

STATE OF SOUTH CAROLINA
In The Supreme Court

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MAY 16 2019

APPEAL FROM THE ADMINISTRATIVE LAW COURT

John D. McLeod, Administrative Law Judge

S.C. SUPREME COURT

Opinion No. 2019-UP-104 (S.C. Ct. App. filed 3/13/19)

Appellate Case No. 2016-001564

UUNO MATTIAS BAUM, # 272249,

RESPONDENT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

PETITIONER.

APPENDIX

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

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***PRO SE* RESPONDENT**

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23415

ORIGINAL

State of South Carolina
In The Court of Appeals

Appeal From The Administrative Law Court
Administrative Law Judge John D. McLeod

AJC Case No: 16-ALJ-04-0153-AP
Appellate Case No.: 2016-001564

Uuno Matthias Baum, # 272249,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Appellant's Record on Appeal

(Amended)

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FEB 30 2017

SC Court of Appeals

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 1

MAY 22 2015 ms

1

INMATE NAME: <u>U. Matthias Baum</u>	OFFICE USE ONLY
SCDC NUMBER: <u>272249</u>	Grievance No. <u>LCI-0449-15</u>
INSTITUTION: <u>LCI</u>	Code: General <u>NY/BM</u>
HOUSING UNIT: <u>Wando A-124</u>	Policy _____
WORK ASSIGNMENT: <u>MAINTENANCE</u>	Disc. Hear. _____
	Class. _____
	PREA _____
	Date Received <u>05.26.15</u>
	IGC Initials <u>MO</u>

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.)

ON 4-29-15, I sent a Kiosk request (15-595646) to inmate financial requesting that my escrowed wages be sent to my mother. This request was made pursuant to statutory law § 24-3-40 (b)(2) which states:

"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."

On 5-12-15 I received a response denying me the "option" of sending my savings to my mother.

U. Matthias Baum 5-22-15
Grievant Signature Date

ACTION REQUESTED:
That I be permitted to send these funds to the persons or entities of my choice in compliance with State law.

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

[Signature] 6/9/15
IGC Signature Date

(CONTINUE ON REVERSE SIDE)

WARDEN'S DECISION AND REASON:

Inmate Baum, Uuno 272249

This is in response to LCI-0449-15. All pertinent information and documentation has been reviewed. In accordance with South Carolina Code of Laws section 24-3-40, ten percent (10%) of your wages earned while employed in the Prison Industries Private Sector must be held in an interest bearing escrow account. As of May 27, 2015 this account has a balance of \$1,015.59. These funds must be held until your release, parole, or death. Records indicate you are serving a life sentence. Therefore, you can choose to have these funds distributed to your estate or persons/entities of your choice. However, state law does not allow the South Carolina Department of Corrections to release these funds until your death.

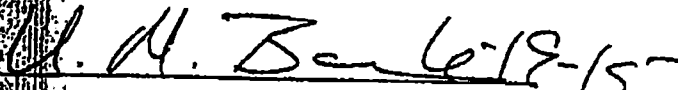
Based on this information, I consider your issue resolved.


If not satisfied with my response, see Step 5 below.


Warden Signature 6-18-15
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 6-18-15
Date


IGC Signature 6/19/15
Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form or Kiosk reference number to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form by placing it in the Grievance Box at your institution within eight (8) working days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) working days of the hearing/review. 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, by placing your Step 2 appeal form in the Grievance Box at your institution.

JUL 01 2015 SOUTH CAROLINA DEPARTMENT OF CORRECTIONS USE BY: 6-24-15

INMATE GRIEVANCE FORM STEP 2

INMATE GRIEVANCE INMATE NAME: Baum, Uuno SDC NUMBER: 272249 INSTITUTION: Lieber HOUSING UNIT: Wando A-124 WORK ASSIGNMENT: Maintenance

JUN 22 2015 ms

Office Use Only Grievance No. LCI-0449-15 Code: General MY/BM Policy Disc. Hear. Class. Date Received 06-22-15 IGC Initials MP

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

In the Warden's response he states: "state law does not allow the South Carolina Department of Corrections to release these funds until your death."

The statutory provisions concerning this matter does not say these funds cannot be released until my death, see section 24-3-40 (B)(2). State law says the funds can be distributed to persons or entities of my choice and does not provide a timeline to do so, therefore the Warden's response is contrary to the language of the statute. U. Matt Baum 6-21-15 Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I have reviewed your concern. In your grievance you stated that SC Code of Laws Section 24-3-40 does not prohibit the release of escrowed funds from an inmate's wage account until his death. SC Code of Laws, Section 24-3-40, when read in context provides that inmate funds, described above, are to be released for prisoners' serving life sentences and sentenced to death to be disbursed in two ways only- his estate or to the person of his choice. Both are predicated upon the death of the inmate as the time when such funds can be released. The law specifically states, "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: (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."

Therefore, your grievance is denied.

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.

[Signature] 1/14/16 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)

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State of South Carolina
Administrative Law CourtUuno Mattias Baum #272249,
Appellant,

Docket No.: 16C0153

Grievance No.: LCI 0449-15

Vs.

South Carolina Department of Corrections,
Respondent.

Appeal Brief

Statement of Case

This matter comes before the Court on appeal of the Respondent's final decision denying grievance LCI 0449-15, which involves the denial of Appellant's property in violation of the Fifth Amendment to the Constitution of the United States. The Respondent's final decision also violates South Carolina Code Ann. § 24-3-40, and further deprives Appellant his right to equal protection of law under the Fourteenth Amendment to the Constitution of the United States, and the like provisions of the South Carolina Constitution. The Appellant seeks review by this Honorable Court pursuant to the ruling held by the Supreme Court of South Carolina in, Torrence v. South Carolina Dept. of Corrections, 373 SC 586 646 SE2d 866 (2007); which held that the appropriate way to have a prisoner's wage claim adjudicated was through the Respondent's internal grievance procedure, with recourse to the Administrative Law Court.

History/Facts

Appellant is a state prisoner serving a term of incarceration of life without the possibility of parole and currently resides at the Lieber Correctional Facility. During Appellant's incarceration he has been employed by the Respondent in their Prison Industries program where Appellant has been allowed to receive a monetary wage payment in exchange for his skills and labor.

During the time of Appellant's employment in this program, the Respondent is required by statutory law § 24-3-40, to withhold portions of Appellant's wages in compliance with specific provisions of the statute. While most of these withholdings benefit crime victims, the State, and the Department of Corrections, there are a few specific provisions that are withheld "for the benefit of the prisoner" example: § 24-3-40 (A)(5), also (A)(4) and (A)(3).

In May 2015, Appellant requested that the Respondent distribute the portion of his wages, withheld for his benefit pursuant to the (A)(5) provision, "to the persons or entities of his choice". Appellant's request was made in compliance with the specific provisions of § 24-3-40 (B)(2) however, Appellant's distribution request was denied by Respondent. The reason given by Respondent for their denial of distribution was that because Appellant is serving a life sentence, state law prohibits the release of these escrowed wages until Appellant's death. However, Respondent's reasoning is contrary to the plain language of the statute, and is in complete opposition to the legislative intent of the statute.

In denying Appellant's request for distribution, Respondent has applied a "forced" interpretation of the plain and ordinary

Words contained within the text of the statute. The Respondent has taken the plain and ordinary language of the statute's text and added additional wording in an attempt to "expand its scope" which is clearly prohibited by law.

The Respondent holds the position, based solely on their forced interpretation, that the language contained in provision (B)(2) implies that the escrowed wages of prisoners serving a term of life imprisonment cannot be distributed until the prisoner's death. The Respondent's position in this regard is contrary to the clear intent and purpose of the statute, and acts to expand its operation based on an absurd and forced interpretation of the text in (B)(2).

Statutory Provisions in Issue

§ 24-3-40(A)(5): "Ten percent must be held in an interest bearing escrow account for the benefit of the prisoner."

§ 24-3-40(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:"

§ 24-3-40(B)(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."

Argument

When reading the plain and ordinary language of the Statute itself and the subsections in issue, the meaning and the legislative intent becomes quite obvious.

In subsection (A)(5), the escrowed wages are to be held "for the benefit of the prisoner", making it crystal clear that the legislative intent is for the prisoner to benefit from his escrowed wages.

The plain language contained in subsection (B) further provides clarification with regards to the legislature's intent based on their choice of words, "shall return a prisoner's wages held in escrow..." Therefore, based on this ordinary language, it is clearly obvious that the legislature intended for a prisoner's escrowed wages to be returned to him or distributed to persons of his choice.

After a careful review of the statute's text, Respondent's reasoning for the denial of immediate distribution can only be viewed as a forced interpretation which would "expand" the statute's purpose and operation. Respondent's response to Appellant's grievance states that the escrowed wages cannot be distributed until Appellant's death. Such a response is absurd and clearly deprives Appellant of any possible benefit from his escrowed wages due to the obvious fact that it would be impossible for the Appellant to benefit after his death.

Appellant asserts that his request for the distribution of his escrowed wages was made in good faith based on the plain and

Ordinary language of statutory law. Appellant further asserts that he has the right to have his escrowed wages immediately distributed to the persons or entities of his choice. Respondent's refusal to distribute Appellant's escrowed wages until his death is a violation of the letter of the law and of the spirit of the law. Appellant asserts that Respondent's refusal to distribute these funds constitutes a "taking" of his property in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States.

