

THE Supreme Court of South Carolina

APPEAL From THE South Carolina Court of Appeals

Lower Court Case No. 2014-ALJ-04-0296-AP

Appellate Case No. 2020 - 001252

James Anthony Primus 252315

Appellant

v

South Carolina Department of Correction

Respondent

NOTICE OF APPEAL

Notice is hereby given that James Anthony Primus 252315
Appellant in the above named case Appeals From the Order
or Judgment entered on August 31 2022 Judgment this
Appeal follows South Carolina Court of Appeal affirming
the administrative law court decision contested violation
of equal protection under the Law

September 6 2022

James Anthony Primus 252315

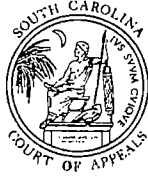
James Anthony Primus Prose
1516 Old Gilliard Road

Ridgeville S.C. 29472

RECEIVED

SEP 12 2022

S.C. SUPREME COURT



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
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August 31, 2022

The Honorable Jana E. Shealy
Edgar A. Brown Building
1205 Pendleton Street
Suite 224
Columbia SC 29201

REMITTITUR

Re: James Primus, #252315 v. SCDC (3)
Lower Court Case No. 2019ALJ040296AP
Appellate Case No. 2020-001252

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,


CLERK

Enclosure

cc: James A. Primus, 252315
Imani Diane Byas, Esquire

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S.C. SUPREME COURT

**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**

James Anthony Primus, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2020-001252

Appeal From The Administrative Law Court
Milton G. Kimpson, Administrative Law Judge

Unpublished Opinion No. 2022-UP-048
Submitted February 1, 2022 – Filed February 9, 2022

AFFIRMED

James Anthony Primus, pro se.

Imani Diane Byas, of South Carolina Department of
Corrections, of Columbia, for Respondent.

PER CURIAM: James A. Primus appeals an order from the Administrative Law Court (the ALC), arguing the ALC erred by affirming the South Carolina Department of Corrections' (SCDC's) calculation of his sentence.

The evidence supports the ALC's finding that SCDC properly calculated Primus's sentence stemming from his conviction for kidnapping and assault and battery of a

high and aggravated nature (ABHAN). Accordingly, we affirm pursuant to Rule 220(b), SCACR, and the following authorities: *Sanders v. S.C. Dep't of Corr.*, 379 S.C. 411, 417, 665 S.E.2d 231, 234 (Ct. App. 2008) ("Although this court shall not substitute its judgment for that of the AL[C] as to findings of fact, we may reverse or modify decisions which are controlled by error of law or are clearly erroneous in view of the substantial evidence on the record as a whole."); S.C. Code Ann. § 16-3-910 (2015) (providing an individual guilty of kidnapping "must be imprisoned for a period not to exceed thirty years"); S.C. Code Ann. § 16-1-90(A) (Supp. 2020) (providing kidnapping is a Class A felony); S.C. Code Ann. § 24-13-100 (2007) ("[A] 'no parole offense' means a class A, B, or C felony . . . which is punishable by a maximum term of imprisonment for twenty years or more."); S.C. Code Ann. § 24-13-150(A) (Supp. 2020) (requiring an inmate convicted of a no parole offense to serve at least eighty-five percent of his sentence before he is eligible for early release, discharge, or community supervision). To the extent Primus argues SCDC has improperly denied him parole eligibility regarding his consecutive sentence for ABHAN, Primus failed to present any evidence in support of this contention. See *Conran v. Joe Jenkins Realty, Inc.*, 263 S.C. 332, 334, 210 S.E.2d 309, 310 (1974) ("The burden of proof is on the appellant to convince [an appellate court] that the [ALC] was in error."); *Major v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 384 S.C. 457, 468, 682 S.E.2d 795, 801 (2009) ("[I]f the consecutive sentence is a non-parolable offense then its sentence must be served and credited first against the aggregated sentence. This is necessary to give effect to the legislative grant of parole eligibility on the parole-eligible offense.").¹

¹ As to Primus's arguments he may not have been afforded the proper credit for time served and that he suffered harm because for fourteen years his ABHAN sentencing sheet improperly reflected he pled guilty to ABHAN rather than was found guilty following a trial, these issues are not preserved for appellate review because they were not raised to SCDC in his grievances at issue in this appeal. See *Gatewood v. S.C. Dep't of Corr.*, 416 S.C. 304, 324, 785 S.E.2d 600, 611 (Ct. App. 2016) ("An issue that is not raised to an administrative agency is not preserved for appellate review by the ALC."); *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the [ALC] to be preserved for appellate review.").

AFFIRMED.²

THOMAS, GEATHERS, and VINSON, JJ., concur.

² We decide this case without oral argument pursuant to Rule 215, SCACR.