

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEAL

APPEAL FROM THE ADMINISTRATIVE LAW COURT

ADMINISTRATIVE LAW JUDGE S. PHILIP LENSKI

ALC Case No. 21-ALT-04-0164-AP

Appellate Case No. 2021-000879

James Anthony Primus 252315

Appellant

v

SOUTH CAROLINA DEPARTMENT OF CORRECTION Respondent

FINAL BRIEF OF Appellant

RECEIVED

DEC 08 2021

SC Court of Appeals

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

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

STATE v Boggs 696 SE 2d 597

6

State v Thompson 785 SE 2d 189

6

State v Daniel ~~309~~ 69 SE 2d 236 ~~796~~

6

Alshabazz v State 527 SE 2d 742

5

Sullivan v SCOC 596 SE 2d 124

5

Mercer v SCOC 02 - - AIT-04-336

5

STATUTES

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
on 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 ALC 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. *Headly 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 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

SCOC 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. Dept of Corr. 355 S.C. 437 586 S.E.2d 124

(2003) In affirming as modified the ALC en banc decision of *Mercer*

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 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 S.E.2d at 127 emphasis Added August 16 2021 SCOC

motion to Supplement the Record September 28 2021 all

o motion to Supplement the Record because of cumulative

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 action implicates a state

~~created liberty interest and thus ALC erred in summarily~~

dismissing his Appeal Section 1-23-600 of the S.C. Code

Additionally Appellant challenges the enforcement of the Policy

that Form ~~the~~ 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

A Judication SCDC State created liberty interest State

v. Daniels 65 SE2d 236 under false pretenses S.C. order

2016

~~2021~~ 2021

December 7

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 makes 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

State 31456433 Tax v State SC00 759 V SC00 759 SE2D 714
24-13-40 State v Buggs 696 SE2D 597 TAWT v SC00 759-SE2D 714

Conclusion

Wherefore For all the reasons the Court should Grant Appellant Appeal S.C. order 0016

Respectfully Submitted
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DATE: ~~December 7 2021~~
December 7 2021

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM ADMINISTRATIVE LAW COURT

ADMINISTRATIVE LAW JUDGE S. PHILIP LEASKI

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

Appellate Case No 2021 - 000879

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SC Court of Appeals

James Anthony Primus 252315

Appellant

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.

12-7-2021

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