

THE STATE OF SOUTH CAROLINA

IN THE Court of Appeals

Appeal From THE Administrative Law Court

Administrative Law Judge Shirley Richardson

ALL Case No 21 - ALS - 04

Appellate Case No 874.

RECEIVED

OCT 18 2021

SC Court of Appeals

James Anthony Primus 252315

Appellant

South Carolina Department of Corrections

Respondent

INITIAL BRIEF OF APPELLANT

James Anthony Primus 252315

James Anthony Primus Pres.e
Mac Dougall Correctional Institute
1516 Old Gilliard Road
RIDGEVILLE South Carolina 29472

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Final Court orders updated sentence sheet

STATEMENT OF ISSUE ON APPEAL

DID THE ADMINISTRATIVE LAW COURT IMPROPERLY AFFIRM
THE DEPARTMENT'S FINAL AGENCY DECISION TO DISMISS
APPELLANT'S APPEAL?

STATEMENT OF THE CASE

This matter is before the Administrative Law Court (ALC or Court) Pursuant to the Appeal of James Anthony Primus (Appellant) An Inmate incarcerated with the South Carolina Department of Corrections (SCDC or Department) Appellant is appealing S.C.D.C. Final Agency decision of May 3 2021 that Denied Appellants Step two Grievance on March 9 2021 Appellant Filed a Step one Grievance alleging SCDC incorrectly recorded his name and Social Security Number This Grievance was denied on March 16 2021 after S.C.D.C. investigation determined that SCDC had correctly recorded Appellant Name and social Security Number There after on March 22 2021 Appellant Filed a Step two Grievance alleging his Sentence sheet did not have his correct Name and Social Security Number on May 3 2021 SCDC Denied the Step 2 Grievance and this Appeal Follows

NOTE Docket No. 21-ALJ-04-0165-AP due to the many errors and Appellant can only grieve one Issue per Grievance in this Case The Hon. S. Phillip Kanski allowed and Granted Appellant and update on Appellant Sentence sheet By General Counsel There are many more

STANDARD OF REVIEW

S.C. Code Ann. 1-23-610 (B) Provides the Applicable standard of review.

The review of the administrative law Judge's order 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 substantive right of the petitioner have been prejudiced because the findings, conclusion or decision is

- A in violation of Constitutional or statutory provisions
- 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

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. S.C. Code Ann. 1-23-610 (B) substantial evidence is evidence which considering the Record as a whole would allow a reasonable mind to reach the same conclusion that the administrative Agency reached. *Hendly v S.C. State Budget & Control Bd* 325 S.C. 413 481 SE 2d 159 Ct. 159 Ct. App. 1996. A Reviewing Court shall not-

substitute its own judgment for that of the ALJ 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 id.

ARGUMENT

THE ADMINISTRATIVE LAW COURT Improperly Affirmed the DEPARTMENT'S Final Agency Decision to Dismiss Appellant's Appeal

The ALC Jurisdiction to hear this Inmate Appeal of Final decision by the South Carolina Department of Corrections is derived entirely from the decision of the South Carolina Supreme Court in Al-Shabazz v. State 338 S.C. 354 527 S.E.2d 742 (2000) when Review SCDC decision in inmate Grievance matters the ALC sit in an Appellate Capacity Id at 377 527 S.E.2d at 754 Subsequently the Supreme Court clarified the ALC Appellate Jurisdiction over Inmate Appeals in Sullivan v S.C. Dep't of Corr. 355 S.C. 437 586 S.E.2d 124 (2003) In affirming as modified the ALC en banc decision of Mensei v S.C. Dept of Corr. 02-ALJ 04-00336-AP September 5 2006 the Supreme Court held the ALC Jurisdiction was limited to 1 cases in which an Inmate contends prison officials have erroneously calculated his sentence sentence related credits or custody status 2 cases in which SCDC has taken an Inmate state created liberty interest in Major Disciplinary hearings and 3 cases in which an Inmate confinement implicates a state created liberty interest See Sullivan 355 S.C. 437 586 S.E.2d at 127 emphasis Added. August 16 2021 SCDC Motion to Supplement the Record September 28 2021 all motion to Supplement the Record because of cumulative error

