



a state created liberty interest.” (Emphasis added.) Sullivan v. South Carolina Dep’t of Corrections, 355 S.C.437, 443, 586 S.E.2d 124, 127 (2003). Thereafter, the South Carolina Supreme Court addressed the issue in Wicker v. South Carolina Dep’t of Corrections, 360 S.C. 421, 602 S.E. 2d 56 (2004):

We find that where, as here, the state has created a statutory right to the payment of a prevailing wage, it cannot thereafter deny that right without affording due process of law....We are not unmindful of our opinion in Sullivan v. South Carolina Department of Corrections, 355 S.C. 437, 586 S.E. 2d 124 (2003) in which we held the ALJ has jurisdiction to review DOC grievance proceedings only if they involve the denial of “state created liberty interests.” (Emphasis added) ....The Al-Shabazz Court explained that procedural due process is guaranteed when an inmate is deprived of an interest encompassed by the Fourteenth Amendment’s protection of liberty and property...We find the state’s statutory mandate that inmates be paid the prevailing wage creates such an interest, which may not be denied without due process....Accordingly, in this very limited circumstance, we hold that DOC’s failure to pay in accordance with the statute is reviewable by the ALJ.

Wicker, 360 S.C. at 424-425, 602 S.E.2d at 57-58. <sup>1</sup> Lastly is the *per curiam* decision Slezak v. South Carolina Dep’t of Corrections, 361 S.C. 327, 605 S.E.2d 506 (2004) which was decided after Wicker. There, the Court held that the ALC “has jurisdiction over all properly perfected inmate appeals, but clarified that the ALC “may summarily dismiss those appeals that do not implicate an inmate’s state created liberty or property interest.” (Emphasis added) Slezak, 361 S.C. at 333, 605 S.E.2d at 509.

Given the strongly worded caution in the footnote to Wicker, it cannot be said that Slezak’s reference to “property interest” was intended to overrule Wicker and Sullivan, and extend the authority of the ALC to appeals involving inmate personal property disputes. In fact, the Slezak Court dismissed the appellant’s complaint that a book sent to him had been confiscated by Department of Corrections’ personnel because the “grievance [did] not involve a state-created liberty or property interest.” Slezak, 361 S.C.

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<sup>1</sup> In a footnote, the Wicker Court cautioned that its ruling was not to be read expansively: “[w]e note that our holding today is extremely limited and is not to be viewed as expanding the jurisdiction of the ALJ in any other circumstance.” Id., 424 n. 1 (Emphasis added).


at 332, 605 S.E.2d at 508.<sup>2</sup> Similarly, this Court does not find any “state created” liberty or property interest that would allow it to address the Appellant’s allegations regarding the loss of his personal property.

In this instance, absent a statute or a clear and unequivocal ruling of a higher court cloaking the ALC with the power to address appeals in cases involving inmate personal property rights, this Court must dismiss this case as no state created liberty or property interest is involved.

**IT IS THEREFORE ORDERED** that this appeal is hereby **DISMISSED WITH PREJUDICE.**

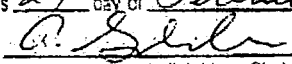
**AND IT IS SO ORDERED.**

February 27, 2018  
Columbia, SC

  
Milton G. Kimpson, 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 27 day of February, 2018  
By:   
Judicial Law Clerk

<sup>2</sup> The Slezak Court disposed of another complaint regarding the seizure and confiscation of educational cassette tapes owned by appellant with the observation: “[w]e find no protected liberty or property interest implicated in the DOC’s decision to declare cassette tapes contraband, and to seize appellant’s tapes pursuant to this policy.” Id., 361 S.C. 331-332, 605 S.E.2d at 508.