

**RECEIVED**

MAY 03 2021

**SC Court of Appeals**

**STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT**

James Primus, #252315, )  
 )  
 Appellant, )  
 )  
 vs. )  
 )  
 South Carolina Department of Corrections, )  
 )  
 Respondent. )

Docket No.: 20-ALJ-04-0471-AP

**FINAL ORDER**

This matter is before the South Carolina Administrative Law Court ("ALC" or court) pursuant to the Notice of Appeal filed by James Primus (Appellant), an inmate in the custody of the South Carolina Department of Corrections (Department or Respondent). 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 there is an error in the Appellant's Inmate Record because he has completed the sentence for his 1980 conviction and therefore the offense should not be on his current Inmate Record. The Appellant is not appealing a disciplinary hearing conviction, nor did he lose any good time credit as part of any punishment he received.

**STANDARD OF REVIEW**

The court's jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). The *Al-Shabazz* decision explained that "procedural due process is guaranteed when an inmate is deprived of an interest encompassed by the Fourteenth Amendment's protection of liberty and property." *Wicker v. S.C. Dep't of Corrs.*, 360 S.C. 421, 424, 602 S.E.2d 56, 58 (2004) (citation omitted). Such a liberty interest is at stake in the calculation of an inmate's sentence. *Tant v. S.C. Dep't of Corrs.*, 408 S.C. 334, 341, 759 S.E.2d 398, 401 (2014) (citation omitted) ("There can be no doubt the length of an inmate's incarceration implicates a constitutional liberty interest."); see also *Sullivan v. S.C. Dep't of Corrs.*, 355 S.C. 437, 441-42, 586 S.E.2d 124, 126 (2003) (quoting *Al-Shabazz*, 338 S.C. at 369, 527 S.E.2d at 750) (recognizing that *Al-Shabazz* created review in the ALC for sentence calculation cases).

**FILED**

MAY 23 2021

SC ADMIN. LAW COURT

In sentence calculation cases, the court sits in an appellate capacity, applying the appellate standard of the Administrative Procedures Act (APA). *Al-Shabazz*, 338 S.C. at 377–80, 527 S.E.2d at 754–56. Consequently, the court’s review is limited to the record. S.C. Code Ann. § 1-23-380(4). Additionally, 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). 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

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), sentences to run consecutive to one another. The Appellant’s sentence start date for both convictions is July 15, 1997 and his current projected sentence completion date is January 1, 2028.

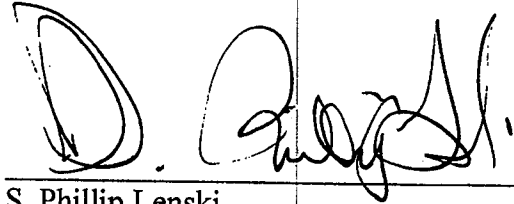
The Appellant argues that his prior commitment sheet is erroneously included in his current SCDC Inmate Record and therefore should be removed and returned to the Department archives. However, the Appellant fails to articulate how the inclusion of his prior commitment sheet has affected the calculation of his current sentences. The Department argues that the inclusion of the Appellant’s prior commitment sheet in his inmate record is in accordance with Department policy. SCDC Policy OP-21.09, Section 2, “Inmate Records Plan,” provides that an inmate’s sentencing documents, and other related documentation will be filed in the inmate’s central record. Additionally, if the inmate has previously been incarcerated with the Department, a request will be made to the Inmate Records Office to have the inmate’s previous central and institutional records retrieved from inactive status and sent to the R&E Center.

Based on the information the Department has provided, it appears that the inclusion of the Appellant’s prior commitment sheet in his Inmate Record is supported by substantial evidence and

that the Appellant has failed to demonstrate that the Department's decision is clearly erroneous, or arbitrary or capricious, or an abuse of discretion.

Therefore, based on the foregoing, it is hereby **ORDERED** that the decision of the Department is **AFFIRMED**.

**AND 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