

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From Richland County

South Carolina Administrative Law Court

Milton G. Kimpson S.C. Admin Law Court

Judge

Case no

2019 - 001297

RECEIVED

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SC Court of Appeals

South Carolina Department of Corrections

Respondent

v.

James Anthony Primus 252315 Appellant

Initial Brief of Appellant Motion to alter
or Amend

Date

November 20 2019

James Anthony Primus Pro Se

James Anthony Primus 252315
MacDougall Correctional Institution
Birch Unit 2 C 13 B
1516 Old Gilliard Rd
Ridgeville S.C. 29472

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Cases

- 1 David Hunt v S CDC 408 S.C. 334 759 SE2d 398
- 2 State v. Benjamin Cervantes Hernandez Appellate Case
No 2019-000023 South Carolina Supreme Court opinion
27923

Other Authorities

75 Am Jur. 2d Trial 606 1991

Rule 212 (B) SCACR.

Rule 226 SCACR

Table of Authorities

- 1 Boan v. State 695 SE 2d 850 S.C. 2010
- 2 Board of Regents of State College v. Roth
92 S.Ct. 2701 U.S. 575 1972
- 3 Finley v. State 64 SE 2d 881 S.C. 1951
- 4 Greenholtz v. Inmates of Nebraska Penal and Correctional
Complex 99 S.Ct. 2100 U.S. Neb. 1979
- 5 In re Shaquille O'Neal B 684 SE 2d 549 2009
- 6 S.C. Dept of Natural Resources 470 SE 2d 380 S.C.
APP 1996
- 7 Blockburger v. U.S. 52 S.Ct. 180 U.S. 116 1932
- 8 Magazine v. State 606 SE 2d 761 S.C. 2004
- 9 State v. Elliott 552 SE 2d 727 S.C. 2001

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- 10 State v. Gentry 610 SE 2d 494 S.C. 2005
- 11 State v. Middleton 755 SE 2d 432 S.C. 2014
- 12 State v. Primus 564 SE 2d 103 S.C. 2002
- 13 State v. Binnard 733 SE 2d 898 S.C. 2012
- 14 State v. Campbell 656 SE 2d 371 S.C. 2008
- 15 State v. Deangelis 183 SE 2d 906 S.C. 97
- 16 State v. Hudson 519 SE 2d 577 S.C. APP 1999
- 17 Tant v. South Carolina Department of Corrections
718 SE 2d 753 S.C. APP

Statutes

S.C. Code Ann. 16-3-651

S.C. Code Ann. 16-3-652

Rule 18 South Carolina of Criminal Procedure

Rule 209 South Carolina Appellate Court Rules

Rule 216 South Carolina Appellate Court Rules

Rule 212 South Carolina Appellate Court Rules

Statement of Issues on Appeal

- 1 Did the S.C. Dept of Corrections violate Appellate Due Process Rights
- 2 Did the S.C. Dept of Corrections erroneously interpret ABHAN convictions 16-3-652

Statement of the Case

This matter is before the South Carolina Court of Appeals Pursuant to Notice of Appeal Filed by James Anthony Primus 252315 Appellate From South Carolina Administrative Law Court an Inmate Incarcerated with S.C. Dept of Corrections Appeals His Step 2 Grievance

Back Ground

Appellant James Anthony Primus 252315 was indicted in Dorchester County for First degree Criminal Sexual Conduct Kidnapping and Second degree Burglary He was Tried August 31 and September 1 1998 the Jury Found Appellate Guilty of Kidnapping and Assault and Battery of and High Aggravated Nature and Not Guilty of Second degree burglary Appellate was sentence to and aggregate consecutive terms of Thirty-years for Kidnapping and Ten years Assault and Battery High Aggravated Nature

Statement of Facts

This case rose from S.C.D.C. violated Appellate Due Process rights and erroneously Interpreting His ABHAN Conviction in correctly by Statute Section 16-3-652 and Codified Appellant as a Violent Crime

ARGUMENT

In the Recent Decided Case Hernandez
U. State ABHAN is no longer and lesser included
offense of CSC 1st Degree no longer Statute
16-3-652 or Judge CDR Code can Interpret
ABHAN as and lesser included offense of CSC
1st Degree

Conclusion

For the reasons stated this Court should vacate Appellate Assault and Battery of an High and Aggravated Nature Conviction and Sentence and Remand Kidnapping Conviction For Resentencing

November 20 2019

Respectfully Submitted

James Anthony Primus Pro Se

James Anthony Primus 252315
Mac Dougall Correctional Institution
1516 Old Gilliard Road
Ridgeville S.C. 29472

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V.

James Anthony Primus 252315 Appellate

Initial Brief Appellant motion to alter or

Amend Certificate of Service

I hereby certify that a copy of the foregoing motion was this date served upon the following individual by placing a copy of the same via mail to his/her last known address as follows

Dated November 20 2019

Office of General Counsel

S.C. Dept of Corrections

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Columbia S.C. 29201

S.C. Administrative

Law Court

1205 Pendleton St.

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By

James A. Primus Pro Se

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November 20 2019

South Carolina Court of Appeals
Clerk Office
P.O. Box 11629
Columbia S.C. 29211

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RE 2019-001297

Dear Clerk

Please find enclosed the following motion
to alter or Amend in the above referenced
Case

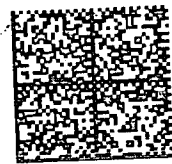
I would like to thank you in advanced

Sincerely

James Anthony Primus

Mrs Anthony Padmas 252375
C Dougall Correctional Institution
Pch Unit 2 C 13 B
16 Old Gilliard Road
Hgo ville S. C. 29472

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