

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM THE Administrative Law Court

Administrative Law Judge S. Phillip Leask;

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

Appellate Case no. 2021 - 000 479

James Anthony Primus 252315

Appellant

v

South Carolina DEPARTMENT OF CORRECTIONS Respondent

FINAL REPLY BRIEF

OUTSIDE OF THE Filings

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OCT 08 2021

SC Court of Appeals

James Anthony Primus 252315

James Anthony Primus PO #2  
MacDougall Correctional Institute

Box 1 B 13 A

1516 Old Gilliland Road

Ridgeville S.C. 29472

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# TABLE OF AUTHORITIES

## Cases

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## STATUTES

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STATEMENT OF ISSUE ON APPEAL

THE Administrative Law Court Improperly upheld  
The Department of Correction Entry of Appellant Kidnap  
IS 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 Primus 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 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 ALJ 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 cr. 1.

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A Reviewing Court shall not substitute its own Judgment for that of the ALC 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 CORRECTIONS 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 S.C.C. lists Appellant on its sex offender Registry when Sled is the Gate keeper S.C.C. 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 S.C.C. do not put all persons convicted

of kidnap be placed 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

## Appellant

The statute plain language of the Law 16-3-950 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 462 464 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 contingent hypothetical or abstract see ABHAN sentence sheet Records Appellant Sentence

sheet was altered by Purchaser clerk of court Clerk

~~Brachans~~ ~~Judge~~ ~~11~~ 2014 From plea to Trial

Al - Shebazz 338 S.C. at 375 527 SE2d at 753 Enmate

Custody status McWell v S.C. Dept of Corr 02-ALB-04-336

AP 9-5-2001 ALB ignored number 1 and ruled on No. 2

The ALB 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 in Appellant Sentence Sheet misspelled Name wrong Social Security Number Solicitor Signed as Appellant attorney clerk of Court changed Sentence sheet after Judge Luke Brown signed Sentence sheet Clerk of Court Filed Sentence Sheet two years after Appellant conviction

Stenke 336 S.C. 386 520  
SE 2d 148 27-56-30 (A)

## Conclusion

The Court should Grant this Appeal to Wane Pro Tunc to the many errors S.C.C. officials applied Judge Luke N Brown Jr. Applies his experiences as and trial Judge after full consideration of the circumstances and facts presented no special conditions on Appellant Sentence Sheets

Date October 5 2021

Respectfully Submitted

James A. Primus 252305  
James A. Primus  
1516 Old Gilliland Rd  
Ridgewood S.C. 29472

Note S.C. order 0016 Rule 409 effective August 11 2021 S.C. Rule 3.8

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Certificate of Counsel

The undersigned hereby certifies that ~~the~~ Final Brief of Appellant complies with Rule 211(b) SCACR and also complies with the South Carolina Supreme Court April 15 2014 order entitled Revised order concerning Personnel Identifying Information and other Sensitive Information in Appellate Court Filings

Date  
October 5 2021

James Anthony Primus  
252315  
James Anthony Primus Prose  
1516 Old Gilliard Rd  
Ridgville S.C. 29472