

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Uuno Mattias Baum, #272249, )  
)  
Appellant, )  
)  
vs. )  
)  
South Carolina Department of Corrections, )  
)  
Respondent. )  
)

---

Docket No. 16-ALJ-04-0153-AP

**RECEIVED**

AUG 08 2016

SC Court of Appeals  
ORDER AFFIRMING DECISION

**FILED**

JUL 14 2016

SC ADMIN. LAW COURT.

This matter is before the South Carolina Administrative Law Court (“ALC” or “Court”) pursuant to the Notice of Appeal filed February 16, 2016, by Uuno Mattias Baum (“Inmate” or “Appellant”), who is incarcerated with the South Carolina Department of Corrections (“SCDC” or “Respondent”).

Inmate filed his Step One and Step Two Grievances arguing he should be allowed to distribute his wages escrowed under S.C. Code Ann. § 24-3-40(A)(5) (Supp. 2015) to persons or entities of his choice during his lifetime by virtue of S.C. Code Ann. § 24-3-40(B)(2).<sup>1</sup> SCDC denied Appellant’s assertion and Inmate filed this appeal. Inmate filed his brief on March 16, 2016. The Record on Appeal was filed on April 29, 2016. SCDC filed its brief on June 7, 2016. Inmate filed his reply brief on June 13, 2016. SCDC filed its reply brief on June 20, 2016.<sup>2</sup> Inmate filed a Motion for Oral Argument on June 27, 2016, which was denied on June 29, 2016.

Inmate asserts that SCDC is denying him his property because SCDC is improperly interpreting the plain and ordinary language of subsection (B)(2).

**BACKGROUND**

Inmate was sentenced on November 11, 1999, to life without the possibility of parole for the offense of murder. During his incarceration, Inmate participated in the Prison Industries Private Sector. Inmate has had immediate access to at least ten percent of his earned wages by means of

---

<sup>1</sup> References to portions of the statute will be made by the term, “subsection”, e.g. S.C. Code Ann. § 24-3-40(A)(4) will be referred to as “subsection (A)(4)”.

<sup>2</sup> Both reply briefs were filed timely and in accord with SCALC Rule 60.

subsection (A)(4). Pursuant to subsection (A)(5), ten percent of Inmate's earned wages were placed in an interest bearing escrow account. On May 1, 2015, Inmate requested that his escrowed wages be sent to his mother. SCDC denied his request, and Inmate filed his Step One and Step Two Grievances, which were also denied. This appeal followed.

### STANDARD OF REVIEW

The ALC's jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). The ALC's appellate jurisdiction in inmate appeals is limited to state-created liberty interests typically involving: (1) cases in which an inmate contends that prison officials have erroneously calculated his/her sentence, sentence-related credits, or custody status; and (2) cases in which an inmate has received punishment in a major disciplinary hearing as a result of a serious rule violation. Id.

When reviewing the SCDC's decisions in inmate grievance matters, the ALC sits in an appellate capacity. Id. at 380, 527 S.E.2d at 756. The review is guided by S.C. Code Ann. § 1-23-380(5) (Supp. 2015), which states:

The court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Inmate, in his reply brief, correctly observes that Respondent is confused about what standard of review applies. Respondent contends, both in its brief and reply brief, that the substantial evidence standard is essential to this issue of statutory interpretation. The substantial evidence standard is not relevant, as this issue is a matter of law. Catawba Indian Tribe of S.C. v. State, 372 S.C. 519, 524, 642 S.E.2d 751, 753 (2007).

Therefore, in reviewing this appeal, the ALC must be guided by the rules of statutory construction. The South Carolina Supreme Court has held that where "the statute's language is

plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning.” Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). However, “where a statute is ambiguous, the Court must construe the terms of the statute.” Wade v. Berkeley County, 348 SC 224, 229, 559 S.E.2d 586, 588 (2002). Further, “[i]n construing a statute, the Court looks to its language as a whole in light of its manifest purpose.” Adams v. Texfi Indus., 320 S.C. 213, 217, 464 S.E.2d 109, 112 (1995) (citing Simmons v. City of Columbia, 280 S.C. 163, 311 S.E.2d 732 (1984)). An “ambiguity in a statute should be resolved in favor of a just, equitable, and beneficial operation of the law.” State v. Hudson, 336 S.C. 237, 247, 519 S.E.2d 577, 582 (Ct. App. 1999). Although courts give great weight to an agency’s long-standing construction of a statute, such construction is not dispositive of the issue. Plyler v. Evatt, 313 S.C. 405, 408, 438 S.E.2d 244, 246 (1993) (citing Gilstrap v. S.C. Budget & Control Bd. 310 S.C. 210, 423 S.E.2d 101 (1992)). While a court typically defers to an agency’s construction of its own regulation, where the plain language of the statute is contrary to the agency’s interpretation, the Court will reject its interpretation. Brown v. S.C. Dept. of Health & Envtl. Control, 348 S.C. 507, 515, 560 S.E.2d 410, 414 (2002). “Under the plain meaning rule, it is not the court’s place to change the meaning of a clear and unambiguous statute.” Hodges v. Rainey, 341 S.C. at 85, 533 S.E.2d at 581 (citations omitted).