Appellant would further argue that to deny distribution of his escrowed wages until his death would deny him equal protection under the law, due to the fact that prisoners not sentenced to life, will have their escrowed wages returned to them during their lifetime.

There can be no question that Respondent's refusal is based on a forced interpretation of only one portion of the statute's text. The Respondent's reasoning expands the statute's scope and does not take into consideration the legislative intent based on their choice of words. As this Honorable Court will see when researching the law; legislative intent must be given appropriate consideration when statutory interpretation becomes an issue as it is in this case.

Based on their own choice of words in subsection (A)(5) the legislature intended for prisoners to benefit from wages held in escrow and further intended for those escrowed wages to be returned as evident from subsection (B).

Legal Analysis

"An issue regarding Statutory interpretation is a question of law." S.C. Coastal Conservation League v. S.C. Dept. of Health & Environmental Control, 390 SC 418, 702 SE2d 246 (2010).

"Legislature intends to accomplish something by its choice of words and would not do a futile thing." Gordon v. Phillips Utilities Inc., 362 SC 403, 608 SE2d 425 (2004)

"A subtle or forced construction of words in a statute for the purpose of expanding the operation of the statute is prohibited." Goldstar v. State Farm Mut. Auto Ins. Co., 358 SC 157 594 SE2d 511 (2004)

"A statute must be taken as found, giving effect to the legislative intent as expressed in its language." State v. White, 338 SC 56, 525 SE2d 261 (1999).

"The best evidence of legislative intent is the text of the statute." Wade v. State, 348 SC 255, 559 SE2d 843 (2002).

"What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will, therefore the Courts are bound to give effect to the expressed intent of the legislature." Hodges v. Rainey, 341 SC 79, 533 SE2d 578 (2000)

"Words of a statute must be given their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand its scope." Allen v. State, 339 SC 393, 529 SE2d 541 (2000).

"Interpretation of a term set forth in a statute should support the statute and should not lead to an absurd result." Miller v. Lawrence Robinson Trucking, 333 SC 576, 510 SE2d 431 (1998).

"When the language of a statute is clear and explicit a court cannot rewrite the statute and inject matters into it which are not in the legislature's language." Hodges supra.

CONCLUSION

Based on the law regarding statutory interpretation the Respondent fails to consider the legislative intent and purpose of the statute. Respondent's final decision is based on a forced interpretation of the text in subsection (B)(2) and acts to expand the statute's operation. Based on the plain language of the statute, and the clear legislative intent, Appellant is entitled to immediate distribution of his escrowed wages to the persons or entities of his choice and ask this court to issue an order for such.

St. U. Matthias Baum
 U. Matthias Baum # 272249
 LCI Post Office Box 205
 Ridgeville, SC 29472

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STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT

Uuno Mattias Baum, #272249,)	Docket No.: 16-ALJ-04-0153-AP
)	[Grievance No.: LCI 449-15]
Appellant,)	
)	Hon. John D. McLeod
v.)	
)	
South Carolina Department of Corrections,)	RESPONDENT'S BRIEF
)	
Respondent.)	

STATEMENT OF THE CASE

This matter is before the Administrative Law Court ("ALC" or "Court") pursuant to the appeal of Uuno Mattias Baum ("Appellant"), an inmate incarcerated with the South Carolina Department of Corrections ("SCDC" or "Department"). On May 22, 2015, Appellant filed a Step 1 grievance requesting that the money in Appellant's Inmate Long Term Savings Account¹. On June 19, 2015, SCDC responded to the Step 1 grievance. Thereafter, on June 21, 2015, Appellant filed a Step 2 grievance on the same issue. On January 14, 2016, SCDC denied the Step 2 grievance, and this appeal followed.

STANDARD OF REVIEW

The ALC's jurisdiction to hear this matter is derived entirely from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). When reviewing SCDC's decisions in inmate grievance matters, the ALC sits in an appellate capacity. *Id.* at 377, 527 S.E.2d at 754. Subsequently, the supreme court clarified the ALC's appellate jurisdiction over inmate appeals in *Sullivan v. S.C. Dep't of Corr.*, 355 S.C. 437, 586 S.E.2d 124 (2003). In affirming, as modified, the ALC's *en banc*

¹ The Inmate Long Term Savings Account is also referred to as a Prison Industries Escrow or Prison Industries Private Sector Account.

decision of *McNeil v. S.C. Dep't of Corr.*, 02-ALJ-04-00336-AP (September 5, 2001), the supreme court held the ALC's jurisdiction was limited to (1) cases in which an inmate contends prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; (2) cases in which SCDC has taken an inmate's *state-created* liberty interest in major disciplinary hearings; and (3) cases in which an inmate's confinement implicates a *state-created* liberty interest. See *Sullivan*, 355 S.C. at 443, 586 S.E.2d at 127 (emphasis added).

Moreover, regarding categories (2) and (3), *supra*, the supreme court has consistently emphasized that the liberty or property interest implicated must be one that is *state created*. See *Wicker v. S.C. Dep't of Corr.*, 360 S.C. 421, 602 S.E.2d 56 (2004) (emphasizing that the ALC's jurisdiction extends only to those cases involving the denial of "state created liberty interests" and that the Court's holding [*i.e.*, in *Wicker*] "is not to be viewed as expanding the jurisdiction of the [ALC] in any other circumstance."); *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E.2d 506 (2004) (holding that the ALC "may summarily dismiss those appeals that do not implicate an inmate's *state created* liberty or property interest") (emphasis added).

Furthermore, the ALC should not disturb findings of an administrative agency if those findings are supported by substantial evidence on the record as a whole. *Pearson v. JPS Converter & Ind. Corp.*, 327 S.C. 393, 489 S.E.2d 219 (Ct. App. 1997). Stated differently, an Administrative Law Judge may not substitute his judgment for that of an agency "as to the weight of the evidence on questions of fact." S.C. Code Ann. § 1-23-380(5) (amended by 2008 Act No. 334, § 5, eff. June 16, 2008). Additionally, "an Administrative Law Judge may not reverse or modify an agency's decision unless substantial rights of the Appellant have been prejudiced because the decision is clearly

erroneous in view of the substantial evidence on the whole Record, arbitrary or affected by an error of law." *Matthews v. S.C. Dep't of Corr.*, Case No.: 04-ALJ-04-00248-AP, available at <http://www.scalc.net/decisions.aspx?id=1203&q=4> (filed Dec. 21, 2004) (Anderson, A.L.J.); see S.C. Code Ann. § 1-23-380(5)(e); see also *Marietta Garage, Inc. v. S.C. Dep't. of Pub. Safety*, 337 S.C. 133, 522 S.E.2d 605 (1999); *S.C. Dep't. of Labor, Licensing & Regulation v. Girgis*, 332 S.C. 162, 503 S.E.2d 490 (1998).

"Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that the administrative agency reached. *Hendley v. S.C. State Budget & Control Bd.*, 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). The possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence. *Grant v. S.C. Coastal Council*, 319 S.C. 348, 461 S.E.2d 388 (1995). Administrative agencies are afforded wide latitude in making decisions, as shown in the deferential standard of appellate review. *Heater of Seabrook, Inc. v. Pub. Svc. Comm'n of S.C.*, 332 S.C. 20, 503 S.E.2d 739 (1998).

Finally, in deciding appeals from inmate grievances, the ALC must consider that prisons officials are in the best position to decide inmate disciplinary matters. In *Al-Shabazz*, the supreme court "underscored that since prison officials are in the best position to decide inmate disciplinary matters, the Courts and therefore this tribunal adhere to a 'hands off' approach to internal prison disciplinary policies and procedures when reviewing inmate appeals under the APA." *Matthews v. S.C. Dep't of Corr.*, *supra*, page 3 (citing *Al-Shabazz*, 338 S.C. at 382, 527 S.E.2d at 757 (stating that "[c]ourts traditionally have adopted a 'hands off' doctrine regarding judicial involvement in prison disciplinary procedures and other internal prison matters")); see also *Pruitt v. State*, 274 S.C. 565,

266 S.E.2d 779 (1980) (referring to the traditional "hands off" approach of South Carolina courts regarding internal prison discipline and policy).

ARGUMENT

DISBURSEMENT OF APPELLANT'S INMATE LONG TERM SAVINGS ACCOUNT HAS BEEN HANDLED CORRECTLY.

Inmate has an Inmate Long Term Savings Account with a positive balance which he wants to have distributed to his mother. However, he cannot access the funds in his Inmate Long Term Savings Account during his lifetime. According to S.C. Code Ann. §24-3-40 (B) (2) where the inmate is serving a life sentence the funds in this account can only be distributed upon the inmate's death. The inmate is free to indicate to whom he or she would like these funds to go upon the inmate's death but they cannot be distributed during the inmate's lifetime. Appellant is serving a life sentence (see Exhibit A) thus, SCDC is constrained by South Carolina law from distributing the funds in this account as Appellant has requested.

CONCLUSION

SCDC afforded Appellant the proper grievance procedures regarding this matter and is handling his Inmate Long Term Savings Account in accordance with South Carolina law. Thus, SCDC respectfully requests that this Court affirm SCDC's final agency action.

