

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM THE Administrative Law Court

Administrative Law JUDGE S. Philip Lenski

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

RECEIVED

Appellate Case no. 2021 - 000 879

DEC 06 2021

SC Court of Appeals

James Anthony Primus 252315

Appellant

v

South Carolina Department of Corrections

Respondent

INITIAL REPLY BRIEF OF Appellant

~~James Anthony Primus~~ 252315
James Anthony Primus pro se
MacDougall Correctional Institute
1516 Old Gilliard Road
Ridgville S.C. 29972

TABLE OF CONTENTS

TABLE OF AUTHORITIES

ii

STATEMENT OF THE ISSUE ON APPEAL

1

STATEMENT OF THE CASE

2

STANDARD OF REVIEW

3-4

ARGUMENT

5-7

CONCLUSION

7

TABLE OF AUTHORITIES

CASES	TAMM V BROWN 759 SE 2d 398, 401	3
	STATE V Boggs 696 SE 2d 597	6
	State V Thompson 785 SE 2d 189	6
	State V Daniel 609 SE 2d 796 236	6
	Alshabazz v State 527 SE 2d 942	5
	Sullivan v SCOC 586 SE 2d 124	3
	Mercil v SCOC 02 - - AIT-04-336	5
	Wicker v SCOC 602 SE 2d 54-58	5
STATUTES		3
	24-13-40	5
	23-3-430 (c) (15)	5

ADMINISTRATIVE MATERIALS

Court orders 407 Rule S. C. order 0016

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 15 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

The Court jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in *Al-Shabazz v State*, 338 S.C. 354 527 S.E.2d 742 (2000). The *Al-Shabazz* decision explained that "procedural due process is guaranteed when an Appellant is deprived of an interest encompassed by the Fourteenth Amendment protection of liberty and property *Wicker v S.C. Dept of Corr.* 360 S.C. 421, 424 602 S.E.2d 56, 58 (2004) Citation omitted. Such a liberty interest is at stake in the calculation and interpretation of the Appellant's sentence conviction and offense charged by the Court *Tant v S.C. Dept. of Corr.* 408 S.C. 334, 341, 759 S.E.2d 398, 401 (2014) Citation omitted. There can be no doubt the length of the Appellant's incarceration implicates a constitutional liberty interest that is fraudulent by judicial and executive officials. See also *Sullivan v S.C. Dept of Corr.* 355 S.C. 437, 441-42 586 S.E.2d 124, 126 (2003) (quoting *Al-Shabazz* 338 S.C. at 369 527 S.E.2d at 750 (recognizing that *Al-Shabazz* created review in the ALC for sentence interpretation and calculation cases.

In Sentence Interpretation and Calculation cases the
Court sits in the Appellate Capacity Applying the Appellate
Standard of the Administrative Procedures Act APA AL-Shabazz
338 S.C. at 377-80 527 SE 2d at 754-56 Consequently the
Court review is limited to the Record S.C. Code Ann. 1-23
380 (4) the Court may substitute its Judgment for the
Judgment of the Agency as to the weight of the evidence
on a question of Fact may modify or reverse the decision
of the Agency when Substantial rights of the Appellant are
prejudiced when the Agency decision including the Agency
Finding inferences and conclusion are in violation of
Constitutional or Statutory Provisions in excess of the Statutory
Authority of the Agency made upon Unlawful Procedure affected
by other error of law Clearly erroneous in view of the
reliable Probative and Substantial evidence on the whole
Record or arbitrary or capricious or characterized by
abuse of discretion or clearly unwarranted exercise of
discretion The Judge, Solicitor, Attorney General and SCOC
created this situation where as Appellant have to pay
Thousands of Dollars to correct by Facts and law

