

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-ALS-04-0296-AP

APPELLATE CASE NO. 2020-001252

JAMES ANTHONY PRIMUS 252315

APPELLANT

v

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS RESPONDENT

FINAL BRIEF OF APPELLANT

James Anthony Primus 252315

James Anthony Primus pro se  
MacDougal Correctional Institution  
1516 Old Gilliland 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  
Tamm v State 1759 SE 2d 398  
Tilly v State 511 SE 2d 689  
State v Bogg 696 SE 2d 597  
Hayes v State 1777 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 unlawfull 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 SE.2d 689 Phillip v State 314 SE2d 363  
Hernandez v. State 834 SE2d 462 Cumulative Error's

## ARGUMENT

The Administrative Law Court Improperly dismissed Appellant as Appellant thus 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-ALS-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 Implicate a state created liberty interest See Sullivan 388 S.C. at 443 586 S.E.2d at 129 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 ABHAW

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 ABHAW 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 exo 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

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. Contradicting 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 A BHAN Sentence sheet from a  
Plea of Guilty to and Trial also 512 days  
Jail time for Kidnapping and ~~4~~12 Days Jail time  
for A BHAN And ~~4~~12 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

RESpect Fully Submitted

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APPELLATE Case No. 2020 - 001252

James Anthony Primus 252315

Appellant

v

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS Respondent

CERTIFICATE OF COUNSEL

**RECEIVED**

MAR 15 2021

SC Court of Appeals

The undersigned hereby certifies that the Final  
Brief of Appellant complies with Rule 211(c) SCACR  
and also complies with the South Carolina Supreme Court's  
April 15, 2014 order entitled Revised order concerning  
Personal Identifying information and other sensitive  
information in Appellate Court Filings

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DATE

March 11 2021