

1982 WL 189079 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 29, 1982

RE: Grievance Appeal of William W. Wright (The Citadel)

*1 Jack S. Mullins, Ph.D.
Director
State Personnel Division
1205 Pendleton Street
Columbia, South Carolina 29201

Dear Dr. Mullins:

You have orally inquired whether Lieutenant Colonel William W. Wright's September 30, 1981, resignation as Director of the Physical Plant at The Citadel is grievable under the State Employee Grievance Act (Section 8-17-10 et seq., South Carolina Code). From the information provided concerning the circumstances of the grievant's resignation, it is this office's opinion that the resignation is grievable.

As you are aware, the State Employee Grievance Act (the Act) defines grievances to "include ... but ... not necessarily limited to dismissals, suspensions, involuntary transfers, layoffs, reductions in pay, and demotions." Section 8-17-20, Code (Cum.Supp.1980). This office has previously opined that a permanent state employee may grieve a coerced or involuntary resignation. See Letter of November 6, 1979, from State Attorney Barbara J. Hamilton to Dr. Jack S. Mullins, at pp. 3-4. As was stated in that opinion:

If an employee is forced to resign, or resigns involuntarily, that employee may have been constructively discharged and such constructive discharge is tantamount to a dismissal which the Grievance Act expressly makes a proper subject of a grievance before the State Employee Grievance Committee. [Id., p. 3]

In his appeal to the State Employee Grievance Committee, Lt. Col. Wright alleges that he resigned on September 30, 1981, after being told that he was going to be terminated that day because of unsatisfactory performance. He further claims that he was forced to resign to avoid having his professional reputation and record unfairly but irreparably injured by a termination for unsatisfactory performance. In essence, Lt. Col. Wright maintains that he was told that if he did not resign he would be terminated and that he chose resignation to avoid the stigma attached to a termination for unsatisfactory job performance.

It is this office's opinion that the grievant's appeal contains non-frivolous allegations that his resignation was involuntary. Accordingly, consistent with the November 6, 1979, opinion authored by Ms. Hamilton, and consistent with case law in the analogous area of the right of a federal civil servant to appeal a coerced resignation to the Civil Service Commission, see, e.g., [Dabney v. Freeman](#), 358 F.2d 533, 535 (D.C.Cir.1965); [Bell v. Groak](#), 371 F.2d 202, 204 (7th Cir.1966); [Greathouse v. United States](#), 512 F.2d 1104 (Ct.Cl.1975), Lt. Col. Wright's resignation is grievable, and his appeal concerning the voluntariness of his resignation therefore should be heard by the State Employee Grievance Committee. ^{a1}

If the Committee should require further legal assistance concerning this grievance please let me know.

Sincerely,

Vance J. Bettis

*2 Assistant Attorney General

Footnotes

[a1](#) It is noted that the grievant's September 30, 1981, letter of resignation does not include a statement that the resignation is voluntary. Consequently, the grievant has not waived his right to appeal his allegedly coerced resignation.

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