

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From The Administrative Law Court

Administrative Law Judge Milton G. Kimpson

ALC Case No 18-ALJ-04-0100 AP

Appellate Case No 2019-001277

James Anthony Primus 252315

**RECEIVED**

JAN 21 2020

SC Court of Appeals

Appellant

v.

South Carolina Department of Corrections

Respondent

Final Brief of Appellate and affidavit in support

Now comes Appellant James Anthony Primus 252315 Pro Se hereby  
certify under penalty of perjury that the information given in  
this Final Brief of Appellant Appellant affidavit is true and  
correct submit as follows

1 I proceed in this case in good faith with profound belief  
that the issues are meritorious and that I am entitled to relief  
2 I respectfully submit that if this Honorable Court should deny  
this motion that such would defeat the fair administration  
of Justice

Date

January 17 2020

Respectfully Submitted

James Anthony Primus Pro Se

James Anthony Primus 252315  
MacDougal Correctional Institution  
1516 Old Gilliard Road  
Ridgeville S.C. 29972

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From the Administrative Law Court

Administrative Law Judge Milton G. Kimpson

ALC Case No. 18-ALJ-04-0100 AP

Appellate Case No. 2019-001279

James Anthony Primus 252315

Appellate

v.

South Carolina Department of Corrections

Respondent

Final Brief of Appellant

- 1 Appellant who is currently incarcerated at the MacDougal Correctional Institution South Carolina Department of Corrections
- 2 Appellant respectfully request of this court to clarify what crime ABHAN support absent arrest warrant and written Indictment
- 3 While pro se complaints are held to less stringent standards than those drafted by attorneys the fact remains that the majority of prisoners are laymen not versed in the science of law Appellant vice lies in his inability to express himself clearly indescribing Respondents actions

4. This is further complicated by:

A The affect of Appellant Incarceration

B Inaccessibility to Central Records

C Non-disclosure by Inmate Records and Inmate classification

Personel or discrepancies contain therein.

E The ommissions of the above mentioned complications allow Appellant to give a meticulous detailed explanation in order to prevent misconstruel this is the only way Appellant can try to explain

### Conclusion

For all the foregoing reason the Appellate Final brief seeks the relief Appellant Requested ABHAM Conviction Be vacated <sup>v</sup> and Remand For Resentencing

Date

January 17 2020

Respectfully Submitted

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James Anthony Primus Appellate 252315  
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Birch unit 2 C 13 B  
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THE State OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From the South Carolina administrative law Court

Administrative Law Judge Milton G. Kimpson

ALC 18-ALJ-04-100 AP

Appellate Case No. 2019-001277

James Anthony Primus 252315

Respondent

v.

South Carolina Department of Corrections

Respondent

Final Brief Amendment

Motion For leave to File an amended case law Complaint

Appellant James Anthony Primus 252315 Pursuant to Rules 15(A)

and 19(A) S.C.R.C.P. Request leave to File an amend Complaint

Case law State v. Hernandez 834 S.E.2d 462 adding a Party

1 The Appellant in his initial brief motion for leave to File  
an amended case law

2 Since the filing of the initial Brief and before Respondent  
answered Appellate had determined State v. Hernandez is relevant  
to this case

3 This court should Grant leave freely to Amend a Complaint

Date

January 17 2020

Respectfully Submitted

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Ridgeville S.C. 29972

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# Table of Authorities

## Cases

State v. Hernandez 428 S.C. 257 834 SE 2d 462  
Ct. App 2019

## Statutes

S.C. Code 16-3-600

## STATEMENT OF ISSUE ON APPEAL

The Administrative Law Court Improperly upheld The South Carolina Department of Correction Entry of Appellant's assault and Battery of and High and Aggravated Nature Interpretation by the Statute and CDR Code absent arrest Warrant and Indictment written where Appellant establish the South Carolina Department of Correction has committed error with this Sentence Interpretation and Reentry in S.C.D.C. Systems

## STATEMENT OF THE CASE

Appellant was Indicted by the Dorchester County Grand Jury For First degree Criminal Sexual Conduct, Second degree Burglary and Kidnapping. The case came on Trial before the Honorable Luke N. Brown Jr. and a Jury on August 31 - September 1 1998. Appellant was convicted of Kidnapping for which he received a Sentence of Thirty-Years and assault and Battery of and High and Aggravated Nature as a lesser Included offense of CSC 1st Degree for which appellant received a consecutive Ten Years and being found not Guilty of Burglary 2nd Degree. This Appeal Follow Pursuant to the Appeal of James Anthony Primus 252313 an Inmate in the Custody of the South Carolina Department of Corrections on September 27, 2017 Appellant submitted a Step 1 Grievance complaining that the South Carolina Department of Corrections was not properly Interpreting his assault and Battery of and High and Aggravated Nature conviction after this Grievance was investigated and denied Appellant submitted a Step 2 was also Investigated and denied November 29 2017 on February 2 2018 Appellant Filed a Notice of Appeal in the administrative Law court on March 13 2018 after Briefs were Filed by both Parties administrative Law Judge Milton G Kimpson Filed an order dismissing Appellant Appeal on July 24 2019 The order concluded that Appellant Failed to establish that the South

South Carolina Department of Correction committed  
any error with respect to the entry of Appellant assault  
and battery of a high and aggravated nature no arrest  
warrant no written indictment

## STANDARD OF REVIEW

S.C. Code ann has codified all degrees of assault and Battery crimes and has particularly set forth which offenses are lesser included offenses. We no longer see the need to ignore the element test we now hold assault and Battery of a high and aggravated nature is not a lesser included offense of Criminal Sexual Conduct First degree.

## ARGUMENT

The Administrative Law Court Improperly upheld the SOUTH CAROLINA DEPARTMENT OF CORRECTION entry of Appellant assault and battery of a high and aggravated Nature sentence where Appellant establish the South Carolina Department of Correction committed error with respect to this entry by the Statute 16-3-652 and CDR Code 13 Statute 16-3-600 Appellant claim on Appeal that the South Carolina Department of Correction improperly interpret Appellant James Anthony Primus 252315 assault and Battery of and High and aggravated Nature by Statute 16-3-652 and CDR Code 13 do not support ABHAN No arrest Warrant No written Indictment therefore it does not support a Crime Appellant Step 1 Grievance and Response Mac Dougall Correctional Institution 0142-17 Grievance number Appellant Argument has merit by the South Carolina Supreme Court Statute 16-3-600 State v. Hernandez 834 SE 2d 462 The South Carolina Department of Corrections conviction Summary clearly Illustrate that the SCDC list this conviction as Abhan Statute 16-3-652 CDR Code 13 lesser included offense of CSC 1st degree This is error

## Conclusion

For the foregoing Reason the Court should vacate  
assault and Battery of and high and aggravated  
Nature does not support a Crime No arrest warrant  
No written Indictment

DATE

January 17 2020

Respectfully Submitted

James Anthony Primus Pro Se

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