1998 WTI/Lieber contract specifying a wage of $4 per hour, the names and employment periods of all 1000 plus class members, and the pay dates, rates, hours, and pay for all class members from 1999 to June 2004 (Exh. D, E, C, A, and F).

* "Exh." denotes exhibits attached to Darrell Williams' Grievance, which are incorporated by reference herein.

ACTION REQUESTED: That IE's be paid back wages at the prevailing wage rate for 1999 to July 2001; and at $4 per hour for July 2001 to present, and in the future; all as determined from Exhibits A-H; and the time cards, pay stubs, and other records for class members shown to IE's counsel July 20, 2004 at Lieber in Jack Staudt's custody. IE's also request pre/post judgment interest, costs and attorney fees.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT: IE's have verbally requested WTI/Lieber to pay them prevailing wages. Darrell Williams in 2001 formally protested the improper wages, and filed a grievance which was dismissed for want of jurisdiction. In 2002, Williams filed a lawsuit (Williams et al. v. SCDC, et al., Case No. 02-CP-18-134, now pending) which was certified a class action representing the class identified in Exh. A. On August 23, 2004 the S.C. Supreme Court held in the Adkins and Wicker cases that 24-3-430's prevailing wage provision was mandatory, and IE's could file a grievance for back wages.

Derek S. Carter 9/27/04

Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's Response.

G Carlton 10/28/04

IGC Signature Date

☐ I accept the action taken by the IGC and consider the matter closed.

☐ I do not accept the action taken and wish to appeal.

Grievant Signature Date

SCDC 10-5 (Rev November 1997)

(CONTINUED ON REVERSE SIDE)

1743

WARDEN'S DECISION AND REASON:

See attachment.

Warden Signature Date Oct 28, 04

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

Derek L. Carter 11-2-04
Grievant Signature Date

IGC Signature Date 11-2-04

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.

1744

J/M D. Carter, #275938 CE10706-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

1745

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

1746

AMENDMENT TO GRIEVANCE OF DEREK CARTER, #275938

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; hours in 2000 at $10.66 per hour; hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 7818.52 plus hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

Derek L. Carter 2/4/06
(Grievant Signature) (Date)

* Attached are Exh. A, 0778; C, 0081,0086; F, 1011-1013; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

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	NAME	SCDC	DORM	SHIFT	HIRED	RELEASED
	BUTLER, JOHN	268753	S B 15	1	9/25/00	10/12/00
MI 3	BUTLER, RICHARD	162467	C A 57	1	6/27/00	6/26/03
MI 3	BUTLER, THOMAS	257552	C B 28	1	4/20/04	5/14/04
MI 3	BYRD, CALVIN	257319	C B 57	1	10/1/99	4/21/03
MI 3	CADE, O	257075	C A 0	0		12/20/99
MI 3	CALLOWAY, COREY	285780	W C160	3		3/17/04
	CAMPBELL, DORAS	246508	S B 50	1	7/7/01	1/29/02
MI 2	CAMPBELL, MARCUS	273397	C A 31	2	7/10/01	10/7/02
	CAMPBELL, RODNEY	263521	C A 42	1	7/12/00	5/30/01
MI 2	CANTY, MITCHELL	237815	C A 2	1	2/15/00	10/31/02
	CARDER, KEVIN	262296	C 0	1	2/10/00	3/15/00
	CAREW, EL TAJARIS	264671	E B 22	1	5/31/00	7/12/00
MI 3	CARLSON, RUSSELL	292938	E A 52	1	3/11/04	3/15/04
MI 3	CARN, LAWRENCE	196852	C A 48	1	3/1/04	4/13/04
MI 3	CARR, STEVEN	296393	W C264	1	3/11/04	4/16/04
MI 2	CARSON, FRANKLIN	141667	C B 27	2	9/20/02	11/21/02
	CARSON, JONATHAN	255214	C 0	1	1/18/00	4/27/00
MI 3	CARSON, ROYCE	260228	S A 41	1	1/18/00	8/18/00
MI 1B	CARTER, CLIFFORD	247431	S B 20	3	12/3/03	4/8/04
MI 1B	CARTER, CLIFFORD	247431	S B 51	1	8/6/99	11/4/03
MI 3	CARTER, DEREK	275938	C A 2	1	7/10/01	6/24/04
MI 3	CARTER, K	243538	C A 0	0		3/25/02
MI 2	CARTER, THOMAS	249362	C A 28	1	3/15/04	6/24/04
MI 2	CASSADY, RUDY	238732	C B 15	1	4/19/02	6/24/04
MI 2	CASTANA, ERAVISTA	262067	C B 43	1	4/8/02	1/13/03
	CATCHINGS, ROBERT	242956	C A 48	1	3/29/00	3/5/01
	CAULDER, DAVID	270718	E A 24	1	1/2/01	1/8/01
	CAULDER, THOMAS	180602	C 0	1	11/3/99	1/6/00
	CHAPMAN, STEPHEN	125781	C B 50	1	10/16/00	9/24/01
MI 3	CHATMAN, CHARLES	181295	C B 58	2	10/17/00	11/4/02
	CHAVIS, DAVID	235867	M X 0	2	2/11/00	12/20/01
	CHEATHAM, LIONEL	262440	C 0	1	9/13/99	1/5/00
MI 3	CHEEKS, RICHARD	257571	C A 5	1	9/13/99	5/2/03
	CHILDS, DONALD	261121	E A 0	1	12/1/99	2/22/00
MI 3	CHISLOM, OTIS	279408	C B 19	1	1/7/02	3/20/03
MI 3	CHOICE, LEROY	113990	C B 52	1	11/10/99	6/24/04
	CHRISTOPHER, REGINALD	269130	C B 11	1	10/16/00	1/11/02
	CLARK, ERNEST	263319	C B 25	2	8/10/01	3/8/02
MI 3	CLARK, SHELDON	264772	C A 51	1	3/29/00	6/26/03
MI 3	CLARKE, HERIBERTO	276982	A B 36	3	9/11/03	10/21/03
MI 3	CLARKE, HERIBERTO	276982	C A 35	2	8/17/01	8/26/02
MI 3	CLEA, JOHN	297878	C B 27	3		3/17/04
MI 3	COBB, ZAWASKI	187136	C A 3	1	9/10/01	6/26/03
MI 3	COBBS, BARON	280479	C B 38	1	1/16/02	1/16/03
MI 3	COBBS, BARON	280479	C B 38	1	7/17/03	6/24/04

PLAINTIFF'S EXHIBIT A

A - 0778
June 2004

1748

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

LEASE

THE AGREEMENT is entered into this 30th day of September, 1998, by and between the South Carolina Department of Corrections (hereinafter called "SCDC") by its duly authorized agent Michael W. Moore, Director and Williams Technologies, Inc., (hereafter referred to as "Williams") by its duly authorized agent William S. Williams, Chairman.

WHEREAS, Prison Industries is a division of the South Carolina Department of Corrections charged with establishing business relationships with private enterprise so as to fulfill the intent of Section 24-3-310 Code of Laws of South Carolina, 1976 as amended; and has all necessary authorization to enter into this agreement and to bind the State of South Carolina to all the terms contained herein; and,

WHEREAS, Williams represents and warrants that it is a duly qualified South Carolina corporation, licensed to conduct business in South Carolina; and,

WHEREAS, Williams intends to engage in the business of disassembly and/or remanufacturing of its product lines at Lieber Correctional Institution (hereinafter referred to as"LCI"); and ,

WHEREAS, this agreement is made in the best interest of the State of South Carolina:

NOW, THEREFORE, the parties hereto do agree as follows:

ARTICLE 1 General:

In consideration of Williams' expenditures to construct on behalf of the State of South Carolina a building of up to 45,000 square feet on the LCI premises (the "Building") , SCDC hereby enters into this Agreement to permit Williams to use such Building and related premises during the term and in accordance with the provisions of this Agreement. The State Engineer's approval of all building plans is required. Attachment A hereto shall indicate the location of the Building and the related premises, which shall include circulation space for delivery and shipping via tractor-trailers, parking outside of the secured area sufficient for a minimum of six (6) trailers and access to the facility via access roads. SCDC shall be responsible for maintenance of such roadways and related premises.

The Building shall be constructed according to plans approved by the state in accordance with all applicable federal and state and local rules and regulations and SCDC security requirements. The State Engineer's approval of all building plans is required. The cost of the Building (excluding personal property located in the Building such as furnishings and equipment) is estimated to be $ 1,200,000 NTE. Within 90 days of completion of the Building, Williams shall provide to SCDC documentation of the expenditures to construct the Building for its review and acknowledgment.

PLAINTIFF'S EXHIBIT C

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to and from LCI reasonable access up to twelve (12) hours per day, subject to the Department's security requirements in Section 3.1.4.

(c) Other access. SCDC will provide access to the facility during Williams' hours of operation for Williams' employees, agents, and business invitees, subject to SCDC's security requirements.

3.3 Mutual Duties of the Parties:

1. Payment for Services: Williams agrees to pay SCDC $4.00 per hour per inmate for work performed including training hours and hours in excess of the inmate's normal shift. SCDC shall be responsible to pay inmate workers, cover security costs and P.I. overhead, including any costs for health, safety and welfare of the inmates, taxes or other payroll deduction. No compensation will be paid for time not worked. In order to accommodate holidays not observed by Williams, SCDC and Williams may agree to work ahead or to work on holidays if a mutually acceptable agreement can be reached.

Thirty (30) days prior to each anniversary date of this agreement, SCDC and Williams may negotiate an increase in the per hour rate paid by Williams to SCDC. If such an increase is requested, it shall be limited to a maximum of five percent (5%) annually or the annual percentage increase in the Consumer Price Index, whichever is lower. It is the intent of the parties that such increase shall only reflect SCDC's increased costs of prison overhead.

Williams and SCDC may mutually agree upon a bonus plan for inmates based on productivity and quality control. Such bonus will be paid in its entirety by Williams to SCDC for distribution to inmates.

2. Compliance with Convict Labor Laws: Williams and SCDC agree that no goods produced under this agreement shall be placed in commerce in violation of the laws of the State of South Carolina or the United States as they relate to the utilization of prison labor. Should either Federal or State Law (or the interpretation thereof) change preventing interstate shipments of goods produced under this Agreement, this Agreement shall terminate as provided in Sections 4.0.7 and 4.0.9.

ARTICLE 4 General Terms and Conditions:

4.0 General:
Williams, its employees or agents performing under the agreement are not to be deemed to be employees of SCDC nor as agents of SCDC in any manner whatsoever. Williams will not hold itself out nor claim to be an officer or employee of SCDC or of the State of South Carolina by reason hereof and will not make any claim, demand, or application to, or for any right or privilege applicable to an officer or employee of SCDC or the State of South Carolina, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security benefits, or retirement membership or credit.

The State of South Carolina, SCDC, their employees (including inmates performing labor pursuant to this Agreement) and agents, are not to be deemed employees of Williams nor agents of Williams in any manner

Inmate #	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Hours	Pay Amount
247431	CARTER	CLIFFORD	B.	20020826	0.50	124.07	62.03
247431	CARTER	CLIFFORD	B.	20020909	0.50	99.81	49.90
247431	CARTER	CLIFFORD	B.	20020923	0.50	131.61	65.80
247431	CARTER	CLIFFORD	B.	20021007	0.50	125.36	62.68
247431	CARTER	CLIFFORD	B.	20021021	0.50	109.67	54.83
247431	CARTER	CLIFFORD	B.	20021104	0.50	115.86	57.93
247431	CARTER	CLIFFORD	B.	20021118	0.50	107.64	53.82
247431	CARTER	CLIFFORD	B.	20021202	0.50	104.46	52.23
247431	CARTER	CLIFFORD	B.	20021216	0.50	118.30	59.15
247431	CARTER	CLIFFORD	B.	20021230	0.50	59.22	29.61
247431	CARTER	CLIFFORD	B.	20030113	0.50	86.13	43.06
247431	CARTER	CLIFFORD	B.	20030127	0.50	118.05	59.02
247431	CARTER	CLIFFORD	B.	20030210	0.50	129.64	64.82
247431	CARTER	CLIFFORD	B.	20030224	0.50	115.14	57.57
247431	CARTER	CLIFFORD	B.	20030310	0.50	111.49	55.74
247431	CARTER	CLIFFORD	B.	20030324	0.50	80.54	40.27
247431	CARTER	CLIFFORD	B.	20030407	0.50	83.56	41.78
247431	CARTER	CLIFFORD	B.	20030421	0.50	119.17	59.58
247431	CARTER	CLIFFORD	B.	20030505	0.50	68.46	34.23
247431	CARTER	CLIFFORD	B.	20030519	0.50	115.86	57.93
247431	CARTER	CLIFFORD	B.	20030602	0.50	102.94	51.47
247431	CARTER	CLIFFORD	B.	20030616	0.50	127.05	63.52
247431	CARTER	CLIFFORD	B.	20030630	0.50	123.12	61.56
247431	CARTER	CLIFFORD	B.	20030714	0.50	115.96	57.98
247431	CARTER	CLIFFORD	B.	20030728	0.50	107.41	53.70
247431	CARTER	CLIFFORD	B.	20030811	0.50	101.50	50.75
247431	CARTER	CLIFFORD	B.	20030825	0.50	122.76	61.38
247431	CARTER	CLIFFORD	B.	20030908	0.50	85.90	42.95
247431	CARTER	CLIFFORD	B.	20030922	0.50	115.30	57.65
247431	CARTER	CLIFFORD	B.	20031006	0.50	108.94	54.47
247431	CARTER	CLIFFORD	B.	20031020	0.50	101.40	50.70
247431	CARTER	CLIFFORD	B.	20031103	0.50	87.20	43.60
247431	CARTER	CLIFFORD	B.	20031117	0.50	22.60	11.30
247431	CARTER	CLIFFORD	B.	20031229	0.50	17.50	8.75
275938	CARTER	DEREK	SHANE	20010716	0.50	8.60	4.30
275938	CARTER	DEREK	SHANE	20010730	0.50	46.04	23.02
275938	CARTER	DEREK	SHANE	20010813	0.50	25.57	12.78
275938	CARTER	DEREK	SHANE	20010827	0.50	51.66	25.83
275938	CARTER	DEREK	SHANE	20010910	0.50	45.69	22.84
275938	CARTER	DEREK	SHANE	20010924	0.50	65.73	32.86
275938	CARTER	DEREK	SHANE	20011008	0.50	96.82	48.41
275938	CARTER	DEREK	SHANE	20011022	0.50	89.76	44.88
275938	CARTER	DEREK	SHANE	20011105	0.50	87.20	43.60
275938	CARTER	DEREK	SHANE	20011119	0.50	92.89	46.44
275938	CARTER	DEREK	SHANE	20011203	0.50	69.74	34.87
275938	CARTER	DEREK	SHANE	20011217	0.50	90.70	45.35
275938	CARTER	DEREK	SHANE	20011231	0.50	45.02	22.51
275938	CARTER	DEREK	SHANE	20020114	0.50	62.34	31.17
275938	CARTER	DEREK	SHANE	20020128	0.50	89.79	44.89
275938	CARTER	DEREK	SHANE	20020211	0.50	111.35	55.67
275938	CARTER	DEREK	SHANE	20020225	0.50	100.32	50.16
275938	CARTER	DEREK	SHANE	20020311	0.50	94.85	47.42
275938	CARTER	DEREK	SHANE	20020325	0.50	107.13	53.56
275938	CARTER	DEREK	SHANE	20020408	0.50	95.66	47.83