Respectfully Submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY:



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Columbia, South Carolina
June 7, 2016

STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT

Uuno Mattias Baum, #272249,
Appellant,

Docket No.: 16-ALJ-04-O153-AP
Grievance No.: LCI 449-15

vs.

Hon. John D. McLeod

COPY

South Carolina Dept. of Corr.,

APPELLANT'S REPLY BRIEF

Respondent.

FILED

JUN 13 2016

STATEMENT OF THE CASE

SC ADMIN. LAW COURT

On June 7, 2016, the Respondent in this action filed a document captioned "RESPONDENT'S BRIEF" in response to Appellant's appeal pending before this Honorable Court. Appellant was served a copy of the Respondent's untimely brief on June 10, 2016, and hereby submits a reply for this court's review.

ARGUMENT

1. First and foremost, Appellant would respectfully bring the court's attention to the fact that the Respondent has filed its brief untimely with deliberate and complete disregard for this court's rules of procedure, specifically rules 60 and 62.

Rule 62 was amended in 2013, "to clarify that an administrative law judge may dismiss an appeal or resolve it adversely to an offending party for failure to comply with the rules of procedure for appeals..."(emphasis added)

2. Appellant asserts that the Administrative Law Court has complete jurisdiction to hear and decide this case pursuant to Torrence vs. South Carolina Dept. of Corrections, 373 S.C. 586,646 S.E.2d 866(2007), and Wicker vs. S.C. Dept. of Corr., 360 S.C. 421,602 S.E.2d 56(2004); also Al-Shabazz vs. State, 338 S.C. 354,527 S.E.2d 742(2000). Appellant further asserts that this case presents issues involving state created liberty and property interest.

3. Appellant would respectfully caution this Honorable Court that the Respondent has deliberately attempted to confuse this court by way of its "STANDARD OF REVIEW", by intentionally including standards completely irrelevant to Appellant's case on appeal.

Respondent has included a "substantial evidence" standard and uses the "hands off" doctrine in an attempt to mislead the court and cloud the real issues. Both of these misleading standards are specifically designed and employed for matters that address prison disciplinary decisions or disciplinary policies and procedures. Appellant's case is not disciplinary related in any way shape, form or fashion, thereby making these standards misleading and confusing with regards to Appellant's case on appeal.

4. Appellant asserts that this appeal involves the denial of his property in violation of statutory law, legislative intent and in violation of Appellant's Constitutional protections. The Respondent has purposely and deliberately applied a "forced" interpretation of statutory law for the purpose of "expanding" the statutes scope and purpose, simply to deny Appellant benefits afforded to him by way of legislative intent.

5. Respondent has denied Appellant's request for immediate distribution of his wages, currently held in escrow for his benefit, on the grounds that state law prohibits the release of the funds until Appellant's death. Respondent's reasoning is absurd and based solely on their forced interpretation of S.C. Code Ann. §24-3-40(B)(2) which is only one portion of the statute. However, the text of subsection (B)(2) does not prohibit the release of Appellant's escrowed wages until his death.

The text of this subsection is worded exactly as follows: "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" (emphasis added). The language of this subsection does not provide any specific time-line for Appellant to exercise either of these two options provided in the text, therefore, Respondent's refusal is an attempt to expand the statutes function.

STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT

Uuno Mattias Baum, #272249,
Appellant,

Docket No.: 16-ALJ-04-0153-AP
Grievance No.: LCI 449-15

vs.

Hon. John D. McLeod

South Carolina Dept. of Corr.,
Respondent.

PROOF OF SERVICE

COPY

I hereby certify that I have served a copy of Appellant's Reply Brief on the Respondent in the above captioned case by placing said document in the United States Mail with First Class postage affixed thereto and addressed as follows:

South Carolina Department of Corrections
Office of General Counsel
Post Office Box 21787
Columbia, South Carolina 29221-1787

s/ U. Matt Baum

Uuno Mattias Baum, Appellant.

FILED

JUN 13 2016

SC ADMIN. LAW COURT

**STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT**

Uuno Mattias Baum, #272249,)	Docket No.: 16-ALJ-04-01 53-AP
)	[Grievance No.: LCI 449-15
Appellant,)	
)	Hon. John D. McLeod
v.)	
)	
South Carolina Department of Corrections,)	RESPONDENT'S REPLY BRIEF
)	
Respondent.)	
)	

STATEMENT OF THE CASE

This matter is before the Administrative Law Court ("ALC" or "Court") pursuant to the appeal of Uuno Mattias Baum ("Appellant"), an inmate incarcerated with the South Carolina Department of Corrections ("SCDC" or "Department"). On June 7, 2016 Respondent filed their brief. Appellant filed a reply brief which Respondent received on June 15, 2016. Respondent here replies to Appellant's reply brief.

STANDARD OF REVIEW

The ALC's jurisdiction to hear this matter is derived entirely from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). When reviewing SCDC's decisions in inmate grievance matters, the ALC sits in an appellate capacity. *Id.* at 377, 527 S.E.2d at 754. Subsequently, the supreme court clarified the ALC's appellate jurisdiction over inmate appeals in *Sullivan v. S.C. Dep't of Corr.*, 355 S.C. 437, 586 S.E.2d 124 (2003). In affirming, as modified, the ALC's *en banc* decision of *McNeil v. S.C. Dep't of Corr.*, 02-ALJ-04-00336-AP (September 5, 2001), the supreme court held the ALC's jurisdiction was limited to (1) cases in which an inmate contends prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; (2) cases in which SCDC has taken an inmate's *state-created* liberty

interest in major disciplinary hearings; and (3) cases in which an inmate's confinement implicates a *state-created* liberty interest. See *Sullivan*, 355 S.C. at 443, 586 S.E.2d at 127 (emphasis added).

Moreover, regarding categories (2) and (3), *supra*, the supreme court has consistently emphasized that the liberty or property interest implicated must be one that is *state created*. See *Wicker v. S.C. Dep't of Corr.*, 360 S.C. 421, 602 S.E.2d 56 (2004) (emphasizing that the ALC's jurisdiction extends only to those cases involving the denial of "state created liberty interests" and that the Court's holding [*i.e.*, in *Wicker*] "is not to be viewed as expanding the jurisdiction of the [ALC] in any other circumstance."); *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E.2d 506 (2004) (holding that the ALC "may summarily dismiss those appeals that do not implicate an inmate's *state created* liberty or property interest") (emphasis added).

Furthermore, the ALC should not disturb findings of an administrative agency if those findings are supported by substantial evidence on the record as a whole. *Pearson v. JPS Converter & Ind. Corp.*, 327 S.C. 393, 489 S.E.2d 219 (Ct. App. 1997). Stated differently, an Administrative Law Judge may not substitute his judgment for that of an agency "as to the weight of the evidence on questions of fact." S.C. Code Ann. § 1-23-380(5) (amended by 2008 Act No. 334, § 5, eff. June 16, 2008). Additionally, "an Administrative Law Judge may not reverse or modify an agency's decision unless substantial rights of the Appellant have been prejudiced because the decision is clearly erroneous in view of the substantial evidence on the whole Record, arbitrary or affected by an error of law." *Matthews v. S.C. Dep't of Corr.*, Case No.: 04-ALJ-04-00248-AP, available at <http://www.scalc.net/decisions.aspx?id=1203&q=4> (filed Dec. 21, 2004) (Anderson, A.L.J.); see S.C. Code Ann. § 1-23-380(5)(e); see also *Marietta Garage, Inc.*

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v. S.C. Dep't. of Pub. Safety, 337 S.C. 133, 522 S.E.2d 605 (1999); *S.C. Dep't. of Labor, Licensing & Regulation v. Girgis*, 332 S.C. 162, 503 S.E.2d 490 (1998).

"Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that the administrative agency reached. *Hendley v. S.C. State Budget & Control Bd.*, 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). The possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence. *Grant v. S.C. Coastal Council*, 319 S.C. 348, 461 S.E.2d 388 (1995). Administrative agencies are afforded wide latitude in making decisions, as shown in the deferential standard of appellate review. *Heater of Seabrook, Inc. v. Pub. Svc. Comm'n of S.C.*, 332 S.C. 20, 503 S.E.2d 739 (1998).

ARGUMENT

The South Carolina Department of Corrections has interpreted S.C. Code Ann. §24-3-40(b)(2) correctly

Appellant argues that S.C. Code Ann. §24-3-40(B)(2) allows him to have the balance of his Inmate Long Term Savings Account distributed immediately. This statute reads, "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." S.C. Code Ann. § 24-3-40. The South Carolina Department of Corrections (SCDC) has interpreted the second half of this provision to mean that inmates can elect to have this money distributed to a particular person or persons instead of it being distributed with their estate, but this distribution can only be made upon the inmate's death. However, the statute does not specifically say this and is somewhat ambiguous.

Where a statute is ambiguous, SCDC's interpretation is entitled to deference.

