

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-ALJ-04-0165-AP

Appellate Case No 2021-001379

James Anthony Primus 252315

Appellant

v

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS RESPONDENT

RECORD ON APPEAL

RECEIVED

MAR 10 2022

SC Court of Appeals

Annie Rumler, Esquire
Office of General Counsel
PO Box 21787
Columbia, SC 29210
Counsel for Respondent

James Anthony Primus 252315
MacDougall Correctional Institute
1816 Old Gilliard Road

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Indictment charges ABWIK is Fraudulent

47



SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Safety, Service, and Stewardship

HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

July 15, 2021

The Honorable Sebastien Phillip Lenski
South Carolina Administrative Law Court
Edgar A. Brown Building, Suite 224
1205 Pendleton Street
Columbia, South Carolina 29201

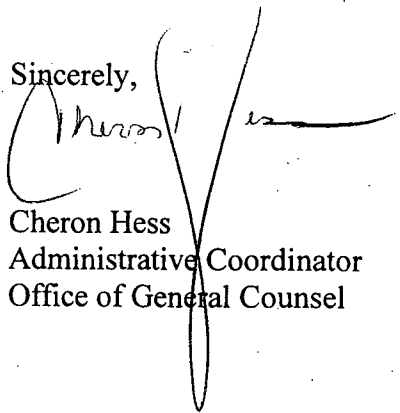
Reference: Inmate James A. Primus, #252315, vs. SCDC
Docket No(s). 21-ALJ-04-0164-AP & 21-ALJ-04-0165-AP

Dear Judge Sebastien Phillip Lenski:

Find the enclosed **Record on Appeal** for the above referenced case. The Record for this case, relating to Inmate Grievance(s) MACCI 6-21 and MACCI 128-20, consists of the Inmate Grievance Form(s) and other supporting documents.

Please file the original and return a clocked-in copy of the cover letter in the enclosed self-addressed envelope. If you have any questions or concerns, do not hesitate to contact me at (803) 896-3922.

Sincerely,



Cheron Hess
Administrative Coordinator
Office of General Counsel

Enclosures

cc: Inmate James A. Primus, #252315
File

MAR 08 2021

STEP 2

Office Use Only

RECEIVED
 INMATE NAME: JAMES ANTHONY PRIMUS
 SCDC NUMBER: 252315
 INSTITUTION: MACDOUGALL
 HOUSING UNIT: _____
 WORK ASSIGNMENT: _____

Grievance No. MACCT 0006-21
 Code: General _____
 Policy _____
 Disc. Hear. _____
 Class ✓
 PREA _____
 Date Received: 3/08/2021
 IGC Initials: AP
 Date Received: _____
 IGA Initials: _____

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

Inmate Records For SCDC is responsible for the errors contain in my record which is numerous from the admittance 9-2-1988 in which should of been corrected by Dorchester County Sheriff office

Grievant Signature James Primus Date 3 5 2021

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

Primus, Anthony 252315

MacD-0006-21

I have reviewed your concern. In your grievance you stated that jail time credits have not been calculated into your incarcerated sentence. The Warden responded to your concern on SCDC Step 1 Inmate Grievance Form 10-5 dated 3/4/21. Your projected release date as of 3/16/21 is 1/1/28. You have 3,043 days of Earned Work Credits and 8,521 days of Total Service. You have been given all the credits which you are entitled. You may confer with a Classification Caseworker should you have more concerns regarding your service time. You have not shown that SCDC Staff have failed to perform their job duties properly.

Therefore, your grievance is resolved.

You may appeal this decision under the South Carolina Administrative Procedures Act to the South Carolina Administrative Law Court. In order to appeal, you must complete the attached Notice of Appeal Form (Form) and submit it as instructed on the Form within thirty (30) days of receipt.

Responsible Official Signature Gregory McLanden Date 3/24/21

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Grievant Signature

Date

IGC Signature

Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

INMATE GRIEVANCE FORM

MacDougall

JAN 25 2021

STEP 1

JAN 27 2021



INMATE NAME: James Anthony Primus
 SCDC NUMBER: 252315
 INSTITUTION: MacDougall
 HOUSING UNIT: Birch 1 B 13 B
 WORK ASSIGNMENT: CHAPEL

OFFICE USE ONLY
 Grievance No. Mac1 0006-21
 Code: General
 Policy
 Disc. Hear.
 Class.
 PREA
 Date Received 1/27/2021
 IGC Initials AS

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.)

12-22-2021 Inmate Restitution
 kiosk 01827481 on August 14 2020
 officer of General Counsel Imani Diane
 Byas staff attorney S.C.O.C. admitted
 that SCDC did miscalculate James A.
 Primus Jail Time Therefore monetary
 Restitution should not be Applied
 due to Administrative errors

James Anthony Primus 252315
 Grievant Signature Date

January 22 2021

ACTION REQUESTED: The amount of Restitution be
absorbed by SCAC 3293.43 entirely

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

See Warden's Response

M. White 3/1/2021
 IGC Signature Date

(CONTINUE ON REVERSE SIDE)

Inmate Request - General

Today's Date: 1/28/21 11:44

Name: PRIMUS, JAMES A

Booking #: 252315

Permanent #: 252315

Reference #: 20-01587048

Date Requested: 04/22/20 22:45

Request Type: Classification

Requested By: Kiosk

Request Details: I would like to know how much jail time that i have towards my sentence served

Disposition: Complete

Officer:

Disposition Date: 04/27/20 15:26

Request Responses

Date	Author	Note
04/27/20 15:27	c029391	You were not given any jail time credits

Inmate Request - General

Today's Date: 1/28/21 11:44

Name: PRIMUS, JAMES A
Booking #: 252315
Permanent #: 252315

Reference #: 20-01588108
Date Requested: 04/24/20 10:15
Request Type: Inmate Records
Requested By: Kiosk

Request Details: How much jail time that was given to me on my conviction for kidnaping 1997 - GS-18-1046

Disposition: Duplicate

Officer:

Disposition Date: 04/27/20 15:28

Request Responses

Date	Author	Note
04/27/20 15:28	c029391	

Inmate Request - General

Today's Date: 1/28/21 11:44

Name: PRIMUS, JAMES A
Booking #: 252315
Permanent #: 252315

Reference #: 20-01593447

Date Requested: 05/03/20 10:19

Request Type: Inmate Records

Requested By: Kiosk

Request Details: Mr michael strobe i receive and a reply from author #29391 to kiosk request #20 - 01587048 i have in my original trial transcripts judge brown stated given credit for jail time #1997-gs-18-1046 also my sentence sheet also states credit for jail time starting july -15-1997 thru september -7- 1998 i can send you written verification if you need this information for your record so my central record will reflect judge brown court order giving me credit for jail time that i served in jail

Disposition: Complete

Officer:

Disposition Date: 05/04/20 11:19

Request Responses

Date	Author	Note
05/04/20 11:20	c021446	Yes sir your credit starts in July 15, 1997.