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 SE 2d 742 (2000) when Review SCOC decision in inmate Grievance matters the ALC sit in an Appellate Capacity Id at 377 527 SE 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 SE 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 2001 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 SCOC 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 SE 2d at 127 emphasis Added August 16 2021 SCOC 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 APPELLANT TO BE CONFISCATED APPELLANT CHALLENGE THE SCDC TO TAKE APPELLANT STIMULOUS MONEY FOR AN 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 ABHAN to Run consecutive Appellant was sentenced 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 makes it all But Impossible For Respondent to make and accurate assessment of Appellant kidnapping to not state a crime and ABHAN does not have and written Indictment Phillip U State 3145562313 Tant v State SCOC 7-59 V SCOC -M59 SE 2d 714

24-13-40 State v Boggs 696 SE 2d 597 TANT v SCOC 759-SE 2d 714

Conclusion

Wherefore For all The Reasons the Court should Grant Appellant, Appeal S.C. order 0016

DATE ~~2021~~ 2021
December 2 2021
7

Respectfully Submitted
James Anthony Perkins 292315
1516 old Gilliland Rd
Ridgewood S.C. 29472

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ADMINISTRATIVE LAW COURT

ADMINISTRATIVE LAW JUDGE S. PHILLIP HENSKI

ALC Case No. 2021 - ALJ - 04 - 0164 -

Appellate Case No. 2021 - 000879

RECEIVED

DEC 06 2021

SC Court of Appeals

Appellant

James Anthony Primus 252315

v

South Carolina Department of Correction

Respondent

CERTIFICATE OF COMPLIANCE

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

December 2, 2021

James Anthony Primus 252315
James Anthony Primus Pro Se
MacDougal Correctional Institution
1516 Old Gilliard Road
Ridgeville, S.C. 29972

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM THE Administrative Law Court

Administrative LAW JUDGE S. Phillip Lenski

ALC Case No. 21-ALS-04-0164-

Appellate Case No. 2021-000879

RECEIVED

DEC 06 2021

SC Court of Appeals

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 Reply 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 Respondents and motion Justiciable Controversy to the following individual below

S.C. Court of Appeals
Clerk office
1220 Senate St.
Columbia S.C. 29201

S.C. Dept. of Corr.
General Counsel
4444 Broadriver Rd
Columbia S.C. 29211

S.C. Administrative Law Court
Clerk office
1205 Trade Center St
Columbia S.C. 29201

December 2 2021

By

James Anthony Primus 252315
James Anthony Primus Pro Se
1516 old Gilliland Rd
Ridgeway S.C. 29922

James Anthony Primus 252315
Mac Dougall Correctional Institute
Birch 1 B 13A
1516 Old Billiard Road
Bridgeville S.C. 29472
December 2 2021

RECEIVED

DEC 06 2021

SC Court of Appeals

Honorable Jenny A. Kitchings

Clerk of Court ~~S.C. Court of Appeals~~

1220 Senate Street

Columbia S.C. 29201

RE: James Anthony Primus 252315 v SCDC
ALC Docket No. 21-ALJ-04-0164-AP
Appellate Case No. 2021-000879

Dear Clerk, Ms Kitchings

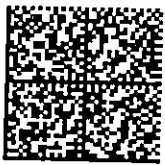
Enclosed ~~please find the~~ Initial Reply Brief of Appellant
and Designation of matter to be included in the Record on
APPEAL in the above captioned case along with a Justiciable
Controversy motion, Certificate of Counsel and Proof of Service
I would like to thank you in Advanced

Sincerely

James Anthony Primus

James Anthony Polmus 252315
MACDOWELL Correctional Institution
Box 1 B 13 A
1516 Old Gilliard Rd.
Ridgville S.C. 29472

FIRST-CLASS



PTNEY BOWES
US POSTAGE
\$ 000.93⁰
02 7H
0001338913 DEC 02 2021
MAILED FROM ZIP CODE 29472

RECEIVED

DEC 06 2021

SC Court of Appeals
Court of Appeals

Jenny ABBOTT KITCHINGS Clerk

1226 Senate Street

Columbia S.C. 29201

2920133769 0076