Kiawah Dev. Partners, II v. S. Carolina Dep't of Health & Envtl. Control, 411 S.C. 16, 22, 766 S.E.2d 707, 711 (2014). The Administrative Law court gives state agencies this deference unless the statutory interpretation is, "arbitrary, capricious, or manifestly contrary to the statute." *Id.* citing *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837, 104 S. Ct. 2778; 2779, 81 L. Ed. 2d 694 (1984). SCDC's interpretation of S.C. Code Ann. § 24-3-40 is none of those things. The overall legislative intent of the statute appears to be to ensure that inmates' wages are used to help pay for their housing and care while still ensuring they have some of their wages saved to use to support themselves upon their release. S.C. Code Ann. § 24-3-40(A)(5) provides that ten percent of an inmate's wages must be held for that prisoner's benefit. SCDC does this by depositing those funds into that inmate's Inmate Long Term Savings Account. Inmates whose sentences allow for their release are not able to access this account until they are released in accordance with S.C. Code Ann. § 24-3-40(B)(1). Inmates serving life sentences or those on death row cannot access this account at all but can direct how it will be distributed upon their death. This is reasonable and consistent with the apparent intent of the legislature.

Additionally, S.C. Code Ann. § 24-3-40(B)(2) applies to inmates with life sentences even if they have the possibility of being paroled. If these inmates were allowed to distribute the money in their Inmate Long Term Savings Accounts while they were in prison, that money would not be there to be distributed to them upon their parole should they be granted parole. This is contrary to the legislative intent to ensure that inmates have some of their wages saved to help them support themselves upon release.

Further, this same issue of statutory interpretation was considered by the Honorable Deborah Brooks Durden of the South Carolina Administrative Law Court earlier this year. In that case another inmate serving a life sentence argued, like Appellant argues here, that the statute allowed him to distribute the money in his Inmate Long Term Savings Account to a third party during his lifetime. Judge Durden ordered, "Appellant's escrow wages must be held until such time as he may be released or until they may be distributed to his estate or designees at his death under Subsection (b)(2)." *Slezak v. S.C. Dep't of Corr.*, 15-ALJ-04-0642-AP (April 25, 2016).

CONCLUSION

SCDC has correctly interpreted S.C. Code Ann. § 24-3-40(B)(2). Thus, SCDC respectfully requests that this Court affirm SCDC's final agency action.

Respectfully Submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY: 

Annie Laurie Rumler
Staff Attorney
S.C. Department of Corrections
4444 Broad River Road
Columbia, South Carolina 29221
(803) 896-1355

Columbia, South Carolina
June 17, 2016

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STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT

Uno Mattias Baum, #272249,
Appellant,

Docket No.: 16-ALJ-04-0153-AP
Grievance No.: LCI 449-15

vs.

Motion For Oral Argument

South Carolina Dept. of Corr.,
Respondent.

The Appellant now moves before this Honorable Court by way of MOTION FOR ORAL ARGUMENT, this motion is made pursuant to Rule 63, SCACR. For cause thereof the Appellant would show the following:

Appellant asserts again that he is entitled to his requested relief as a matter of law. The Respondent in their "Reply Brief" attempts to box-in this Court's exercise of discretion by alleging, in their "Standard of Review", that the Court's jurisdiction to review and decide this case is limited to, and strictly governed by, the decision in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742(2000). However, Respondents assertion is incorrect and purposely misleading. While Al-Shabazz, was one of the first cases decided by our state Supreme Court in which clarification was given to the ALC regarding its function and what type issues could be reviewed, however, that case is not strictly controlling when deciding issues that fit within the parameters of the Court's review. The Supreme Court of South Carolina has since made several rulings in a host of cases which give guidance regarding issues like the one in Appellant's appeal.

Appellant's issue concerns the denial of his state created liberty interest in the form of monetary property. The state created, by statutory law, the ability for the Department of Corrections to allow inmates to work and receive monetary compensation for their labor. (See S.C. Code Ann. §24-3-310, §24-3-315, §24-3-410(B)(7), §24-3-430(D), also §24-3-1-195).

DENIED
John D. McLeod 6-29-16
John D. McLeod Date
Administrative Law Judge

FILED

FILED

JUN 29 2016

JUN 27 2016

SC ADMIN. LAW COURT

SC ADMIN. LAW COURT

State of South Carolina
Administrative Law Court

Ulucio Matthias Baum #272249,
Appellant,

Vs.

South Carolina Department of Corrections,
Respondent.

Docket No.: 16-ALJ-04-0153-AP
Graceance No. LCI 449-15

Motion To Alter / Amend
Judgment

**Motions for Reconsideration
are Prohibited.
See ALC Rule 65.**

Appellant moves before this Honorable Court to Alter or Amend Judgment pursuant to the S.C. Rules of Court.

The Administrative Law Court issued its Order in the above case on July 14, 2016, and Appellant received a copy on July 19, 2016.

On page five of Appellant's Appeal Brief, he argues the issues of violation of his Constitutional protections and the Administrative Law Court has failed to rule on those issues. Appellant hereby submits this motion to preserve those issues for further Appellate review.

Respectfully Submitted,
U. Matthias Baum

Appellant Pro-se

Dated: July 20, 2016

FILED

AUG 30 2016

SC ADMIN. LAW COURT

FILED

JUL 22 2016

SC ADMIN. LAW COURT

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

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).¹ 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, 2016.² 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

¹ 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)".

² 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 & Env'tl. 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.³ Subsection (A)(5) mandates that ten percent of a prisoner's wages must be

³ 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),⁴ 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.⁵ 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),⁶ (2), or (3).⁷

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

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

⁵ *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).

⁶ Distribution is upon the prisoner's release.

⁷ 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.⁸ 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).⁹ 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

⁸ 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).

⁹ 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.

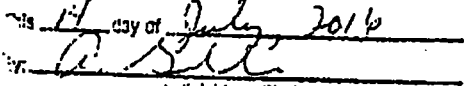
ORDER

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, by first class mail, postage paid, or in the Interagency Mail Service addressed to the party(ies) or their attorney(s).
This 14 day of July, 2016

Judicial Law Clerk

RECEIVED

State of South Carolina
In The Court of Appeals

MAR 30 2017
SC Court of Appeals

Appeal From The Administrative Law Court
Administrative Law Judge John D McLeod

ALC Case No. 16-ALJ-04-0153-AP
Appellate Case No. 2016-001564

Uuno Matthias Baum, #272249,

Appellant,

Vs.

South Carolina Department of Corrections,

Respondent.

Certificate of Service

Appellant hereby certifies that on March 27, 2017 he has provided the Respondent with a copy of the Appellant's Record on Appeal by delivering same to the Lieber Correctional Mail Room addressed as follows:

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

U. Matthias Baum

9

ORIGINAL

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

**APPEAL FROM THE ADMINISTRATIVE LAW JUDGE
Honorable John D. McLeod, Administrative Law Judge**

CASE NO. #16-0001564

RECEIVED

MAR 13 2017

SC Court of Appeals

Uuno Mattias Baum #272249 Appellant.

vs.

**South Carolina Department
of Corrections Respondents.**

FINAL BRIEF OF APPELLANT

**Uuno Mattias Baum
Wando-D-190 #272249
Lieber Correctional Institution
Post Office Box 205
Ridgeville, South Carolina
29472-0205**

PRO SE APPELLANT

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STATEMENT OF THE CASE

This matter comes before this Court of Appeals seeking appellate review of the adverse decision of the Administrative Law Judge in UUNO MATTIAS BAUM V. SCDC, #16-001564. This Administrative Law Judge has issued his final Order, on July 14, 2016; Appellant has filed his Notice of Appeal with this Court, on July 25, 2016, serving all parties associated herewith a copy and subsequently brings this matter into the ambiance of this Appellate Court's jurisdiction.

STATEMENT OF THE ISSUES ON APPEAL

(1). Did the Administrative Law Judge err by finding that the general purpose of S.C. Code Ann. §24-3-40 is to restrict prisoners from having access to their escrow accounts?

(2). Did the Administrative Law Judge err in failing to make a finding of fact relating to the Constitutional Issue raised by Appellant; and has Respondents applied S.C. Code Ann. §24-3-40(B)(2) to infringe upon the fundamental fairness protections provided by the Fifth and Fourteenth Amendments to the United States Constitution and Article I, §3, of the South Carolina Constitution?

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(1). Did the Administrative Law Judge err by finding that the general purpose of S.C. Code Ann. §24-3-40 is to restrict prisoners from having access to their escrow accounts?

The Administrative Law Judge (ALJ) found that the "general purpose" of S.C. Code Ann. §24-3-40 is to [restrict] prisoners from having access to their earned wages. The ALJ's interpretation of this statute is in plain error and completely unreasonable, based on the basic principles of common logic; fundamental law; and the unambiguous "intent" of the statute.

The first six (6) subsections of this statute directs distribution of wages earned by prisoners, and thereby demonstrates that the statutes "general purpose" is to [allocate distribution], not to restrict the prisoner's access as determined and interpreted by the ALJ.

The ALJ found, on page 6, lines 14-15, of its Order that "the only direct access of an incarcerated inmate to his earnings are those distributed under section (A)(4)." The ALJ's finding is an incorrect assessment of the statute's language and does not take into consideration subsection (A)(3) which permits prisoners to contribute to voluntary child support. Based on this language the ALJ's finding is in error. Furthermore, the fact that residual amounts from subsection(s) (A)(3) and (A)(6) are directed, in addition to, the amount already allocated to (A)(4) demonstrating that the statutes general purpose cannot be to restrict the prisoners access to his earnings. Additionally, the statutory language of subsection (A)(5) provides that the percentage of wages allocated in accordance with this provision is "for the benefit of the prisoner." Therefore, based on these facts, and the harmonious reading of these provisions, the ALJ's determination and

interpretation of the statute's purpose is incorrect and contrary to its [actual] intent.