Inmate Request - General

Today's Date: 1/28/21 11:44

Name: PRIMUS, JAMES A
Booking #: 252315
Permanent #: 252315

Reference #: 20-01779131
Date Requested: 12/01/20 08:58
Request Type: Classification
Requested By: Kiosk

Request Details: Ms prioleau you stated that my max out on kidnapping is 1-7-2023 how much jail time that i serve in pre trial detention was given to this kidnapping sentence that was court ordered by my sentenceing judge luke n. brown jr. see sentenceing sheet and original trial transcripts where there is and written order granting jail time and a oral prononciation of jail time by judge brown on the record in the original trial transcripts its is and gross error for scdc to start my kidnapping sentence on september 2 -1998 instead of july 15- 1997 as written on sentenceing sheet and trial transcripts states

Disposition: Complete
Officer:
Disposition Date: 12/01/20 14:34

Request Responses

Date	Author	Note
12/01/20 14:35	c029391	Your sentence start date is exactly as you say 7-15-1997.

due date 3/11/21

MacDougall Correctional Inst
Warden's Office

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 2

MAR 08 2021

Office Use Only

RECEIVED

INMATE NAME: JAMES ANTHONY PRIMUS

SCDC NUMBER: 252315

INSTITUTION: MACDOUGALL ✓

HOUSING UNIT: Birch 1 B 13 B

WORK ASSIGNMENT: Chapel

Grievance No. MACC 0128-20

Code: General _____

Policy _____

Disc. Hear. _____

Class _____

PREA _____

Date Received: 3/08/2021

IGC Initials: AP

Date Received: _____

IGA Initials: _____

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

on my screen shot that indicates
Jail Time there is just a lot of zeros
which indicate by my case worker no
Jail Time Applied to my sentence

Grievant Signature James Primus Date 3-5-2021

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

Primus, Anthony 252315

MacD-0128-20

I have reviewed your concern. In your grievance you stated that jail time credits have not been calculated into your incarcerated sentence. The Warden responded to your concern on SCDC Step 1 Inmate Grievance Form 10-5 dated 3/4/21. Your projected release date as of 3/16/21 is 1/1/28. You have 3,043 days of Earned Work Credits and 8,521 days of Total Service. You have been given all the credits which you are entitled. You may confer with a Classification Caseworker should you have more concerns regarding your service time. You have not shown that SCDC Staff have failed to perform their job duties properly.

Therefore, your grievance is resolved.

You may appeal this decision under the South Carolina Administrative Procedures Act to the South Carolina Administrative Law Court. In order to appeal, you must complete the attached Notice of Appeal Form (Form) and submit it as instructed on the Form within thirty (30) days of receipt.

Responsible Official Signature Stacey Ireland Date 3/24/21

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Grievant Signature _____ Date _____

IGC Signature _____ Date _____

(SEE REVERSE SIDE FOR INSTRUCTIONS)

INMATE GRIEVANCE FORM

DEC 02 2020

STEP 1

DEC 06 2020

INMATE NAME: <u>James Anthony Primus</u>	INMATE NO. _____	GRIEVANCE OFFICE USE ONLY
SCDC NUMBER: <u>252315</u>		Grievance No. <u>MACC 012820</u>
INSTITUTION: <u>MAC Dougall</u>		Code: General _____
HOUSING UNIT: <u>CHATEAU Birch 1</u>		Policy _____
WORK ASSIGNMENT: <u>Chapel</u>		Disc. Hear. _____
		Class. <input checked="" type="checkbox"/>
		PREA _____
		Date Received <u>12/08/2020</u>
		IGC Initials <u>EW</u>

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.)

kiosk 20-01778330 12-1-2020

Why there is not any jail time applied to the kidnapping sentence? sentence sheet reflect jail time

James Anthony Primus
 Grievant Signature Date 12-1-20

ACTION REQUESTED:

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

see Warden's response

M. White 2/22/2021
 IGC Signature Date

(CONTINUE ON REVERSE SIDE)

WARDEN'S DECISION AND REASON:

Inmate Primus, James 252315:

MacCI 0128-20

I have reviewed your grievance. In your grievance you questioned why there is no Jail Time applied the kidnapping conviction on your sentence. You further state that your sentencing sheet reflects Jail time. Your concern has been discussed with you on more than one occasion. Additionally, your convictions have been audited by the Inmate Records Office and your Jail Time is correct. You are currently serving a consecutive sentence, and once your current sentence is complete and you begin your new sentence, you may see a change in your time that you are looking towards.

Therefore, your grievance is resolved.

If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, by placing your Step 2, SCDC Form 10-5A provided to you, in the Grievance Box at your local correctional institution.

W McTELL 3/4/21
Warden Signature Date

- I accept the Warden's decision and consider the matter closed.
- I do not accept the Warden's decision and wish to appeal.

James Primus 3 5 21
Grievant Signature Date

[Signature] 3/5/21
IGC Signature Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form or Kiosk reference number to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form by placing it in the Grievance Box at your institution within eight (8) working days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) working days of the hearing/review. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, by placing your Step 2 appeal form in the Grievance Box at your institution.

CMTI100D
OMCOMITA

SCDC OFFENDER MANAGEMENT SYSTEM
COMMITMENT APPLICATION
CONVICTION SUMMARY

07/12/21
C052640

SCDC# > 252315
PRIMUS, JAMES A

CURR LOC: MACDOUGA
SCDC CLASSIFICATION...: VIOLENT

OFFENDER TYPE: ADULT-STRAIGHT SENTENCE

NUM	CONVICTION OFFENSE	INCARC YRS MO	SENT DYS	SENT DATE	SENT START	PROJ COMP	CONV VIO STAT IND
S00001	KIDNAPPING	030 00	000	09/01/98	07/15/97	01/07/2023	AC V V
* S00002	ASSL&BATTERY-HIGH&AG	010 00	000	09/01/98	07/15/97	01/01/2028	AC N N

PAGE: 0001

MAKE A SELECTION AND PRESS <ENTER>...

