

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From the Administrative Law Court

Administrative Law Judge S. Phillip Leake

ALC Case No. 2020 ALJ-04-0470-AP

Appellate Case No 2021 - 000 479

James Anthony Primus 252315

Appellant

U.

South Carolina Department of Correction Respondent

INITIAL BRIEF OF APPELLANT

**RECEIVED**

JUN 11 2021

**SC Court of Appeals**

James Anthony Primus 252315

James Anthony Primus Pro Se  
MacDougall Correctional Inst.

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1516 Old Gilliard Road

Bidgeville S.C. 29472

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# TABLE OF CONTENTS

TABLE OF AUTHORITIES	2
STATEMENT OF THE ISSUE ON APPEAL	3
STATEMENT OF THE CASE	4
STANDARD OF REVIEW	5
ARGUMENT	6-8
CONCLUSION	8

# TABLE OF AUTHORITIES

## Cases

Thompson v state 785 SE2d 189	7
Stovine 336 S.C. 386 520 SE2d 148	8
Al-shabazz v state 527 SE2d 742	7
McNeil v SCAC 02-04-0336	7

## STATUTES

23-3-430 (C) 15	6
27-50-40 (A)	8
16-3-682	6
15-53-20	7
15-53-30	7
16-3-910	7

STATEMENT OF ISSUE ON APPEAL

THE Administrative Law Court Improperly upheld  
The Department of Correction Entry of Appellant Kidnap  
§5 and sex offense where Appellant establish error  
Under the plain language of the Act

## STATEMENT OF THE CASE

This matter comes before the court pursuant to the appeal of James Anthony Palmas 252315 an Inmate in the custody of the South Carolina Department of Corrections on May 18 2020 Appellant submitted a step 1 grievance complaining that the Department was not properly interpreting his kidnap conviction after this grievance was investigated and was denied Appellant submitted a step 2 grievance on September 15 2020 The step 2 was also investigated and was denied on November 24 2020 Appellant filed a notice of appeal in the administrative law court after briefs were filed by both parties Administrative Law Judge S. Phillip Lenski filed an order dismissing Appellant's appeal on April 23 2021 The order concluded the Department was obligated to designate kidnap as a sex offense

## STANDARD OF REVIEW

S.C. Code Ann. 1-23-610 (B) provides the Applicable Standard of Review

The Review of the Administrative Law Judge must be confined to the Record the reviewing tribunal may affirm the decision or remand the case for further proceedings or it may reverse or modify the decision if the substantial rights of the Appellant have been prejudiced because the findings conclusion or decision 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 or
- F Arbitrary or Capricious or characterized by Abuse of discretion or clearly unwarranted exercise of discretion

S.C. Code Ann. 1-23-380 (S)

In an Appeal of a Final Decision of an Administrative Agency the Standard of Appellate Review is whether the ALE findings are supported by substantial evidence which considering the Record as a whole would also allow a reasonable mind to reach the same conclusion that Administrative Agency reached *Headly v S.C. State Budget & Control* 325 S.C. 413 481 SE 2d 159 App 100.

A Reviewing Court shall not substitute its own Judgment for that of the ALC as to finding of fact but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole

## ARGUMENT

THE Administrative Law Court Improperly upheld THE DEPARTMENT OF CORRECTION Entry of Appellant kidnap sentence as And convicted sex offender where Appellant established the Department committed error with respect to convicted sex offender sentence entry

Appellant is a state prisoner serving thirty years for kidnap and Ten years consecutive for assault and Battery of and High and Aggravated Nature Appellant Filed and Grievance SCOC lists Appellant on its sex offender Registry when Sled is the Gate Keeper SCOC sex offender Registry is premature and without legislature Authority as Approval and vindictive and inscrupulous S.C. Code 23-3-430 mandates that all persons convicted of kidnap must be placed on the sex offender Registry (But SCOC do not put all persons convicted of kidnap on the sex offender Registry) except when the Court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted or attempted sexual offense S.C. Code 23-3-430 (15) Appellant sentencing Judge Luke N. Brown Jr. did not make such a finding 16-3-652 Appellant was found not guilty of all sex offenses also Appellant is not suppose to be on the sex offender Registry because

## Argument

The Statute Plain language of the Law 16-3-910 mandating that kidnap offenders be placed on the Sex offender Registry only after their Release from Confinement Appellant Filed and Grievance for SCOC placing him on the Sex offender Registry as a convicted sex offender Judge Renee Lee explain to Appellant ABHAN sentence sheet 16-3-652 is not and Sex Registry offense See Record Judge Lee letter to Appellant also See Clifford Thompson v State 415 S.C. 560 785 SE2d 189 S.C. Code 15-53-20 15-53-30 Sunset Cay LLC v Folly Beach 357 S.C. 414 423 593 SE2d 462 466 2004 A Justiciable controversy is a real and substantial controversy which is appropriate for judicial determination as distinguished from and dispute or difference of a ~~substantive~~ hypothetical or abstract See ABHAN sentence sheet Records Appellant sentence sheet was altered by Dorchester clerk of Court Cheryl Graham June 11 2014 From Plea to Trial Al-Shabazz 338 S.C. at 375 527 SE2d at 753 Inmate Custody Status Maxwell v S.C. Dept of Corr 02-ALJ-04-336 AP 9-5-2001 ALJ Ignored number 1 and ruled on No. 2 The ALJ decline to dismiss the case for the reason in Part 1 SCOC classification did act arbitrarily capriciously and from personal bias and prejudice when determining Appellant classification as a convicted sex offender

## Argument

Finally the Record on Appeal is not void of any fact indicating that the Appellant classification is a convicted sex offender would affect Appellant sentence with errors contain on Appellant sentence sheet misspelled name wrong social security number Solicitor signed as Appellant attorney Clerk of Court change sentence sheet after Judge Brown signed sentence sheet Clerk of Court filed sentence sheet two years after Appellant conviction Steinkamp 336 S.C. 386 520 SE2d 148 27-50-40-CA7

## Conclusion

The court should Grant this Appeal Pursuant to NUNC PRO TUNC to the many errors SCDC officials Applied Judge Luke N. Brown. Applied his experienced as and Trial Judge after Full consideration of the Circumstances and facts presented made no Special Conditions on Appellant Sentencing sheets

DATE

Respectfully Submitted

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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From The Administrative Law Court

Administrative Law Judge S. Phillip LenSKI

ALC Case No. 2020 ALJ-04-0470 - AP

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James Anthony Primus # 252315

Appellant

V.

South Carolina Department of Corrections

Respondent

CERTIFICATE OF SERVICE

Undersigned Appellant Pro Se 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's addresses - as follows

DATE 5-27-21

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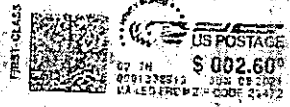
JUN 11 2021

SC Court of Appeals

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