This Court can further find clarification concerning the overall purpose of the Prison Industries Program and the reasoning for allowing inmates to earn wages by reviewing S.C. Code Ann. §24-3-310, "Declaration of Intent", taking specific notice of subsection (4).

Prisoners who participate in the South Carolina Department of Corrections (SCDC) Prison Industry "Private Sector" Program, do so on a voluntary basis, but, with the expectation that they will earn a wage for their labor. The actual wage amount earned and distributed for the benefit of the prisoner is determined by statutory law. (See S.C. Code Ann. §24-3-315; §24-3-410(B)(7); §24-3-430(D); §24-1-290; and §24-1-295). Based on these statutory provisions of law, a prisoner has a legitimate expectation that he will receive monetary compensation for providing labor to Private Sector companies. In fact, this expectation equates to a state created liberty interest because it is required by law.

The ALJ, page 5, of its Order found that "there are no compelling reasons to overrule SCDC's interpretation of the statute." However, the compelling reason the ALJ failed to consider is the Equal Protection violation which SCDC's interpretation imposes upon the Appellant. Subsequently, the ALJ did find the statute to be ambiguous and subject to other reasonable interpretations. In *STATE V. HUDSON*, 336 S.C. 237, 519 S.E.2d 577 (Ct.App. 1999), this Court found that an "ambiguity in a statute should be resolved in favor of just, equitable and beneficial operation of the law." (emphasis added). The ALJ acknowledged the fact that this subsection is ambiguous and subject to a different reasonable interpretation, but failed to resolve the dispute in a just and equitable manner of law.

Instead, the ALJ deferred its decision to SCDC's interpretation which violates the substantial rights of this Appellant.

The legislature in subsection (A)(5) provides: "Ten percent of the prisoners wages must be held in an interest bearing escrow account for the benefit of the prisoner." Based on this language the legislature intended for the prisoner to benefit from the escrow wages. If access were to be postponed until the death of a prisoner sentenced to life imprisonment ... there is no actual or real "benefit of the prisoner". This would render the purpose of subsection (A)(5) [futile] to prisoners serving life sentences. In the case of GORDON V. PHILLIPS UTILITIES, INC., 362 S.C. 403, 608 S.E.2d 425 (2004), this Court provided that the "Legislature intends to accomplish something by it's choice of words and would not do a futile thing." See, cf., DAVENPORT V. CITY OF ROCKHILL, 315 S.C. 114, 432 S.E.2d 451 (1996)("this Court is bound to presume 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)). In reviewing subsection (B), this Court should take notice of the legislature's language which makes clear the intent of this provision. Specifically in this subsection the legislature uses the mandatory language "shall return a prisoner's wages held in escrow" demonstrating that the intent is to return these escrowed wages. See ABBEVILLE SCHOOL DISTRICT V. STATE OF SOUTH CAROLINA, 355 S.C. 58, 515 S.E.2d 535 (1999)("Since the education clause uses the term 'shall', it is mandatory"); see also WASHINGTON V. SALISBURY, 279 S.C. 306, 306 S.E.2d 600 (1983)).

The ALJ, on page 6 and 7, of its Order uses "legal maxims" to support its decision; however, in doing so it fails to consider case precedence for guidance. Maxims are nothing more than traditional forms of legal expression and should never be used in place of clearly established law. The ALJ has interjected a maxim in his decision which he used to expand the legislature's intent and language. In this case the two subsections in question are (A)(5) and (B)(2) which the Courts have provided guidance on how to interpret these provisions. "Words of a statute must be given their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand its scope." ALLEN V. STATE, 339 S.C. 393, 529 S.E.2d 541 (2000).

On the other hand, if maxims are used to determine legislative meaning or intent the ALJ did not consider "expressum facit cesare tactitum", meaning something expressed nullifies what is unexpressed. In this instance the legislature in subsection (B)(2) [did not] express that distribution of these escrowed wages could only occur at death or upon release, thereby nullifying this "absurd" interpretation. "Interpretation of a term set forth in a statute should support the statute and should not lead to an absurd result." MILLER V. LAWRENCE ROBINSON TRUCKING, 333 S.C. 576, 510 S.E.2d 431 (1998).

If this Court would review subsection (B)(1) and (B)(3) it will discover that the legislatures language specifically expresses the words [upon release]. Whereas, in (B)(2) it provides an "option" for prisoners sentenced to life to utilize at death or during their lifetime. Had the legislature intended for prisoners sentenced to life imprisonment to distribute their escrowed wages only upon their death it would have specifically used those plain and ordinary words to express that intent. However, it did not use the explicit language at or upon death, because to do so would be "absurd" and completely contrary to the "benefit of the prisoner" provision contained in

subsection (A)(5). These are wages the prisoner has lawfully earned in exchange for his labor; specifically set aside for his benefit and he has a fundamental right to it; which is protected by the Constitution of the United States and South Carolina.

(2). Did the ALJ err in failing to make a finding of fact relating to the Constitutional issue raised by Appellate; and has Respondent applied S.C. Code Ann. §24-3-40(B)(2) to infringe upon the fundamental fairness protections provided by the Fifth and Fourteenth Amendments to the United States Constitution and Article I, §3, of the South Carolina Constitution?

In accordance with the various provisions contained in S.C. Code Ann. §24-3-40, portions of the wages earned by prisoners participating in this SCDC Program are allocated for specific purposes such as: (1) Victim Assistance; (2) Voluntary and/or court ordered child support; (3) housing; (4) reimbursement; and (5) State and Federal taxes. Subsection (A)(5) is specifically allocated for the benefit of the prisoner, therefore, to deny a prisoner access to those earnings during his lifetime equates to a "taking" of his property in violation of the Fifth and Fourteenth Amendments to the United States Constitution. See also, Article I, §3, of the South Carolina Constitution.

"There is a taking of property when a government action directly interferes with or substantially disturbs the owners use and enjoyment of the property." BLACKS LAW DICTIONARY (8th Ed. 2005). "In the Constitutional sense, government regulations which control or limit the use of property effectively 'take' the property." HARDIN V. SOUTH CAROLINA DEPT. OF TRANS., 371 S.C. 598, 641 S.E.2d 437. When a property owner has been deprived of his property there is a taking per se. BYRD V. CITY OF HARTSVILLE, 365 S.C. 650, 620 S.E.2d 76. The "taking

Clause reaches beyond protection of real property to other forms of private property, such as financial assets." *MCMAHAN V. INTERNATIONAL ASS'N OF BRIDGE STRUCTURAL & ORNAMENTAL IRON WORKERS*, 858 F.Supp. 529 (S.C.). "Taking" - the act of seizing an article with or without removing it, but with an implicit transfer of possession or control." *BLACKS LAW DICTIONARY* (8th Ed. 2005).

As applied, S.C. Code Ann. §24-3-40(B)(2) infringes upon the fundamental protections provided by the Fifth and Fourteenth Amendments, (see also its progeny, Article I, §3, S.C. Const.), by depriving Appellant of his property without consent and in a manner that denies him equal protection of the law.

Subsection (B)(2) reads: "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." The text of this subsection gives no additional language or guidance with respect to when these two options are to become effective or utilized. The ALJ, in his extensive and in depth analysis has determined that the SCDC's interpretation is correct and that both of these options are only available to the Appellant upon his death. However, the ALJ's determination was made without consideration of the Constitutional infringement such an interpretation imposes.

The United States Supreme Court (USSC) has held "equal protection under the Fourteenth Amendment means that legislation which discriminates must have a rational basis for doing so. If the legislation affects a fundamental right it is unconstitutional. The critical question is whether there is an appropriate governmental interest furthered by the differential

treatment." POLICE DEPT. V. MOSELEY, 408 U.S. 92, 92 S.Ct. 2286 (1972). In the instant case, the ALJ's decision allows the Equal Protection violation to continue to occur because prisoners not sentenced to life imprisonment are afforded access to their escrowed wages during their lifetime while Appellant is not, making subsection (B)(2) discriminatory in the way it is applied to this current instant. The ALJ should have recognized the fact that SCDC's interpretation of subsection (B)(2) creates an equal protection violation, and taken the opportunity to exercise his authority to correct it. The ALJ is empowered to act when an agency's decision prejudice substantial rights. See S.C. Code Ann. §1-23-380(5) (Supp. 2015). In this case it's the fundamental right to equal protection which is being denied the Appellant, due to the fact that others similarly situated will receive their escrowed wages during their lifetime. Furthermore, to apply subsection (B)(2) this way essentially become a taking, thereby denying Appellant the fundamental protections of the Fifth and Fourteenth Amendments to the United States Constitution (and its progeny Article I, §3, of the South Carolina Constitution).

CONCLUSION

WHEREFORE, Appellant prays this Court grant the relief of reversing the ALJ's decision where there has occurred a violation of his rights, as applies under S.C. Code Ann. §24-3-40(B)(2), thereby ordering the release of all escrowed wages to entities or persons of his choosing during his lifetime as is provided for by subsection (B)(2).

