

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM THE ADMINISTRATIVE LAW COURT
ADMINISTRATIVE LAW JUDGE Robert L. REIBOLD
ALC Case No. 22-ALJ-04-0024 - AP
Appellate Case No. 2022 - 000916

James Anthony Primus 252315

Appellant

v

South Carolina Department of Corrections Respondent

INITIAL BRIEF OF APPELLANT

RECEIVED

AUG 05 2022

SC Court of Appeals

James Anthony Primus 252315

James Anthony Primus Pro Se
MacDougal Correctional Institution
1516 Old Gilliard Road
Ridgeville S.C. 29472

TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
STATEMENT OF THE ISSUE ON APPEAL	i
STATEMENT OF THE CASE	2
STANDARD OF REVIEW	3
ARGUMENT	4
CONCLUSION	

TABLE OF AUTHORITIES

CASES

Al-Shabazz v State 338 S.C. 354, 527 S.E.2d 742 (2000) 4

Hendley v S.C. State Budget + Control Bd 325 S.C. 413, 481 S.E.2d 159 ct. App 1996

Sullivan v S.C. Dept of Corr. 355 S.C. 437 586 S.E.2d 124 (2003)

TANT v S.C. Dept of Corr. 408 S.C. 334, 759 S.E.2d 398 (2014)

STATUTES

S.C. Code Ann. 1-23-610

ADMINISTRATIVE MATERIALS

ADMINISTRATIVE LAW COURT JUDGE ~~S. Phillip~~ Robert L. BEYBOLD order

MAY 24 2022

MacDougall Correctional Classification Margie Prioleau

Appellant Sentence Sheets ABHAM Kidnapping

STATEMENT OF ISSUE ON APPEAL

DID THE ADMINISTRATIVE LAW COURT IMPROPERLY
AFFIRM THE DEPARTMENT'S FINAL AGENCY DECISION?

STATEMENT OF THE CASE

This matter is before this Honorable Court Pursuant to The Appeal of James Anthony Primus Appellant (252315) an Inmate incarcerated with the South Carolina Department of Corrections (SCDC or Department) on July 16 2021 Appellant Filed a Step 1 grievance with the Department Appellant asserted the Department improperly denied his request to review His institutional Record including his current sentence sheet, For his 1998 conviction kidnap and ABKAW violates S.C.D.C. Policy OP-21-04 Inmate Classification Plan. The Department Denied the Step 1 Grievance Appellant Immediately Filed a Step 2 Grievance on August 11 2021 asserting he complied with the Department Policy OP-21-04 regarding inspection of Records But had never the less been denied access to his institutional Records The Step 2 grievance was denied on December 20 2021 Appellant next Filed an Appeal with this court dated February 4 2022 ALC His Notice of Appeal The appeal was assigned to Robert L. Reibold ALC Judge on February 17 2022 on April 28 2022 the Department Filed a motion to Dismiss Appellant Filed a response to motion to Dismiss MAY 24 2022 Administrative Law Judge Robert L. Reibold affirming the Department decision violates Rule 60 (A)

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 proceeding or it may reverse or modify the decision when the substantive rights of of the Appellant has been prejudiced because the finding conclusion and decision is

- a in violation of constitutional and statutory provision
- b in excess of the statutory authority of the Agency
- c made upon unlawful procedure
- d affected by other errors of law
- e clearly erroneous in view of the reliable probative and substantial evidence on the whole record
- f arbitrary or capricious or characterized by abuse of discretion and clearly unwarranted exercise of discretion

In an appeal of a final decision of an administrative agency the standard of Appellate Review is whether the ALC findings are supported by substantial evidence. S.C. Code Ann. 1-23-610 (B) 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 reach. *Hendley v S.C. State Budget & Control Bd.* 325 S.C. 413, 481 S.E.2d 159 ct. 1996. A Reviewing Court shall not substitute its judgment for that of the ALC as to findings of fact but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole.

ARGUMENT

THE ADMINISTRATIVE LAW COURT IMPROPERLY AFFIRMED THE DEPARTMENT'S FINAL AGENCY DECISION REGARDING APPELLANT'S INMATE RECORD.

The ALC's jurisdiction to hear Inmate Appeals of Final Decisions by the South Carolina Department of Correction is derived entirely from the decision of the S.C. Supreme Court in *Al-Shabazz v State* 338 S.C. 354 527 S.E.2d 742 (2000) when reviewing S.C.D.C. decision 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 Appellate Jurisdiction over Inmate Appeals in *Sullivan v. S.C. Dept of Corr.* 02-A25-04-0036-AP September 5 2001. The Supreme Court held the ALC 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 S.C.D.C. has taken an Inmate's state-created liberty interest in major disciplinary hearing and (3) cases in which an Inmate confinement implicates a state created liberty interest. See *Sullivan* 355 S.C. at 443 586 S.E.2d 127 emphasis added. Appellant argues the Department has created and fraudulent record for Appellant to keep Appellant in Prison years past his max out date on September 1 1998 was sentence to 30 year for kidnapping and Appellant projected max out date is January 1 2028. S.C.D.C. Policy OP-21.09 Inmate Record Plan 1997-GS-18-1046 Appellant was indicted for kidnapping. The Administrative Law Court Improperly Affirmed the Final Agency decision of the Department.

CONCLUSION

Wherefore For all the reasons stated above the court should reverse the Administrative Law Court's decision

DATE

August 3 2022

Respectfully Submitted

James Anthony Primus 252315

James Anthony Primus Pro Se

1516 Old Gilliard Road

Ridgeville S.C. 29472

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Robert L Reibold

ALC Case no. 22-ALJ-04-0024-AP

Appellate Case No. 2022-000916

James Anthony Primus 252315

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Appellant

v

AUG 05 2022

SC Court of Appeals

South Carolina Department of Corrections

Respondent

CERTIFICATE OF SERVICE

Undersigned Appellant Pro se hereby certifies that on
Today's date I mailed a copy of the Initial Brief
of Appellant and Designation of Matter to be included in
The Record on Appeal to Respondents Addressed as follows

DATE August 3 2022

S. C. Court of Appeals

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S. C. Dept of Corrections

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James Anthony Primus 2523W
MAC Dougall Correctional Inst.
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August 3 2022

The Honorable Jenny A. Kitchings
Clerk of Court S.C. Court of Appeals
P. O. Box 17629
Columbia S.C. 29211

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AUG 05 2022

SC Court of Appeals

RE: James Anthony Primus v S.C.C.
Appellate Case No. 2022 - 000 916

Dear Ms Kitchings:

Enclosed please find the Initial Brief of Appellate and
Designation of Matter to be included in the Record on Appeal
in the above captioned case along with Proof of Service

I would like to thank you in advanced

Sincerely

James Anthony Primus Prose

JAMES Anthony

JUDICIAL CORR. INST.
1516 OLD BILLIARD RD.
RICHMOND SC 29472

Primus 252315

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AUG 05 2022

SC Court of Appeals

South Carolina Court of Appeals

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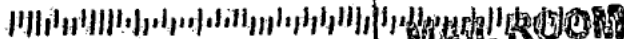
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