PF3-ADD PF4-MODIFY/RVK PF5-ADD DUPL PF6-DISP CONSEC PF9-DETAIN PF12-SUMRPT

CMTI200D SCDC OFFENDER MANAGEMENT SYSTEM 07/12/21
 OMCOMITA COMMITMENT APPLICATION C052640
 SCDC #: 252315 INQUIRY CURR LOC: MACDOUGA
 PRIMUS, JAMES A NONCONFORM SENT: N RTRN TO COURT: N
 OFFENDER TYPE: ADULT-STRAIGHT SENTENCE
 CONVICTION NUM: S00001 INDICT NUM: 97-GS-181046 WARRANT NUM: E091999
 DATE SENTENCED...: 09/01/1998 JUDGE LAST...: BROWN FI: L
 STATUTE: CDR CODE.: 0095 GPS IND: N
 OFFENSE: 1000 KIDNAPPING OFFENSE DATE: 07/13/1997
 CHARACT: F FACILITATION OF COUNTS: 01 OFFENSE CNTY: 18 DORCHESTER
 PLEA...: N NOT GUILTY TYPE OF COURT...: 01 GENERAL SESSIO
 TYPE SENTENCE... : S ADULT-STRAIGHT SCDC JURIS DATE...: 07/15/1997
 TOTAL SENTENCE...: 030 00 000 MAND SERV REQMT...: 025 06 000
 INCARC SENTENCE...: 030 00 000 PAROLE FACTOR...: 2 1/3 SENT. REQ.
 PROBATION SENT...: 000 00 000 PAROLE SERV REQMT: 999 99 999
 HIP SENT...: 000 00 000 HAYES CRED: 00000
 RESTITUTION REQMT: N AMT: .00 JAIL CRED: 00000 EXTRA CRED: 00000
 CONVICTION STATUS: AC ACTIVE SENT START DATE: 07/15/1997 DOM.IND: Y
 CONSECUTIVE IND...: N SPOUSE ABUSE: STATUTE CLASS: VIOLENT
 DNA OFFENSE IND...: Y EEC ELIG: Y DEATH UTERO: SCDC CLASS...: VIOLENT
 SEX REG: Y PRED OFF: N LAST UPDATE: A CARSON DATE: 11/30/20
 NO PAROLE: NO PAROLE CREATED BY.: R SPAIN DATE: 09/03/98

PF8-NEXT CONVICTION

PF9-DETAIN

PF4-RESTITUTION PAID(FA ONLY)

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

STATE VS.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE #:

97 -GS- 1046

A/W#: E 091999

Date of Offense: 7-13-97

S.C. CODE §: 16-3-910

CDR Code #: 95

SENTENCE

PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

to kidnapping

of the S.C. Code of Laws, bearing CDR Code # 95

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS

As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury

Without Negotiations or Recommendation Negotiated Sentence

Recommendation by the State

Defendant

William [Signature]
Attorney for Defendant

Defendant is committed to the State Department of Corrections, County Detention Center,
or Under Voluntary Offender Act for a term of 30 days/months/years and/or to pay a fine of \$ _____,
provided the sentence be suspended upon the service of _____ days/months/years and/or payment of \$ _____,
plus costs and assessments as applicable; the balance suspended with probation for _____
months/years.

CONCURRENT or CONSECUTIVE to sentence on:

SPECIAL CONDITIONS:

RESTITUTION Heard, Waived, Ordered

PTUP

Total \$ _____

_____ days/hours Public Service Employment

Pay Terms: _____

Obtain GED

Recipient: _____

Attend Voc Rehab. or Job Corps

May serve W/E beginning _____

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

Other: Order for good time

Other: Parole July 15, 1998

PRESIDING JUDGE

Sentence Date: 09-1-98

Judge Code: 090

SCCA/217 (12/97)

CMTI200D SCDC OFFENDER MANAGEMENT SYSTEM 07/12/21
 OMCOMITA COMMITMENT APPLICATION C052640
 SCDC #: 252315 INQUIRY CURR LOC: MACDOUGA
 PRIMUS, JAMES A NONCONFORM SENT: N RTRN TO COURT: N
 OFFENDER TYPE: ADULT-STRAIGHT SENTENCE
 CONVICTION NUM: S00002 INDICT NUM: 97-18-1045 WARRANT NUM: E091998
 DATE SENTENCED...: 09/01/1998 JUDGE LAST...: BROWN FI: L
 STATUTE: CDR CODE.: 0013 GPS IND: N
 OFFENSE: 1317 ASSLT&BATTERY-HIGH&AGG NAT OFFENSE DATE: 07/13/1997
 CHARACT: F FACILITATION OF COUNTS: 01 OFFENSE CNTY: 18 DORCHESTER
 PLEA...: N NOT GUILTY TYPE OF COURT...: 01 GENERAL SESSIO
 TYPE SENTENCE... : S ADULT-STRAIGHT SCDC JURIS DATE...: 07/15/1997
 TOTAL SENTENCE...: 010 00 000 MAND SERV REQMT...: 000 00 000
 INCARC SENTENCE...: 010 00 000 PAROLE FACTOR...: 1 1/4 SENT. REQ.
 PROBATION SENT...: 000 00 000 PAROLE SERV REQMT: 000 00 000
 HIP SENT.....: 000 00 000 HAYES CRED: 00000
 RESTITUTION REQMT: N AMT: .00 JAIL CRED: 00000 EXTRA CRED: 00000
 CONVICTION STATUS: AC ACTIVE SENT START DATE: 07/15/1997 DOM.IND:
 CONSECUTIVE IND...: Y SPOUSE ABUSE: STATUTE CLASS: NON-VIOLENT
 DNA OFFENSE IND...: Y EEC ELIG: Y DEATH UTERO: SCDC CLASS...: NON-VIOLENT
 SEX REG: N PRED OFF: N LAST UPDATE: M STOBBER DATE: 10/03/17
 NO PAROLE: NOT APPLIC CREATED BY.: R SPAIN DATE: 09/03/98

PF8-NEXT CONVICTION

PF9-DETAIN

PF4-RESTITUTION PAID(FA ONLY)

CMTI700M SCDC OFFENDER MANAGEMENT SYSTEM 07/12/21
 CMTI700D COMMITMENT APPLICATION C052640
 SCDC# > 252315 COMPLETED SCDC PRIORS
 PRIMUS, JAMES A CURR LOC: MACDOUGA
 OFFENDER TYPE: ADULT-STRAIGHT SENTENCE SCDC CLASSIFICATION...: VIOLENT

NUM	C S	A E	T X	CONV	OFFENSE	YRS	MO	DYS	DATE	SENT	START	PROJ	COMP	STAT	IND
00142691															
S00001	2	N			UNAUTHORIZED	001	00	000	08/21/87	08/21/87	/	/		CO	N N
00184810															
S00002	2	N			VEHICLE THEFT	000	03	000	01/28/92	09/21/91	11/21/1991			CO	N N
S00001	2	N			FAIL TO STOP	008	00	000	01/28/92	09/21/91	10/03/1995			PA	N N

PAGE: 0001

MAKE A SELECTION AND PRESS <ENTER>...
 PF4-MODCONV PF6-NON-SCDC PRIORS

DISI100D

SCDC OFFENDER MANAGEMENT SYSTEM
DISCIPLINARY SYSTEM

07/12/21
C052640

SCDC ID: 252315

DISPLAY INMATE OFFENSE HISTORY

PRIMUS, JAMES A

CURR LOC: MACDOUGALL

OFFENDER TYPE: ADULT-STRAIGHT

PURCHASED TV
SERIOUS MENTAL ILLNESS: N

CASE#	OFFENSE DESCRIPTION	TYPE ACTION	OFFENSE DATE	HEARING DATE	NET GT LOST	DHO DECISION	OFF LVL
00007	DISRESPECT	ADMINIST	04/08/13	04/16/13	00000	CONVICTED	3
00005	INTERFERING WITH COUN	ADMINIST	06/01/06	/ /	00000	CONVICTED	3
00004	OUT OF PLACE	OTHER AC	12/27/02	/ /	00000	CLOSED	3
00003	REFUSING TO WORK	OTHER AC	10/08/01	/ /	00000	CLOSED	3
00002	REFUSING OR FAILING O	MINOR DI	09/21/01	09/28/01	00000	CONVICTED	3
00001	FIGHTING WITHOUT A WE	MAJOR DI	04/21/01	04/30/01	00000	CONVICTED	3

