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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

ALC Case No. 21-ALJ-04-0165-AP
Appellate Case No. 2021-001379

James Anthony Primus, #252315.....Appellant,

v.

South Carolina Department of Corrections.....Respondent.

INITIAL BRIEF OF RESPONDENT

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

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TABLE OF CONTENTS

TABLE OF AUTHORITIESii

STATEMENT OF THE ISSUE ON APPEAL1

STATEMENT OF THE CASE2

STANDARD OF REVIEW3

ARGUMENT4

CONCLUSION.....4

TABLE OF AUTHORITIES

CASES

Hendley v. Budget & Control, 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996)..... 3

STATUTES

S.C. Code § 1-23-380 3

S.C. Code § 1-23-610..... 3

STATEMENT OF ISSUE ON APPEAL

APPELLANT'S ARGUMENT IS WHOLLY WITHOUT MERIT AND THIS COURT SHOULD THEREFORE AFFIRM THE DECISION OF THE ADMINISTRATIVE LAW COURT.

STATEMENT OF THE CASE

This matter comes before the Court pursuant to the appeal of James Anthony Primus, an inmate in the custody of the South Carolina Department of Corrections. On December 1, 2020, Appellant filed a Step One Grievance asserting his sentence had been incorrectly calculated because he had not been given jail time credits to which he was entitled. This grievance was investigated and denied when it was determined that Appellant's sentence calculation was correct. Appellant filed a Step Two Grievance on March 5, 2021. This grievance was also investigated and denied. Appellant filed a Notice of Appeal in the Administrative Law Court on April 20, 2021. On November 5, 2021, the Honorable S. Phillip Lenski issued an order affirming the decision of the Department of Corrections. This appeal follows.

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 rights of the petitioner have been prejudiced because the finding, 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.
-

S.C. Code Ann. § 1-23-380(5).

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's 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 administrative agency reached. Hendley v. S.C. State Budget & Control Bd., 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). 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. Id.

ARGUMENT

APPELLANT’S ARGUMENT IS WHOLLY WITHOUT MERIT AND THIS COURT SHOULD THEREFORE AFFIRM THE DECISION OF THE ADMINISTRATIVE LAW COURT.

Appellant’s sole argument to this court is that the Administrative Law Court improperly dismissed his appeal as not implicating a state-created liberty or property interest. As illustrated in the Honorable S. Phillip Lenski’s November 5, 2021 order, that did not happen. The Administrative Law Court did not dismiss Appellant’s claim; instead, it affirmed Respondent’s final agency decision on the merits. As Appellant’s sole argument on appeal is incorrect, Respondent respectfully requests that this Court affirm the decision of the Administrative Law Court.

CONCLUSION

For the foregoing reasons, this Court should affirm.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**



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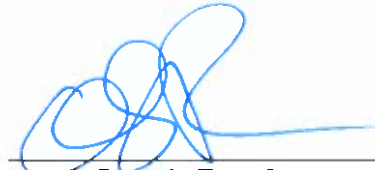
James Anthony Primus, #252315.....Appellant,

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South Carolina Department of Corrections.....Respondent.

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on today's date she mailed a copy of the **Initial Brief of Respondent and Designation of Matter to be Included in the Record on Appeal** to Appellant, addressed as follows: James Anthony Primus, SCDC # 252315, MacDougal Correctional Institution, Dorm-Room-Bunk: B1B-0013-A, 1516 Old Gilliard Road, Ridgeville, SC 29472.



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