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PLAINTIFF'S EXHIBIT F

A - 1011
June 2004

Inmate #	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Hours	Pay Amount
275938	CARTER	DEREK	SHANE	20020422	0.50	96.38	48.19
275938	CARTER	DEREK	SHANE	20020506	0.50	99.88	49.94
275938	CARTER	DEREK	SHANE	20020520	0.50	107.82	53.91
275938	CARTER	DEREK	SHANE	20020603	0.50	56.23	28.11
275938	CARTER	DEREK	SHANE	20020617	0.50	104.15	52.07
275938	CARTER	DEREK	SHANE	20020701	0.50	103.91	51.95
275938	CARTER	DEREK	SHANE	20020715	0.50	82.70	41.35
275938	CARTER	DEREK	SHANE	20020729	0.50	104.38	52.19
275938	CARTER	DEREK	SHANE	20020812	0.50	96.90	48.45
275938	CARTER	DEREK	SHANE	20020826	0.50	111.78	55.89
275938	CARTER	DEREK	SHANE	20020909	0.50	106.73	53.36
275938	CARTER	DEREK	SHANE	20020923	0.50	125.97	62.98
275938	CARTER	DEREK	SHANE	20021007	0.50	118.71	59.35
275938	CARTER	DEREK	SHANE	20021021	0.50	126.79	63.39
275938	CARTER	DEREK	SHANE	20021104	0.50	121.07	60.53
275938	CARTER	DEREK	SHANE	20021118	0.50	130.20	65.10
275938	CARTER	DEREK	SHANE	20021202	0.50	97.36	48.68
275938	CARTER	DEREK	SHANE	20021216	0.50	117.22	58.61
275938	CARTER	DEREK	SHANE	20021230	0.50	59.89	29.94
275938	CARTER	DEREK	SHANE	20030113	0.50	61.23	30.61
275938	CARTER	DEREK	SHANE	20030127	0.50	94.32	47.16
275938	CARTER	DEREK	SHANE	20030210	0.50	122.77	61.38
275938	CARTER	DEREK	SHANE	20030224	0.50	178.85	89.42
275938	CARTER	DEREK	SHANE	20030310	0.50	125.26	62.63
275938	CARTER	DEREK	SHANE	20030324	0.50	127.50	63.75
275938	CARTER	DEREK	SHANE	20030407	0.50	126.70	63.35
275938	CARTER	DEREK	SHANE	20030421	0.50	127.50	63.75
275938	CARTER	DEREK	SHANE	20030505	0.50	105.15	52.57
275938	CARTER	DEREK	SHANE	20030519	0.50	123.22	61.61
275938	CARTER	DEREK	SHANE	20030602	0.50	101.61	50.80
275938	CARTER	DEREK	SHANE	20030616	0.50	123.03	61.51
275938	CARTER	DEREK	SHANE	20030630	0.50	111.69	55.84
275938	CARTER	DEREK	SHANE	20030714	0.50	100.22	50.11
275938	CARTER	DEREK	SHANE	20030728	0.50	129.11	64.55
275938	CARTER	DEREK	SHANE	20030811	0.50	124.61	62.30
275938	CARTER	DEREK	SHANE	20030825	0.50	129.06	64.53
275938	CARTER	DEREK	SHANE	20030908	0.50	101.20	50.60
275938	CARTER	DEREK	SHANE	20030922	0.50	114.70	57.35
275938	CARTER	DEREK	SHANE	20031006	0.50	121.99	60.99
275938	CARTER	DEREK	SHANE	20031020	0.50	108.68	54.34
275938	CARTER	DEREK	SHANE	20031103	0.50	111.37	55.68
275938	CARTER	DEREK	SHANE	20031117	0.50	113.37	56.68
275938	CARTER	DEREK	SHANE	20031201	0.50	118.04	59.02
275938	CARTER	DEREK	SHANE	20031215	0.50	117.94	58.97
275938	CARTER	DEREK	SHANE	20031229	0.50	115.43	57.71
275938	CARTER	DEREK	SHANE	20040112	0.50	79.24	39.62
275938	CARTER	DEREK	SHANE	20040126	0.50	118.31	59.15
275938	CARTER	DEREK	SHANE	20040209	0.50	120.19	60.09
275938	CARTER	DEREK	SHANE	20040223	0.50	121.94	60.97
275938	CARTER	DEREK	SHANE	20040308	0.50	129.64	64.82
275938	CARTER	DEREK	SHANE	20040322	0.50	122.44	61.22
275938	CARTER	DEREK	SHANE	20040405	0.50	122.04	61.02
275938	CARTER	DEREK	SHANE	20040419	0.50	98.33	49.16
275938	CARTER	DEREK	SHANE	20040503	0.50	142.56	71.28

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Inmate #	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Hours	Pay Amount
275938	CARTER	DEREK	SHANE	20040517	0.50	148.05	74.02
275938	CARTER	DEREK	SHANE	20040531	0.50	136.30	68.15
243538	CARTER	KENNETH		20000522	0.35	67.50	23.62
243538	CARTER	KENNETH		20000522	0.55	17.58	9.66
243538	CARTER	KENNETH		20000522	0.25	21.70	5.42
243538	CARTER	KENNETH		20000605	0.35	67.50	23.62
243538	CARTER	KENNETH		20000605	0.55	4.55	2.50
243538	CARTER	KENNETH		20000605	0.25	7.23	1.80
243538	CARTER	KENNETH		20000703	0.50	60.00	30.00
243538	CARTER	KENNETH		20000703	0.55	25.02	13.76
243538	CARTER	KENNETH		20000703	0.35	4.62	1.61
243538	CARTER	KENNETH		20000703	0.25	14.68	3.67
243538	CARTER	KENNETH		20000717	0.50	66.98	33.49
243538	CARTER	KENNETH		20000731	0.50	103.62	51.81
243538	CARTER	KENNETH		20000814	0.50	66.85	33.42
243538	CARTER	KENNETH		20000828	0.50	75.00	37.50
243538	CARTER	KENNETH		20000911	0.50	65.50	32.75
243538	CARTER	KENNETH		20000925	0.50	83.90	41.95
243538	CARTER	KENNETH		20001009	0.50	86.47	43.23
243538	CARTER	KENNETH		20001023	0.50	84.91	42.45
243538	CARTER	KENNETH		20001106	0.50	90.64	45.32
243538	CARTER	KENNETH		20001120	0.50	100.91	50.45
243538	CARTER	KENNETH		20001204	0.50	71.05	35.52
243538	CARTER	KENNETH		20001218	0.50	124.85	62.42
243538	CARTER	KENNETH		20010101	0.50	72.23	36.11
243538	CARTER	KENNETH		20010115	0.50	86.66	43.33
243538	CARTER	KENNETH		20010129	0.50	106.46	53.23
243538	CARTER	KENNETH		20010212	0.50	110.28	55.14
243538	CARTER	KENNETH		20010226	0.50	102.19	51.09
243538	CARTER	KENNETH		20010312	0.50	109.85	54.92
243538	CARTER	KENNETH		20010326	0.50	106.88	53.44
243538	CARTER	KENNETH		20010409	0.50	116.06	58.03
243538	CARTER	KENNETH		20010423	0.50	97.37	48.68
243538	CARTER	KENNETH		20010507	0.50	96.20	48.10
243538	CARTER	KENNETH		20010521	0.50	127.95	63.97
243538	CARTER	KENNETH		20010604	0.50	106.65	53.32
243538	CARTER	KENNETH		20010618	0.50	111.83	55.91
243538	CARTER	KENNETH		20010702	0.50	125.10	62.55
243538	CARTER	KENNETH		20010716	0.50	137.81	68.90
243538	CARTER	KENNETH		20010730	0.50	151.31	75.65
243538	CARTER	KENNETH		20010813	0.50	147.08	73.54
243538	CARTER	KENNETH		20010827	0.50	168.65	84.32
243538	CARTER	KENNETH		20010910	0.50	145.74	72.87
243538	CARTER	KENNETH		20010924	0.50	142.50	71.25
243538	CARTER	KENNETH		20011008	0.50	196.30	98.15
243538	CARTER	KENNETH		20011022	0.50	142.46	71.23
243538	CARTER	KENNETH		20011105	0.50	137.03	68.51
243538	CARTER	KENNETH		20011119	0.50	145.50	72.75
243538	CARTER	KENNETH		20011203	0.50	114.00	57.00
243538	CARTER	KENNETH		20011217	0.50	156.41	78.20
243538	CARTER	KENNETH		20011231	0.50	57.79	28.89
243538	CARTER	KENNETH		20020114	0.50	96.42	48.21
243538	CARTER	KENNETH		20020128	0.50	124.30	62.15
243538	CARTER	KENNETH		20020211	0.50	140.75	70.37

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To: Douglas Westbrook, Attorney at Law

From: Dr. Joseph Benich, Economic Loss Expert

Subject: Your 9/14/04 request

Date: 9/20/04

This note is in response to your "prevailing wage" request for work generally described by the Williams Technologies Job Description of Production Associate. You have asked for my opinion of the "prevailing wage" for work of a similar nature in the private sector for 1999/2001 (I assume that you mean 1999, 2000, and 2001). It is also my understanding that the term " prevailing wage" not only implies work of a similar nature, but that the work should be performed in the same general geographic area.

The U.S. Department of Labor (Bureau of Labor Statistics) publishes wage data for a range of occupations in the Charleston – North Charleston Metropolitan Area. The Installation, Maintenance and Repair Occupation Sub-Category of "Maintenance and Repair Workers, General" had mean hourly wages of $11.44 in1999, $12.62 in 2000, and $13.24 in 2001 for the Charleston - North Charleston Metropolitan Area. The Production Occupations Sub-Category of "Team Assemblers" had mean hourly wages of $10.49 in 1999, $10.56 in 2000, and $10.88 in 2001 for the Charleston – North Charleston Metropolitan Area. The average of these two Sub-Categories is $10.97 for 1999, $11.59 for 2000, and $12.06 for 2001.

The possibility exists that the average prison worker would be less experienced with his prison position than his non-prison counterpart. It is also possible that the average prison worker would require more supervision than the average non-prison worker performing the same tasks. The concept of "prevailing wage" implies the average wage for a specific category of average workers. The Installation, Maintenance and Repair Occupation Sub Category of "Helpers—Installation, Maintenance, and Repair Workers" had mean hourly wages of $9.53 in 1999, $11.21 in 2000, and $10.45 in 2001. The Production Occupations Sub-Category of "Helpers--Production Workers" had mean hourly wages of $7.61 in 1999, $8.27 in 2000, and $9.09 in 2001. The average of these two "Helpers" Sub Categories is $8.40 for 1999, $9.74 for 2000, and $10.10 for 2001.

These "Helpers" Sub Category averages represent the lower end of the "prevailing wage" range for the Williams Technologies Job Description of Production Associate for 1999, 2000, and 2001. Thus the "prevailing wage" range estimate for prison workers for the Williams Technologies Job Description of Production Associate is $10.97 - $8.40 for 1999, $11.59 - $9.74 for 2000, and $12.06 - $10.10 for 2001.

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RESUME-3/03
Dr. Joseph J. Benich

FAMILY STATUS
Wife - Roberta; two children - Kiersten and J.J.

EDUCATION

9/68 - 6/72	Doctor of Business Administration Majors: Production Management and Marketing Kent State University, Kent, Ohio
1/66 - 5/68	Masters of Business Administration Majors: Economics and Marketing Case Western Reserve University, Cleveland, Ohio
9/65 - 1/66	Western Reserve University, Cleveland, Ohio Major: Law
9/61 - 6/65	Bachelor of Science in Chemical Engineering Case Institute of Technology, Cleveland, Ohio

ACADEMIC EXPERIENCE

9/93 –2003	Professor of Business Administration College of Charleston, Charleston, South Carolina
9/78 - 8/93	Associate Professor of Business Administration College of Charleston, Charleston, South Carolina
9/76 - 9/78	Associate Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/72 - 9/76	Assistant Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/69 - 6/72	Full-time Instructor, Economics Department Kent State University, Kent, Ohio
1/69 - 6/69	Teaching Fellow, Statistics Kent State University
9/68 - 12/68	Graduate Assistant Kent State University

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NON-ACADEMIC EXPERIENCE

6/74 -	Expert Witness, Economic Litigation, Charleston, South Carolina, analyses of economic loss to individuals and/or businesses, with presentations in State and Federal courts
7/78 -	Manager of Summertime Properties, Charleston, South Carolina
6/73 -	Business Consulting, J. Benich and Associates, Charleston, South Carolina
1/68 - 11/72	Business Advisor to Director of American Screw Products, Warrensville, Ohio
1/68 - 10/68	Staff Specialist (Systems Optimizations), Cleveland Electric Illuminating Company, Cleveland, Ohio
1/66 - 9/67	Industrial Market Research, Harshaw Chemical, Cleveland, Ohio
19/65 - 1/66	Phosphor Efficiency Development, General Electric Co., Cleveland, Ohio (worked independently on a second shift due to day law school)
6/65 - 9/65	Research Chemical Engineering, Sohio Research, Warrensville, Ohio (catalyst efficiency testing and associated acetonitrile purification development).

PUBLICATIONS

"Signal-Averaged P-Wave Analysis of Normal Controls and Patients with Paroxysmal Atrial Fibrillation: A Study in Gender Differences, Age Dependence, and Reproducibility", with A Dhala, B. Leman, et al, Clinical Cardiology, November, 2002, p-525-531

"The High Resolution Signal-Averaged P-Wave Duration in Normal Patients: Influence of Race and Gender", with M. Little, B. Leman, and B. Hainer, North American Society of Pacing and Electrophysiology, abstracted, *Pacing and Clinical Electrophysiology*, April, 1997, Vol.20:4:1219

"Alternative Approaches to Tax Adjustments in Appraising Economic Loss: A Comment", *Journal of Legal Economics*, Fall 1996

"Updated Estimates of Work-Life Expectancies Based upon The Increment-Decrement Model: Comment", *Journal of Legal Economics*, Winter 1995

"Intra-Year Discounting Assumptions and Bias in Lost Earnings Analysis: A Comment", *Journal of Forensic Economics*, Winter 1993, 7(1)

"Comment: On the Relative Stability and Predictability of the Interest Rate and Earnings Growth Rate", *Journal of Forensic Economics*, Winter 1992, 6(1)

"Determining Tax-Adjusted Awards for Spouses' Lost Future Earnings", For *The Defense*, Nov. 1992

"The Just Better (JB) Method of Calculating The Present Value of Lost Future Income", *Journal of Legal Economics*, July 1992

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS 11-7-04
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Derek S. Carter
SCDC NUMBER: 275938 NOV 04 2004
INSTITUTION: Lieber Corr. Inst. PP
HOUSING UNIT: Cooper A-02
WORK ASSIGNMENT: PI #2

Office Use Only
Grievance No. LCI 0706-04
Code: General MY
Policy
Disc. Hear.
Class.
Date Received NOV 05 2004
IGC Initials

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

Adkins & Wicker do require payment of prevailing wages. Grievants were employed by WTI, and SCDC was WTI's "Agent" in paying our wages. Adkins & Wicker further allow this issue of payment of wages under S.C. Code §24-3-430 to be grieved pursuant to SCDC's grievance procedure. Grievant incorporates by reference all exhibits attached to grievances filed by Darrell Williams and Attorney Douglas Westbrook on 9-22-04.

Derek S. Carter 11-2-04
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

6-19-07
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.

Derek S. Carter 6/27/07
Grievant Signature Date

IGC Signature 6/27/07
Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

SCDC 10-5A (November 1997)

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Rec 6/27/07

Ackerman 5-6-11 1395

CARTER LCI-0706-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 2, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 27, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that your first voluntary work assignment in the prison industries project at Lieber began on July 10, 2001 and ended July 1, 2005. Additionally, these records reflect that you returned to this project for a second work assignment that began March 2, 2007 and, as of the date of this response, your participation continues.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 2 appeal.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first determined that you could file a grievance by which to protest any provision of the "prevailing wage" statutes that applied to the

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prison industries project in which you participated. These opinions are 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. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 three (3) years after SCDC first paid you for the labor you provided to the project located at Lieber during your first work assignment there and 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.
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 any of the relief you demand in your Step 1 grievance or your Step 2 appeal.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made in your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "inmate/employee" within your appeal and grievance to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and

remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

To the extent that you demand overtime wages in your appeal or grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your appeal and grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal or grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Derek S. Carter, #275938, Appellant, vs. South Carolina Department of Corrections, Respondent.	NOTICE OF APPEAL DOCKET NO. _07___-ALJ-04-_____-___ GRIEVANCE NO.: _____

Notice is hereby given that Derek S. Carter does hereby appeal the final decision of the South Carolina Department of Corrections dated 6-19-07 and received on 6-22-07 or 6-27-07, 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)):

1. Grievance seeks back wages, contesting SCDC policy/procedure of paying below prevailing/negotiated wages. Thus, there was no time limit to file grievance under Grievance Policy §13.9.

