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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

SC Court of Appeals

James A. Primus, #252315,

Docket No. 20-ALJ-04-0470-AP

Appellant,

vs.

FINAL ORDER

South Carolina Department of Corrections,

Respondent.

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to a Notice of Appeal filed by James A. Primus (Appellant), an inmate in the custody of the South Carolina Department of Corrections (Respondent or Department). After the Appellant's Step 1 and Step 2 grievances were filed and denied, he filed a Notice of Appeal with this court on November 24, 2020, alleging that the Department acted improperly by reclassifying his kidnapping conviction as a sexual offense on his annual review. The Appellant is not appealing a disciplinary hearing conviction, nor did he lose any good time credit as part of any punishment he received.

After careful consideration of the briefs of the parties, the record, as well as the applicable law, the court finds substantial evidence in the record to support the Department's decision. Accordingly, the Department's decision is affirmed.

STANDARD OF REVIEW

The court's jurisdiction to hear this matter is derived entirely from the decision of the Supreme Court of South Carolina in *Al-Shabazz*. See *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). The court's appellate jurisdiction in inmate appeals is limited to cases involving the denial of a state-created liberty interest,¹ which typically arise in two ways: (1) when an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) when an inmate is disciplined and punishment is imposed in a major disciplinary hearing as a result of a serious rule violation. See *id.* at 369, 527 S.E.2d at 740.

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¹ The court does have limited jurisdiction in some property matters, the authority for which need not be cited here.

SC ADMIN. LAW COURT

When reviewing the Department's decisions in inmate grievance matters, the court sits in an appellate capacity. *Id.* at 377, 527 S.E.2d at 756 (citation omitted). Consequently, the court's review in such cases is limited to the Record on Appeal. Further, the court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact but may modify or reverse the decision of the agency when substantial rights of the appellant have been prejudiced. S.C. Code Ann. § 1-23-380(5) (Supp. 2020). Substantial rights of the appellant are prejudiced when the agency's decision, including the agency's findings, inferences, and conclusions, are in violation of constitutional or statutory provisions; in excess of the statutory authority of the agency; made upon unlawful procedure; affected by other error of law; clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. *Id.*

DISCUSSION

The Appellant alleges that on his inmate records, his conviction for kidnapping is incorrectly designated as a sex offense. The Department argues that pursuant to state law, the Appellant's conviction for kidnapping is correctly designated as an offense, that if convicted of, requires sex offender registry. On September 1, 1998, the Appellant was sentenced to thirty years incarceration for Kidnapping (S.C. Code Ann. § 16-3-910) and ten years incarceration for Assault and Battery of a High and Aggravated Nature (S.C. Code Ann. § 16-3-652), with the sentences to run consecutive to one another. In accordance with S.C. Code Ann. § 23-3-430, "[a]ny person, regardless of age, residing in the State of South Carolina who in this State has been convicted of...an offense described below...shall be required to register pursuant to the provisions of this article." Subsection (C) further provides that "[f]or purposes of this article, a person who has been convicted of...any of the following offenses shall be referred to as an offender[.]" Specifically, § 23-3-430(C)(15) lists the offense of "kidnapping (Section 16-3-910) of a person eighteen years of age or older except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense[.]"²

Contrary to the Appellant's assertions, the court was not obligated to explicitly note in the record that his conviction was considered a sex offense. Rather, as cited above, the opposite is

² The Department's brief incorrectly references, at various points, S.C. Code Ann. § 20-3-430 which addresses divorce.

true. In reviewing the record, there is no indication that the court that convicted the Appellant made any finding that his kidnapping offense did not include a criminal sexual offense or attempted criminal sexual offense. Furthermore, On the Appellant's inmate record (R.p 6), it explicitly provides the following: SEX REG Y. Therefore, the Department was obligated to designate his kidnapping conviction as a sex offense, per S.C. Code Ann. § 23-3-430(C)15.

THEREFORE, based on the foregoing reasons, the decision of the Department is **AFFIRMED**.

IT IS SO ORDERED.



S. Phillip Lenski
Administrative Law Judge

April 23, 2021
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served the order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States Mail, postage paid, or in the interagency mail service addressed to the party(ies) or their attorney(s).

This 23 day of April 2021

Judicial Law Clerk