UMB

~~Oct. 18, 2016~~

March 8, 2017

Respectfully Submitted,

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PRO SE APPELLANT

5

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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OCT 28 2016

SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Honorable John D. McLeod, Administrative Law Court

CASE NO. #16-0001564

RECEIVED

MAR 13 2017

SC Court of Appeals

Uuno Mattias Baum #272249 Appellant,

vs.

South Carolina Department
of Corrections Respondents.

PROOF OF SERVICE

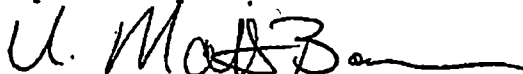
I hereby certify that I have served the: (1) Final Brief of Appellant; and (2) Proof of Service, upon Respondents counsel of record by depositing a copy of the same in the United States Mail, First Class postage affixed thereon, and addressed as follows:

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STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge John D. McLeod

ALC Case No. 16-ALJ-04-0153-AP
Appellate Case No. 2016-001564

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MAR 31 2017

SC Court of Appeals

UUNO MATTIAS BAUM, # 272249,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

FINAL BRIEF OF RESPONDENT

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STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge John D. McLeod

ALC Case No. 16-ALJ-04-0153-AP
Appellate Case No. 2016-001564

UUNO MATTIAS BAUM, # 272249,

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STATEMENT OF ISSUES ON APPEAL

- I. **THE ADMINISTRATIVE LAW COURT PROPERLY FOUND THAT THE GENERAL PURPOSE OF S.C. CODE § 24-3-40 IS TO RESTRICT PRISONER ACCESS TO EARNED WAGES AND CORRECTLY AFFIRMED THE DEPARTMENT OF CORRECTIONS' CONCLUSION THAT S.C. CODE § 24-3-40 DOES NOT ALLOW APPELLANT TO DISTRIBUTE HIS ESCROWED WAGES TO A PERSON OF HIS CHOOSING AT THE PRESENT TIME.**

- II. **APPELLANT'S VAGUE AND CONCLUSORY ASSERTIONS THAT S.C. CODE § 24-3-40 VIOLATES THE CONSTITUTION ARE INSUFFICIENT TO OVERCOME THE PRESUMPTION OF CONSTITUTIONALITY AFFORDED TO STATUTES.**

STATEMENT OF THE CASE

This matter comes before the Court pursuant to the appeal of Uno Mattias Baum, an inmate in the custody of the South Carolina Department of Corrections. On May 22, 2015, Appellant submitted a Step One Grievance arguing that he should be permitted to distribute his escrowed wages to his mother. SCDC denied the request, stating that under S.C. Code § 24-3-40, since Appellant was serving a life sentence, his escrowed wages must be held until his release, parole, or death. Appellate submitted a Step Two Grievance on June 21, 2015, which was denied for the same reason on January 14, 2016. Appellant filed a Notice of Appeal to the Administrative Law Court on February 16, 2016. On July 14, 2016, Administrative Law Judge John D. McLeod issued an order affirming SCDC's determination under S.C. Code § 24-3-40. This appeal follows.

STANDARD OF REVIEW

S.C. Code Ann. § 1-23-610(B) provides the applicable standard of review:

The review of the administrative law judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (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.

S.C. Code Ann. § 1-23-610(B); see also S.C. Code § 1-23-380(5).

ARGUMENT

I. THE ADMINISTRATIVE LAW COURT PROPERLY FOUND THAT THE GENERAL PURPOSE OF S.C. CODE § 24-3-40 IS TO RESTRICT PRISONER ACCESS TO EARNED WAGES AND CORRECTLY AFFIRMED THE DEPARTMENT OF CORRECTIONS' CONCLUSION THAT S.C. CODE § 24-3-40 DOES NOT ALLOW APPELLANT TO DISTRIBUTE HIS ESCROWED WAGES TO A PERSON OF HIS CHOOSING AT THE PRESENT TIME.

Appellant, an inmate serving a life sentence for murder, argues that S.C. Code § 24-3-40 entitles him to have his escrowed wages distributed to a person or persons of his choosing at any time. (See Brief of Appellant, page 7). To the contrary, as the Administrative Law Judge properly concluded, S.C. Code § 24-3-40's general purpose is to restrict still-incarcerated inmates' access to their escrowed wages, and subsection (B)(2) does not allow Appellant to distribute his earned wages to a person of his choosing at the present time.

"The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature." Charleston County School District v. State Budget & Control Bd., 313 S.C. 1, 5, 437 S.E.2d 6, 8 (1993). The text of a statute is considered the best evidence of the legislative intent or will, and the courts are bound to give effect to the expressed intent of the legislature. Grier v. AMISUB of S.C., Inc., 397 S.C. 532, 535, 725 S.E.2d 693, 695 (2012). The words of a statute must be given their plain and ordinary meaning without resorting to subtle or forced construction. Durham v. United Cos. Fin. Corp., 331 S.C. 600, 604, 503 S.E.2d 465, 468 (1998). "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).

If the language of an act gives rise to doubt or uncertainty as to legislative intent, the construing court may search for that intent beyond the borders of the act itself. State v. Morgan, 352 S.C. 359, 367, 574 S.E.2d 203, 207 (Ct. App. 2002); see also Wade v. Berkeley County, 348 S.C. 224, 229, 559 S.E.2d 586, 588 (2002) (“[W]here a statute is ambiguous, the Court must construe the terms of the statute.”). An ambiguity in a statute should be resolved in favor of a just, beneficial, and equitable operation of the law. State v. Hudson, 336 S.C. 237, 247, 519 S.E.2d 577, 582 (Ct. App. 1999); City of Sumter Police Dept v. One (1) 1992 Blue Mazda Truck, 330 S.C. 371, 376, 498 S.E.2d 894, 896 (Ct. App. 1998). In construing a statute, the court looks to the language as a whole in light of its manifest purpose. See, e.g., State v. Dawkins, 352 S.C. 162, 166, 573 S.E.2d 783, 785 (2002). Statutory language “must be construed in context and in light of the intended purpose of the statute in a manner which harmonizes with its subject matter and accords with its general purpose.” Cabiness v. Town of James Island, 393 S.C. 176, 192, 712 S.E.2d 416, 425 (2011) (internal quotations omitted).

Appellate courts give great weight to an agency’s long-standing construction of a statute; however, such a construction is not dispositive. Gilstrap v. South Carolina Budget and Control Bd., 310 S.C. 210, 423 S.E.2d 101 (1992); see also Brown v. Bi-Lo, Inc., 354 S.C. 436, 440, 581 S.E.2d 836, 838 (2003) (recognizing that courts generally give deference to an administrative agency’s interpretation of an applicable statute or its own regulation unless the plain language of the statute or regulation is contrary to the agency’s interpretation). If the statute or regulation “is silent or ambiguous with respect to the specific issue,” the court then must give deference to the agency’s interpretation of the statute or

regulation, assuming the interpretation is worthy of deference. Chevron, U.S.A., Inc. v. Natural Res. Def. Council, Inc., 467 U.S. 837, 843 (1984).

The statute at issue in Appellant's case, S.C. Code § 24-3-40, involves the disposition of wages of inmates who are allowed to work at paid employment. The statute, in its entirety, reads as follows:

(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.

Appellant asserts that subsection (B)(2) allows for a current distribution to a person of his choice. Appellant's interpretation is incorrect under the plain language of the statute

and considering the general purpose of the statute, which is clearly to restrict an inmate's access to his earned wages. (See ALC Order, page 5-6). The disbursement of escrowed wages is governed by subsection (B) of the statute. Subsection (B)(1) states that a prisoner released without community supervision must be given his escrowed wages *upon his release*.

Subsection (B)(2), a subsection dedicated to inmates sentenced to death or life imprisonment, states that such an inmate "shall be given the option of having his escrowed wages included in his estate or distributed to the persons or entities of his choice."

Subsection (B)(3) states that an inmate released to community supervision shall receive the lesser of two-hundred dollars or the escrow balance *upon his release*, with any remaining balance going to the Department of Probation, Parole and Pardon Services to be applied toward payment of the offender's housing and basic needs. Any balance remaining at the conclusion of the supervision period is returned to the offender at that time.

The Administrative Law Judge properly concluded that a review of the statute as a whole indicates that the general purpose of S.C. Code § 24-3-40 is to restrict personal access of still-incarcerated inmates to their earnings except in the limited circumstances specified in the statute. In fact, the only direct access an incarcerated inmate has to his earnings is under Subsection (A)(4), which requires that ten percent of the escrowed wages must be made available to the inmate during his incarceration. This subsection specifically states that the inmate may use the ten percent "for the purchase of incidentals" or he may distribute these funds "to the person or persons of the inmate's choice." Subsection (A)(4) provides the only mechanism for an inmate to distribute funds to other people during his incarceration. Subsection (B)(2), read in harmony with the restrictive nature of the statute as a whole, does

not change this fact and consequently only allows an inmate who serves a life or death sentence to have his escrowed wages distributed to the persons or entities of his choice upon his or her death.¹

In sum, the Administrative Law Judge properly affirmed the Department of Corrections' final agency determination after correctly concluding that there were no compelling reasons to overrule the Department's interpretation of S.C. Code § 24-3-40.² See Kiawah Development Partners, II v. South Carolina Dept. of Health and Environmental Control, 411 S.C. 16, 34-35, 766 S.E.2d 707, 718 (2014) ("Accordingly, the deference doctrine properly stated provides that where an agency charged with administering a statute or regulation has interpreted the statute or regulation, courts, including the ALC, will defer to the agency's interpretation absent compelling reasons. We defer to an agency interpretation unless it is 'arbitrary, capricious, or manifestly contrary to the statute.'" (citation omitted)). (See ALC Order, page 5). Accordingly, the order of the Administrative Law Judge should be upheld.