2. Appellant had reasonable cause under §13.9 as his right to grieve did not accrue until Adkins/Wicker and filed within a reasonable time.

3. Applying §13.1 to these facts violated due process.

4. Under 4-19-07 Court order, SCDC was required to accept filing and consider on the merits Appellant's Amendment/Exhibits.

5. Grievance proved all elements of claim for prevailing/negot. wages.

6. Dr. Benich's report is the only evidence of prevailing wages in the record. Appellant is entitled to prevailing/negotiated wages.

7. To extent Appellant worked OT he is entitled to it under SCDC policy

8. Appellant claims pre/post judgment interest, costs and attorney fees

Derek S. Carter
Appellant's Name
Lieber C.I.
P.O. Box 205
Mailing Address
Ridgeville, SC 29472
City, State, Zip Code
none
Telephone Number

Signed
7-13-07
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

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STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
DEREK S. CARTER, #275938	)	
Grievant/Appellant,	)	
vs.	)	CERTIFICATE OF SERVICE
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
Respondent/Appellee.	)	

I certify that on the 20th day of June, 2007, I mailed by first class postage Appellant's Notice of Appeal, and final decision, to the following:

(1) The original ~~and one copy~~ were mailed for filing with the Administrative Law Court, to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC, to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

Douglas H. Westbrook

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: Kenneth Carter
SCDC NUMBER: #243538
INSTITUTION: Lieber Corr. Inst.
HOUSING UNIT: Cooper B-19
WORK ASSIGNMENT: PI-2/Evans Rule

Office Use Only
Grievance No. Lieber-0620-04
Code: General MH
Policy
Disc. Hear.
Class.
Date Received SEP 23 2004
IGC Initials LC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

The Department is asked to review and determine whether I am entitled to receive back wages due to me from working at Lieber Prison Industry Program when they paid me only $.35/hr. and not prevailing wage as required under South Carolina Code Ann. §24-3-430(A),(H) as well as fact that from 1998-2003 they denied me prevailing wage.

ACTION REQUESTED:

All money due to me be paid at prevailing wage and overtime rate and prevailing wage be paid now.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Lawsuit has been filed, court order to file a grievance by the court; Wicker v. SCDC and Adkins v. SCDC.

Kenneth Carter 9/23/04
Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's response.

L Carlone 10/28/04
IGC Signature Date

☐ I accept the action taken by the IGC and consider the matter closed.
☐ I do not accept the action taken and wish to appeal. 1763

N/A
Grievant Signature Date

Ackerman 5-6-11 1401

WARDEN'S DECISION AND REASON:

See Attachment.

Warden Signature — Date: Oct. 28, 04

☐ 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: 11/3/04

IGC Signature — Date: 11/3/04

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.

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J/R K Carter, # 243538 LCI 0070-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

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To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

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AMENDMENT TO GRIEVANCE OF KENNETH CARTER, #243538

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; 1383.29 hours in 2000 at $10.66 per hour; 1403.48 hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 2619.49 hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

_____ _____
(Grievant Signature) (Date)

* Attached are Exh. A, 0778; C, 0081,0086; F, 1013-1014; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

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Inmate #	Last Name	First Name	Middle Name	Payable Date	Hours	Rate	Pay Amount
275938	CARTER	DEREK	SHANE	20040517	0.50	148.05	74.02
275938	CARTER	DEREK	SHANE	20040531	0.50	136.30	68.15
243538	CARTER	KENNETH		20000522	0.35	67.50	23.62
243538	CARTER	KENNETH		20000522	0.55	17.58	9.66
243538	CARTER	KENNETH		20000522	0.25	21.70	5.42
243538	CARTER	KENNETH		20000605	0.35	67.50	23.62
243538	CARTER	KENNETH		20000605	0.55	4.55	2.50
243538	CARTER	KENNETH		20000605	0.25	7.23	1.80
243538	CARTER	KENNETH		20000703	0.50	60.00	30.00
243538	CARTER	KENNETH		20000703	0.55	25.02	13.76
243538	CARTER	KENNETH		20000703	0.35	4.62	1.61
243538	CARTER	KENNETH		20000703	0.25	14.68	3.67
243538	CARTER	KENNETH		20000717	0.50	66.98	33.49
243538	CARTER	KENNETH		20000731	0.50	103.62	51.81
243538	CARTER	KENNETH		20000814	0.50	66.85	33.42
243538	CARTER	KENNETH		20000828	0.50	75.00	37.50
243538	CARTER	KENNETH		20000911	0.50	65.50	32.75
243538	CARTER	KENNETH		20000925	0.50	83.90	41.95
243538	CARTER	KENNETH		20001009	0.50	86.47	43.23
243538	CARTER	KENNETH		20001023	0.50	84.91	42.45
243538	CARTER	KENNETH		20001106	0.50	90.64	45.32
243538	CARTER	KENNETH		20001120	0.50	100.91	50.45
243538	CARTER	KENNETH		20001204	0.50	71.05	35.52
243538	CARTER	KENNETH		20001218	0.50	124.85	62.42
243538	CARTER	KENNETH		20010101	0.50	72.23	36.11
243538	CARTER	KENNETH		20010115	0.50	86.66	43.33
243538	CARTER	KENNETH		20010129	0.50	106.46	53.23
243538	CARTER	KENNETH		20010212	0.50	110.28	55.14
243538	CARTER	KENNETH		20010226	0.50	102.19	51.09
243538	CARTER	KENNETH		20010312	0.50	109.85	54.92
243538	CARTER	KENNETH		20010326	0.50	106.88	53.44
243538	CARTER	KENNETH		20010409	0.50	116.06	58.03
243538	CARTER	KENNETH		20010423	0.50	97.37	48.68
243538	CARTER	KENNETH		20010507	0.50	96.20	48.10
243538	CARTER	KENNETH		20010521	0.50	127.95	63.97
243538	CARTER	KENNETH		20010604	0.50	106.65	53.32
243538	CARTER	KENNETH		20010618	0.50	111.83	55.91
243538	CARTER	KENNETH		20010702	0.50	125.10	62.55
243538	CARTER	KENNETH		20010716	0.50	137.81	68.90
243538	CARTER	KENNETH		20010730	0.50	151.31	75.65
243538	CARTER	KENNETH		20010813	0.50	147.08	73.54
243538	CARTER	KENNETH		20010827	0.50	168.65	84.32
243538	CARTER	KENNETH		20010910	0.50	145.74	72.87
243538	CARTER	KENNETH		20010924	0.50	142.50	71.25
243538	CARTER	KENNETH		20011008	0.50	196.30	98.15
243538	CARTER	KENNETH		20011022	0.50	142.46	71.23
243538	CARTER	KENNETH		20011105	0.50	137.03	68.51
243538	CARTER	KENNETH		20011119	0.50	145.50	72.75
243538	CARTER	KENNETH		20011203	0.50	114.00	57.00
243538	CARTER	KENNETH		20011217	0.50	156.41	78.20
243538	CARTER	KENNETH		20011231	0.50	57.79	28.89
243538	CARTER	KENNETH		20020114	0.50	96.42	48.21
243538	CARTER	KENNETH		20020128	0.50	124.30	62.15
243538	CARTER	KENNETH		20020211	0.50	140.75	70.37

PLAINTIFF'S EXHIBIT F

1768

A - 1013
June 2004

243538	CARTER	KENNETH		20020225	0.50	137.13	68.56
243538	CARTER	KENNETH		20020311	0.50	140.56	70.28
243538	CARTER	KENNETH		20020925	0.50	137.75	68.87
249362	CARTER, JR	THOMAS	LEE	20040419	0.50	46.75	23.37
249362	CARTER, JR	THOMAS	LEE	20040503	0.50	47.65	23.82
249362	CARTER, JR	THOMAS	LEE	20040517	0.50	76.35	38.17
249362	CARTER, JR	THOMAS	LEE	20040531	0.50	84.38	32.18
238732	CASSADY	RUDY	C.	20020506	0.50	43.53	21.76
238732	CASSADY	RUDY	C.	20020520	0.50	55.26	27.63
238732	CASSADY	RUDY	C.	20020603	0.50	49.43	24.71
238732	CASSADY	RUDY	C.	20020617	0.50	35.70	17.85
238732	CASSADY	RUDY	C.	20020701	0.50	69.65	34.82
238732	CASSADY	RUDY	C.	20020715	0.50	65.12	32.56
238732	CASSADY	RUDY	C.	20020729	0.50	70.95	35.47
238732	CASSADY	RUDY	C.	20020812	0.50	85.72	42.86
238732	CASSADY	RUDY	C.	20020826	0.50	109.94	54.97
238732	CASSADY	RUDY	C.	20020909	0.50	102.36	51.18
238732	CASSADY	RUDY	C.	20020923	0.50	129.38	64.69
238732	CASSADY	RUDY	C.	20021007	0.50	116.40	58.20
238732	CASSADY	RUDY	C.	20021021	0.50	133.98	66.99
238732	CASSADY	RUDY	C.	20021104	0.50	149.06	74.53
238732	CASSADY	RUDY	C.	20021118	0.50	109.50	54.75
238732	CASSADY	RUDY	C.	20021202	0.50	82.40	41.20
238732	CASSADY	RUDY	C.	20021216	0.50	97.72	48.86
238732	CASSADY	RUDY	C.	20021230	0.50	66.08	33.04
238732	CASSADY	RUDY	C.	20030113	0.50	72.72	36.36
238732	CASSADY	RUDY	C.	20030127	0.50	88.17	44.08
238732	CASSADY	RUDY	C.	20030210	0.50	99.95	49.97
238732	CASSADY	RUDY	C.	20030224	0.50	105.11	52.55
238732	CASSADY	RUDY	C.	20030310	0.50	88.55	44.27
238732	CASSADY	RUDY	C.	20030324	0.50	91.91	45.95
238732	CASSADY	RUDY	C.	20030407	0.50	72.11	36.05
238732	CASSADY	RUDY	C.	20030421	0.50	86.06	43.03
238732	CASSADY	RUDY	C.	20030505	0.50	46.53	23.26
238732	CASSADY	RUDY	C.	20030519	0.50	111.83	55.91
238732	CASSADY	RUDY	C.	20030602	0.50	91.58	45.79
238732	CASSADY	RUDY	C.	20030616	0.50	117.03	58.51
238732	CASSADY	RUDY	C.	20030630	0.50	105.77	52.88
238732	CASSADY	RUDY	C.	20030714	0.50	128.00	64.00
238732	CASSADY	RUDY	C.	20030728	0.50	106.39	53.19
238732	CASSADY	RUDY	C.	20030811	0.50	105.18	52.59
238732	CASSADY	RUDY	C.	20030825	0.50	99.77	49.88
238732	CASSADY	RUDY	C.	20030908	0.50	84.29	42.14
238732	CASSADY	RUDY	C.	20030922	0.50	122.01	61.00
238732	CASSADY	RUDY	C.	20031006	0.50	100.13	50.08
238732	CASSADY	RUDY	C.	20031020	0.50	92.23	46.11
238732	CASSADY	RUDY	C.	20031103	0.50	88.74	44.37
238732	CASSADY	RUDY	C.	20031117	0.50	109.20	54.60
238732	CASSADY	RUDY	C.	20031201	0.50	54.20	27.10
238732	CASSADY	RUDY	C.	20031215	0.50	101.92	50.96
238732	CASSADY	RUDY	C.	20031229	0.50	106.10	53.05
238732	CASSADY	RUDY	C.	20040112	0.50	63.02	31.51
238732	CASSADY	RUDY	C.	20040126	0.50	110.76	55.38
238732	CASSADY	RUDY	C.	20040209	0.50	129.05	64.52

PLAINTIFF'S EXHIBIT F

1769

A - 1014
June 2004

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS 11-8-04
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Carter, Kenneth
SCDC NUMBER: #243538 NOV 08 2004
INSTITUTION: Lieber Corr.Inst. PP
HOUSING UNIT: Cooper B-19
WORK ASSIGNMENT: FI-2/Evans Rule

Office Use Only
Grievance No. LCI 0670-04
Code: General 214
Policy
Disc. Hear.
Class.
Date Received NOV 08 2004
IGC Initials

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

Adkins and Wicker do require payment of prevailing wages. Grievants were employed by WTI and SCDC was WTI's "agent" in paying our wages. Adkins and Wicker further allow this issue of payment of wages under S.C.Code Ann.§24-3-430 to be grieved purusant to SCDC's grievance procedure. Grievant incorporates by reference all exhibits attached to grievances filed by Darrell Williams and attorney Douglas Westbrook on 9/22/04.

Kenneth Carter 11/3/04
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

Released 3-1-07

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)

SCDC 10-5A (November 1997)

1770

Ackerman 5-6-11 1408

Lieber PI Back Wage Claim Step 2 Reply

Inmate Name	SCDC #	Grievance #
Carter, Kenneth	243538	LCI-0670-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 3, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 22, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that your participation in the prison industries project at Lieber first started on May 22, 2000 and ended March 25, 2002. Additionally, your pay records show that you experienced an interruption in your participation in this project from June 5, 2000 through July 3, 2000.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings.

Inmate Name	SCDC #	Grievance #
Carter, Kenneth	243538	LCI-0670-04

The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 four (4) years after SCDC first paid you for your participation in the project located at Lieber, nearly 2 ½ years after concluded your participation in this project, and 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.

Inmate Name	SCDC #	Grievance #
Carter, Kenneth	243538	LCI-0670-04

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 any of the relief you demand in your grievance.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "employee" within your supporting documents to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.

Inmate Name	SCDC #	Grievance #
Carter, Kenneth	243538	LCI-0670-04

Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your appeal and grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal and grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION

Kenneth Carter, #243538

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

Docket No. 00-ALJ-04-_____-AP

Notice is hereby given that Kenneth Carter does hereby appeal the final decision of the South Carolina Department of Corrections dated 1-28-08 and received on 2-1-08, 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)): Grievant seeks back wages contesting SCDC policy/procedure of paying below prevailing/negotiated wages and under §13.9 there was no time limit to file. Grievant had reasonable cause under §13.9 as right to grieve did not accrue until Adkins/Wicker and be filed within reasonable time. Applying §13.1 denied grievant reasonable time to file and thus due process. SCDC failed to plead §13.1 in step 1 and filed/considered Amendments/Exhibits on the merits and thus waived §13.1. Grievant proved all elements of claim and disputes work period(s) alleged by SCDC. Dr. Benich's report is the only evidence of prevailing wages in record and grievant is entitled to prevailing/negotiated wages. To extent grievant worked OT he is entitled to it under SCDC policy. Grievant claims pre/post judgment interest, costs and attorney fees. Darrell Williams' 9-22-04 grievance, and many others, was filed individually and on behalf of all inmates and SCDC should process grievance for all who worked in program regardless of filin

Kenneth Carter
Appellant's Name
c/o Mrs. Jannie Smith
2885 Carolina St.
Mailing Address

Johns Island, SC 29455
City, State, Zip Code

none available
Telephone Number

Signed

2-5-08
Dated:

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

(See reverse side for instructions) 1775

STATE OF SOUTH CAROLINA KENNETH CARTER, #243538 GRIEVANT/APPELLANT, VS. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, RESPONDENT/APPELLEE.	IN THE ADMINISTRATIVE LAW COURT CERTIFICATE OF SERVICE

I certify that on the 22nd day of Jul., 2008, I mailed by first class postage Appellant's Notice of Appeal, and final decision, to the following:

(1) The original was mailed for filing with the Administrative Law Court to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
Edgar A. Brown Building
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to Directive to SCDC Policy GA-01.12, §4.3, effective Jan. 30, 2008, to:

South Carolina Department of Corrections
Office of General Counsel
P.O. Box 21787
Columbia, SC 29221-1787

Douglas B. Westbrook

1776

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1 12/27/05 Rec

LCI-1897-05

INMATE NAME: Thomas Carter
SCDC NUMBER: #249362
INSTITUTION: Lieber transfer to Ridgeland
HOUSING UNIT: SA 63
WORK ASSIGNMENT: Commissary

DEC 05 2005

Office Use Only
Grievance No. ~~RCI-0854-05~~
Code: General MY
Policy
Disc. Hear.
Class.
Date Received ~~12-6-05~~ 12/29/05
IGC Initials LC
2-7-06

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) Grievant was/is employed in the WTI/Lieber service work program. From 1999/July 2001, S.C. Code 24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40 to $10.97 for 1999, $9.74 to $11.59 for 2000, and $10.10 to $12.06 for 2001 (Exh. G,H).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hr (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of approx. $1/hr, and usually less. Exhibits document a .35/hr base rate (Exh. B,D,E), maximum of $1/hr (Exh E), the 9-30-98 contract specifying a $4/hr wage (Exh B,C), employee roster (Exh A), and pay dates, rates, hours, and pay for Grievant (Exh F).

