

THE SOUTH CAROLINA COURT OF APPEALS
IN THE SOUTH CAROLINA COURT OF APPEALS
Appeal From THE Administrative Law Court
Administrative Law Judge Milton G Kimpson
ALE Case No. 19-ALJ-04-0296-AP

Appellate Case No 2020 - 1252

James Anthony Primus 252315 Appellant

v

SOUTH CAROLINA DEPARTMENT OF CORRECTION Respondent

INITIAL REPLY BRIEF OF APPELLANT AND DESIGNATION
OF MATTER

RECEIVED

FEB 22 2021

SC Court of Appeals

James Anthony Primus 252315

James Anthony Primus Pro Se
MacDougall Correctional Inst.
Birch 1 B 13 B

1516 Old Gilliard Road
Ridgeville S.C. 29472

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STATUTES

S.C. Code 16-3-600	5
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ISSUE ON APPEAL

Appellant has not received everything Appellant is entitled to because of cumulative errors by the Department. Did the Administrative Law Court improperly affirm the Department calculation of Appellant sentence sheets?

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 2027 with Credit For 412
Days Jail Time and a Judicial Reflection of
Appellant ABHAN Sentence should change from 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. 17-130 and 140

S.C. Code Ann. 24-13-40 Provides 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 Procedures

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 clearly in view of the Substantial
evidence on the Record as a whole

State v Bogg 696 SE 2d 597 Hayes v state 797 SE 2d 6

Abuse of discretion Tant v state 759 SE 2d 398 Tilly v

v state 511 SE 2d 689 Phillip v state 314 SE 2d 313

Hernandez v state 834 SE 2d 462 Cumulative Errors

ARGUMENT

The Administrative Law Court Improperly dismissed Appellant as Appellant has received to all he is entitled to.

The ALC Jurisdiction to hear Inmate Appeals of Final decision by S.C. Dept. of Correction is derive entirely from the decision of the S.C. Supreme Court in *al she bazz* 388 S.C. 354 527 S.E.2d 742 (2000) when reviewing SCDC decision in Inmate Grievance matter the ALC sits in an Appellate capacity Id at 377 529 S.E.2d at 754 Subsequently the Supreme Court clarified the ALC Appellate Jurisdiction over Inmate Appeal in *Sullivan v S.C. Dept. of Correction* 355 S.C. ~~377 527 S.E.2d~~ at 437 586 S.E.2d 124 (2003) In affirming as modified the ALC en banc decision of *Mcneil v S.C. Dept of Corr.* 02 - ALJ - 04 - 00336 September 5 2001 The Supreme Court Hold the ALC Jurisdiction was limited to 1 case 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 355 at 443 586 SE 2d at 197 emphasis added here Appellant alleges that the Department did not Apply 412 Days of Jail Time Credit to his Kidnap Sentence and his ABKAM Sentence 97-GS-18-1045 and 1046 and admitted Appellant to SCDC September 2 1998 with a Incurred ABKAM 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 sentence to 30 years for Kidnap Ten years for ABKAM And one year for Possession of Crack Cocaine concurrent to the other sentence The sentencing Judge noted that Appellant should receive 412 Days Jail Time Credit Time Served on Possession of Crack Cocaine (see sentencing sheets)

ARGUMENT

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 412 Days based on the Sentencing sheet ABHAN. The Department should of made certain through out the legal community that Appellant sentencing sheet was changed 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 ABHAN. For 14 years an Appellant court can take Jurisdiction over an Issue even if it is moot Curtis v state 549 SE 2d 596 2001 as to the cumulative changes in Appellant sentence and conviction violate the expe Facta Clause Brown v. S. C. Dept of Health & environmental control 348 S.C 507 569 468 SE 2d 467 cumulative errors The cumulative error doctrine provide relief to a party when a combination of errors insignificant by themselves

ARGUMENT

Cumulative error Appellant argues he is entitled pursuant to the cumulative error doctrine. The Administrative Law Court improperly upheld the Department of Correction the admission and classification & records calculating denying Appellant correct interpretation of sentence on September 1 1998 Appellant was convicted of kidnap and ABHAW see sentencing sheet 97-GS-18-1045 and 1046 without applying 412 days jail time. My sentence sheets exceed the maximum time that I am supposed to be incarcerated from 2027 to 2028 by not applying 412 days jail time and parole eligibility to ABHAW is actually combining kidnap and ABHAW as one sentence with kidnap controlling. Both sentences is construed as violent if there is no severability on the sentence sheet 97-GS-18-1045.

NOTE That Appellate filed a previous appeal asserting that the Department admitted on September 2 1998 with flawed and incorrect sentencing sheets ABHAW and kidnap listed his ABHAW as a guilty plea instead of trial with 360 days jail time and no jail time for kidnap or ABHAW.

ARGUMENT

On September 1 1998 Sentencing Date on June
11 2014 The clerk of Court Dorchester County
Cheryl Graham and office of General Counsel David
J. Crook Change Appellant Sentence sheet A B HAN 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 indigent African
Americans are under represented in the Department

NOTE

Conclusion

For the foregoing reasons 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 412 days Jail time for kidnap and 412 days Jail time for ABHAN Possession of Crack Cocaine Time Serve and the classification kidnap from and sex offense to and violent offense Appellant is entitled to be punished with just what Judge Brown sentence Appellant to at the ending of and Jury Trial and Granted at Trial The Department must confine themselves to the sentencing sheets Appellant is entitled to be reclassified 412 Days Jail Time Plea of Guilty to Trial By and Judicial official and not and ^{Executive} ~~Executive~~ Agency

DATE February 16 2021

Respectfully Submitted
James Anthony Primer 252315
James Anthony Primer Pro Se
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Ridgville S.C. 29076

NOTE Kidnap do not support a crime ABHAN violate
The Constitution Fifth Amendment No arrest warrant
No written indictment

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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW

Administrative Law Judge Milton G. Kimps

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

Appellate Case No. 2020 - 001252

James Anthony Primus 252315 Appellant

V

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS Respondent

CERTIFICATE OF SERVICE

Undersigned Pro Se Appellant hereby certifies that on
Today's Date I mailed a copy of the Appellant
Reply Brief to Respondent Initial Brief and Designation
of matter to be included in the Record on Appeal to
Respondents as follows

DATE February 16 2021

S.C. Court of Appeals
Clerk office
P.O. Box 11629
Columbia S.C. 29211

S.C. Dept. of Correction
Office of General Office
P.O. Box 21787
Columbia S.C. 29221

S.C. Admin Law Court
Clerk office
1205 Pendleton St.
Columbia S.C. 29201

By

James Anthony Primus Pro Se
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DATE 2-16-2021

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SC Court of Appeals

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

RE: James Anthony Primus 2523LS v SCDC
Appellate Case No. 001252

Dear Honorable Clerk

Enclosed please find the Appellant Reply Brief
and Designation of matter to Respondent Initial
Brief and Designation of matter along with Proof
of Service in the above captioned case.

Please accept this with my kindest regards

Sincerely

James Anthony Primus Pro Se
1516 Old Gilliard Rd
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James Anthony Primus 252315

MACDOUGALL CORR. INST.
1517 OLD GILLIARD RD.
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SC Court of Appeals

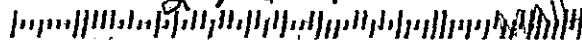
South Carolina Court of Appeals

The Honorable Jenny A. Kitchings Clerk

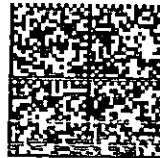
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