END OF LIST

PAGE 0001

SELECT A RECORD AND PRESS <ENTER> TO DISPLAY OR <PF04> TO MODIFY

PF4-MODIFY PF6-DISMISSED/NOT GUILTY

PF11-QUIT PF10-MAIN MENU

**STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT**

James A. Primus, #252315,)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)
 _____)

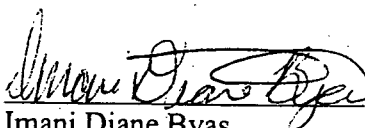
Docket No.: 21-ALJ-04-0165-AP
Grievance No.: MACCI 128-20

Hon. S. Phillip Lenski

**RESPONDENT'S MOTION TO
SUPPLEMENT THE RECORD**

Respondent, by and through the undersigned attorney, respectfully requests to supplement the Record filed on July 15, 2021. The sentencing sheets included in the record are not the most current sentencing sheets. Respondent received updated sentencing sheets for both of Appellant's sentencing sheet. Appellant's updated sentencing sheet for Assault and Battery of a High and Aggravated Nature was updated to reflect a trial instead of a plea. The sentencing sheet for the Kidnapping offense was updated to reflect Appellant to receive jail time credit from 1997 instead of 1998. Respondent respectfully requests this Court allow the Record to be supplemented with the documents listed above and included herein to correct the record.

Respectfully submitted,



Imani Diane Byas
Staff Attorney
S.C. Department of Corrections
4444 Broad River Road Columbia,
Columbia, South Carolina 29221
(803) 896-8508

August 16, 2021
Columbia, South Carolina

~~209~~ 17

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

STATE VS.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE #:

CERTIFIED COPY
2000 MAR 13 PM 5:00

97 -GS- 18 - 1046

252315

James L. Primus
AKA: James L. Primus

Race: [redacted] Sex: [redacted] CLERK OF COURT
DOB: [redacted] Age: [redacted] DORCHESTER COUNTY

SSN: [redacted]

DL#: [redacted]

SID#: [redacted]

A/W#: E091999
Date of Offense: 7-13-97
S.C. CODE §: 16-3-910
CDR Code #: 95

SENTENCE

PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: kidnapping

in violation of § _____ of the S.C. Code of Laws, bearing CDR Code # 95

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

The plea is: Without Negotiations or Recommendation Negotiated Sentence

Recommendation by the State

ATTEST:

Margaret H. Deal
Solicitor

Defendant

William Remy
Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, or Under Youthful Offender Act for a term of 30 days/months/years and/or to pay a fine of \$ _____; provided the sentence be suspended upon the service of _____ days/months/years and/or payment of \$ _____ plus costs and assessments as applicable*; the balance suspended with probation for _____ months/years.

CONCURRENT or CONSECUTIVE to sentence on: _____

SPECIAL CONDITIONS:

RESTITUTION Heard, Waived, Ordered

Total: \$ _____

Pay Terms: _____

Recipient: _____

- PTUP
- _____ days/hours Public Service Employment
- Obtain GED
- Attend Voc Rehab. or Job Corps
- May serve W/E beginning _____
- Substance Abuse Counseling
- Random Drug/Alcohol Testing
- Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
- Other: credit for good time
- Other: credit for good time

*Finc.....	\$	_____
§14-1-206 - Assessments 100%.....	\$	_____
§14-1-211 - Surcharge.....	\$	<u>100.00</u>
(Exceptions: See §14-1-211)		
§56-5-2995 (DUI).....	\$	_____
TOTAL.....	\$	<u>100.00</u>

Deal S. Howard
Clerk of Court/Deputy Clerk

Court Reporter: Neil

PRESIDING JUDGE
Sentence Date: 09-1-98

Judge Code: 090

SCCA/217 (12/97)

TOTAL P.02

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE #:

CERTIFIED COPY

97-GS-18-1045

#252315
Sto. Bar

STATE VS.

2014 JUN 11 AM 11:37

James A. Primus
AKA _____
Race: _____ Sex: _____
DOB: _____ Age: _____
SSN: _____
DL#: _____
SID#: _____

A/W#: E 091778
Date of Offense: 7-13-97
S.C. CODE §: 16-3-652
CDR Code #: 113

CLERK OF COURT
DORCHESTER COUNTY

SENTENCE
 TRIAL 6-11-14

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Assault & Battery of a High and Dangerous Nature

In violation of § _____ of the S.C. Code of Laws, bearing CDR Code # 113

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury

The plea is: Without Negotiations or Recommendation Negotiated Sentence

Recommendation by the State

ATTEST:

Margaret + [Signature]
Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
or Under Youthful Offender Act for a term of 10 days/months/years and/or to pay a fine of \$ _____;
provided the sentence be suspended upon the service of _____ days/months/years and/or payment of
\$ _____ plus costs and assessments as applicable*; the balance suspended with probation for _____
months/years.

CONCURRENT or CONSECUTIVE to sentence on: 97-GS-18-1046

SPECIAL CONDITIONS:

RESTITUTION Heard, Waived, Ordered

Total: \$ _____

Pay Terms: _____

Recipient: _____

- FTIP
- _____ days/hours Public Service Employment
- Obtain GED
- Attend Voc Rehab. or Job Corps
- May serve W/E beginning _____
- Substance Abuse Counseling
- Random Drug/Alcohol Testing
- Fine may be pd. in equal, consecutive weekly/monthly
prts. of \$ _____ beginning _____

*Fine _____ \$
 §14-1-205 - Assessments 100% _____ \$
 §14-1-211 - Surcharge _____ \$ 100.00
 (Exceptions: See §14-1-211)
 §56-5-2995 (DUI) _____ \$
 TOTAL _____ \$ 100.00

Other: Credit for time served since July 25, 1997

Deal [Signature]
Clerk of Court/Deputy Clerk

PRESIDING JUDGE
Sentence Date: 9-1-98

Court Reporter: R. Keil

Judge Code: 090

SCCA/217 (12/97)

**STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT**

James A. Primus, #252315,)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)

Docket No.: 21-ALJ-04-0165-AP
 Grievance No.: MACCI 128-20

Hon. S. Phillip Lenski

**RESPONDENT'S MOTION TO
SUPPLEMENT THE RECORD**

Respondent, by and through the undersigned attorney, respectfully requests to supplement the Record filed on July 15, 2021. The sentencing sheets included in the record are not the most current sentencing sheets. Respondent received updated sentencing sheets for both of Appellant's sentencing sheet. Appellant's updated sentencing sheet for Assault and Battery of a High and Aggravated Nature was updated to reflect a trial instead of a plea. The sentencing sheet for the Kidnapping offense was updated to reflect Appellant to receive jail time credit from 1997 instead of 1998. Respondent respectfully requests this Court allow the Record to be supplemented with the documents listed above and included herein to correct the record.

