

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM THE ADMINISTRATIVE LAW COURT
Administrative Law Judge Milton G. Kimpson
ALC Case No. 19-ALJ-04-0296-AP
Appellate Case No. 2020-001252

James Anthony Primus 2523LS

Appellant

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

RESPONDENT

INITIAL BRIEF OF APPELLANT

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NOV 06 2020

SC Court of Appeals

James Anthony Primus pro se

James Anthony Primus 2523LS
MacDougal Correctional Institution
1516 Old Gilliard Road
Ridgeville S.C. 29472

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TABLE OF AUTHORITIES

CASES:

Phillip v State 314 SE 2d 313
Hernandez v State 834 SE 2d 462
TAMR v State 759 SE 2d 398
Tilly v State 511 SE 2d 689
State v Bogg 696 SE 2d 597
Hayes v State 777 SE 2d 6

STATUTES

S. C. Code 16-3-600
S. C. Code Ann. 17-23-138
S. C. Code 24-13-40

ISSUE ON APPEAL

Appellant Has not received everything Appellant is entitled to because of cumulative errors by The Department of Correction SCD

STATEMENT OF THE CASE

Step 1 Grievance Form dated 4-3-19 Appellant
Sentence 30 years starting July 15 1997 25 years
would be 2022 instead of 2023 and Ten years
for ABHAN maxout would be 2027 with credit for
~~402~~ Days Jail Time and a Judicial Reflection of
Appellant ABHAN sentence sheet change from a Plea
of Guilty to Jury Trial by and Judicial official
Instead of and executive Agency that Appellant deserve
equal Justice No parole granted for ABHAN is
also error

STANDARD OF REVIEW

S.C. Code 16-3-600 S.C. Code Ann 17-23-130 and 140
S.C. Code Ann. 24-13-40 Provide the Applicable Standard
of Review. The substantive rights of the Appellate has

been prejudiced because the conclusion is

A in violation of Constitutional or statutory Provision

B in excess of the statutory Authority of the Agency

C made upon unlawful Procedure

D Affected by other error 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 or clearly unwarranted exercise of discretion

S.C. Code 24-13-40 clearly in view of the substantial
evidence on the Record as a whole

State v. Boggs 696 SE2d 597 Hayer v. State 777 SE2d 6
abuse of discretion Tant v. State 759 SE2d 398
Tilly v. State 511 SE2d 689 Phillip v. State 314 SE2d 303
Hernandez v. State 834 SE2d 462 Cumulative Error's

ARGUMENT

The administrative Law court Improperly dismissed Appellant as Appellant has received To all he is entitled too?

The ALC Jurisdiction to hear Inmate Appeals of Final decisions by S.C. Dept. of Corrections is derived entirely from the decision of the S.C. Supreme Court in AL-Shabazz 338 S.C. 354 527 SE2d 742 (2000) When reviewing SCDC decision in Inmate Grievance matters the ALC sits in an appellate Capacity Id at 377 527 SE2d at 754 Subsequently The Supreme Court clarified the ALC Appellate Jurisdiction over Inmate Appeals in Sullivan v. S.C. Dept of Corr. 355 S.C. 437 586 SE2d 124 (2003) In affirming as modified the ALC en banc decision of McNeil v. S.C. Dept. of Corr. 02-A25-04-00336 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 SCDC

ARGUMENT

has taken an Inmate state created liberty interest in major disciplinary hearings and 3 cases in which an Inmate confinement implicates a state created liberty interest See Sullivan 388 S.C. at 443 586 S.E.2d at 127 emphasis added Here Appellant alleges that the Department did not apply 512 days of Jail Time credit to his kidnapping sentence or his ABHAN sentence 97-GS 18-1045 & 1046 And Admitted Appellant to SCDC September 2 1998 with a incorrect ABHAN sentence sheet that Appellant pled guilty for 14 years that False allegation lingered in Appellant Record until it was accepted as fact by the legal community Appellant was sentenced to 30 years for kidnap, Ten years for ABHAN and one year for possession of crack cocaine concurrent to the other sentences The sentencing Judge noted that Appellant should receive 512 Days Jail Time credit Time serve on Possession of crack cocaine (see sentence sheet)

The Department only gave Appellant 360 Days Jail Time Credit which Appellant start date July 15 1997 Thru September 1 1998 See Step 1 Grievance Appellant complains incorrect and should have receive 512 days based on the Sentencing sheet ABMAN

The Department should of made certain through out the Legal Community that Appellant sentencing sheet was change from a Plea of Guilty to Trial Appellant suffered harm because of the Department lack of Professional Conduct allowing the Courts and the entire legal community to believe Appellant pled Guilty to ABMAN For 14 years

