

23415

ORIGINAL

State of South Carolina  
In The Court of Appeals

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

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

Appellate Case No.: 2016-001564

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Uuno Matthias Baum, #272249,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

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Appellant's Record on Appeal

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(Amended)

RECEIVED

MAR 30 2017

SC Court of Appeals

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>MD</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 initiate 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]

IGC Signature

6/9/15

Date

(CONTINUE ON REVERSE SIDE)

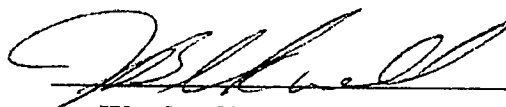
**WARDEN'S DECISION AND REASON:**

Inmate Baum, Uuno 272249

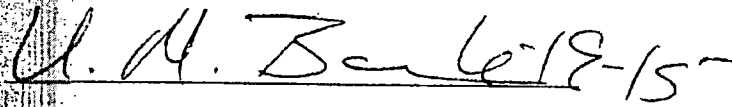
This is in response to LCI-0449-15. All pertinent information and documentation has been reviewed. In accordance with South Carolina Code of Laws section 24-3-40, ten percent (10%) of your wages earned while employed in the Prison Industries Private Sector must be held in an interest bearing escrow account. 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.

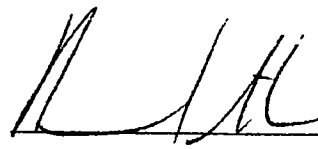
Based on this information, I consider your issue resolved.

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  
INMATE GRIEVANCE FORM

FILE BY: 6-24-15

INMATE GRIEVANCE

STEP 2

JUN 22 2015 ms

Office Use Only

INMATE NAME: Baum, Uuno

Grievance No. LCI-0449-15

SCDC NUMBER: 272249

Code: General MY/BM

INSTITUTION: Lieber ✓

Policy \_\_\_\_\_

Disc. Hear. \_\_\_\_\_

HOUSING UNIT: Wardo A-124

Class. \_\_\_\_\_

WORK ASSIGNMENT: Maintenance

Date Received 06-22-15

IGC Initials ms

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 provision 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)

State of South Carolina  
Administrative Law CourtUlmo Matthias Baum #272249,  
Appellant,

Vs.

South Carolina Department of Corrections,  
Respondent.

Docket No.: 16C0153

Grievance No.: LCI 0449-15

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 distributions 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.

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

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,	)	<b>RESPONDENT'S BRIEF</b>
	)	
Respondent.	)	
_____	)	

STATEMENT OF THE CASE

This matter is before the Administrative Law Court (“ALC” or “Court”) pursuant to the appeal of Uumo 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 Account<sup>1</sup>. 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*

<sup>1</sup> 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: 

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 7, 2016

STATE OF SOUTH CAROLINA  
IN THE ADMINISTRATIVE LAW COURT

Uuno Mattias Baum, #272249,  
Appellant,  
  
vs.  
  
South Carolina Dept. of Corr.,  
  
Respondent.

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

Hon. John D. McLeod

**COPY**

APPELLANT'S REPLY BRIEF

**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.

The term estate is an ambiguous term and could mean Appellant's possessions while he is alive, or it could mean his accumulated property and possessions upon his death. Likewise, the phrase, "or distributed to the persons or entities of his choice", is also an ambiguous phrase which could mean prior to his death, or after his death. With such ambiguity, one must review the statute as a whole to properly determine legislative intent. When reviewing this statute in its entirety, the legislative intent becomes clear based on their choice of words and language throughout the statutes complete text, and what the legislative purpose and intent is as it applies to others also affected by the statute.

C O N C L U T I O N

Appellant contends that he is entitled to a favorable judgment based on the merits of his appeal and also because of the Respondent's deliberate attempt to mislead the court with their erroneous standard of review, and for their failure to adhere to this court's procedural time lines and rules. Appellant would further respectfully contend that he is entitled to the relief request in his initial brief on appeal as a matter of law.