GRANTED

[Signature]

S. Phillip Lenski
 SC Administrative Law Judge

August 17, 2021
 Date

Respectfully submitted,

[Signature]
 Imani Diane Byas
 Staff Attorney
 S.C. Department of Corrections
 4444 Broad River Road Columbia,
 Columbia, South Carolina 29221
 (803) 896-8508

August 16, 2021
 Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States Mail, postage paid, or in the interagency Mail Service addressed to the party(ies) or their attorney(s).
 This 17 day of August 2021
 by: [Signature]
 Judicial Law Clerk

The State of South Carolina
FILED
 AUG 17 2021
 Administrative Law Court

107 20



SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Safety, Service, and Stewardship

HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

September 28, 2021

The Honorable S. Phillip Lenski
South Carolina Administrative Law Court
Edgar A. Brown Building, Suite 224
1205 Pendleton Street
Columbia, South Carolina 29201

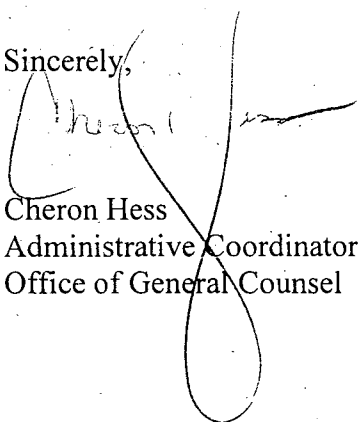
Reference: Inmate James A. Primus, #252315, vs. SCDC
Docket No. 21-ALJ-04-0165-AP

Dear Judge Lenski:

Find enclosed an original and one copy of the *Respondent's Supplemental Brief and Motion To Supplement the Record* on the above referenced case. Please file the original in your office and return a clocked-in copy to me in the enclosed self-addressed envelope.

If you have any questions or concerns, please do not hesitate to contact me at (803) 896-3922.

Sincerely,


Cheron Hess
Administrative Coordinator
Office of General Counsel

Enclosures

~~cc: Inmate James A. Primus, #252315~~

File

13:40:26 Tuesday, September 28, 2021

DISI100D

SCDC OFFENDER MANAGEMENT SYSTEM
DISCIPLINARY SYSTEM

09/28/21
C058106

SCDC ID: 252315

DISPLAY INMATE OFFENSE HISTORY

PRIMUS, JAMES A

CURR LOC: MACDOUGALL

OFFENDER TYPE: ADULT-STRAIGHT

PURCHASED TV
SERIOUS MENTAL ILLNESS: N

CASE#	OFFENSE DESCRIPTION	TYPE ACTION	OFFENSE DATE	HEARING DATE	NET GT LOST	DHO DECISION	OFF LVL
00007	DISRESPECT	ADMINIST	04/08/13	04/16/13	00000	CONVICTED	3
00005	INTERFERING WITH COUN	ADMINIST	06/01/06	/ /	00000	CONVICTED	3
00004	OUT OF PLACE	OTHER AC	12/27/02	/ /	00000	CLOSED	3
00003	REFUSING TO WORK	OTHER AC	10/08/01	/ /	00000	CLOSED	3
00002	REFUSING OR FAILING O	MINOR DI	09/21/01	09/28/01	00000	CONVICTED	3
00001	FIGHTING WITHOUT A WE	MAJOR DI	04/21/01	04/30/01	00000	CONVICTED	3

END OF LIST

PAGE 0001

SELECT A RECORD AND PRESS <ENTER> TO DISPLAY OR <PF04> TO MODIFY

PF4-MODIFY PF6-DISMISSED/NOT GUILTY

PF11-QUIT PF10-MAIN MENU

21

EWCI100D SCDC OFFENDER MANAGEMENT SYSTEM 09/27/21
 EWCI100M EARNED WORK CREDIT ASSIGNMENT C058106
 OMEWCA HISTORY OF EWC ASSIGNMENTS
 SCDC #> 252315 CURR LOC.....: MACDOUGALL
PRIMUS, JAMES A POP ASSIGN....: ME
 OFFENDER TYPE: **ADULT-STRAIGHT SENTENCE** CUSTODY LIMITATIONS...: Y
 ASSIGNMENT....: **8005 CHAPEL**

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL	DYS	EWC F/P	TOT EWC
CUSTODIAL WORKER	02/18/20			2	5	F	0.000
CUSTODIAL WORKER	04/26/16	02/17/20	POLICY CHANGE	2	3	5 F	331.666
CUSTODIAL WORKER	04/16/13	04/20/16	INSTIT TRANSFER	3	5	F	262.142
HORTICULTURE TRAINEE	01/31/13	04/15/13	DISCIPLINARY/LO	3	5	F	17.857
CUSTODIAL WORKER	12/09/10	01/30/13	INMATE REQUEST	3	5	F	186.666
LAUNDRY HELPER	09/28/10	12/08/10	INMATE REQUEST	3	5	F	17.142
CUSTODIAL WORKER	07/01/10	09/27/10	PROMOTION	3	5	F	21.190
WARDKEEPER	03/27/09	06/29/10	INSTIT TRANSFER	3	5	F	109.523
MATERIAL HANDLING EQ	01/31/08	03/24/09	INSTIT TRANSFER	3	5	F	99.761
BAKER	10/18/07	01/30/08	INMATE REQUEST	3	5	F	25.000
FOOD SERVICE AIDE	08/14/07	10/17/07	LATERAL TRANSFE	3	5	F	15.476
MACHINE OPERATOR	01/16/07	08/13/07	INMATE REQUEST	3	5	F	50.000

PAGE.> 0001

PF3:ASSIGN EWC PF4:MODIFY EWC PF5:TERMINATE EWC PF6:HDQS ADD EWC

2 2

EWCI100D SCDC OFFENDER MANAGEMENT SYSTEM 09/27/21
 EWCI100M EARNED WORK CREDIT ASSIGNMENT C058106
 OMEWCA HISTORY OF EWC ASSIGNMENTS
 SCDC #> 252315 CURR LOC.....: MACDOUGALL
 PRIMUS, JAMES A POP ASSIGN....: ME
 OFFENDER TYPE: ADULT-STRAIGHT SENTENCE CUSTODY LIMITATIONS...: Y
 ASSIGNMENT....: 8005 CHAPEL

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL	EWC DYS	F/P	TOT EWC
FOOD SERVICE AIDE	10/31/06	01/15/07	INMATE REQUEST	3	5	F	18.333
GENERAL WORKER	10/14/06	10/30/06	INMATE REQUEST	3	5	F	4.047
MECHANIC HELPER	10/04/06	10/12/06	INSTIT TRANSFER	3	5	F	2.142
MECHANIC HELPER	06/22/06	10/03/06	INSTIT TRANSFER	3	5	F	24.761
MECHANIC HELPER	08/06/04	06/21/06	INSTIT TRANSFER	3	5	F	163.095
MECHANIC HELPER	04/30/04	08/03/04	COURT	3	5	F	22.857
MECHANIC HELPER	01/14/04	04/29/04	INSTIT TRANSFER	3	5	F	25.476
MECHANIC HELPER	03/12/03	01/08/04	INSTIT TRANSFER	3	5	F	72.142
CUSTODIAN HELPER	11/12/02	03/11/03	INMATE REQUEST	3	5	F	28.571
HORTICULTURE TRAINEE	07/17/01	11/05/02	INSTIT TRANSFER	3	5	F	113.571
SHIPP & RECEIVING CLE	10/06/00	04/22/01	PLACED IN ST/SP	3	5	F	47.380
LANDSCAPE LABORER	09/25/99	10/05/00	INMATE REQUEST	3	5	F	89.761

