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THE STATE OF SOUTH CAROLINA OCT 25 2021

IN THE COURT OF APPEALS SC Court of Appeals

APPEAL FROM THE Administrative Law Court

Administrative Law Judge S. Phillip Lenski

ALC Case No 21 - ALJ - 04 - 0164 - AP

Appellate Case No... 2021 - 000 879

James Anthony Primus 252315

Appellant

v

South Carolina Department of Corrections Respondent

INITIAL BRIEF OF APPELLANT

James Anthony Primus 252315  
James Anthony Primus Pro Se  
MacDougal Correctional Institution  
1516 Old Gilliard Road  
Bridgville S.C. 29472

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# TABLE OF AUTHORITIES

## CASES

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24-13-40	5
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## ADMINISTRATIVE MATERIALS

Court orders 407 Rule S. C. order 0016	
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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 252315 (Appellant) an Inmate Incarcerated  
with the South Carolina Department of Corrections SCDC  
or DEPARTMENT on January 22 2021 Appellant Filed  
a Step 1 Grievance miscalculation of sentence There  
Fore Appellant should be the one who Finances are  
garnished due to SCDC errors in Admissions on  
September 1 1998 SCDC Denied the Step 1 Grievance  
There after March 4 2021 Appellant Filed a Step 2  
Grievance Appealing the disposition of his Step 1 Grievance  
on March 5 2021 SCDC Denied the Step 2 Grievance  
on March 24 2021 Respondent moved for dismissal  
on the basis that my Jail Time being taken and  
my money being Confiscated is the same thing  
S.C.D.C. Policy states I can only grieve one  
Issue at a time my Jail Time and then  
my money being Garnished For SCDC errors

## 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 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 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 Appeals 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 *Merrill v S.C. Dept of Corr.* 02-ALT 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. 493 586 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

JAMES ANTHONY PRIMAS (Appellant) an Inmate Incarcerated  
with SCDC Appeals the Administrative Law Court ALC Summary  
Dismissal of his Appeal From a Grievance Appellant contends  
due to his hasty Incarceration actions Implicates a state  
Created liberty Interest and that the ALC erred in summarily  
Dismissing his Appeal Sections 1.23 600 d of the S.C. Code  
Additionally Appellant challenges the enforcement of the Policy  
that Formed the basis For the Finances of Appellate to be  
Confiscated Appellant challenge the SCDC to take Appellant  
Stimulus money For and Unlawful Admission to SCDC on  
September 2 1998 Incorrect Sentencing Sheets  
24-13-40 No Jail Time State v Bogg 696 SE2d 597 State  
v. Clifford Thompson 788 SE2d 189 Not Ripe For  
Adjudication - SCDC State Created liberty Interest State  
v Daniels 65 SE2d 236 Under false Pretenses S.C. order  
2016  
October 19 2021

# 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. 23-3-430.c 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 SCOC 759 SE2d 714

24-13-48 State v Boggs 696 SE2d 597 TANT v SCOC 759-SE2d 714

## Conclusion

Wherefore For all The Reasons the Court should Grant

Appellant Appeal S.C. order 0016

DATE. October 19 2021

Respectfully Submitted  
James Anthony Primm 252315  
1516 old Gilliland Rd  
Ridgewood S.C. 29472

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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM THE Administrative Law Court

Administrative Law Judge S. Phillip Loncki

ALC Case no. 21 - ALJ - 04 - 0164 - AP

Appellate Case no 2021 - 000879

James Anthony Primus 252315

Appellant

v

South Carolina Department of Correction

Respondent

CERTIFICATE OF SERVICE

Undersigned Appellant pro se hereby certifies that on  
to date I mailed a copy of the Initial Brief of  
Appellant and Designation of matter to be included in the  
Record on Appeal and Financial Records since the beginning  
of Appellant Incarceration to the present to Respondent

October 19 2021

S.C. Court of Appeals  
Clerk office  
1220 Senate St.  
Columbia S.C. 29201  
S.C. Admin Law Court  
1205 Pendleton St.  
Columbia S.C. 29201

South Carolina Dept of Corrections  
Office of General Counsel  
4144 Broadriver Rd  
Columbia S.C. 29221

By  
James Anthony Primus 252315  
James Anthony Primus Pro Se  
1516 Old Millport Rd  
Ridgeville S.C. 29472

James Anthony Primus 252315  
MacDougal Correctional Institute  
Birch L B 13A  
1566 Old Gilliard Rd  
Ridgewell S.C. 29972  
October 19 2021

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SC Court of Appeals

The Honorable Jenny A. Kitchens  
Clerk of Court S.C. Court of Appeals  
1220 Senate Street  
Columbia S.C. 29201

RE: James Anthony Primus 252315 v SCDE  
ALC Pcket No 21 - ALJ-04-0164-AP  
Appellate case no 2021 - 000879

Dear Ms Kitchens

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

Sincerely

James Anthony Primus

James Anthony Primus 252315  
Mc Dougall Correctional Institution  
Box 1 B 13 A  
56 Old Gilliard Road  
Pitgeville S.C. 29472

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1220 Senate Street  
Columbia S.C. 29201

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