

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-04-0471-AP

Appellate Case No. 2021 - 000 481

James Anthony Primus 252315

Appellant

v

South Carolina Department of Corrections Respondent

INITIAL Brief of Appellant

RECEIVED

JUN 11 2021

SC Court of Appeals

James Anthony Primus 252315
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STATEMENT OF ISSUE ON APPEAL

The Administrative Law Court improperly upheld the Department of Correction Entry of Appellants 1980 conviction for Aggravated assault & Battery that was completed in 1985 and the commitment order is still being held in Appellant Current Record to be confused with current conviction for A BITAN where Appellant has establish Errors Committed with respect to this sentence sheet

STATEMENT OF THE CASE

This matter comes before the Court pursuant to the Appeal of Appellant James Anthony Primas 252315 an Inmate in the custody of the South Carolina Department of Corrections on May 27 2020 Appellant submitted a step 1 Grievance complaining that the Department of Corrections was improperly interpreting Appellant Current Conviction ABHAN Conviction With Appellant 1980 Conviction For aggravated assault & Battery after this Grievance was investigated and denied Appellate submitted a step 2 Grievance on 9-15-2020 The step 2 was also investigated and was denied on November 24, 2020 alleging that there are errors in Inmate Records ABHAN Sentence sheet all four corners are errors after Britts were filed by Both parties Administrative Law Judge S. Phillip Lenski filed and order on April 23 2021 The order concluded that Appellant failed to demonstrate that the Department decision is clearly erroneous or arbitrary or capricious or an abuse of discretion

STANDARD OF REVIEW

S.C. Code Ann. 1-23-610 () 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 finding 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 unclearly Unwarranted exercise of discretion.

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

In an Appeal of a Final Decision of an Administrative Agency

The Standard of Appellate Review is whether the ALC Findings are supported by Substantial evidence S.C. Code Ann. 1-23-610 () Substantial evidence is evidence which considering the Record as a whole would allow a reasonable mind to reach the same conclusion that Administrative Agency reached *Headley v. S.C. State Budget Control*

325 S.C. 413 481 SE 2d 159 APP 1986

A. Reviewing Court shall not substitute its own judgment for that of the AHC as to Findings 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's entry of Appellant 1980 Aggravated assault and Battery Conviction that was Completed to be Confused with Appellant Current ABHAN Conviction Where Appellant establish that the Department Committed errors with respect to this Sentence entry

ON September 1 1998 Appellant was convicted of kidnap and (ABHAN) assault and Battery of and High and Aggravated nature and sentenced to consecutive terms of Thirty For kidnap and Ten years consecutive for ABHAN see Appellant sentence sheets (Sentence sheets is clock stamp - two years after Appellant was in prison) Although Appellant was initially indicted for Criminal Sexual Conduct in the First Degree CSC 1st Degree The Jury found Appellant Guilty of ABHAN see Verdict form and sentence sheet from 9-2-1998 where on Appellant sentence sheet two years after Appellant conviction the solicitor Margaret McDonald signed Appellant sentence sheet as Appellant attorney stating Appellant plead Guilty to Reverse the S. C. Court of Appeals Reverse and Reprimand for and New Trial 535 SE2d 152 To 564 SE2d 107 Primus v state Steinks 520 SE2d 148

NOTE that Appellant filed a previous Grievance asserting that the Department incorrectly listed his ABHAN sentence as a guilty plea 15 ALJ 04-252-~~00~~ Dorchester County clerk Cheryl Graham change sentence sheet 6-11-14 (97-65-28 case

CONCLUSION

For the foregoing reasons the Court should Grant Appellant
Appeal NUNC PRO TUNC order to correct all errors
In the Interest of Justice

Respect Fully Submitted

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DATE

5-27-21