Respectfully Submitted,

s/ U. Matt Ben

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.,

) P R O O F O F S E R V I C E  
)

Respondent.  
)  
)

**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-04-0153-AP
	)	[Grievance No.: LCI 449-15]
Appellant,	)	
	)	Hon. John D. McLeod
v.	)	
	)	
South Carolina Department of Corrections,	)	<b>RESPONDENT'S REPLY BRIEF</b>
	)	
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.*

*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

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.

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. Code Ann. §24-3-310, §24-3-315, §24-3-410(B)(7), §24-3-430(D), also §24-1-195).

**DENIED**

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

**FILED**

JUN 29 2016

SC ADMIN. LAW COURT

**FILED**

JUN 27 2016

SC ADMIN. LAW COURT

State of South Carolina  
Administrative Law Court

Page 25

Ulcio Matthias Baum # 272249,  
Appellant,

Vs.

South Carolina Department of Corrections,  
Respondent.

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

Motions 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).<sup>1</sup> SCDC denied Appellant’s assertion and Inmate filed this appeal. Inmate filed his brief on March 16, 2016. The Record on Appeal was filed on April 29, 2016. SCDC filed its brief on June 7, 2016. Inmate filed his reply brief on June 13, 2016. SCDC filed its reply brief on June 20, 2016.<sup>2</sup> Inmate filed a Motion for Oral Argument on June 27, 2016, which was denied on June 29, 2016.

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

**BACKGROUND**

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

<sup>1</sup> References to portions of the statute will be made by the term, “subsection”, e.g. S.C. Code Ann. § 24-3-40(A)(4) will be referred to as “subsection (A)(4)”.  
<sup>2</sup> Both reply briefs were filed timely and in accord with SCALC Rule 60.

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

**STANDARD OF REVIEW**

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

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

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

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

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

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

plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning.” Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). However, “where a statute is ambiguous, the Court must construe the terms of the statute.” Wade v. Berkeley County, 348 SC 224, 229, 559 S.E.2d 586, 588 (2002). Further, “[i]n construing a statute, the Court looks to its language as a whole in light of its manifest purpose.” Adams v. Texfi Indus., 320 S.C. 213, 217, 464 S.E.2d 109, 112 (1995) (citing Simmons v. City of Columbia, 280 S.C. 163, 311 S.E.2d 732 (1984)). An “ambiguity in a statute should be resolved in favor of a just, equitable, and beneficial operation of the law.” State v. Hudson, 336 S.C. 237, 247, 519 S.E.2d 577, 582 (Ct. App. 1999). Although courts give great weight to an agency’s long-standing construction of a statute, such construction is not dispositive of the issue. Plyler v. Evatt, 313 S.C. 405, 408, 438 S.E.2d 244, 246 (1993) (citing Gilstrap v. S.C. Budget & Control Bd. 310 S.C. 210, 423 S.E.2d 101 (1992)). While a court typically defers to an agency’s construction of its own regulation, where the plain language of the statute is contrary to the agency’s interpretation, the Court will reject its interpretation. Brown v. S.C. Dept. of Health & 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 & Env’tl. Control, 411 S.C. 16, 33, 766 S.E.2d 707, 717 (2014). Absent a compelling reason, the ALC must defer to an administrative agency’s interpretation of “statutes entrusted to its administration.” Id. at 34, 766 S.E.2d at 718. As discussed below, there are no compelling reasons to overrule SCDC’s interpretation of this statute that is entrusted to its administration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

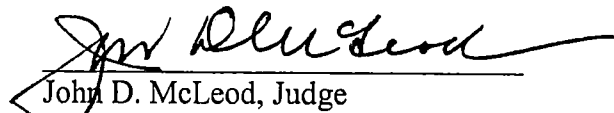
Inmate also argues that wages escrowed under subsection (A)(5) are for his benefit and that the limitation to a death time distribution is not for his benefit. He is mistaken. Irrespective of the delay until death, the distribution to his mother is nonetheless a benefit to Appellant because he has directed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

**ORDER**

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

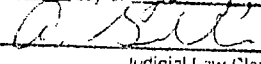
**AND IT IS SO ORDERED.**

July 14, 2016  
Columbia, S.C.

  
John D. McLeod, Judge  
South Carolina Administrative Law Court

**CERTIFICATE OF SERVICE**

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, 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  
By:   
Judicial Law Clerk