### **DISCUSSION**

The statute in dispute, S.C. Code Ann. § 24-3-40, involves the disposition of wages of prisoners who are allowed to work at paid employment. The statute, in its entirety, reads:

(A) Unless otherwise provided by law, the employer of a prisoner authorized to work at paid employment in the community under Sections 24-3-20 to 24-3-50 or in a prison industry program provided under Article 3 of this chapter shall pay the prisoner's wages directly to the Department of Corrections.

If the prisoner is serving his sentence in a local detention or correctional facility pursuant to a designated facilities agreement or in a local work/punishment program, or if the local governing body elects to operate one, then the same provisions for payment directly to the official in charge of the facility shall apply if the facility has the means to account for such monies.

The Director of the Department of Corrections, or the local detention or correctional facility manager, if applicable, shall deduct the following amounts from the gross wages of the prisoner:

(1) If restitution to a particular victim or victims has been ordered by the court, then twenty percent must be used to fulfill the restitution obligation. If a restitution payment schedule has been ordered by the court pursuant to Section 17-25-322, the twenty percent must be applied to the scheduled payments. If restitution to a

particular victim or victims has been ordered but a payment schedule has not been specified by the court, the director shall impose a payment schedule of equal monthly payments and use twenty percent to meet the payment schedule so imposed.

(2) If restitution to a particular victim or victims has not been ordered by the court, or if court-ordered restitution to a particular victim or victims has been satisfied then:

(a) if the prisoner is engaged in work at paid employment in the community, five percent must be placed on deposit with the State Treasurer for credit to a special account to support victim assistance programs established pursuant to the Victims of Crime Act of 1984, Public Law 98-473, Title II, Chapter XIV, Section 1404, and fifteen percent must be retained by the department to support services provided by the department to victims of the incarcerated population; or

(b) if the prisoner is employed in a prison industry program, ten percent must be directed to the State Office of Victim Assistance for use in training, program development, victim compensation, and general administrative support pursuant to Section 16-3-1410 and ten percent must be retained by the department to support services provided by the department to victims of the incarcerated population.

(3) Thirty-five percent must be used to pay the prisoner's child support obligations pursuant to law, court order, or agreement of the prisoner. These child support monies must be disbursed to the guardian of the child or children or to appropriate clerks of court, in the case of court ordered child support, for application toward payment of child support obligations, whichever is appropriate. If there are no child support obligations, then twenty-five percent must be used by the Department of Corrections to defray the cost of the prisoner's room and board. Furthermore, if there are no child support obligations, then ten percent must be made available to the inmate during his incarceration for the purchase of incidentals pursuant to subsection (4). This is in addition to the ten percent used for the same purpose in subsection (4).

(4) Ten percent must be available to the inmate during his incarceration for the purchase of incidentals. Any monies made available to the inmate for the purchase of incidentals also may be distributed to the person or persons of the inmate's choice.

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

(6) The remaining balance must be used to pay federal and state taxes required by law. Any monies not used to satisfy federal and state taxes must be made available to the inmate for the purchase of incidentals pursuant to subsection (4).

(B) The Department of Corrections, or the local detention or correctional facility, if applicable, shall return a prisoner's wages held in escrow pursuant to subsection (A) as follows:

(1) A prisoner released without community supervision must be given his escrowed wages upon his release.

(2) A prisoner serving life in prison or sentenced to death shall be given the option of having his escrowed wages included in his estate or distributed to the persons or entities of his choice.

(3) A prisoner released to community supervision shall receive two hundred dollars or the escrow balance, whichever is less, upon his release. Any remaining balance must be disbursed to the Department of Probation, Parole and Pardon Services. The prisoner's supervising agent shall apply this balance toward payment of the prisoner's housing and basic needs and dispense any balance to the prisoner at the end of the supervision period.

