

James Anthony Primus 282315
MacDougal Correctional Inst.
Magnolia unit 2 PSA
1516 Old Gilliard Road
Ridgville S.C. 29472

Sept 17 2013

RECEIVED

SEP 20 2013

SC Court of Appeals

Mrs V. Claire Allen
S.C. Court of Appeals
P.O. Box 11629
Columbia S.C. 29211

RE: James Anthony Primus v. S.C. Dept
of Corrections
Appellate Case No. 2013 - 000051

Dear Honorable Clerk

This letter is in response to your letter
dated September 12 2013 I have enclosed
the following documents
one letter dated June 27 2013 that the
New Notice of Appeal was served on Respondant
MR. James Stuckey and Mrs ALissa Collier
and also S.C. Dept of Corc. MR. Chris Florian

and also included The Order from the
Lower Court Dated December 3 2012
Please accept this with my kindest regards
if I can be of any further help. Please
do not hesitate to contact me at
the above enclosed address
I would like to thank you in advanced

Sincerely

James Anthony Primus



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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June 27, 2013

Ms. Alissa Robyn Collins
123 Meeting Street
Charleston SC 29401

Mr. James A. Stuckey, Jr.
123 Meeting Street
Charleston SC 29401

Re: James A. Primus v. SC Dept. of Corrections
Appellate Case No. 2013-000051

Dear Counsel:

We hope that you have received by now the complete docketing file of the appeal of James A. Primus that was mailed to you on June 26, 2013. Due to clerical error, we did not have you listed as counsel for the respondent, S.C. Department of Corrections. There are two outstanding motions: (1) a motion for reinstatement of appeal and (2) a motion to appoint counsel. If you would like to file a return to these motions, please do so within ten (10) days from the date of this letter. My apologies for the error.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: James Anthony Primus #292315

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)

IN THE COURT OF COMMON PLEAS
Case No. 2011-CP-18-2455

JAMES ANTHONY PRIMUS, # 252315,)
Plaintiff,)
-versus-)
SOUTH CAROLINA DEPARTMENT)
OF CORRECTIONS,)
Defendant.)

ORDER

George A. ...
CLERK OF COURT
DORCHESTER COUNTY

CERTIFIED COPY
2012 DEC 20 PM 4:13

Pro se inmate plaintiff James Anthony Primus is suing South Carolina Department of Corrections for being listed on the Sexual Offender Registry. His complaint is that the defendant has misinterpreted "Section 23-3-340 of the South Carolina Code of Laws that all kidnapping convictions has to be put into the Sexual Offender Registry whether court order or not" (Complaint, ¶ 4) and that "on July 2, 2010, without proper notification or legal authorization the South Carolina Department of Corrections placed plaintiff on the Sexual Offender Registry." (Complaint, First Amendment, ¶ 5)

Defendant is before the Court on its motion for summary judgment. The Court has considered the pleadings, evidence presented in accordance with Rule 56, SCRCPP, the oral presentations of counsel and plaintiff Primus, and has reviewed the legislative history of S.C. Code § 23-3-340.

Defendant asserts summary judgment is proper, and this action should be dismissed because S.C. Code § 23-3-340 mandates that when a person is convicted of kidnapping, as plaintiff was, he must be placed on the Sex Offender Registry "except when the court makes a

finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense", and that the court made no such finding concerning plaintiff. The pertinent portion of the applicable statute is:

SECTION 23-3-430. Sex offender registry; convictions and not guilty by reason of insanity findings requiring registration.

(A) Any person, regardless of age, residing in the State of South Carolina who in this State has been convicted of, adjudicated delinquent for, pled guilty or nolo contendere to an offense described below, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere, or found not guilty by reason of insanity in any comparable court in the United States, or a foreign country, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere, or found not guilty by reason of insanity in the United States federal courts of a similar offense, or who has been convicted of, adjudicated delinquent for, pled guilty or nolo contendere, or found not guilty by reason of insanity to an offense for which the person was required to register in the state where the conviction or plea occurred, shall be required to register pursuant to the provisions of this article. . . .

* * * *

(15) kidnapping (Section 16-3-910) of a person eighteen years of age or older except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense.

Defendant has supported its motion for summary judgment with court documents and documentation. In September, 1997, a Dorchester County grand jury indicted *pro se* plaintiff for kidnapping. The Indictment, in Case No. 97-GS-18-1046, alleged:

That James Anthony Primos [sic] did in Dorchester County on or about July 13, 1997, did wilfully and unlawfully seize, confine, inveigle, decoy, kidnap, abduct, or, carry away one Nikki M. Scott, without authority of law. Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

The case came on for trial before the Honorable Luke N. Brown, Jr. at the September, 1998 term of the Court of General Sessions of Dorchester County. Plaintiff was defended by William L. Runyon, Esquire. plaintiff was convicted of kidnapping, a violation of S.C. Code §

16-3-910. On the sentencing, sheet Judge Brown noted that the offense was "violent" and "most serious" and sentenced plaintiff to thirty (30) years confinement in the State Department of Corrections. The Court also takes judicial notice of the opinion of the Supreme Court of South Carolina in plaintiff's appeal of his case, in which the Court states:

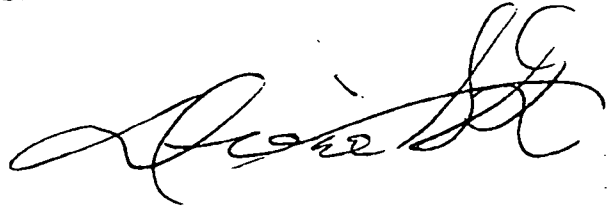
James Anthony Primus was convicted of kidnapping and assault and battery of a high and aggravated nature (ABHAN). He was sentenced to thirty years for kidnapping and ten consecutive years for ABHAN.

The State v. James Anthony Primus, Op. No. 3214, filed July 10, 2000.

As there was no finding on the record by the Court that the offense did not include a criminal sexual offense or an attempted criminal sexual offense the Court finds that plaintiff is appropriately classified under S.C. Code § 23-3-340 and can properly be listed on the Sexual Offender Registry. Accordingly, it is

ORDERED that summary judgment is GRANTED to defendant South Carolina Department of Corrections, and this action is DISMISSED.

AND IT IS SO ORDERED.



DIANE S. GOODSTEIN
Chief Administrative Judge, First Judicial Circuit

St. George, South Carolina.

~~November~~ December 3, 2012