* Exhibits A-H attached to two grievances filed by Darrell Williams #219730 and counsel on 9-22-04 are incorporated herein by reference. Attached are Exh. A, 0778; C, 0081,0086; F, 1014; H, 1-3.

ACTION REQUESTED: Back wages for hrs in 1999 at 9.68/hr; hrs in 2000 at 10.66/hr; hrs in 1-1-01/6-30-01 at 11.08/hr; and 235.11 plus hrs * 7-1-01/present at $4/hr; less wages paid, §24-3-40 deductions, and soc. sec/medicare; plus interest, costs, and atty fees.

* Hours "plus" indicates possible work past latest date in Exh F, June 2004.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:
Workers have requested WTI/Lieber to pay prevailing wages, and Darrell Williams in 2001 grieved improper wages which was dismissed for want of jurisdiction. In 2002, Williams brought a class action for improper wages. On Aug. 23, 2004, the SC Sup. Court in Adkins and Wicker held the prevailing wage provision was mandatory and workers could file a grievance for back wages.

Thomas Carter 9 DEC 05
Grievant Signature Date

ACTION TAKEN BY IGC:

IGC Signature Date

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

Grievant Signature Date

SCDC 10-5 (Rev. November 1997)

1777

Ackerman 5-6-11 1415

AMENDMENT TO GRIEVANCE OF THOMAS CARTER, #249362

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; hours in 2000 at $10.66 per hour; hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 235.11 plus hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

(Grievant Signature) (Date)

* Attached are Exh. A, 0778; C, 0081,0086; F, 1014; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

1778

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Thomas Carter
SCDC NUMBER: 249362
INSTITUTION: LCI
HOUSING UNIT: SA-63
WORK ASSIGNMENT: Commissary

RECEIVED
JUN 14 2007
INMATE GRIEVANCE

Office Use Only
Grievance No. LCI-1977-05
Code: General MG
Policy 1
Disc. Hear.
Class.
Date Received 6/29/07
IGC Initials MM
✔ IGA - ABH 7-12-07

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

My request for prevailing wages has still not been resolve through the "class action" brought by atty. Douglass westbrook of Charleston.

Thomas Carter 11 May 19,07
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

Signature 7-20-07 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.

Thomas Carter 8/7/07 M. E. Mattison 8/7/07
Grievant Signature Date IGC Signature Date

1779

Lieber PI Back Wage Claim Step 2 Reply

Inmate Name	SCDC #	Grievance #
Carter, Thomas	249362	LCI-1897-05

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated May 19, 2007. Along with reviewing your Step 2 appeal, I have also reviewed all of the materials you submitted in support of your Step 1 grievance dated December 1, 2005.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on March 15, 2004 and that your participation in this project ended on October 11, 2005.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. The events which lead me to review your Step 2 appeal at the current time were detailed for you in the response you received to your Step 1 grievance.

As was also explained to you in the response you received to your Step 1 grievance, the South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and, specifically, 24-3-430.

Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy. SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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.

Inmate Name	SCDC #	Grievance #
Carter, Thomas	249362	LCI-1897-05

Moreover, you filed your Step 1 grievance nearly 22 months after SCDC first paid you for your participation in the project located at Lieber, nearly 60 days after your participation in the project ended, and nearly 120 days 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.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.

Furthermore, even if you had met the time frames established in paragraphs 13.1 and 13.9, I completely adopt and endorse the written decision denying your Step 1 grievance, and I find that you are not entitled to any of the relief you demand in your Step 1 grievance.

Moreover, I specifically conclude that the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

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

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION

Thomas Carter, #249362 released,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

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

Grievance No. _____

Notice is hereby given that Thomas Carter does hereby appeal the final decision of the South Carolina Department of Corrections dated _____ and received on no final decision issued, 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)): 1. Automatic appeal is proper under grievance policy §§13.5, 13.8 and 28 C.F.R. Part 40.7(e) because SCDC did not timely respond to grievance and the 105 day grievance processing period expired without final decision. 2. Grievance contests SCDC wage policy and "concerns policy/procedure" under §13.9 with no time limit to file. 3. There was reasonable cause under §13.9 and (1) no time limit to file and (2) compliance with §13.1. 4. Inmates' class action tolled §13.1. 5. §13.1 denied grievant reasonable time to file and thus due process. 6. SCDC failed to plead §13.1 in step 1 response and considered Amendments on the merits and thus waived §13.1. 7. SCDC was judicially estopped to raise §13.1. 8. Grievant proved all elements of claim, including prevailing wage, period(s) worked and any overtime due. 9. Grievant claims back wages, pre/post judgment interest, costs and attorney fees. 10. SCDC should process grievance for all who worked in program whether or not they personally filed a grievance.

Thomas Carter
Appellant's Name

address not available
Mailing Address

City, State, Zip Code

not available
Telephone Number

Signed

11-6-04
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

(See reverse side for instructions) 1782

Ackerman 5-6-11 1420

STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
	)	
THOMAS CARTER, #249362	)	
	)	
Grievant/Appellant,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
	)	
Respondent/Appellee.	)	
	)	

I certify that on the 13 day of Nov., 2008, I mailed by first class postage Appellant's Notice of Appeal, and any grievance response provided to me by SCDC, to the following:

(1) The original was mailed for filing with the Administrative Law Court to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

(3) One copy was mailed pursuant to Directive to SCDC Policy GA-01.12 to:

South Carolina Department of Corrections
Office of General Counsel
P.O. Box 21787
Columbia, SC 29221-1787

Douglas H. Westbrook, 1783

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: Rudy Cassidy
SCDC NUMBER: 238732
INSTITUTION: Lieber Corr. Inst.
HOUSING UNIT: Cooper B-15 47
WORK ASSIGNMENT: PI-2

Office Use Only
Grievance No. Lieber 0672-04
Code: General MY
Policy
Disc. Hear.
Class.
Date Received SEP 22 2004
IGC Initials LC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

The Department is asked to review and determine whether I am entitled to receive back wages due to me from working at Lieber Prison Industry Program when they paid me only $.35/hr. and not prevailing wage as required under South Carolina Code Ann. §24-3-430(A),(B) as well as fact that from 1998-2003 they denied me prevailing wage.

ACTION REQUESTED:

All money due to me be paid at prevailing wage and overtime rate and prevailing wage be paid now.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Lawsuit has been filed, court order to file a grievance by the court; Wicker v. SCDC and Adkins v. SCDC.

Rudy Cassidy 9/23/04
Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's Response.

L Carlton 10/28/04
IGC Signature Date

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

N/A
Grievant Signature Date

SCDC 10-5 (Rev. November 1997)

(CONTINUED ON REVERSE SIDE)

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Ackerman 5-6-11 1422

WARDEN'S DECISION AND REASON:

See Attachment.

Oct. 28, 04
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.

11-2-04
Grievant Signature Date

11-2-04
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.

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Jack R. Cassidy #238732 #C/0672-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams'grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

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To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

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AMENDMENT TO GRIEVANCE OF RUDY CASSADY, #238732

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for hours in 1999 at $9.68 per hour; hours in 2000 at $10.66 per hour; hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 5331.27 plus hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

(Grievant Signature) (Date)

* Attached are Exh. A, 0778; C, 0081,0086; F, 1014-1015; H, 1-3.

* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

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	NAME	SCDC	DORM	SHIFT	HIRED	RELEASED
	BUTLER, JOHN	268753	S B 15	1	9/25/00	10/12/00
MI 3	BUTLER, RICHARD	162467	C A 57	1	6/27/00	6/26/03
MI 3	BUTLER, THOMAS	257552	C B 28	1	4/20/04	5/14/04
MI 3	BYRD, CALVIN	257319	C B 57	1	10/1/99	4/21/03
MI 3	CADE, O	257075	C A 0	0		12/20/99
MI 3	CALLOWAY, COREY	285780	W C160	3		3/17/04
	CAMPBELL, DORAS	246508	S B 50	1	7/7/01	1/29/02
MI 2	CAMPBELL, MARCUS	273397	C A 31	2	7/10/01	10/7/02
	CAMPBELL, RODNEY	263521	C A 42	1	7/12/00	5/30/01
MI 2	CANTY, MITCHELL	237815	C A 2	1	2/15/00	10/31/02
	CARDER, KEVIN	262296	C 0	1	2/10/00	3/15/00
	CAREW, EL TAJARIS	264671	E B 22	1	5/31/00	7/12/00
MI 3	CARLSON, RUSSELL	292938	E A 52	1	3/11/04	3/15/04
MI 3	CARN, LAWRENCE	196852	C A 48	1	3/1/04	4/13/04
MI 3	CARR, STEVEN	296393	W C264	1	3/11/04	4/16/04
MI 2	CARSON, FRANKLIN	141667	C B 27	2	9/20/02	11/21/02
	CARSON, JONATHAN	255214	C 0	1	1/18/00	4/27/00
MI 3	CARSON, ROYCE	260228	S A 41	1	1/18/00	8/18/00
MI 1B	CARTER, CLIFFORD	247431	S B 20	3	12/3/03	4/8/04
MI 1B	CARTER, CLIFFORD	247431	S B 51	1	8/6/99	11/4/03
MI 3	CARTER, DEREK	275938	C A 2	1	7/10/01	6/24/04
MI 3	CARTER, K	243538	C A 0	0		3/25/02
MI 2	CARTER, THOMAS	249362	C A 28	1	3/15/04	6/24/04
MI 2	CASSADY, RUDY	238732	C B 15	1	4/19/02	6/24/04
MI 2	CASTANA, ERAVISTA	262067	C B 43	1	4/8/02	1/13/03
	CATCHINGS, ROBERT	242956	C A 48	1	3/29/00	3/5/01
	CAULDER, DAVID	270718	E A 24	1	1/2/01	1/8/01
	CAULDER, THOMAS	180602	C 0	1	11/3/99	1/6/00
	CHAPMAN, STEPHEN	125781	C B 50	1	10/16/00	9/24/01
MI 3	CHATMAN, CHARLES	181295	C B 58	2	10/17/00	11/4/02
	CHAVIS, DAVID	235867	M X 0	2	2/11/00	12/20/01
	CHEATHAM, LIONEL	262440	C 0	1	9/13/99	1/5/00
MI 3	CHEEKS, RICHARD	257571	C A 5	1	9/13/99	5/2/03
	CHILDS, DONALD	261121	E A 0	1	12/1/99	2/22/00
MI 3	CHISLOM, OTIS	279408	C B 19	1	1/7/02	3/20/03
MI 3	CHOICE, LEROY	113990	C B 52	1	11/10/99	6/24/04
	CHRISTOPHER, REGINALD	269130	C B 11	1	10/16/00	1/11/02
	CLARK, ERNEST	263319	C B 25	2	8/10/01	3/8/02
MI 3	CLARK, SHELDON	264772	C A 51	1	3/29/00	6/26/03
MI 3	CLARKE, HERIBERTO	276982	A B 36	3	9/11/03	10/21/03
MI 3	CLARKE, HERIBERTO	276982	C A 35	2	8/17/01	8/26/02
MI 3	CLEA, JOHN	297878	C B 27	3		3/17/04
MI 3	COBB, ZAWASKI	187136	C A 3	1	9/10/01	6/26/03
MI 3	COBBS, BARON	280479	C B 38	1	1/16/02	1/16/03
MI 3	COBBS, BARON	280479	C B 38	1	7/17/03	6/24/04

PLAINTIFF'S EXHIBIT A

A - 0778
June 2004

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STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

LEASE

THE AGREEMENT is entered into this 30th day of September, 1998, by and between the South Carolina Department of Corrections (hereinafter called "SCDC") by its duly authorized agent Michael W. Moore, Director and Williams Technologies, Inc., (hereafter referred to as "Williams") by its duly authorized agent William S. Williams, Chairman.

WHEREAS, Prison Industries is a division of the South Carolina Department of Corrections charged with establishing business relationships with private enterprise so as to fulfill the intent of Section 24-3-310 Code of Laws of South Carolina, 1976 as amended; and has all necessary authorization to enter into this agreement and to bind the State of South Carolina to all the terms contained herein; and,

WHEREAS, Williams represents and warrants that it is a duly qualified South Carolina corporation, licensed to conduct business in South Carolina; and,

WHEREAS, Williams intends to engage in the business of disassembly and/or remanufacturing of its product lines at Lieber Correctional Institution (hereinafter referred to as"LCI"); and ,

WHEREAS, this agreement is made in the best interest of the State of South Carolina:

NOW, THEREFORE, the parties hereto do agree as follows:

ARTICLE 1 General:

In consideration of Williams' expenditures to construct on behalf of the State of South Carolina a building of up to 45,000 square feet on the LCI premises (the "Building") , SCDC hereby enters into this Agreement to permit Williams to use such Building and related premises during the term and in accordance with the provisions of this Agreement. The State Engineer's approval of all building plans is required. Attachment A hereto shall indicate the location of the Building and the related premises, which shall include circulation space for delivery and shipping via tractor-trailers, parking outside of the secured area sufficient for a minimum of six (6) trailers and access to the facility via access roads. SCDC shall be responsible for maintenance of such roadways and related premises.

The Building shall be constructed according to plans approved by the state in accordance with all applicable federal and state and local rules and regulations and SCDC security requirements. The State Engineer's approval of all building plans is required. The cost of the Building (excluding personal property located in the Building such as furnishings and equipment) is estimated to be $ 1,200,000. Within 90 days of completion of the Building, Williams shall provide to SCDC documentation of the expenditures to construct the Building for its review and acknowledgment.

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to and from LCI reasonable access up to twelve (12) hours per day, subject to the Department's security requirements in Section 3.1.4.

(c) Other access. SCDC will provide access to the facility during Williams' hours of operation for Williams' employees, agents, and business invitees, subject to SCDC's security requirements.

3.3 Mutual Duties of the Parties:

1. Payment for Services: Williams agrees to pay SCDC $4.00 per hour per inmate for work performed including training hours and hours in excess of the inmate's normal shift. SCDC shall be responsible to pay inmate workers, cover security costs and P.I. overhead, including any costs for health, safety and welfare of the inmates, taxes or other payroll deduction. No compensation will be paid for time not worked. In order to accommodate holidays not observed by Williams, SCDC and Williams may agree to work ahead or to work on holidays if a mutually acceptable agreement can be reached.