¹ The Administrative Law Judge correctly found that this conclusion is buttressed by the statute's use of the term "estate" in Subsection (B)(2), which term is commonly understood to refer to property owned at death. See State v. Wilson, 274 S.C. 352, 355, 264 S.E.2d 414, 415 (1980) (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); South Mutual Church Insurance Company v. S.C. Windstorm & Hail Underwriting Ass'n, 306 S.C. 339, 342, 412 S.E.2d 377, 379 (1991) (the meaning of terms in a statute may be ascertained by reference to words associated with them in the statute). (See ALC Order, page 7-8).

² Appellant repeatedly mentions the fact that section (A)(5) of S.C. Code § 24-3-40 states that the interest-bearing escrow account is "for the benefit of the prisoner." The fact that ten percent of an inmate's wages goes into an escrow account for his benefit does not change the fact that very next portion of the statute restricts inmate access to such funds until release from custody. Although Appellant's life sentence means that he most likely will not be released until he dies, his release is still possible through reversal of his conviction via the appellate, post-conviction relief, or habeas corpus processes, through pardon, or through any other mechanism allowed by law. Having restricted access to his escrowed wages while he is still incarcerated allows Appellant to build up a supply of funds in the event of his release, which would obviously be to his benefit. Further, even if he is not released during his lifetime, Appellant's argument overlooks the reality that he does indeed benefit

II. APPELLANT'S VAGUE AND CONCLUSORY ASSERTIONS THAT S.C. CODE § 24-3-40 VIOLATES THE CONSTITUTION ARE INSUFFICIENT TO OVERCOME THE PRESUMPTION OF CONSTITUTIONALITY AFFORDED TO STATUTES.

Appellant also argues that as applied, S.C. Code § 24-3-40(B)(2) violates the Takings Clause by depriving him of his property without his consent and violates the Equal Protection Clause by treating him differently than inmates not serving life sentences. Both of Appellant's constitutional arguments fail because his assertions of unconstitutionality are insufficient to overcome the presumption of constitutionality. See Davis v. County of Greenville, 322 S.C. 73, 77, 470 S.E. 2d 94, 96 (1996) (“[A]ll statutes are presumed constitutional and, if possible, will be construed to render them valid.”); Curtis v. State, 345 S.C. 557, 570, 549 S.E.2d 591, 597 (2001) (“[A] legislative act will not be declared unconstitutional unless its repugnance to the Constitution is clear and beyond a reasonable doubt.”) (citation omitted).

Takings Clause Claim

Initially, Appellant's Takings Clause claim is arguably not ripe under the analysis employed in Williamson County Regional Planning Commission v. Hamilton Bank, 473 U.S. 172 (1985). Appellant has not first sought compensation under the remedies provided by state law, such as an action for conversion. See, e.g., Moseley v. Oswald, 376 S.C. 251, 254, 656 S.E.2d 380, 382 (2008) (discussing the elements of a conversion action in South Carolina). Accordingly, Appellant's Takings Clause claim should be summarily dismissed as premature.

The Takings Clause of the Fifth Amendment provides that “private property [shall

by having monies available for distribution to his family members upon his death.

not] be taken for public use, without just compensation.” U.S. Const. amend. V. In order to state a Takings Clause claim, a plaintiff must first demonstrate that he possesses a property interest that is constitutionally protected. Only if the plaintiff actually possesses such an interest will a reviewing court then determine whether the deprivation or reduction of that interest constitutes a “taking.” Givens v. Ala. Dep’t of Corr., 381 F.3d 1064, 1066 (11th Cir. 2004) (citations omitted).

Importantly, although the Fifth Amendment protects property interests, it does not create them. See Phillips v. Wash. Legal Found., 524 U.S. 156, 164 (1998) (citation omitted). Therefore, in order to ascertain the nature and extent of the protected property interest at issue, a court must look outside the Takings Clause to “rules or understandings that stem from an independent source,” such as common law and state law. Board of Regents v. Roth, 408 U.S. 564, 577 (1972). While a state may create and define property rights, the Takings Clause limits a state’s ability to redefine core property rights in an attempt to sidestep the Takings Clause. See Webb’s Fabulous Pharm., Inc. v. Beckwith, 449 U.S. 155, 164 (1980). Accordingly, as noted by the United States Supreme Court, “a State, by *ipse dixit*, may not transform private property into public property without compensation.” Id. On the other hand, if a state statute creates a property right not previously recognized or one broader than that traditionally understood to exist, the property interest so created is defined by the statute and may be withdrawn so long as the State affords due process in doing so. Washlefske v. Winston, 234 F.3d 179, 184 (4th Cir. 2000).

“Although private citizens ordinarily have a constitutionally protected property interest in the wages earned from their labor under employment contracts, inmates do not.”

Id. at 184. “Inmates can be put to work without compensation, and such a policy would not violate any traditional principle of property law.” Id. at 184-85. In fact, “at common law[,] a convicted felon not only did not have a property right in the product of his work in prison, but he also forfeited all rights to personal property.” Id. at 185.

The State of South Carolina adopted the common law from England. In O’Hagan v. Fraternal Aid Union, 144 S.C. 84, 141 S.E. 893 (1928), the South Carolina Supreme Court held that where there is no statute addressing a particular issue, “we must look back to the common law, for the principles of the law there stated are of force in this state, until there has been some repeal or modification thereof by the law-making body.” Id. at 84, 141 S.E. 894. This presumption that the English common law applies where there is no contrary South Carolina authority is mandated by the reception statute, S.C. Code Ann. § 14-1-50. Our Supreme Court has further held that the common law will not be impliedly changed but will only be changed by “clear and unambiguous legislative enactment.” State v. Carson, 274 S.C. 316, 262 S.E.2d 918, 920 (1980). Consequently, in South Carolina, an inmate enjoys no personal property rights. See accord, Givens v. Alabama Department of Corrections, 381 F.3d 1064, 1068 (11th Cir. 2004) (“under traditional common law in Alabama, an inmate had no property rights”); see also Washlefske, 234 F.3d at 185 (holding that a prisoner does not “enjoy the right to exclude others from the use of funds credited to his accounts, nor is he entitled to the interest or other income earned from them.”).

Appellant does not enjoy any common law property rights to his earned wages. His conclusory statement that he has a “fundamental right” to his earned wages is erroneous and without any legal support. (See Brief of Appellant, p. 4). Although our legislature has

chosen to provide inmates with limited rights to funds earned through prison work programs, the statute does not take away any preexisting property right; instead, it creates a limited property right defined by the terms of the statute. Accordingly, since Appellant cannot claim that a property interest based on traditional principles of property was taken, his takings claim fails.

Equal Protection Clause Claim:

Under the Equal Protection Clause of the 14th Amendment, no person in the United States shall be denied “the equal protection of the laws.” U.S. Const. amend. XIV. “The *sine qua non* of an equal protection claim is a showing that similarly situated persons received disparate treatment.” Grant v. S.C. Coastal Council, 319 S.C. 348, 354, 461 S.E.2d 388, 391 (1995). Where an alleged equal protection violation does not implicate a suspect class or abridge a fundamental right, the “rational basis” test is used. Town of Hollywood v. Floyd, 403 S.C. 466, 480, 744 S.E.2d 161, 168 (2013); see also Curtis v. State, 345 S.C. 557, 574, 549 S.E.2d 591, 600 (2001) (“This case does not involve a suspect classification or a fundamental right, so the question under equal protection analysis is whether the legislation is rationally related to a legitimate state purpose.”). “To prevail under the rational basis standard, a claimant must show similarly situated persons received disparate treatment, and that the disparate treatment did not bear a rational relationship to a legitimate government purpose.” Town of Hollywood, 403 S.C. at 480, 744 S.E.2d at 168 (citations omitted). The classification will be upheld if there is “any reasonably conceivable state of facts” that would provide a rational basis for it. F.C.C. v. Beach Communications, Inc., 508 U.S. 307, 313 (1993).

The fact that a classification may result in some inequity does not render it unconstitutional under the equal protection clause. Curtis at 574, 549 S.E.2d at 600 (citations omitted). Furthermore, equal protection "does not require things which are different in fact or opinion to be treated in law as though they were the same." Tigner v. Texas, 310 U.S. 141, 147 (1940). The Equal Protection Clause does not forbid state legislatures from classifying, but "the classification must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike." Royster Guano Co. v. Virginia, 253 U.S. 412, 415 (1920).