The portions of the statute particularly relevant to this matter include subsections (A)(3), (A)(4), (A)(5), (A)(6), and all of subsection (B). The issue before the ALC is whether subsection (B)(2) allows for a lifetime distribution, as Inmate posits, or is the distribution restricted to at death, as Respondent interprets the subsection to mean.

When construing a statute, the first question is “whether the statute’s meaning is clear on its face.” Wade, 348 S.C. at 229, 559 S.E.2d at 588. “If a statute is susceptible to two reasonable interpretations, it is ambiguous.” S.C. Dep’t of Soc. Servs. v. Lisa C., 380 S.C. 406, 416, 669 S.E.2d 647, 652 (Ct. App. 2008). Subsection (B)(2) is ambiguous because it is susceptible to two reasonable interpretations. First, Inmate’s interpretation that he could distribute his escrowed funds during his lifetime to his mother is reasonable, as is SCDC’s interpretation that the escrowed funds can only be distributed upon Inmate’s death. Therefore, this Court must continue with the rules of statutory interpretation. See Rainey, 341 S.C. at 85, 533 S.E.2d at 581.

The Court must now consider the scope of the deference doctrine. Kiawah Dev. Partners, II v. S.C. Dep’t of Health & Envtl. Control, 411 S.C. 16, 33, 766 S.E.2d 707, 717 (2014). Absent a compelling reason, the ALC must defer to an administrative agency’s interpretation of “statutes entrusted to its administration.” Id. at 34, 766 S.E.2d at 718. As discussed below, there are no compelling reasons to overrule SCDC’s interpretation of this statute that is entrusted to its administration.

The language of S.C. Code Ann. § 24-3-40 must be “read in a sense which harmonizes with its subject matter and accords with its general purpose.” Hitachi Data Sys. Corp. v. Leatherman, 309 S.C. 174, 178, 420 S.E.2d 843, 846 (1992).

The Court finds that the general purpose of Section 24-3-40 is to **restrict** inmate’s access to the earned wages.<sup>3</sup> Subsection (A)(5) mandates that ten percent of a prisoner’s wages must be

---

<sup>3</sup> Generally, subsection (A)(1) is allocated to victim restitution. Subsection (A)(2)(a) is allocated to support victim assistance and to provide support services to victim. Subsection (A)(2)(b) is allocated to victim support services. Subsection (A)(3) is allocated to child support or prisoners’ room and board, and, under certain circumstance, to prisoner for incidentals. Subsection (A)(6) provides for payment of federal and state taxes and any excess to prisoner for incidentals under subsection (A)(4).

held in escrow for his benefit. The disbursement of escrowed wages is governed by subsection (B):

Subsection (B)(1) returns remaining escrowed wages to the prisoner on release.

Subsection (B)(2), exclusive to prisoners sentenced to death or life imprisonment, grants prisoners an option to either include the escrowed wages in his estate or distribute the escrowed wages to persons or entities of his choice.

Subsection (B)(3) returns the lesser of the escrow balance or \$200.00 is to be released to prisoner upon parole, with any balance to be applied by the Department of Probation, Parole and Pardon Services for prisoner's needs during parole and the balance to be distributed to prisoner upon end of supervision.

The general purpose of the statute is to restrict personal access of still incarcerated inmates to his earnings except in the cases specified, to wit, any sums available under subsection (A)(4),<sup>4</sup> including any made available through subsections (A)(3) and (A)(6).

The only direct access of an incarcerated inmate to his earnings are those distributed under subsection (A)(4). Thus, given the restrictive nature of the entire statute, Inmate's assertion that he can opt for a lifetime distribution of his escrowed earnings to persons or entities of his choice is misplaced.

Moreover, the legal maxim of *expressio unius est exclusio alterius* dictates the same result.<sup>5</sup> Having made provisions for Inmate to elect to distribute any earnings provided under subsection (A)(4), including any received under subsections (A)(3) and (A)(6), the statute makes no further provision for pre-release distributions and thus it may be assumed, that given the restrictive nature of the statute, none was intended. Except for the specifically enumerated instances, the intent of the statute is to restrict a prisoner's personal control of his escrowed earnings until his release from SCDC custody, with distribution provided by either subsections (B)(1),<sup>6</sup> (2), or (3).<sup>7</sup>

**Inmates sentenced to death or for lifetime are released only by death.** Because the statute intends for any balance escrowed to be distributed only on release, those serving a life

---

<sup>4</sup> The Court notes that subsection (A)(4) uses "person or persons" while subsection (B)(2) uses "persons or entities".