Thirty (30) days prior to each anniversary date of this agreement, SCDC and Williams may negotiate an increase in the per hour rate paid by Williams to SCDC. If such an increase is requested, it shall be limited to a maximum of five percent (5%) annually or the annual percentage increase in the Consumer Price Index, whichever is lower. It is the intent of the parties that such increase shall only reflect SCDC's increased costs of prison overhead.

Williams and SCDC may mutually agree upon a bonus plan for inmates based on productivity and quality control. Such bonus will be paid in its entirety by Williams to SCDC for distribution to inmates.

2. Compliance with Convict Labor Laws: Williams and SCDC agree that no goods produced under this agreement shall be placed in commerce in violation of the laws of the State of South Carolina or the United States as they relate to the utilization of prison labor. Should either Federal or State Law (or the interpretation thereof) change preventing interstate shipments of goods produced under this Agreement, this Agreement shall terminate as provided in Sections 4.0.7 and 4.0.9.

ARTICLE 4 General Terms and Conditions:

4.0 General:
Williams, its employees or agents performing under the agreement are not to be deemed to be employees of SCDC nor as agents of SCDC in any manner whatsoever. Williams will not hold itself out nor claim to be an officer or employee of SCDC or of the State of South Carolina by reason hereof and will not make any claim, demand, or application to, or for any right or privilege applicable to an officer or employee of SCDC or the State of South Carolina, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security benefits, or retirement membership or credit.

The State of South Carolina, SCDC, their employees (including inmates performing labor pursuant to this Agreement) and agents, are not to be deemed employees of Williams nor agents of Williams in any manner

Inmate #	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Hours	Pay Amount
243538	CARTER	KENNETH		20020225	0.50	137.13	68.56
243538	CARTER	KENNETH		20020311	0.50	140.56	70.28
243538	CARTER	KENNETH		20020325	0.50	137.75	68.87
249362	CARTER, JR	THOMAS	LEE	20040419	0.50	46.75	23.37
249362	CARTER, JR	THOMAS	LEE	20040503	0.50	47.65	23.82
249362	CARTER, JR	THOMAS	LEE	20040517	0.50	76.35	38.17
249362	CARTER, JR	THOMAS	LEE	20040531	0.50	64.36	32.18
238732	CASSADY	RUDY	C.	20020506	0.50	43.53	21.76
238732	CASSADY	RUDY	C.	20020520	0.50	55.26	27.63
238732	CASSADY	RUDY	C.	20020603	0.50	49.43	24.71
238732	CASSADY	RUDY	C.	20020617	0.50	35.70	17.85
238732	CASSADY	RUDY	C.	20020701	0.50	69.65	34.82
238732	CASSADY	RUDY	C.	20020715	0.50	65.12	32.56
238732	CASSADY	RUDY	C.	20020729	0.50	70.95	35.47
238732	CASSADY	RUDY	C.	20020812	0.50	85.72	42.86
238732	CASSADY	RUDY	C.	20020826	0.50	109.94	54.97
238732	CASSADY	RUDY	C.	20020909	0.50	102.36	51.18
238732	CASSADY	RUDY	C.	20020923	0.50	129.38	64.69
238732	CASSADY	RUDY	C.	20021007	0.50	116.40	58.20
238732	CASSADY	RUDY	C.	20021021	0.50	133.98	66.99
238732	CASSADY	RUDY	C.	20021104	0.50	149.06	74.53
238732	CASSADY	RUDY	C.	20021118	0.50	109.50	54.75
238732	CASSADY	RUDY	C.	20021202	0.50	82.40	41.20
238732	CASSADY	RUDY	C.	20021216	0.50	97.72	48.86
238732	CASSADY	RUDY	C.	20021230	0.50	66.08	33.04
238732	CASSADY	RUDY	C.	20030113	0.50	72.72	36.36
238732	CASSADY	RUDY	C.	20030127	0.50	88.17	44.08
238732	CASSADY	RUDY	C.	20030210	0.50	99.95	49.97
238732	CASSADY	RUDY	C.	20030224	0.50	105.11	52.55
238732	CASSADY	RUDY	C.	20030310	0.50	88.55	44.27
238732	CASSADY	RUDY	C.	20030324	0.50	91.91	45.95
238732	CASSADY	RUDY	C.	20030407	0.50	72.11	36.05
238732	CASSADY	RUDY	C.	20030421	0.50	86.06	43.03
238732	CASSADY	RUDY	C.	20030505	0.50	46.53	23.26
238732	CASSADY	RUDY	C.	20030519	0.50	111.83	55.91
238732	CASSADY	RUDY	C.	20030602	0.50	91.58	45.79
238732	CASSADY	RUDY	C.	20030616	0.50	117.03	58.51
238732	CASSADY	RUDY	C.	20030630	0.50	105.77	52.88
238732	CASSADY	RUDY	C.	20030714	0.50	128.00	64.00
238732	CASSADY	RUDY	C.	20030728	0.50	106.39	53.19
238732	CASSADY	RUDY	C.	20030811	0.50	105.18	52.59
238732	CASSADY	RUDY	C.	20030825	0.50	99.77	49.88
238732	CASSADY	RUDY	C.	20030908	0.50	84.29	42.14
238732	CASSADY	RUDY	C.	20030922	0.50	122.01	61.00
238732	CASSADY	RUDY	C.	20031006	0.50	100.13	50.06
238732	CASSADY	RUDY	C.	20031020	0.50	92.23	46.11
238732	CASSADY	RUDY	C.	20031103	0.50	88.74	44.37
238732	CASSADY	RUDY	C.	20031117	0.50	109.20	54.60
238732	CASSADY	RUDY	C.	20031201	0.50	54.20	27.10
238732	CASSADY	RUDY	C.	20031215	0.50	101.92	50.96
238732	CASSADY	RUDY	C.	20031229	0.50	106.10	53.05
238732	CASSADY	RUDY	C.	20040112	0.50	63.02	31.51
238732	CASSADY	RUDY	C.	20040126	0.50	110.76	55.38
238732	CASSADY	RUDY	C.	20040209	0.50	129.05	64.52

PLAINTIFF'S EXHIBIT F

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A - 1014
June 2004

Ackerman 5-6-11 1430

Inmate #	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Hours	Pay Amount
238732	CASSADY	RUDY	C.	20040223	0.50	147.80	73.90
238732	CASSADY	RUDY	C.	20040308	0.50	91.83	45.91
238732	CASSADY	RUDY	C.	20040322	0.50	100.33	50.16
238732	CASSADY	RUDY	C.	20040405	0.50	121.77	60.88
238732	CASSADY	RUDY	C.	20040419	0.50	99.20	49.60
238732	CASSADY	RUDY	C.	20040503	0.50	124.75	62.37
238732	CASSADY	RUDY	C.	20040517	0.50	162.04	81.02
238732	CASSADY	RUDY	C.	20040531	0.50	133.06	66.53
262067	CASTANA	EVARISTO		20000731	0.50	50.36	25.18
262067	CASTANA	EVARISTO		20000731	0.50	46.98	23.49
262067	CASTANA	EVARISTO		20000814	0.50	65.38	32.69
262067	CASTANA	EVARISTO		20000828	0.50	69.25	34.62
262067	CASTANA	EVARISTO		20000911	0.50	34.77	17.38
262067	CASTANA	EVARISTO		20000925	0.50	79.49	39.74
262067	CASTANA	EVARISTO		20001009	0.50	68.03	34.01
262067	CASTANA	EVARISTO		20001023	0.50	26.13	13.06
262067	CASTANA	EVARISTO		20001106	0.50	26.83	13.41
262067	CASTANA	EVARISTO		20001120	0.50	68.85	34.42
262067	CASTANA	EVARISTO		20001204	0.50	51.42	25.71
262067	CASTANA	EVARISTO		20001218	0.50	51.13	25.56
262067	CASTANA	EVARISTO		20010101	0.50	19.83	9.91
262067	CASTANA	EVARISTO		20010115	0.50	77.71	38.85
262067	CASTANA	EVARISTO		20010129	0.50	100.05	50.02
262067	CASTANA	EVARISTO		20010212	0.50	96.60	48.30
262067	CASTANA	EVARISTO		20010226	0.50	42.58	21.29
262067	CASTANA	EVARISTO		20010312	0.50	57.77	28.88
262067	CASTANA	EVARISTO		20010326	0.50	109.85	54.92
262067	CASTANA	EVARISTO		20010409	0.50	87.80	43.90
262067	CASTANA	EVARISTO		20010423	0.50	87.75	43.87
262067	CASTANA	EVARISTO		20010507	0.50	66.37	33.18
262067	CASTANA	EVARISTO		20010521	0.50	84.72	42.36
262067	CASTANA	EVARISTO		20010604	0.50	82.58	41.29
262067	CASTANA	EVARISTO		20010618	0.50	30.00	15.00
262067	CASTANA	EVARISTO		20010702	0.50	67.31	33.65
262067	CASTANA	EVARISTO		20010716	0.50	122.98	61.49
262067	CASTANA	EVARISTO		20010730	0.50	74.16	37.08
262067	CASTANA	EVARISTO		20010813	0.50	33.72	16.86
262067	CASTANA	EVARISTO		20010827	0.50	73.98	36.99
262067	CASTANA	EVARISTO		20010910	0.50	105.74	52.87
262067	CASTANA	EVARISTO		20010924	0.50	125.09	62.54
262067	CASTANA	EVARISTO		20011008	0.50	155.56	77.78
262067	CASTANA	EVARISTO		20011022	0.50	142.08	71.04
262067	CASTANA	EVARISTO		20011105	0.50	126.98	63.49
262067	CASTANA	EVARISTO		20011119	0.50	123.69	61.84
262067	CASTANA	EVARISTO		20011203	0.50	109.21	54.60
262067	CASTANA	EVARISTO		20011217	0.50	140.76	70.38
262067	CASTANA	EVARISTO		20011231	0.50	58.01	29.00
262067	CASTANA	EVARISTO		20020506	0.50	42.32	21.16
262067	CASTANA	EVARISTO		20020520	0.50	57.56	28.78
262067	CASTANA	EVARISTO		20020603	0.50	47.24	23.62
262067	CASTANA	EVARISTO		20020617	0.50	74.80	37.40
262067	CASTANA	EVARISTO		20020701	0.50	67.00	33.50
262067	CASTANA	EVARISTO		20020715	0.50	58.90	29.45
262067	CASTANA	EVARISTO		20020729	0.50	87.60	43.80

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To: Douglas Westbrook, Attorney at Law

From: Dr. Joseph Benich, Economic Loss Expert

Subject: Your 9/14/04 request

Date: 9/20/04

This note is in response to your "prevailing wage" request for work generally described by the Williams Technologies Job Description of Production Associate. You have asked for my opinion of the "prevailing wage" for work of a similar nature in the private sector for 1999/2001 (I assume that you mean 1999, 2000, and 2001). It is also my understanding that the term " prevailing wage" not only implies work of a similar nature, but that the work should be performed in the same general geographic area.

The U.S. Department of Labor (Bureau of Labor Statistics) publishes wage data for a range of occupations in the Charleston – North Charleston Metropolitan Area. The Installation, Maintenance and Repair Occupation Sub-Category of "Maintenance and Repair Workers, General" had mean hourly wages of $11.44 in1999, $12.62 in 2000, and $13.24 in 2001 for the Charleston - North Charleston Metropolitan Area. The Production Occupations Sub-Category of "Team Assemblers" had mean hourly wages of $10.49 in 1999, $10.56 in 2000, and $10.88 in 2001 for the Charleston – North Charleston Metropolitan Area. The average of these two Sub-Categories is $10.97 for 1999, $11.59 for 2000, and $12.06 for 2001.

The possibility exists that the average prison worker would be less experienced with his prison position than his non-prison counterpart. It is also possible that the average prison worker would require more supervision than the average non-prison worker performing the same tasks. The concept of "prevailing wage" implies the average wage for a specific category of average workers. The Installation, Maintenance and Repair Occupation Sub Category of "Helpers—Installation, Maintenance, and Repair Workers" had mean hourly wages of $9.53 in 1999, $11.21 in 2000, and $10.45 in 2001. The Production Occupations Sub-Category of "Helpers--Production Workers" had mean hourly wages of $7.61 in 1999, $8.27 in 2000, and $9.09 in 2001. The average of these two "Helpers" Sub Categories is $8.40 for 1999, $9.74 for 2000, and $10.10 for 2001.

These "Helpers" Sub Category averages represent the lower end of the "prevailing wage" range for the Williams Technologies Job Description of Production Associate for 1999, 2000, and 2001. Thus the "prevailing wage" range estimate for prison workers for the Williams Technologies Job Description of Production Associate is $10.97 - $8.40 for 1999, $11.59 - $9.74 for 2000, and $12.06 - $10.10 for 2001.

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RESUME-3/03
Dr. Joseph J. Benich

FAMILY STATUS
Wife - Roberta; two children - Kiersten and J.J.

EDUCATION

9/68 - 6/72	Doctor of Business Administration Majors: Production Management and Marketing Kent State University, Kent, Ohio
1/66 - 5/68	Masters of Business Administration Majors: Economics and Marketing Case Western Reserve University, Cleveland, Ohio
9/65 - 1/66	Western Reserve University, Cleveland, Ohio Major: Law
9/61 - 6/65	Bachelor of Science in Chemical Engineering Case Institute of Technology, Cleveland, Ohio

ACADEMIC EXPERIENCE

9/93 –2003	Professor of Business Administration College of Charleston, Charleston, South Carolina
9/78 - 8/93	Associate Professor of Business Administration College of Charleston, Charleston, South Carolina
9/76 - 9/78	Associate Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/72 - 9/76	Assistant Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/69 - 6/72	Full-time Instructor, Economics Department Kent State University, Kent, Ohio
1/69 - 6/69	Teaching Fellow, Statistics Kent State University
9/68 - 12/68	Graduate Assistant Kent State University

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NON-ACADEMIC EXPERIENCE

6/74 -	Expert Witness, Economic Litigation, Charleston, South Carolina, analyses of economic loss to individuals and/or businesses, with presentations in State and Federal courts
7/78 -	Manager of Summertime Properties, Charleston, South Carolina
6/73 -	Business Consulting, J. Benich and Associates, Charleston, South Carolina
1/68 - 11/72	Business Advisor to Director of American Screw Products, Warrensville, Ohio
1/68 - 10/68	Staff Specialist (Systems Optimizations), Cleveland Electric Illuminating Company, Cleveland, Ohio
1/66 - 9/67	Industrial Market Research, Harshaw Chemical, Cleveland, Ohio
19/65 - 1/66	Phosphor Efficiency Development, General Electric Co., Cleveland, Ohio (worked independently on a second shift due to day law school)
6/65 - 9/65	Research Chemical Engineering, Sohio Research, Warrensville, Ohio (catalyst efficiency testing and associated acetonitrile purification development).