Under S.C. Code § 24-3-40, all inmates have restricted access to their escrowed wages until such time as they are released.³ Restricted access while incarcerated gives inmates the opportunity to have a supply of funds upon release, which increases their chances of succeeding outside the prison walls. Although Appellant committed a crime of such magnitude as to warrant a life sentence - meaning his release most likely will not occur until he dies - his release is still possible through reversal of his conviction via the appellate, post-conviction relief, or habeas corpus processes, through pardon, or through any other mechanism allowed by law. Therefore, just like other inmates, his having restricted access to his escrowed wages allows him to build up a supply of funds in the event of his release. If he is not released during his lifetime, the statute allows him to either have the escrowed funds

³ Historically, prison inmates have had limited access to funds for several reasons. First of all, prisons provide inmates with everything they need and there is consequently not a reason for inmates to have access to money. Furthermore, inmates having unfettered access to currency or funds could invite attack by predatory inmates, facilitate escape or the procurement of drugs, or lead to bribing of officials. See Sullivan v. Ford, 609 F.2d 197, 198 (5th Cir. 1980), *cert denied* 446 U.S. 969. Restricting inmate access to funds also reduces the risks of gambling, drug trafficking, extortion, and temptation to engage in other unedifying or illicit activities. See

included in his estate - meaning the funds would be subject to the probate process - or designate a person or persons to receive the funds outside of the probate process. See S.C. Code § 24-3-40 (B)(2).

Since this case does not involve a suspect classification or a fundamental right, the question under an equal protection analysis is whether the legislation is rationally related to a legitimate state purpose. Here, Appellant has failed meet his burden to show that any classifications made in S.C. Code § 24-3-40 are not rationally related to legitimate state purposes, as discussed in the paragraph above.⁴ In that vein, his arguments regarding equal protection are vague and conclusory and without citation to any relevant precedent supporting that his equal protection rights have been violated. (See Brief of Appellant, p. 6-7). Accordingly, this Court should find that Appellant's equal protection is without merit and dismiss this issue.

Cardwell v. Hogan, 534 P.2d 283, 284 (1975); Nix v. Paderick, 407 F. Supp. 844, 846 (E.D. Va. 1976).


⁴ Notably, Appellant – an inmate who committed a murder that warranted a life sentence – has also failed to make any sufficient showing that he is “similarly situated” to inmates who committed less heinous crimes and are not serving life sentences.

CONCLUSION

For the foregoing reasons, this Court should affirm the Administrative Law Court's decision below.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY: 
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March **31**, 2017

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge John D. McLeod

RECEIVED

ALC Case No. 16-ALJ-04-0153-AP
Appellate Case No. 2016-001564

MAR 31 2017

SC Court of Appeals

UUNO MATTIAS BAUM, # 272249,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Final Brief of Respondent complies with Rule 211(b), SCACR, and also complies with the South Carolina Supreme Court's April 15, 2014, order entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



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March 31, 2017

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Uuno Mattias Baum, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2016-001564

Appeal From The Administrative Law Court
John D. McLeod, Administrative Law Judge

Unpublished Opinion No. 2019-UP-104
Submitted February 1, 2019 – Filed March 13, 2019

REVERSED

Uuno Mattias Baum, pro se.

Christina Catoe Bigelow, of the South Carolina
Department of Corrections, of Columbia, for Respondent.

PER CURIAM: Uuno Baum, pro se, appeals an administrative law court (ALC) order affirming the final decision of the South Carolina Department of Corrections (the Department). On appeal, Baum argues the ALC erred by affirming the Department's determination he was ineligible under section 24-3-40 of the South

Carolina Code (Supp. 2018) to designate persons or entities to receive immediate distributions of his escrowed wages. We reverse.¹

Section 24-3-40 provides:

(A) Unless otherwise provided by law, the employer of a prisoner authorized to work . . . under [the prison industries service program] . . . shall pay the prisoner's wages directly to the Department

....

The Director of the Department . . . shall deduct the following amounts from the gross wages of the prisoner:

....

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

....

(B) The Department . . . shall return a prisoner's wages held in escrow pursuant to subsection (A) as follows:

....

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

§ 24-3-40(A)(5), (B)(2) (emphasis added).

We find the language in section 24-3-40 ambiguous and construe subsections (A)(5) and (B)(2) to allow for *either* immediate distribution of an inmate's escrowed wages to persons or entities of his choosing *or* inclusion of these assets in the distribution of his estate. *See Anderson v. S.C. Election Comm'n*, 397 S.C. 551, 556, 725 S.E.2d 704, 707 (2012) ("In construing statutory language, the

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

statute must be read as a whole, and sections which are a part of the same general statutory law must be construed together and each one given effect."'). Subsection (B)(2) provides inmates serving life sentences *shall be given the option* to include their withheld wages in their estates *or* to distribute them to persons or entities of their choosing. Further, subsection (A)(5) requires these wages be held in an escrow account *for the benefit of the prisoner*. Because an inmate serving a life sentence will never receive the benefit of his wages outside of prison—unlike those who will be released during their lifetime—we find the Department's interpretation of section 24-3-40 arbitrary and capricious. Accordingly, we reverse the ALC's construction of section 24-3-40 and find the Department erred by refusing Baum the option of designating persons or entities for immediate distribution of his escrowed wages. *See* S.C. Code Ann. § 1-23-610(B) (Supp. 2018) (providing that when the issue on appeal raises a question of law, this court may reverse the decision of the ALC when it violates a statutory provision or is affected by an error of law).²

REVERSED.

HUFF, THOMAS, and KONDUROS, JJ., concur.

² Baum also contends the Department's interpretation of section 24-3-40 violates his constitutional rights under the Fifth and Fourteenth Amendments. Because we are reversing the ALC's order above, we need not address this argument. *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (providing that an appellate court need not address remaining issues when determination of a prior issue is dispositive).

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Administrative Law Judge John D. McLeod

Opinion No. 2019-UP-104 (S.C. Ct. App. filed 3/13/19)
Appellate Case No. 2016-001564

RECEIVED
MAR 26 2019
SC Court of Appeals

Uuno Mattias Baum, # 272249

APPELLANT,

v.

South Carolina Department of Corrections,

RESPONDENT.

PETITION FOR REHEARING

On March 13, 2019, this Court reversed the Administrative Law Judge's conclusion that Appellant was not entitled to designate persons or entities to receive immediate distributions of his escrowed wages under S.C. Code § 24-3-40. Respondent respectfully petitions this Court for rehearing pursuant to SCACR, Rule 221(a), regarding the points overlooked and misapprehended, as discussed below.

In its opinion, this Court found the language in S.C. Code § 24-3-40 ambiguous and therefore construed subsections (A)(5) and (B)(2) together to "allow for *either* immediate distribution of an inmate's escrowed wages to persons or entities of his choosing *or* inclusion of these assets in the distribution of his estate." Respectfully, this Court overlooked that, as a whole, S.C. Code § 24-3-40(B) – the section dealing with the return of escrowed wages – makes

it clear that the escrowed funds are only available upon an inmate's release. (And of course, inmates serving life sentences are, generally, only "released" upon death.)

This Court also found that the "for the benefit of the prisoner" language in subsection (A)(5) means that an inmate serving a life sentence must receive the benefit of his escrowed wages during his lifetime. However, to the contrary, the "for the benefit of the prisoner" language does not state or imply that inmates are to receive an immediate benefit from their escrowed wages. In the context of section (A), this language simply distinguishes that the escrowed wages are not to be distributed to the other persons or entities discussed in that section (such as victims, children, or the State Treasurer), and instead are to remain in an interest-bearing account on behalf of the inmate. Additionally, by concluding that a plain reading of subsection (B)(2) is not compatible with (A)(5)'s intent that monies withheld from his wages are "for the benefit of the prisoner," this Court overlooked the reality that an inmate does, in fact, benefit by having monies available for distribution to family members or others upon his death.

CONCLUSION

For the reasons set forth above, Respondent respectfully asks that this Court reconsider the case and reverse the ultimate outcome.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY: 

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ATTORNEY FOR RESPONDENT

March 26, 2019

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Administrative Law Judge John D. McLeod

Opinion No. 2019-UP-104 (S.C. Ct. App. filed 3/13/19)
Appellate Case No. 2016-001564

RECEIVED

MAR 26 2019

SC Court of Appeals

Uuno Mattias Baum, # 272249

APPELLANT,

v.

South Carolina Department of Corrections,

RESPONDENT.

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on today's date, she mailed a copy of the Respondent's Petition for Rehearing to Appellant via U.S. Mail addressed as follows: Uuno Mattias Baum, # 272249, Lieber Correctional Institution, Post Office Box 205, Ridgeville, South Carolina, 29472.



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March 26, 2019

The South Carolina Court of Appeals

Uuno Mattias Baum, Appellant,

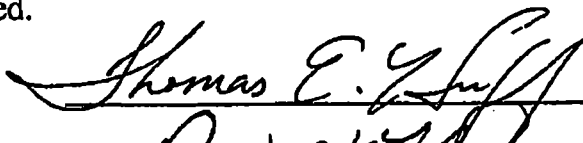
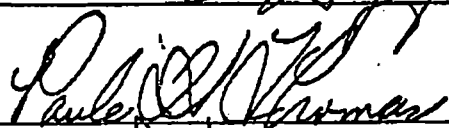

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2016-001564

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

 J.
 J.
 J.

Columbia, South Carolina

cc:
Uuno Mattias Baum
Christina Catoe Bigelow, Esquire
The Honorable John D. McLeod

FILED

April 18, 2019