PAGE.> 0002

PF3:ASSIGN EWC PF4:MODIFY EWC PF5:TERMINATE EWC PF6:HDQS ADD EWC

23

EWC1100D SCDC OFFENDER MANAGEMENT SYSTEM 09/27/21
 EWC1100M EARNED WORK CREDIT ASSIGNMENT C058106
 OMEWCA HISTORY OF EWC ASSIGNMENTS
 SCDC #> 252315 CURR LOC.....: MACDOUGALL
PRIMUS, JAMES A POP ASSIGN...: ME
 OFFENDER TYPE: **ADULT-STRAIGHT SENTENCE** CUSTODY LIMITATIONS...: Y
 ASSIGNMENT...: **8005 CHAPEL**

JOB	START	END	TERMINATION	JOB	EWC	TOT	
DESCRIPTION	DATE	DATE	REASON	LVL	DYS	F/P	EWC
CUSTODIAL WORKER	04/01/99	09/24/99	INMATE REQUEST	3	5	F	42.142

PAGE.> 0003

PF3:ASSIGN EWC PF4:MODIFY EWC PF5:TERMINATE EWC PF6:HDQS ADD EWC

24

EECI230D

SCDC OFFENDER MANAGEMENT SYSTEM
EARNED WORK/EDUC CREDIT ASSIGNMENT
HISTORY OF EEC ASSIGNMENTS

09/27/21
C058106

SCDC #> 252315
PRIMUS, JAMES A

CURR LOC.....: MACDOUGALL
POP ASSIGN...: ME
CUSTODY LIMITATIONS...: Y

OFFENDER TYPE: ADULT-STRAIGHT SENTENCE
ASSIGNMENT...: 8005 CHAPEL

EEC	DESCRIPTION	START DATE	END DATE	TERMINATION REASON	CREDIT
	BONUS 4-7 HRS/WK	09/01/04	06/21/06	INSTIT TRANSFER	0038
	BONUS 4-7 HRS/WK	08/11/03	01/08/04	INSTIT TRANSFER	0009

PAGE.> 0001

MAKE A SELECTION AND PRESS <ENTER>...

PF3: ASSIGN EEC PF4: MODIFY EEC PF5: TERMINATE EEC PF6: HDQS ADD EEC

25

27

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

James A. Primus, #252315,)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)

Docket No.: 21-ALJ-04-0165-AP

**ORDER FOR SUPPLEMENTAL
BRIEF**

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed by James A. Primus (Appellant), an inmate in the custody of the South Carolina Department of Corrections (Respondent or Department). After the Appellant's Step 1 and Step 2 Grievances were denied, the Appellant filed a Notice of Appeal with this court on April 21, 2021. The Appellant is appealing the Department's denial of his grievance in which the Appellant alleges that the Department has not applied any time jail credit to his kidnapping sentence. The Department filed the Record on Appeal on July 16, 2021 and the case has been briefed by the parties.

Upon further review of the file, the court is unable to ascertain how the Department arrived at its decision in this case, and is therefore unable to provide a meaningful review of the issue presented. Specifically, the Department should address whether any of the Appellant's 3,043 days of Earned Work Credits has been applied to his sentence and how the Department arrived at the Appellant's projected release date of January 1, 2028. Without this information, the court cannot determine whether the Department's calculations are correct. Based upon the foregoing,

IT IS HEREBY ORDERED that the Department shall supplement its brief with the above information within fifteen (15) days from the date of this order.

The Appellant may submit a response to the Department's supplemental brief within ten (10) days of the its filing.

AND IT IS SO ORDERED.

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States Mail, postage paid, or in the interagency delivery system (South Carolina) or their attorney(s).

This 13th day of September, 2021.
By: [Signature]
Judicial Law Clerk

[Signature]
S. Phillip Lenski
Administrative Law Judge

The State of South Carolina
FILED
SEP 13 2021
Administrative Law Court



**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

James A. Primus, #252315,	)	Docket No.: 21-ALJ-04-0165-AP
	)	Grievance No.: MACCI-0128-21
Appellant,)	
	)	<i>Honorable S. Phillip Lenski</i>
v.)	
)	
South Carolina Department of Corrections,	)	RESPONDENT'S
	)	SUPPLEMENTAL BRIEF
Respondent.)	
_____)	_____

On September 13, 2021, this Court ordered the Respondent to file and serve a supplemental brief addressing “whether any of Appellant’s 3,043 days of Earned Work Credits has been applied to his sentence and how the Department arrived at the Appellant’s projected release date of January 1, 2028.”

The Department has awarded Appellant all sentence credits and deductions to which he has entitled. Where sentence credits have not been allowed, this has been proper. Appellant’s sentence has been correctly calculated.

APPELLANT’S SENTENCE IS CALCULATED CORRECTLY

Overview of Sentence Calculation Process

Sentence calculations consist of two major parts: (1) a mostly backward looking analysis which determines the amount of time an inmate has already actually served and how much he has left to serve and (2) a forward looking analysis which projects how much of their remaining time the inmate will likely actually serve in light of available credits. The cutoff date between these two parts of the sentence calculation is the date on which the inmate’s next sentence cycle will begin. An inmate’s sentence cycle is simply a month’s worth of time that runs from the date on which their sentence began to that date

309 29

in the next month. For example, if an inmate's sentence began on March 30, 2010, and her sentence were to be calculated today, September 28, 2021, her next cycle for purposes of that sentence calculation would begin on September 30, 2021. So the first part of her sentence calculation would determine how much time she had served up to August 30, 2018 and how much she had left to do after that date. The second part of the sentence calculation would determine how much of her time remaining after August 30, 2018 the inmate would likely actually serve in light of the sentence credits available to her.

To determine how much time the inmate has served, the sentence must first be converted from years to days. Then the number of days the inmate has actually served is added to all credits the inmate has earned. This will show how many days the inmate has received credit for up to that point. Then that number is subtracted from the inmate's full sentence to determine how much time that inmate has remaining to serve. The number of days actually served will include any jail time. The inmate's credits will include good time, earned work credits (EWC) and any earned education credits (EEC).

After the number of days the inmate has left to serve has been calculated, the rate at which the inmate will earn credits toward those days is estimated. This estimate is based on the assumption that the inmate will continue to earn EWCs and EECs at the same rate at which they are earning those credits on the date the calculation is completed. These projected credits are then applied to the time the inmate has remaining to serve in order to arrive at the inmate's projected max out date. Lastly, this must then be checked against any mandatory service requirements.