ARGUMENT

ON September 1 1998 Appellant was sentenced to Thirty years Incarceration For Kidnapping which does not support a Crime and Ten years Incarceration For assault and Battery of a High and Aggravated Nature which there is no written Indictment For ABHANS to Run consecutive Appellant was sentence under S.C. Code Ann. 16-3-910 No. special conditions by the Presiding Judge S.C. Code Ann. 23-3-430c once release From prison may have to Register as and Sex offender Appellant is incarcerated and Sex offender Registry is not ripe to be adjudicated also Appellant miss-spelled Name wrong Social Security Number make it all But Impossible For Respondent to make and accurate assessment of Appellant kidnapping to not state a crime and ABHANS does not have and written Indictment Phillip v State 314 SE2d 313 Tan t v State SCOC 759 V SEVC 759 SE2d 714

24-13-40 State v Boggs 696 SE2d 597 TANF v SCOC 759-SE2d 714

Conclusion

Wherefore FOR all The Reason the Court should Grant

Appellant Appeal S.C. order 0016

DATE October 13 2021

Respectfully Submitted
James Anthony Kinn 292315
1516 old Gilliland Rd
Ridgeville S.C. 29472

STATE OF SOUTH CAROLINA

ADMINISTRATIVE LAW COURT

James Anthony Primus 252315
Appellant

Docket No. 21-ALJ-04-0198-AP

Grievance no. MACD 22-21

Appellate Case No. 879

South Carolina Department of
Correction RESPONDENT

Initial Appeal For and

Justiciable Controversy

Code 1476 IS-53-30

Appellant respectfully requests to move for and a
Justiciable Controversy is a Real and Substantial
Controversy which is Ripe and Appropriate for Judicial
determination as distinguish from a contingent hypothetical
or abstract dispute *Colleton County Taxpayers Assn v*
School District of Colleton County Supreme Court of South
Carolina December 11 2006 371 S.C. 224 638 S.E.2d 685

Conclusion

Wherefore Appellant Request that this Sentence shall
Be corrected by and Judicial official and not and executive

Agency

Date October 13 2021

Respectfully Submitted
James Anthony Primus 252315
James Anthony Primus Pro Se
1516 Old Gilliard Road
Kidgeville S.C. 29472

STATE OF SOUTH CAROLINA

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IN THE COURT OF APPEALS

OCT 18 2021

SC Court of Appeals

APPEAL From The Administrative Law Court

Administrative Law Judge S. Phillip Lenski

ALC Case No 21 - ALS-04 - 0199 AP

Appellate Case No. 879

James Anthony Primus 252315

Appellant

v

South Carolina Department of Corrections

Respondent

CERTIFICATE OF SERVICE

Under signed 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 Respondents addressed as follows
DATE October 13 2021 Justiciable Controversy motion

S.C. Court of Appeals
clerk office

1220 Senate Street

Columbia S.C. 29201

By

James Anthony Primus 252315

James Anthony Primus Pro Se

1516 Old Gilliland Road

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1205 Pendleton Street Suite 1274

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S.C. Dept of Corrections
General Counsel

4444 Broad River Rd

Columbia S.C. 29201

James Anthony Primus 2S2315
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Birch 1 B 13 A
1516 old Gilliard Road
Ridgeville S.C. 29972
October 13 2021

The Honorable Jenny A Kitchings
Clerk of Court S.C. Court of Appeals
Post office Box 11629
Columbia S.C. 29211

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SC Court of Appeals

RE: James Anthony Primus 2S2315 v S.C.D.C. or Department
Appellate case no 879

Dear Ms Kitchings

Enclosed please find the Initial Brief of Appellant and
Designation of Matter to be included in the Record on Appeal
in the above captioned Appeal along with Proof of Service

I would like to Thank you in advanced

Sincerely

James Anthony Primus

James Anthony Primus 2S23LS
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Ridgeville S.C. 29472

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SC Court of Appeals

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