PUBLICATIONS

"Signal-Averaged P-Wave Analysis of Normal Controls and Patients with Paroxysmal Atrial Fibrillation: A Study in Gender Differences, Age Dependence, and Reproducibility", with A Dhala, B. Leman, et al, Clinical Cardiology, November, 2002, p-525-531

"The High Resolution Signal-Averaged P-Wave Duration in Normal Patients: Influence of Race and Gender", with M. Little, B. Leman, and B. Hainer, North American Society of Pacing and Electrophysiology, abstracted, *Pacing and Clinical Electrophysiology*, April, 1997, Vol.20:4:1219

"Alternative Approaches to Tax Adjustments in Appraising Economic Loss: A Comment", *Journal of Legal Economics*, Fall 1996

"Updated Estimates of Work-Life Expectancies Based upon The Increment-Decrement Model: Comment", *Journal of Legal Economics*, Winter 1995

"Intra-Year Discounting Assumptions and Bias in Lost Earnings Analysis: A Comment", *Journal of Forensic Economics*, Winter 1993, 7(1)

"Comment: On the Relative Stability and Predictability of the Interest Rate and Earnings Growth Rate", *Journal of Forensic Economics*, Winter 1992, 6(1)

"Determining Tax-Adjusted Awards for Spouses' Lost Future Earnings", For *The Defense*, Nov. 1992

"The Just Better (JB) Method of Calculating The Present Value of Lost Future Income", *Journal of Legal Economics*, July 1992

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Cassidy, Rudy
SCDC NUMBER: ~~#288732~~ 238732 NOV 08 2004
INSTITUTION: ~~Lieber Corr Inst~~ RCI
HOUSING UNIT: Cooper B-47
WORK ASSIGNMENT: PI-2

Office Use Only
Grievance No. CA 0672-04
Code: General RH
Policy
Disc. Hear.
Class.
Date Received NOV 08 2004
IGC Initials

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

Adkins and Wicker do require payment of prevailing wages. Grievants were employed by WTI and SCDC was WTI's "agent" in paying our wages. Adkins and Wicker further allow this issue of payment of wages under S.C.Code Ann.§24-3-430 to be grieved purusant to SCDC's grievance procedure. Grievant incorporates by reference all exhibits attached to grievances filed by Darrell Williams and attorney Douglas Westbrook on 9/22/04.

Rudy Cassidy 11/02/04
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

SEE ATTACHED

5-14-07
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.

Rudy Cassidy 5/18/07
Grievant Signature Date

M. E Monteith 5/18/07
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

SCDC 10-5A (November 1997)

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Ackerman 5-6-11 1435

CASSIDY LCI-0672-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 2 appeal dated November 2, 2004. Along with reviewing your Step 2 appeal, I have also reviewed any and all documents you submitted in support of your Step 1 grievance form dated September 23, 2004.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on April 19, 2002 and that your participation in this project ended on October 4, 2005.

After carefully considering the arguments you made in both your Step 2 appeal and your Step 1 grievance, I deny your Step 2 appeal.

As I said at the very beginning of my response, I reviewed your Step 2 appeal and all of the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 2 appeal.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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

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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. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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.

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, and the exceptions to this deadline recognized by paragraph 13.9, that you did not submit your Step 1 grievance by the deadline set forth in SCDC's inmate grievance policy. You simply did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430. 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 nearly 2 ½ years after SCDC first paid you for your participation in the project located at Lieber and 30 days after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded the time frame associated with filing a grievance under SCDC's applicable policy.

In making this decision, I also rely upon the orders issued by the Administrative Law Court in 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.
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 any of the relief you demand in your grievance.

Contrary to the claims you made in your appeal and grievance, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made your appeal and grievance, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Contrary to the claim you raised in your Step 2 appeal, I specifically conclude, under the Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., that SCDC did not act as an "agent" for Williams Technologies when it paid you for the labor you voluntarily provided to the prison industries project SCDC operates at Lieber.

Therefore, to the extent you use the term "employee" within your supporting documents to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

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I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.
Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your appeal and grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your appeal and grievance the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

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

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Rudy Cassidy, #238732,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

DOCKET NO. _07___-ALJ-04-_____-____
GRIEVANCE NO.: _____

Notice is hereby given that Rudy Cassidy does hereby appeal the final decision of the South Carolina Department of Corrections dated 5-14-07 and received on 5-18-07, 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)):

1. Grievance seeks back wages, contesting SCDC policy/procedure of paying below prevailing/negotiated wages. Thus, there was no time limit to file grievance under Grievance Policy §13.9.

2. Appellant had reasonable cause under §13.9 as his right to grieve did not accrue until Adkins/Wicker and filed within a reasonable time.

3. Applying §13.1 to these facts violated due process.

4. Under 4-19-07 Court order, SCDC was required to accept filing and consider on the merits Appellant's Amendment/Exhibits.

5. Grievance proved all elements of claim for prevailing/negot. wages.

6. Dr. Benich's report is the only evidence of prevailing wages in the record. Appellant is entitled to prevailing/negotiated wages.

7. To extent Appellant worked OT he is entitled to it under SCDC policy

8. Appellant claims pre/post judgment interest, costs and attorney fees

Rudy Cassidy
Appellant's Name
Ridgeland C.I.
P.O. Box 2039
Mailing Address
Ridgeland, SC 29936
City, State, Zip Code
none
Telephone Number

Signed
5-30-07
Dated

Douglas H. Westbrook
23 Broad St.
Chas, SC 29401
(843) 853-9600
Attorney for Appellant

1801

STATE OF SOUTH CAROLINA	)	IN THE ADMINISTRATIVE LAW COURT
	)	
RUDY CASSIDY, #238732	)	
	)	
Grievant/Appellant,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,	)	
	)	
Respondent/Appellee.	)	

I certify that on the 5th day of June, 2007, I mailed by first class postage Appellant's Notice of Appeal, and final decision, to the following:

(1) The original and one copy were mailed for filing with the Administrative Law Court, to:

The Honorable Jana Shealy
Clerk
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

(2) One copy was mailed pursuant to ALC Rule 54 to counsel of record for SCDC, to:

Lake Summers, Esquire
Malone, Thompson, Summers, & Ott, LLC
339 Heyward St., Ste. 200
Columbia, SC 29201

Douglas H. Westbrook

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: LEROY Choice
SCDC NUMBER: 113990
INSTITUTION: Lieber
HOUSING UNIT: Cooper B 52 ✓
WORK ASSIGNMENT: PIE 2

Office Use Only
Grievance No. Lieber0645-04
Code: General CMY
Policy
Disc. Hear.
Class.
Date Received SEP 23 2004
IGC Initials TC

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)
The department is Asked to Review And determine whether I Am entitled to Receive Back wages due to me From working at Lieber Prison Industry ~~Factory~~ Problem when They only pay me 35 Cents an hour And not prevailing wage as Required under South Carolina Code Ann See 24-3-430 (A-7) As well As Fact That From 1998-03 They denied me Prevailing wage

ACTION REQUESTED: All money due to me be paid to prevailing wage An Ovetime Rate ~~And~~ And prevailing wage be paid now

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:
Law suit was Filed ordered to File Grievance by Court Wickers v. S.C.D.C. Adkins V. SCDC.

Leroy Choice 9-23-04
Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's Response

L Carlton 10/28/04
IGC Signature Date

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

N/A
Grievant Signature Date

SCDC 10-5 (Rev. November 1997)

(CONTINUED ON REVERSE SIDE)

1803

Ackerman 5-6-11 1441

WARDEN'S DECISION AND REASON:

SEE ATTACHED

5-15-07
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 52207

Ann Nallman 5-15-07
~~IGC~~ IGA Signature Date

Served by: Ann Nallman 5.22.07

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.

1804

Inmate L. Choice, #113990 2C10615-04

I find that SCDC does not owe you back wages for the labor you provided as part of your participation in the prison industries project located here at Lieber. I also find that none of the authorities you discuss in your grievance require SCDC to pay you a different hourly rate than the hourly rate SCDC currently pays you for your prison industries labor. Therefore, I deny your grievance.

In making these findings, I consulted with Lieber's Inmate Grievance Coordinator. The Inmate Grievance Coordinator, in turn, consulted with SCDC's General Counsel's Office and SCDC's attorney in the class action lawsuit that raises the same issues you raised in your grievance, Williams, et al. v. SCDC, etal., Case No. 02-CP-180134. This attorney also represented SCDC in the South Carolina Supreme Court cases you reference in your grievance, Adkins, et al., v. SCDC and Wicker v. SCDC.

As a result of these efforts, I learned that a circuit court judge will soon consider motions filed by both SCDC and Williams Technologies, Inc. (WTI), the other defendant in the Williams lawsuit, to completely dismiss the case.

I also learned that former Inmate Darrell Williams, the named plaintiff in the class action lawsuit discussed above, also filed a grievance demanding SCDC take action similar if not identical to the action you demand in your grievance. I also learned that Mr. Williams' grievance claims to be a "class action" grievance on behalf of inmates like you. However, I learned that SCDC, in accordance with SCDC policy, terminated Mr. Williams' grievance when SCDC released him from its custody on October 1, 2004.

I conclude that neither the Adkins opinion nor the Wicker opinion ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your grievance. These opinions merely allowed you and other inmates in your position to file such grievances.

I conclude that you are not an "employee" of WTI and that neither Adkins nor Wicker declare that you or inmates in your position are employees of WTI or any other private business. Therefore, to the extent you use the term "inmate/employee" to describe your position or status; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

I conclude that while Adkins and Wicker discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' now terminated grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston Professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert". Mr. Williams also stated in his now terminated grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes.

I conclude that neither Adkins nor Wicker required SCDC to pay you or other inmates in your position the hourly wage rates as stated by Mr. Williams in his now terminated grievance.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your grievance.

1805

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance", none of the authorities you discuss in your grievance require or even consider such recognition. Additionally, none of the authorities Mr. Williams discussed in his now terminated grievance require or even consider such recognition. Finally, none of the applicable SCDC policies or applicable rules of court require or even consider such recognition.

To the extent that you demand in your grievance the same "pre/post judgement interest, costs and attorney fees" Mr. Williams demanded in his now terminated grievance, SCDC's Inmate Grievance System Policy does not entitle you or any other inmate to any pre or post-judgement interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance. Furthermore, SCDC's Inmate Grievance System Policy does not allow for your representation by an attorney at any phase of its review and processing of your grievance.

Therefore, I, again, deny your grievance.

If you desire you may appeal my response within five days of receipt via the Inmate Grievance Coordinator.

1806

CHOICE LCI-0645-04

As directed by the order filed July 1, 2005 and signed June 23, 2005 by Circuit Court Judge Diane S. Goodstein in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., civil action number 02-CP-18-0134, I have reviewed your Step 1 grievance form dated September 22, 2004 as well as any and all documents you submitted in support of your Step 1 grievance form.

Additionally, your prison industries participation and pay records were reviewed by the responsible officials at both Lieber and Division of Industries Headquarters in Columbia. These records reflect that you began participating in the prison industries project at Lieber on November 10, 1999 and that you are still participating in this project.

After carefully considering your grievance and the arguments you made justifying the relief you request, I deny your grievance in its entirety.

As I said at the very beginning of my response, I reviewed your Step 1 form and the other documents you submitted as directed by the order Judge Goodstein signed on June 23, 2005 order in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc. In the last section of the order she signed June 23, 2005, Judge Goodstein lifted a stay she first imposed on November 3, 2004 by which she halted SCDC's processing of all grievances filed by inmates, like yourself, in which the inmates demanded back wages or higher current wages for the labor they had provided or were currently providing to the prison industries project at Lieber in which Williams Technologies, Inc., acts as the private industry participant. Also within the last section of the order she signed June 23, 2005, Judge Goodstein restored both the grieving inmates and SCDC to the positions they held regarding their respective grievances and responses as of November 3, 2004, and she directed that her stay would be lifted approximately 60 days from the day she signed her order. However, as the attorney who represented the inmates in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., (Douglas Westbrook of Charleston) appealed other sections of the order Judge Goodstein signed on June 23, 2005, the section of Judge Goodstein's order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 could not go into effect until the appellate courts of our state decided with finality the appeal of the other sections of her order.

On February 26, 2007, the South Carolina Supreme Court issued its opinion regarding the appeal filed by the inmates' attorney concerning the other sections of the order signed by Judge Goodstein on June 23, 2005, and the Court's opinion is cited as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., 372 S.C. 255, 641 S.E.2d 885 (2007). In its opinion, the Supreme Court denied the appeal filed by the inmates' attorney and affirmed the decisions made by Judge Goodstein in the other sections of the order she signed June 23, 2005. Specifically, the Supreme Court affirmed Judge Goodstein's decision to dismiss the inmates' class action lawsuit in its entirety and the Supreme Court also affirmed Judge Goodstein's decision to dismiss the class of inmates she had recognized in earlier proceedings. The inmates' attorney filed a Petition for Rehearing with the Court, but, in an order issued March 21, 2007, the Court denied this Petition for Rehearing. On March 22, 2007, the Clerk of Court for Dorchester County received notice of the Supreme Court's denial of the Petition for Rehearing.

As a result of the Supreme Court's decision to deny the Petition for Rehearing filed by the inmates' attorney and the receipt of the Supreme Court's decision by the Clerk of Court for Dorchester County on March 22, 2007, the section of the order Judge Goodstein signed on June 23, 2005 order by which she lifted the stay on grievance processing she first imposed on November 3, 2004 finally went into effect. Therefore, SCDC had 60 days from the date the Dorchester County Clerk of Court received notice of the Supreme Court's denial of the Petition for Rehearing or May 22, 2007 to resume its processing of grievances including your Step 1 grievance.

The South Carolina Supreme Court, in two opinions it issued on August 23, 2004, first 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 S.C. Code Section 24-3-40, 24-3-310, et seq., and,

1807

specifically, 24-3-430. Under Wicker, the grievances must be filed, processed, and determined in accordance with the provisions of SCDC's Inmate Grievance System Policy.

SCDC Policy Number 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. I made this finding, because you did not submit your grievance within 15 days of when SCDC first paid you an hourly wage that allegedly violated the applicable prison industries statutes and, specifically, Section 24-3-430.

My position is also supported by Administrative Law Judge Anderson's order in Wright, #200123, vs. SCDC, Docket No. 06-ALJ-04-00114-AP and Administrative Law Judge McLeod's order in Henry Williams, #187203, vs. SCDC, Docket No. 06-ALJ-04-00622-AP.

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 any of the relief you demand in your grievance. In making this finding, I consulted with Lieber's Inmate Grievance Coordinator's [IGC] Office. Representatives of Lieber's IGC Office, in turn, consulted with SCDC's General Counsel's Office and the outside counsel retained by SCDC to defend the inmates' class action lawsuit in the case now known as Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Through these consultations, I learned that inmate Darrell Williams, the class representative identified in the inmates' class action lawsuit, filed a Step 1 grievance on September 22, 2004 demanding relief that was similar if not identical to the relief you demanded in your Step 1 grievance. I also learned that Mr. Williams' grievance claimed to be a "class action" grievance on behalf of inmates including you. As a review of the documents submitted in support of your Step 1 grievance form clearly shows, you referenced the Step 1 grievance filed by Williams on September 22, 2004.

Contrary to the claims you made in these supporting documents, however, I conclude that neither the South Carolina Supreme Court's opinion in Adkins nor its opinion in Wicker ordered you or any other inmate in your position to file a grievance demanding the relief you demand in your Step 1 grievance. These opinions simply acknowledged for the first time that you and other inmates in your position could file such grievances if you desired.

Also, contrary to the claims you made your supporting documents, I conclude that you have never been and are not currently an "employee" of either SCDC or Williams Technologies, and I also conclude that neither Adkins nor Wicker declared that you or inmates in your position are employees of SCDC, Williams Technologies, or, for that matter, or any other agency or company. I make this conclusion in reliance of the South Carolina Supreme Court's opinion in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., in which the Court recognized both that inmates are not "employees" of the State of South Carolina and that inmates are not the "employees" of prison industry sponsors like Williams Technologies.

Therefore, to the extent you use the term "employee" within your supporting documents to describe your position; I reject your use of that term. You and the other inmates in your position have been, are, and remain inmates lawfully confined within an SCDC facility, and you performed all of your labor in this prison industries project inside the walls of Lieber CI.