<sup>5</sup> *Expressio unius est exclusio alterius* holds that "to express or include one thing implies the exclusion of the other, or of the alternative." BLACK'S LAW DICTIONARY 494 (8th Abr. Ed. 2005).

<sup>6</sup> Distribution is upon the prisoner's release.

<sup>7</sup> A partial distribution occurs when the prisoner is released to community supervision and distribution of the remaining balance on prisoner's final release.

sentence or under the sentence of death can choose distribution to be made only upon release by death.<sup>8</sup> This is in accord with the general purposes of the statute and SCDC's interpretation.

Inmate, in his reply brief, argues that the term "estate" is ambiguous and could mean a multitude of things. Inmate is correct, "[v]arious meanings have been given by the courts to the word 'estate.'" Cannon v. Ballenger, 222 S.C. 39, 43, 71 S.E.2d 513, 514 (1952).<sup>9</sup> However, the meaning of the term "estate" depends on the context. Id. Here, the Court finds that as used in subsection (B)(2), estate means property owned at death. This is based upon the previously stated premise that the statute, when read as a whole, evinces an intent that escrowed funds under subsection (A)(5) should be distributed only upon release of the prisoner, which in Inmate's circumstance will be upon his death. Thus, "estate" in subsection (B)(2) refers to the property owned at death.

Having concluded that subsection (B)(2) restricts a prisoner's options to death time distribution only, it is appropriate to buttress this conclusion with the application of the maxims of *ejusden generis*, which demands that "when general words follow the enumeration of particular classes or subjects, the general words should be construed as limited only to those of the general nature or class enumerated." State v. Wilson, 274 S.C. 352, 355, 264 S.E.2d 414, 415 (1980), and *noscitur a sociis*, which provides that "the meaning of particular terms in a statute may be ascertained by reference to words associated with them in the statute." South Mut. Church Ins. Co. v. S.C. Windstorm & Hail Underwriting Ass'n, 306 S.C. 339, 342, 412 S.E.2d 377, 379 (1991). The word denoting a class here is "estate". Not only is the word "estate" commonly understood to mean property owned at death, that meaning is confirmed by the conclusion of the Court that those sentenced to death or life in prison are entitled to a final distribution of their wages held in escrow under subsection (A)(5) upon "release" by death. The inclusion of the distribution to "persons or entities of his choice," as an alternative option for a death time distribution to his "estate", limits the distribution to persons or entities to a distribution at death.

Likewise, the application of *noscitur a sociis* to subsection (B)(2) demands a construction

---

<sup>8</sup> Should a prisoner serving a life sentence be released or granted parole, his distribution of escrowed wages would be governed by subsections (B)(1) or (B)(3).

<sup>9</sup> The Court in Ballenger found many different meanings of the term "estate", including "the position in which a person stands with regard to the ownership, possession, and control of his property, or as meaning the property itself[:]" "property that a person "can sell or dispose of at his pleasure[:]" what a person "can pass on to another[:]" "[t]he property of a living man[:; and t]he property of a decedent, which passes to his administrator for the payment of the debts of the community, or in a more general sense, the property of the husband and wife of which the husband dies seised." Ballenger, 222 S.C. at 43-44, 71 S.E.2d at 515 (internal citations omitted).

that restricts distribution to persons or entities at death because of the association with "estate" in the same sentence.

Inmate also argues that wages escrowed under subsection (A)(5) are for his benefit and that the limitation to a death time distribution is not for his benefit. He is mistaken. Irrespective of the delay until death, the distribution to his mother is nonetheless a benefit to Appellant because he has directed it. While the Court recognizes Inmate's considerate wish to provide for his mother, subsection (A)(4) is the lone mechanism to provide immediate assistance to her during Inmate's lifetime.

**ORDER**

After review of S.C. Code Ann. § 24-3-40, guided by the canons of statutory construction, **IT IS HEREBY ORDERED** that the final decision of the SCDC is **AFFIRMED**.

**AND IT IS SO ORDERED.**

July 14, 2016  
Columbia, S.C.

  
\_\_\_\_\_  
John D. McLeod, Judge  
South Carolina Administrative Law Court

**CERTIFICATE OF SERVICE**

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

This 14 day of July 2016  
by: A. S. [Signature]  
Judicial Law Clerk