Calculating Appellant's Projected Release Date

Appellant is currently serving a thirty-year sentence for kidnapping. *See* Record, pp. 10-12; Supp. Record, p. 1. On the date he received this sentence he also received a ten-year sentence for Assault and Battery of a High and Aggravated Nature (ABHAN). *See* Record, pp. 10, 15-16; Supp. Record, p. 2. The sentencing judge ordered that the ABHAN sentence is to run consecutively to the Kidnapping sentence. *See* Supp. Record, p. 2. Appellant must complete his Kidnapping sentence before beginning to serve his ABHAN sentence. This means that two separate sentence calculations must be completed in order to find Appellant's projected release date.

Appellant's Sentence for Kidnapping is Correctly Calculated

Appellant is currently serving a thirty-year sentence for kidnapping. *See* Record, pp. 10-12; Supp. Record, p. 1. Appellant has a 365-day year and earns 30.42 service days a month because he was sentenced after 1996. S.C. Code § 24-13-175. This means his kidnapping sentence converted into days is 10,950.

Appellant's sentence start date is July 15, 1997 because the sentencing judge wrote on his sentencing sheets that he is entitled to credit beginning on this date. *See* Record, pp. 12 & 14; Supp. Record, pp. 1 & 2. Based on this date, Appellant's monthly sentence cycles begin on the 15th of each month. The beginning of Appellant's next monthly sentence cycle is October 15, 2021. July 15, 1997 through October 14, 2021, the end of his current cycle, is 24 years and three months. Converted to days, using Appellant's 365 year and 30.42 month, this is 8,851.26 days of actual time served on his kidnapping sentence.

To calculate how many good time credits Appellant has earned thus far, the rate at which Appellant earns good time must first be determined. SC Code § 24-13-100 defines a no parole offense as, in relevant part, “a class A, B, or C felony . . . which is punishable by a maximum term of imprisonment for twenty years or more.” Kidnapping is a felony punishable by up to thirty years. S.C. Code § 16-3-910. This makes it a Class A felony. S.C. Code § 16-1-20(A)(1). Thus, Appellant is serving a no parole sentence. S.C. Code § 24-13-210 states that no parole offenders can earn three days of good time per month if they “faithfully observed all the rules of the institution[.]” As discussed above, Appellant has already served 24 years and three months, or 291 months. If he earned the three days of good time available to him for all 291 of those months, Appellant would have earned 873 days of good time.

However, Appellant has been found guilty of four disciplinary offenses. *See* Second Supp. Record, p. 1. These offenses occurred in April 2001, September 2001, June 2006, and April 2013. *Id.* Because he did not “faithfully observe” all institutional rules in the months he committed those disciplinary offenses, he failed to earn good time for four months which is a total of 12 good time credits. This means Appellant has actually earned 861 good time credits.

SC Code § 24-13-230 grants the Director of The Department of Corrections the discretion to award sentence credits to inmates for working or participating in educational programs. SC Code § 24-13-230(B) states that an inmate serving a no parole sentence may earn earned work credits and earned education credits at a rate of no more than 6 total credits per month and 72 total credits per year. Pursuant to these statutory provisions, SCDC’s Director has established rates at which inmates earn credits for

various job and educational assignments. See SCDC Policy OP-21.09, Inmate Records Plan, sections 12.20 and 12.33. The number of credits an inmate earns for a particular job is based on the job level and the number of days worked per week. All of Appellant's jobs except for his current one were level three jobs which he worked five days per week. His current job is a level two job which he works five days per week. Thus, he earned 0.1972386 credits per day for all of his job assignments.

Appellant's work history is reflected on his History of EWC Assignments page on SCDC's Offender Management System. See Second Supp. Record, pp. 2-4. Unfortunately, SCDC's automated system calculates the number of Earned Work Credits (EWCs) based on the rates for inmates who are not serving no parole sentences. This means that the total credits shown for Appellant are inaccurate. However, this document does correctly show the dates worked, job level, and number of days per week worked.

Appellant worked as a Custodial Worker from April 1, 1999 through September 24, 1999 which is 177 days and earned 34.9112322 credits. See Second Supp. Record, p. 4. Appellant worked as a Landscape Laborer from September 25, 1999 through October 5, 2000 which is 377 days and earned 74.3589522 credits. See Second Supp. Record, p. 3. Appellant worked as a Shipping and Receiving Clerk from October 6, 2000 through April 22, 2001 which is 199 days and earned 39.2504814 credits. *Id.* Appellant worked as a Horticulture Trainee from July 17, 2001 through November 5, 2002 which is 477 days and earned 94.0828122 credits. *Id.* Appellant worked as a Custodian Helper from November 12, 2002 through March 11, 2003 which is 120 days and earned 23.668632 credits. *Id.* Appellant worked as a Mechanic Helper from March 12, 2003 through January 8, 2004 which is 303 days and earned 59.7632958 credits. *Id.* Appellant worked

as a Mechanic Helper from January 14, 2004 through April 29, 2004 which is 107 days and earned 21.1045302 credits. *Id.* Appellant worked as a Mechanic Helper from April 30, 2004 through August 3, 2004 which is 96 days and earned 18.9349056 credits. *Id.* Appellant worked as a Mechanic Helper from August 6, 2004 through June 21, 2006 which is 685 days and earned 135.108441 credits. *Id.* Appellant worked as a Mechanic Helper from June 22, 2006 through October 3, 2006 which is 104 days and earned 20.5128144 credits. *Id.* Appellant worked as a Mechanic Helper from October 4, 2006 through October 12, 2006 which is 9 days and earned 1.7751474 credits. *Id.* Appellant worked as a General Worker from October 14, 2006 through October 30, 2006 which is 17 days and earned 3.3530562 credits. *Id.* Appellant worked as a Food Service Aide from October 31, 2006 through January 15, 2007 which is 77 days and earned 15.1873722 credits. *Id.*

Appellant worked as a Machine Operator from January 16, 2007 through August 13, 2007 which is 210 days and earned 41.420106 credits. *See* Second Supp. Record, p. 2. Appellant worked as a Food Service Aide from August 14, 2007 through October 17, 2007 which is 65 days and earned 12.820509 credits. *Id.* Appellant worked as a Baker from October 18, 2007 through January 30, 2008 which is 105 days and earned 20.710053 credits. *Id.* Appellant worked in Material Handling from January 31, 2008 through March 24, 2009 which is 419 days and earned 82.6429734 credits. *Id.* Appellant worked as a Wardkeeper from March 27, 2009 through June 29, 2010 which is 460 days and earned 90.729756 credits. *Id.* Appellant worked as a Custodial Worker from July 1, 2010 through September 27, 2010 which is 89 days and earned 17.5542354 credits. *Id.* Appellant worked as a Laundry Helper from September 28, 2010 through December 8,

2010 which is 72 days and earned 14.2011792 credits. *Id.* Appellant worked as a Custodial Worker from December 9, 2010 through January 30, 2013 which is 784 days and earned 154.6350624 credits. *Id.* Appellant worked as a Horticulture trainee from January 31, 2013 through April 15, 2013 which is 74 days and earned 14.792895 credits. *Id.* Appellant worked as a Custodial Worker from April 16, 2013 through April 20, 2016 which is 1,101 days and earned 217.1596986 credits. *Id.* Appellant worked as a Custodial Worker from April 26, 2016 through February 17, 2020 which is 1,393 days and earned 274.7533698 credits. *Id.*

Appellant earned a total of 1,483.432 earned work credits (EWCs) from all of the above listed work assignments. Beginning on February 17, 2020 Appellant worked as a Custodial Worker, a level two job, five days per week. *See* Second Supp. Record, p. 2. This means he is earning 0.1972386 EWCs per day. *See* SCDC Policy OP-21.09, Inmate Records Plan, section 12.33. February 17, 2020 through October 14, 2021, the end of his current cycle, is 606 days so Appellant has 119.526 EWCs for this job at the end of this cycle. Added to the 1,483.432 credits earned in previous work assignments, this gives Appellant 1,602.958 EWCs at the end of his current cycle. Appellant also earned a total of 47 Earned Education Credits (EECs) during his current sentence. *See* Second Supp. Record, p. 5.

