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SC Court of Appeals

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SOUTH CAROLINA COURT OF APPEALS
CLERK OF COURTS OFFICE
Jenny Abbott Kitchens, Clerk
Post Office Box 11629
Columbia, South Carolina
29211-1629

RE: FORMAL RESPONSE TO RESPONDENTS BRIEF
BAUM V. SCDC, #2016-001564
APPELLATE CASE NO. #16-ALJ-04-0153-AP

Ms. Kitchen,

Please permit this correspondence to serve as a formal response, in lieu of a more formal pleading, as to the position taken in the Respondents Initial Brief. As a pro se Appellant it is my position that there should be some form of rebuttal due to the contrary stance taken by Respondents, and where it is my belief that such stance is in opposition to well-settled standard of law. The following is a means to effectively establish the record and to have this Court of Appeals to competently be

Taking into consideration the words, terms, provisions and meanings that have been promulgated and inserted in those statutes noted in [footnote 1], it is evident that this Court should find that Appellant has been denied a substantial right assured him under statutory law, and order that the Administrative Law Judge's (ALJ) be reversed and all relief demanded be granted.

Appellant is of the stance and position that he is due the relief sought within these pleadings, and that this Court should find accordingly. Furthermore, the Respondent's have stated a position that this is a matter of first impression and should be reviewed as such. It is this Appellant's position that as a matter of economics, and convenience, that this Court should move the Supreme Court to answer such question(s) for appellate review and finality.

If Appellant may be of any further assistance to this court, in these matters, please do not hesitate to contact me. Thank you for this Court's time and attention to this matter.

February 7,2017

Respectfully Submitted,

U. Matt Baum

rds/UMB

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informed as to the position and grounds that this Appellant believes fortify his issues and claims.

CARDINAL RULES OF STATUTORY CONSTRUCTION

"The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature." MEDIA GEN. COMMC'NS INC. V. SC DEP'T. OF REVENUE, 388 S.C. 138, 147-48, 694 S.E.2d 525, 529 (2010). Where a statute's language is plain, unambiguous and conveys a clear, definite meaning, the rules of statutory construction are not needed and the court has no right to impose another meaning. GAY V. ARIALL, 381 S.C. 341, 345, 673 S.E.2d 418, 420 (2009); and HODGES V. RAINEY, 345 S.C. 79, 85, 533 S.E.2d 578, 581 (2000)(the court has no right to impose another meaning). The statutory language must be construed in light of the intended purpose of the statute. Our Supreme Court has a long standing history of holding that it will not construe a statute in such a way that it would lead to an absurd result or render it meaningless. LANCASTER COUNTY BAR ASS'N V. SC COMM'N ON INDIGENT DEFENSE, 380 S.C. 219, 222, 670 S.E.2d 371, 373 (2008)("In construing a statute, this Court will reject an interpretation which leads to an absurd result that could not have been intended by the legislature"); also BARTON V. SC DEP'T. OF PROBATION, PAROLE & PARDON SERVS., 404 S.C. 345, 745 S.E.2d 110 (2013). With this mindset, Appellant's position is in time with the legislature's intent because he relies upon the words that have been used by the legislature to create the purpose for the statute.

Respondents, as well as Appellant, agree that when a statute conveys a clear, plain, unambiguous and definite meaning,

there is no need for the courts to interrupt the statute, and furthermore, the court's have no right to impose another meaning. This is as it should be ... yet, Respondent's tempt this Court to read the statute in a manner that would most definitely lead to an absurd result.

Respondents would take the position that [they] (SCDC), as an agency, have exclusive right to interrupt statutes in a manner that they feel is appropriate. Appellant believes that when it comes to Respondents internal regulations, policies and/or procedures, they are graced with such a leave way. The question before this Court is not one of such an interpretation. As a matter of fact, the question before this Court is one where the legislative applicability and/or intent are to be interrupted by this Court, not what Respondents choose to attempt to define per their whims. The language that was promulgated in these statutes by our legislatures is the very foundation of Appellants claims.

Looking simply at the manner that Respondents would have this Court find in this matter would lead to an absurd result. This would cause a direct deprivation to these provisions enacted for the benefit and purpose of this Appellant.

S.C. Code Ann. §24-3-40 does not restrict Appellant's potential to access his funds. Especially those earned while participating in the Prison Industry/minimum wage Program. In fact, the statutes associated to the garnishing of wages, are shown to benefit the Appellant for his participation in the Program. These statutes provide for many benefits and deductions, such as; voluntary/court ordered child support, room & board (voluntary when participating in this Program), Victim Compensation Fund, Ten Percent (10%) to an escrow account (that is collected and should be distributed for the benefit of the inmate), and all state & federal taxes to include Social Security deductions. These statutory provisions are enacted for the benefit and protection of inmates, and thereby are created for

the specific function and operation. As this Court is aware, Appellant is an inmate within the custody and control of Respondents. The statutory language of the statutes herein relied upon "must be construed in context and light of the intended purpose of the statute in a manner which harmonizes with its subject matter and accord with it's general purpose." CABINESS V. TOWN OF JAMES ISLAND, 393 S.C. 176, 712 S.E.2d 416 (2011). This supports the very basis of Appellant's position in this matter. These statutes were created for the purpose of inmates and their wages. Not as these Respondents would have this Court be persuaded to lean toward. (See FN. 1).

Looking to standards which have been set by this State's Supreme Court in, DAVENPORT V. CITY OF ROCK HILL, 315 S.C. 114, 432 S.E.2d 451 (1993), entertaining a matter that was relevant to a tax ordinance that had been adopted by the City of Rock Hill. The City of Rock Hill's position was that the language of Article X, §14(7)(a) provided it with exclusive authority to implement the eight percent (8%) tax sought within the ordinance. The Court disagreed with such an interpretation. It held that it was "bound to presume that the framers of the Constitution had some purpose in inserting every clause and every word contained in the document. It is never to be supposed that a single word was inserted in the law of this state without the intention of thereby conveying some meaning." (relying on RAVENEL V. DEKLE, 265 S.C. 364, 218 S.E.2d 521 (1975)).

FN. 1 - S.C. Code Ann. §24-3-40(A)(3), (4), (5) & (6)
§24-3-310(4)
§24-3-315
§24-3-410(6) & (7)
§24-3-430(D)
§24-1-290
§24-1-295
§24-3-40(B)(1), (2) & (3)

The State of South Carolina

In The Court of Appeals

Appeal From The Administrative Law Court

Administrative Law Judge John D McLeod

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SC Court of Appeals

ALC Case No. 16-ALJ-04-0153-AP

Appellate Case No. 2016-001566

Ulmo Mathias Baum, #272249,

Appellant,

Vs

South Carolina Department of Corrections,

Respondent.

Certificate of Service

Appellant hereby certifies that on today's date he mailed a copy of his Reply Brief to the Respondent by placing same in the United States Mail Addressed as follows:

South Carolina Dept. of Corrections
Post Office Box 21787
Columbia, South Carolina 29221-1787

Dated Feb. 7, 2017

U. Matt Baum

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