An Appellate Court can take Jurisdiction over an issue even if it is moot Curtis v State 549 SE2d 596 (2001)

as to the Cumulative changes in Appellant Sentence and Conviction violate the expo Facto clause Brown v. S. C. Dept. of Health + environmental Control 348 S. C. 507 569 466 SE 2d 467 Cumulative errors

The Cumulative errors Doctrine provides relief to a Party when a combination of errors insignificant By themselves Cumulative error Appellant argues he is entitled

Argument

Reclassification Pursuant to the Cumulative
Error Doctrine

ARGUMENT

The Administrative Law Court Improperly upheld The Department of Correction the Admission and Classification & Records Calculation denying Appellant Correct Interpretation of sentence

On September 1 1998 Appellant was convicted of kidnaping and assault and Battery of a High and Aggravated Nature see sentence sheet 97-GS-18-1045 & 1046 without applying 412 Days Jail Time my sentence exceeds the maximum time that I am suppose to be incarcerated from 2027 to 2028 By not applying Parole eligibility to ABHAN is Actually Combining Kidnaping and ABHAN as one sentence. with kidnaping controlling both sentences is construed as violant if there is no severability on the sentencing sheet 97-GS-18-1045

NOTE That Appellate Filed a previous appeal asserting that the Department of Correction admitted Appellant on September 2 1998 with Flawed and Incorrect sentencing sheets A. B. H. A. N. And kidnaping listed His ABHAN as a Guilty Plea Instead of Trial with 360 Days Jail Time and no Jail Time. For kidnaping

Argument

ON September 1 1998 ON June 11 2014

The Clerk of Court Dorchester County Cheryl
Graham and office of General Counsel Daniel
J. Crook change Appellant. Sentence sheet ABHAN
97-GS-18-1045 To Trial from and Plea of
Guilty after Fourteen years the entire legal
Community recognize Appellant as Pleading Guilty
To ABHAN and would not give Appellant
and Hearing because Appellant was Indigent
97-GS-18-1045

CONCLUSION

For the foregoing reason the court should
Grant Appellant to all that is entitled to
Appellant that was taken by and win at
any cost ABHAN Sentence sheet from a
plea of Guilty to and Trial also 512 days
Jail Time for Kidnapping and 412 Days Jail Time
for ABHAN And 412 Days Jail Time Possession
of Crack Cocaine and Reclassification from
and Sex offender to and Violent offender
Appellant is entitled to be punish with just
what happen at Trial and granted at Trial
Department must confine themselves to the Sentencing
sheet Appellant is entitled to be reclassified 412
Days Jail Time plea to Trial

DATE

November 2 2020

RESPECTFULLY Submitted

James Anthony Primus 252315

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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL From The Administrative Law Court
Administrative Law Judge Milton B Kingerson

ALC Case No 19-ALJ-04-0296-AP

Appellate Case No 2020-001252

James Anthony Primus 252315

Appellant

U

South Carolina Department of Corrections Respondent

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Certificate of Service

SC Court of Appeals

Undersigned pro se Appellant 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

Respondent addressed as follows Imani Dianne Byas
S.C. Dept of Corrections P.O. Box 21787 Columbia S.C. 29221

Date

November 2 2020

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Jenny ABBOTT Kitchens clerk

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S.C. Administrative
Law Court
1205 Piedmont St.
Columbia S.C. 29201

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Ridgeville S.C. 29422
Date November 2 2020

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SC Court of Appeals

The Honorable Jenny A. Kitchings
Clerk of Court S.C. Court of Appeals
P.O. Box 11629
Columbia S.C. 29211

RE: James Anthony Primus 252315 v SCDC
Appellate Case No. 001252

Dear Ms. Kitchings

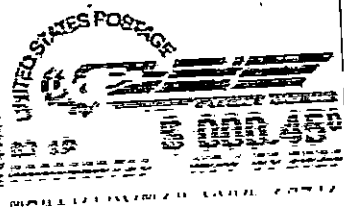
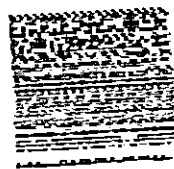
Enclosed please find the Initial Brief of Appellant
and Designation of matter to be included in the
Record on Appeal in the above captioned Appeal
along with Proof of Service

Thank you for your attention to this matter and please
do not hesitate to contact me should you have any
questions or concerns

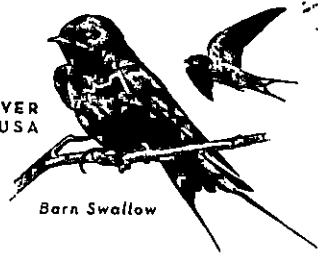
Sincerely

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REVER
USA



Barn Swallow

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