1808

I further conclude that while Adkins, Wicker, and, to some extent, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., discuss and interpret Section 24-3-430, they do not require that you or inmates in your position receive the "prevailing wage" at the rates set forth in Mr. Williams' September 22, 2004 Step 1 grievance. Mr. Williams stated that the "prevailing wage" for work of a similar nature in the private sector was $8.40 to $10.97 per hour in 1999, $9.74 to $11.79 per hour in 2000, and $10.10 to $12.06 per hour in 2001. Mr. Williams based these wage ranges upon a one page memorandum from a College of Charleston professor, Dr. Joseph Benich. Dr. Benich describes himself as an "Economic Loss Expert." Mr. Williams also claimed in his September 22, 2004 Step 1 grievance that, since July 2001, SCDC should have paid you and the other inmates in your position a "negotiated wage" of $4.00 per hour for your labor under other South Carolina statutes. Again, I conclude that no part of the South Carolina Supreme Court's opinions in Adkins, Wicker, or Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., required SCDC to pay you or other inmates in your position the hourly wage rates stated by Mr. Williams in his September 22, 2004 grievance.
Moreover, the hourly rate at which SCDC pays inmates for the labor they provide to any prison industries project may be different than the hourly rate at which SCDC leases the inmates' labor to the private company sponsor under the contract between SCDC and the private company sponsor.

Also, to the extent that you demand overtime wages in your grievance, I conclude that neither Adkins nor Wicker nor, for that matter, Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc., require SCDC to pay you or any other inmate in your position overtime wages for your prison industries labor during the time period you discuss in your Step 1 grievance.

To the extent that you want SCDC to recognize your grievance and the grievances filed by inmates in your position as a "class grievance," none of the authorities you discuss in your Step 1 grievance requires or even considers such recognition. Additionally, none of the authorities Mr. Williams discussed in his September 22, 2004 Step 1 grievance requires or even considers such recognition. Finally, none of the applicable SCDC policies or applicable rules of court requires or even considers such recognition. Again, the South Carolina Supreme Court affirmed Judge Goodstein's decision to dismiss the class of inmates she had earlier recognized in Darrell Williams, Class Representative, et al., v. SCDC and Williams Technologies, Inc.

Finally, to the extent that you demand in your supporting documents the same "pre/post judgment interest, costs, and attorney fees" Mr. Williams demanded in his Step 1 grievance, no decision of the South Carolina Supreme Court nor any provision of SCDC's Inmate Grievance System Policy entitles you or any other inmate to any pre or post-judgment interest, costs or attorneys fees in connection with SCDC's review and processing of your grievance.

Therefore, I, again, deny your grievance in its entirety.

1809

AMENDMENT TO GRIEVANCE OF LEROY CHOICE, #113990

Grievant was/is employed in the Williams Tech/Lieber Prison Industries/Private Sector Program for the provision of services. The Program was established under S.C. Code §24-3-310, 430. From 1999 to July 2001, §24-3-430 required WTI/Lieber to pay Grievant the prevailing wage for work of similar nature in the private sector. The prevailing wage was $8.40/$10.97 for 1999, $9.74/$11.59 for 2000, and $10.10/$12.06 for 2001 (Exh. G,H; Exh. A-H to two grievances filed by Darrell Williams and counsel 9-22-04 are incorporated herein by reference).* Since July 2001, WTI/Lieber were required to pay Grievant the negotiated wage of $4/hour (Stat. at Large, No. 66, §37.31; Exh. B,C). In fact, SCDC policy was to pay a maximum of about $1/hour, and usually less. Exhibits document a $.35 per hour base rate (Exh. B,D,E); maximum of $1/hour (Exh. E); the 9-30-98 contract specifying a $4/hour wage (Exh. B,C); employee roster (Exh. A); and pay dates, hours, rates, and pay for Grievant (Exh. F). SCDC states rates/hours in Exh. F are incorrect after a certain date, however, as an SCDC document Exh. F should stand as prima facie evidence unless shown incorrect by other evidence.

Grievant requests back wages owed for 231.87 hours in 1999 at $9.68 per hour; 2638.43 hours in 2000 at $10.66 per hour; 1810.19 hours in 1-1-01 to 6-30-01 at $11.08 per hour; and 10,801.64 plus hours* in 7-1-01 to present at $4 per hour; less wages paid, §24-3-40 deductions, and soc. sec./medicare; plus interest, costs, and attorney fees.

Leroy Choice 2/30/6
(Grievant Signature) (Date)

* Attached are Exh. A, 0778; C, 0081,0086; F, 1022-1024; H, 1-3.
* An hours "plus" figure here means Grievant may have worked past the latest date in Exh. F, June 2004, requiring addition to figure.

	NAME	SCDC	DORM	SHIFT	HIRED	RELEASED
	BUTLER, JOHN	268753	S B 15	1	9/25/00	10/12/00
MI 3	BUTLER, RICHARD	162467	C A 57	1	6/27/00	6/26/03
MI 3	BUTLER, THOMAS	257552	C B 28	1	4/20/04	5/14/04
MI 3	BYRD, CALVIN	257319	C B 57	1	10/1/99	4/21/03
MI 3	CADE, O	257075	C A 0	0		12/20/99
MI 3	CALLOWAY, COREY	285780	WC160	3		3/17/04
	CAMPBELL, DORAS	246508	S B 50	1	7/7/01	1/29/02
MI 2	CAMPBELL, MARCUS	273397	C A 31	2	7/10/01	10/7/02
	CAMPBELL, RODNEY	263521	C A 42	1	7/12/00	5/30/01
MI 2	CANTY, MITCHELL	237815	C A 2	1	2/15/00	10/31/02
	CARDER, KEVIN	262296	C 0	1	2/10/00	3/15/00
	CAREW, EL TAJARIS	264671	E B 22	1	5/31/00	7/12/00
MI 3	CARLSON, RUSSELL	292938	E A 52	1	3/11/04	3/15/04
MI 3	CARN, LAWRENCE	196852	C A 48	1	3/1/04	4/13/04
MI 3	CARR, STEVEN	296393	WC264	1	3/11/04	4/16/04
MI 2	CARSON, FRANKLIN	141667	C B 27	2	9/20/02	11/21/02
	CARSON, JONATHAN	255214	C 0	1	1/18/00	4/27/00
MI 3	CARSON, ROYCE	260228	S A 41	1	1/18/00	8/18/00
MI 1B	CARTER, CLIFFORD	247431	S B 20	3	12/3/03	4/8/04
MI 1B	CARTER, CLIFFORD	247431	S B 51	1	8/6/99	11/4/03
MI 3	CARTER, DEREK	275938	C A 2	1	7/10/01	6/24/04
MI 3	CARTER, K	243538	C A 0	0		3/25/02
MI 2	CARTER, THOMAS	249362	C A 28	1	3/15/04	6/24/04
MI 2	CASSADY, RUDY	238732	C B 15	1	4/19/02	6/24/04
MI 2	CASTANA, ERAVISTA	262067	C B 43	1	4/8/02	1/13/03
	CATCHINGS, ROBERT	242956	C A 48	1	3/29/00	3/5/01
	CAULDER, DAVID	270718	E A 24	1	1/2/01	1/8/01
	CAULDER, THOMAS	180602	C 0	1	11/3/99	1/6/00
	CHAPMAN, STEPHEN	125781	C B 50	1	10/16/00	9/24/01
MI 3	CHATMAN, CHARLES	181295	C B 58	2	10/17/00	11/4/02
	CHAVIS, DAVID	235867	MX 0	2	2/11/00	12/20/01
	CHEATHAM, LIONEL	262440	C 0	1	9/13/99	1/5/00
MI 3	CHEEKS, RICHARD	257571	C A 5	1	9/13/99	5/2/03
	CHILDS, DONALD	261121	E A 0	1	12/1/99	2/22/00
MI 3	CHISLOM, OTIS	279408	C B 19	1	1/7/02	3/20/03
MI 3	CHOICE, LEROY	113990	C B 52	1	11/10/99	6/24/04
	CHRISTOPHER, REGINALD	269130	C B 11	1	10/16/00	1/11/02
	CLARK, ERNEST	263319	C B 25	2	8/10/01	3/8/02
MI 3	CLARK, SHELDON	264772	C A 51	1	3/29/00	6/26/03
MI 3	CLARKE, HERIBERTO	276982	A B 36	3	9/11/03	10/21/03
MI 3	CLARKE, HERIBERTO	276982	C A 35	2	8/17/01	8/26/02
MI 3	CLEA, JOHN	297878	C B 27	3		3/17/04
MI 3	COBB, ZAWASKI	187136	C A 3	1	9/10/01	6/26/03
MI 3	COBBS, BARON	280479	C B 38	1	1/16/02	1/16/03
MI 3	COBBS, BARON	280479	C B 38	1	7/17/03	6/24/04

PLAINTIFF'S EXHIBIT A

A - 0778
June 2004

1811

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

LEASE

THE AGREEMENT is entered into this 30th day of September, 1998, by and between the South Carolina Department of Corrections (hereinafter called "SCDC") by its duly authorized agent Michael W. Moore, Director and Williams Technologies, Inc., (hereafter referred to as "Williams") by its duly authorized agent William S. Williams, Chairman.

WHEREAS, Prison Industries is a division of the South Carolina Department of Corrections charged with establishing business relationships with private enterprise so as to fulfill the intent of Section 24-3-310 Code of Laws of South Carolina, 1976 as amended; and has all necessary authorization to enter into this agreement and to bind the State of South Carolina to all the terms contained herein; and,

WHEREAS, Williams represents and warrants that it is a duly qualified South Carolina corporation, licensed to conduct business in South Carolina; and,

WHEREAS, Williams intends to engage in the business of disassembly and/or remanufacturing of its product lines at Lieber Correctional Institution (hereinafter referred to as"LCI"); and ,

WHEREAS, this agreement is made in the best interest of the State of South Carolina:

NOW, THEREFORE, the parties hereto do agree as follows:

ARTICLE 1 General:

In consideration of Williams' expenditures to construct on behalf of the State of South Carolina a building of up to 45,000 square feet on the LCI premises (the "Building") , SCDC hereby enters into this Agreement to permit Williams to use such Building and related premises during the term and in accordance with the provisions of this Agreement. The State Engineer's approval of all building plans is required. Attachment A hereto shall indicate the location of the Building and the related premises, which shall include circulation space for delivery and shipping via tractor-trailers, parking outside of the secured area sufficient for a minimum of six (6) trailers and access to the facility via access roads. SCDC shall be responsible for maintenance of such roadways and related premises.

The Building shall be constructed according to plans approved by the state in accordance with all applicable federal and state and local rules and regulations and SCDC security requirements. The State Engineer's approval of all building plans is required. The cost of the Building (excluding personal property located in the Building such as furnishings and equipment) is estimated to be $ 1,200,000. Within 90 days of completion of the Building, Williams shall provide to SCDC documentation of the expenditures to construct the Building for its review and acknowledgment.

PLAINTIFF'S EXHIBIT C

1812

to and from LCI reasonable access up to twelve (12) hours per day, subject to the Department's security requirements in Section 3.1.4.

(c) Other access. SCDC will provide access to the facility during Williams' hours of operation for Williams' employees, agents, and business invitees, subject to SCDC's security requirements.

3.3 Mutual Duties of the Parties:

1. Payment for Services: Williams agrees to pay SCDC $4.00 per hour per inmate for work performed including training hours and hours in excess of the inmate's normal shift. SCDC shall be responsible to pay inmate workers, cover security costs and P.I. overhead, including any costs for health, safety and welfare of the inmates, taxes or other payroll deduction. No compensation will be paid for time not worked. In order to accommodate holidays not observed by Williams, SCDC and Williams may agree to work ahead or to work on holidays if a mutually acceptable agreement can be reached.

Thirty (30) days prior to each anniversary date of this agreement, SCDC and Williams may negotiate an increase in the per hour rate paid by Williams to SCDC. If such an increase is requested, it shall be limited to a maximum of five percent (5%) annually or the annual percentage increase in the Consumer Price Index, whichever is lower. It is the intent of the parties that such increase shall only reflect SCDC's increased costs of prison overhead.

Williams and SCDC may mutually agree upon a bonus plan for inmates based on productivity and quality control. Such bonus will be paid in its entirety by Williams to SCDC for distribution to inmates.

2. Compliance with Convict Labor Laws: Williams and SCDC agree that no goods produced under this agreement shall be placed in commerce in violation of the laws of the State of South Carolina or the United States as they relate to the utilization of prison labor. Should either Federal or State Law (or the interpretation thereof) change preventing interstate shipments of goods produced under this Agreement, this Agreement shall terminate as provided in Sections 4.0.7 and 4.0.9.

ARTICLE 4 General Terms and Conditions:

4.0 General:
Williams, its employees or agents performing under the agreement are not to be deemed to be employees of SCDC nor as agents of SCDC in any manner whatsoever. Williams will not hold itself out nor claim to be an officer or employee of SCDC or of the State of South Carolina by reason hereof and will not make any claim, demand, or application to, or for any right or privilege applicable to an officer or employee of SCDC or the State of South Carolina, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security benefits, or retirement membership or credit.

The State of South Carolina, SCDC, their employees (including inmates performing labor pursuant to this Agreement) and agents, are not to be deemed employees of Williams nor agents of Williams in any manner

PLAINTIFF'S EXHIBIT C

Inmate #	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Hours	Pay Amount
279408	CHISOLM	OTIS		20020909	0.50	93.35	46.67
279408	CHISOLM	OTIS		20020923	0.50	109.43	54.71
279408	CHISOLM	OTIS		20021007	0.50	157.42	78.71
279408	CHISOLM	OTIS		20021021	0.50	127.65	63.82
279408	CHISOLM	OTIS		20021104	0.50	135.65	67.82
279408	CHISOLM	OTIS		20021118	0.50	104.25	52.12
279408	CHISOLM	OTIS		20021202	0.50	81.57	40.78
279408	CHISOLM	OTIS		20021216	0.50	105.75	52.87
279408	CHISOLM	OTIS		20021230	0.50	38.18	19.09
279408	CHISOLM	OTIS		20030113	0.50	60.75	30.37
279408	CHISOLM	OTIS		20030127	0.50	92.48	46.24
279408	CHISOLM	OTIS		20030210	0.50	93.70	46.85
279408	CHISOLM	OTIS		20030224	0.50	77.18	38.59
279408	CHISOLM	OTIS		20030310	0.50	100.47	50.23
279408	CHISOLM	OTIS		20030324	0.50	108.46	54.23
113990	CHOICE	LEROY	-	19991122	0.35	42.42	14.84
113990	CHOICE	LEROY	-	19991122	0.55	7.50	4.12
113990	CHOICE	LEROY	-	19991206	0.35	55.72	19.50
113990	CHOICE	LEROY	-	19991206	0.55	5.00	2.75
113990	CHOICE	LEROY	-	19991220	0.35	65.18	22.81
113990	CHOICE	LEROY	-	19991220	0.55	15.13	8.32
113990	CHOICE	LEROY	-	19991220	2.50	2.00	5.00
113990	CHOICE	LEROY	-	20000103	0.35	36.65	12.82
113990	CHOICE	LEROY	-	20000103	0.55	2.27	1.24
113990	CHOICE	LEROY	-	20000117	0.55	2.00	1.10
113990	CHOICE	LEROY	-	20000117	0.50	73.45	36.72
113990	CHOICE	LEROY	-	20000117	0.55	7.50	4.12
113990	CHOICE	LEROY	-	20000117	0.50	15.00	7.50
113990	CHOICE	LEROY	-	20000131	0.50	64.88	32.44
113990	CHOICE	LEROY	-	20000131	0.55	7.50	4.12
113990	CHOICE	LEROY	-	20000214	0.40	74.20	29.68
113990	CHOICE	LEROY	-	20000214	0.80	6.50	5.20
113990	CHOICE	LEROY	-	20000214	0.55	7.50	4.12
113990	CHOICE	LEROY	-	20000214	0.55	5.50	3.02
113990	CHOICE	LEROY	-	20000228	0.50	67.50	33.75
113990	CHOICE	LEROY	-	20000228	0.55	7.50	4.12
113990	CHOICE	LEROY	-	20000228	1.05	15.00	15.75
113990	CHOICE	LEROY	-	20000313	0.50	74.88	37.44
113990	CHOICE	LEROY	-	20000313	0.55	6.50	3.57
113990	CHOICE	LEROY	-	20000327	0.50	66.55	33.27
113990	CHOICE	LEROY	-	20000327	0.80	7.50	6.00
113990	CHOICE	LEROY	-	20000410	0.50	75.00	37.50
113990	CHOICE	LEROY	-	20000410	0.80	15.00	12.00
113990	CHOICE	LEROY	-	20000424	0.50	75.00	37.50
113990	CHOICE	LEROY	-	20000424	0.55	4.25	2.33
113990	CHOICE	LEROY	-	20000424	0.25	6.95	1.73
113990	CHOICE	LEROY	-	20000508	0.50	75.00	37.50
113990	CHOICE	LEROY	-	20000508	0.80	14.23	11.38
113990	CHOICE	LEROY	-	20000522	0.35	59.19	20.71
113990	CHOICE	LEROY	-	20000522	0.25	14.18	3.54
113990	CHOICE	LEROY	-	20000605	0.50	67.50	33.75
113990	CHOICE	LEROY	-	20000605	0.55	14.13	7.77
113990	CHOICE	LEROY	-	20000605	0.25	14.13	3.53
113990	CHOICE	LEROY	-	20000619	0.65	75.00	48.75

PLAINTIFF'S EXHIBIT F

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A - 1022
June 2004

Inmate #	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Hours	Pay Amount
113990	CHOICE	LEROY	-	20000619	1.00	17.65	17.65
113990	CHOICE	LEROY	-	20000703	0.65	60.00	39.00
113990	CHOICE	LEROY	-	20000703	0.75	41.38	31.03
113990	CHOICE	LEROY	-	20000703	0.35	4.50	1.57
113990	CHOICE	LEROY	-	20000703	0.25	31.06	7.76
113990	CHOICE	LEROY	-	20000717	0.50	102.75	51.37
113990	CHOICE	LEROY	-	20000731	0.50	144.28	72.14
113990	CHOICE	LEROY	-	20000814	0.50	87.75	43.87
113990	CHOICE	LEROY	-	20000828	0.50	95.55	47.77
113990	CHOICE	LEROY	-	20000911	0.50	83.09	41.54
113990	CHOICE	LEROY	-	20000925	0.50	124.91	62.45
113990	CHOICE	LEROY	-	20001009	0.50	124.70	62.35
113990	CHOICE	LEROY	-	20001023	0.50	207.60	103.80
113990	CHOICE	LEROY	-	20001106	0.50	112.50	56.25
113990	CHOICE	LEROY	-	20001120	0.50	97.92	48.96
113990	CHOICE	LEROY	-	20001204	0.50	75.70	37.85
113990	CHOICE	LEROY	-	20001218	0.50	151.02	75.51
113990	CHOICE	LEROY	-	20010101	0.50	57.05	28.52
113990	CHOICE	LEROY	-	20010115	0.50	88.02	44.01
113990	CHOICE	LEROY	-	20010129	0.50	118.21	59.10
113990	CHOICE	LEROY	-	20010212	0.50	112.50	56.25
113990	CHOICE	LEROY	-	20010226	0.50	114.75	57.37
113990	CHOICE	LEROY	-	20010226	0.25	7.50	1.87
113990	CHOICE	LEROY	-	20010312	0.50	129.75	64.87
113990	CHOICE	LEROY	-	20010326	0.50	124.83	62.41
113990	CHOICE	LEROY	-	20010409	0.50	181.98	90.99
113990	CHOICE	LEROY	-	20010423	0.50	176.71	88.35
113990	CHOICE	LEROY	-	20010507	0.50	189.77	94.88
113990	CHOICE	LEROY	-	20010521	0.50	218.37	109.18
113990	CHOICE	LEROY	-	20010604	0.50	122.80	61.40
113990	CHOICE	LEROY	-	20010618	0.50	112.50	56.25
113990	CHOICE	LEROY	-	20010702	0.50	112.50	56.25
113990	CHOICE	LEROY	-	20010716	0.50	118.50	59.25
113990	CHOICE	LEROY	-	20010730	0.50	123.80	61.90
113990	CHOICE	LEROY	-	20010813	0.50	169.51	84.75
113990	CHOICE	LEROY	-	20010827	0.50	191.38	95.69
113990	CHOICE	LEROY	-	20010910	0.50	187.20	93.60
113990	CHOICE	LEROY	-	20010924	0.50	196.49	98.24
113990	CHOICE	LEROY	-	20011008	0.50	226.13	113.06
113990	CHOICE	LEROY	-	20011022	0.50	203.10	101.55
113990	CHOICE	LEROY	-	20011105	0.50	191.62	95.81
113990	CHOICE	LEROY	-	20011119	0.50	187.01	93.50
113990	CHOICE	LEROY	-	20011203	0.50	146.93	73.46
113990	CHOICE	LEROY	-	20011217	0.50	161.66	80.83
113990	CHOICE	LEROY	-	20011231	0.50	78.30	39.15
113990	CHOICE	LEROY	-	20020114	0.50	94.50	47.25
113990	CHOICE	LEROY	-	20020128	0.50	162.86	81.43
113990	CHOICE	LEROY	-	20020211	0.50	178.34	89.17
113990	CHOICE	LEROY	-	20020225	0.50	250.45	125.22
113990	CHOICE	LEROY	-	20020311	0.50	196.10	98.05
113990	CHOICE	LEROY	-	20020325	0.50	147.50	73.75
113990	CHOICE	LEROY	-	20020408	0.50	125.60	62.80
113990	CHOICE	LEROY	-	20020422	0.50	152.46	76.23
113990	CHOICE	LEROY	-	20020506	0.50	176.57	88.28

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Inmate #	Last Name	First Name	Middle Name	Pay Date	Pay Rate	Hours	Pay Amount
113990	CHOICE	LEROY	-	20020520	0.50	198.84	99.42
113990	CHOICE	LEROY	-	20020603	0.50	234.44	117.22
113990	CHOICE	LEROY	-	20020617	0.50	184.66	92.33
113990	CHOICE	LEROY	-	20020701	0.50	135.00	67.50
113990	CHOICE	LEROY	-	20020715	0.50	112.40	56.20
113990	CHOICE	LEROY	-	20020729	0.50	179.26	89.63
113990	CHOICE	LEROY	-	20020812	0.50	151.66	75.83
113990	CHOICE	LEROY	-	20020826	0.50	175.36	87.68
113990	CHOICE	LEROY	-	20020909	0.50	133.04	66.52
113990	CHOICE	LEROY	-	20020923	0.50	206.80	103.40
113990	CHOICE	LEROY	-	20021007	0.50	229.96	114.98
113990	CHOICE	LEROY	-	20021021	0.50	144.10	72.05
113990	CHOICE	LEROY	-	20021104	0.50	135.00	67.50
113990	CHOICE	LEROY	-	20021118	0.50	138.23	69.11
113990	CHOICE	LEROY	-	20021202	0.50	122.32	61.16
113990	CHOICE	LEROY	-	20021216	0.50	184.64	92.32
113990	CHOICE	LEROY	-	20021230	0.50	71.25	35.62
113990	CHOICE	LEROY	-	20030113	0.50	85.50	42.75
113990	CHOICE	LEROY	-	20030127	0.50	108.17	54.08
113990	CHOICE	LEROY	-	20030210	0.50	124.70	62.35
113990	CHOICE	LEROY	-	20030224	0.50	126.44	63.22
113990	CHOICE	LEROY	-	20030310	0.50	111.63	55.81
113990	CHOICE	LEROY	-	20030324	0.50	113.01	56.50
113990	CHOICE	LEROY	-	20030602	0.50	114.63	57.31
113990	CHOICE	LEROY	-	20030616	0.50	143.03	71.51
113990	CHOICE	LEROY	-	20030630	0.50	142.50	71.25
113990	CHOICE	LEROY	-	20030714	0.50	155.63	77.81
113990	CHOICE	LEROY	-	20030728	0.50	126.98	63.49
113990	CHOICE	LEROY	-	20030811	0.50	131.01	65.50
113990	CHOICE	LEROY	-	20030825	0.50	113.09	56.54
113990	CHOICE	LEROY	-	20030908	0.50	100.17	50.08
113990	CHOICE	LEROY	-	20030922	0.50	127.64	63.82
113990	CHOICE	LEROY	-	20031006	0.50	131.42	65.71
113990	CHOICE	LEROY	-	20031020	0.50	121.47	60.73
113990	CHOICE	LEROY	-	20031103	0.50	128.19	64.09
113990	CHOICE	LEROY	-	20031117	0.50	134.30	67.15
113990	CHOICE	LEROY	-	20031201	0.50	125.06	62.53
113990	CHOICE	LEROY	-	20031215	0.50	134.20	67.10
113990	CHOICE	LEROY	-	20031229	0.50	117.24	58.62
113990	CHOICE	LEROY	-	20040112	0.50	93.00	46.50
113990	CHOICE	LEROY	-	20040126	0.50	141.15	70.57
113990	CHOICE	LEROY	-	20040209	0.50	155.89	77.94
113990	CHOICE	LEROY	-	20040223	0.50	164.03	82.01
113990	CHOICE	LEROY	-	20040308	0.50	172.03	86.01
113990	CHOICE	LEROY	-	20040322	0.50	170.63	85.31
113990	CHOICE	LEROY	-	20040405	0.50	141.00	70.50
113990	CHOICE	LEROY	-	20040419	0.50	130.66	65.33
113990	CHOICE	LEROY	-	20040503	0.50	161.86	80.93
113990	CHOICE	LEROY	-	20040517	0.50	190.86	95.43
113990	CHOICE	LEROY	-	20040531	0.50	161.55	80.77
269130	CHRISTOPHER	REGINALD	MANFRED	20001023	0.50	16.98	8.49
269130	CHRISTOPHER	REGINALD	MANFRED	20001106	0.50	52.09	26.04
269130	CHRISTOPHER	REGINALD	MANFRED	20001120	0.50	57.17	28.58
269130	CHRISTOPHER	REGINALD	MANFRED	20001204	0.50	74.36	37.18

To: Douglas Westbrook, Attorney at Law

From: Dr. Joseph Benich, Economic Loss Expert

Subject: Your 9/14/04 request

Date: 9/20/04

This note is in response to your "prevailing wage" request for work generally described by the Williams Technologies Job Description of Production Associate. You have asked for my opinion of the "prevailing wage" for work of a similar nature in the private sector for 1999/2001 (I assume that you mean 1999, 2000, and 2001). It is also my understanding that the term " prevailing wage" not only implies work of a similar nature, but that the work should be performed in the same general geographic area.

The U.S. Department of Labor (Bureau of Labor Statistics) publishes wage data for a range of occupations in the Charleston – North Charleston Metropolitan Area. The Installation, Maintenance and Repair Occupation Sub-Category of "Maintenance and Repair Workers, General" had mean hourly wages of $11.44 in1999, $12.62 in 2000, and $13.24 in 2001 for the Charleston - North Charleston Metropolitan Area. The Production Occupations Sub-Category of "Team Assemblers" had mean hourly wages of $10.49 in 1999, $10.56 in 2000, and $10.88 in 2001 for the Charleston – North Charleston Metropolitan Area. The average of these two Sub-Categories is $10.97 for 1999, $11.59 for 2000, and $12.06 for 2001.

The possibility exists that the average prison worker would be less experienced with his prison position than his non-prison counterpart. It is also possible that the average prison worker would require more supervision than the average non-prison worker performing the same tasks. The concept of "prevailing wage" implies the average wage for a specific category of average workers. The Installation, Maintenance and Repair Occupation Sub Category of "Helpers—Installation, Maintenance, and Repair Workers" had mean hourly wages of $9.53 in 1999, $11.21 in 2000, and $10.45 in 2001. The Production Occupations Sub-Category of "Helpers--Production Workers" had mean hourly wages of $7.61 in 1999, $8.27 in 2000, and $9.09 in 2001. The average of these two "Helpers" Sub Categories is $8.40 for 1999, $9.74 for 2000, and $10.10 for 2001.

These "Helpers" Sub Category averages represent the lower end of the "prevailing wage" range for the Williams Technologies Job Description of Production Associate for 1999, 2000, and 2001. Thus the "prevailing wage" range estimate for prison workers for the Williams Technologies Job Description of Production Associate is $10.97 - $8.40 for 1999, $11.59 - $9.74 for 2000, and $12.06 - $10.10 for 2001.

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RESUME-3/03
Dr. Joseph J. Benich

FAMILY STATUS
Wife - Roberta; two children - Kiersten and J.J.

EDUCATION

9/68 - 6/72	Doctor of Business Administration Majors: Production Management and Marketing Kent State University, Kent, Ohio
1/66 - 5/68	Masters of Business Administration Majors: Economics and Marketing Case Western Reserve University, Cleveland, Ohio
9/65 - 1/66	Western Reserve University, Cleveland, Ohio Major: Law
9/61 - 6/65	Bachelor of Science in Chemical Engineering Case Institute of Technology, Cleveland, Ohio

ACADEMIC EXPERIENCE

9/93 –2003	Professor of Business Administration College of Charleston, Charleston, South Carolina
9/78 - 8/93	Associate Professor of Business Administration College of Charleston, Charleston, South Carolina
9/76 - 9/78	Associate Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/72 - 9/76	Assistant Professor and Chair of the Business Administration & Economics Department College of Charleston, Charleston, South Carolina
9/69 - 6/72	Full-time Instructor, Economics Department Kent State University, Kent, Ohio
1/69 - 6/69	Teaching Fellow, Statistics Kent State University
9/68 - 12/68	Graduate Assistant Kent State University

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NON-ACADEMIC EXPERIENCE

6/74 -	Expert Witness, Economic Litigation, Charleston, South Carolina, analyses of economic loss to individuals and/or businesses, with presentations in State and Federal courts
7/78 -	Manager of Summertime Properties, Charleston, South Carolina
6/73 -	Business Consulting, J. Benich and Associates, Charleston, South Carolina
1/68 - 11/72	Business Advisor to Director of American Screw Products, Warrensville, Ohio
1/68 - 10/68	Staff Specialist (Systems Optimizations), Cleveland Electric Illuminating Company, Cleveland, Ohio
1/66 - 9/67	Industrial Market Research, Harshaw Chemical, Cleveland, Ohio
19/65 - 1/66	Phosphor Efficiency Development, General Electric Co., Cleveland, Ohio (worked independently on a second shift due to day law school)
6/65 - 9/65	Research Chemical Engineering, Sohio Research, Warrensville, Ohio (catalyst efficiency testing and associated acetonitrile purification development).

PUBLICATIONS

"Signal-Averaged P-Wave Analysis of Normal Controls and Patients with Paroxysmal Atrial Fibrillation: A Study in Gender Differences, Age Dependence, and Reproducibility", with A Dhala, B. Leman, et al, Clinical Cardiology, November, 2002, p-525-531.

"The High Resolution Signal-Averaged P-Wave Duration in Normal Patients: Influence of Race and Gender", with M. Little, B. Leman, and B. Hainer, North American Society of Pacing and Electrophysiology, abstracted, *Pacing and Clinical Electrophysiology*, April, 1997, Vol.20:4:1219

"Alternative Approaches to Tax Adjustments in Appraising Economic Loss: A Comment", *Journal of Legal Economics*, Fall 1996

"Updated Estimates of Work-Life Expectancies Based upon The Increment-Decrement Model: Comment", *Journal of Legal Economics*, Winter 1995

"Intra-Year Discounting Assumptions and Bias in Lost Earnings Analysis: A Comment", *Journal of Forensic Economics*, Winter 1993, 7(1)

"Comment: On the Relative Stability and Predictability of the Interest Rate and Earnings Growth Rate", *Journal of Forensic Economics*, Winter 1992, 6(1)

"Determining Tax-Adjusted Awards for Spouses' Lost Future Earnings", For *The Defense*, Nov. 1992

"The Just Better (JB) Method of Calculating The Present Value of Lost Future Income", *Journal of Legal Economics*, July 1992

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