Appellant's 861 days of good time credits, 1,602.958 EWCs and 47 EECs combined is a total of 2,510.958 sentence credits earned thus far. These credits, combined with the 8,851.26 days Appellant has served give Appellant credit for having served 11,362.218 days. This exceeds his 10,950 day sentence. However, as discussed above, Appellant is currently serving a sentence for Kidnapping which is a no parole offense. As

such, Appellant is required by S.C. Code § 24-13-150(A) to serve at least 85% of his sentence. This 85% cannot be reduced by any sentence related credits. Appellant must serve 85% of his 30-year Kidnapping sentence which is 9,307.5 days or approximately 25 years and six months. Appellant's projected completion date for his Kidnapping sentence is January 7, 2023 which is 9,307 days from his sentence start date of July 15, 1997.

Appellant's Sentence for Assault and Battery of a High and Aggravated Nature is Correctly Calculated

Appellant also has a ten-year sentence for Assault and Battery of a High and Aggravated Nature (ABHAN) which his sentencing judge ordered to run consecutively to his Kidnapping sentence. *See* Record, pp. 10, 15-16; Supp. Record, p. 2. Converted to days, this sentence is 3,650 days. Appellant will begin serving this sentence on January 8, 2023, the day after he completes his Kidnapping sentence.

Appellant's start date for his ABHAN sentence will not be impacted by any jail time credit. S.C. Code Ann. § 24-13-40 expressly requires that inmates be given credit for time served prior to trial and sentencing. SCDC has given Appellant full credit for the time he served in jail prior to trial and sentencing by backdating the sentence start date of his Kidnapping sentence. *See* Record, p. 10. By its very nature, a consecutive sentence cannot begin until all prior sentences are completed. When a defendant receives consecutive sentences, the prior sentence(s) and the consecutive sentence(s) are considered one sentence for the purpose of providing jail time credit. Jail time credit is counted once toward the string of sentences. S.C. Code Ann. § 24-13-30 charges SCDC with carrying out S.C. Code Ann. § 24-13-40. As such, the agency's interpretation of this statute is entitled to deference. *Dunton v. S.C. Bd. Exam'rs in Optometry*, 291 S.C. 221, 223, 353 S.E.2d 132, 133 (1987) ("The construction of a statute by the agency charged

with its administration will be accorded the most respectful consideration and will not be overruled absent compelling reasons”).

Additionally, sentence related credits can only be applied to the sentence being served when they were earned. As such, none of the EWCs, EECs, or good time credits Appellant has earned while serving his Kidnapping sentence can be applied to his ABHAN sentence.

To determine how many calendar days it will take Appellant to earn 3,650 days of credits, Appellant’s monthly credit accrual rate must first be determined. As discussed above, Appellant’s actual service days are counted at 30.42 days a month because he was sentenced after 1996. S.C. Code § 24-13-175. Appellant’s ABHAN sentence is not a no parole sentence¹ so he will earn 20 days of good time per monthly cycle in accordance with S.C. Code § 24-13-210(A). If Appellant continues in his current job,² he will earn 10.864285 EWCs per monthly cycle. *See* SCDC Policy OP-21.09, Inmate Records Plan, section 12.20. Combined with his 20 days of good time and 30.42 service days this gives him a monthly accrual rate of 61.284285. Appellant’s 3,650 day sentence divided by this accrual rate is 59.5584985. This means, beginning on January 8, 2023, Appellant will serve 59 complete monthly cycles before completing this sentence. December 7, 2027 will be the last day of the 59th monthly cycles from January 8, 2023. At that time Appellant will have accrued 3,615.772815 days of credits and will have 34.227185 days remaining to complete.

¹ Assault and Battery of a High and Aggravated Nature is now a no parole offense but was not at the time that Appellant committed this offense.

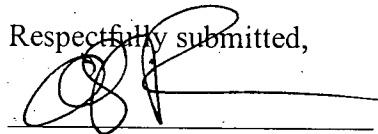
² Sentence calculations are based on the assumption that the inmate will continue earning EWCs and EECs at the same rate they are earning those credits at the time the calculation is completed.

In order to determine how long it will take Appellant to accrue enough credits for these remaining 34.227185 days his daily credit accrual rate must be calculated. In addition to the one day of actual service Appellant will earn each day, he will also earn 0.3571482 days of EWCs each day. See SCDC Policy OP-21.09, Inmate Records Plan, section 12.20. This gives him a daily accrual rate of 1.3571482. At this rate, it will take Appellant 25.2199317 days to earn 34.227185 days of credit. He will begin doing so on December 8, 2027, the day after his last full cycle is complete. January 1, 2028 is 25 calendar days from December 8, 2027.

CONCLUSION

As discussed above, Appellant has been given all jail time and sentences related credits to which he is entitled. Appellant's sentence has been calculated correctly. For the foregoing reasons, the Court should affirm SCDC's final agency decision.

Respectfully submitted,



Annie Laurie Rumler
Deputy General Counsel
S.C. Department of Corrections
4444 Broad River Road
Columbia, South Carolina 29221
(803) 896-8508

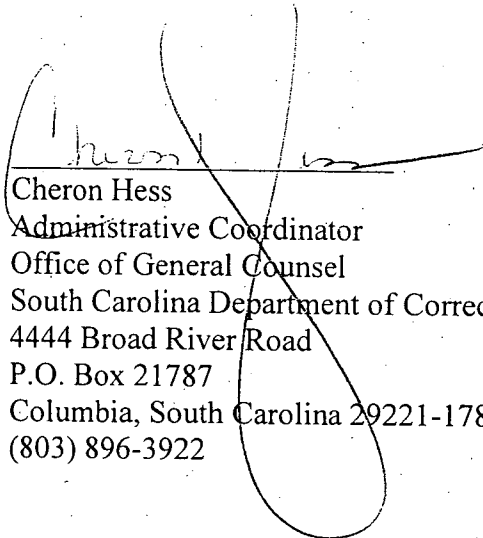
September 28, 2021
Columbia, South Carolina

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

James A. Primus, #252315,)	
)	
Appellant,	)	Certificate of Service
)	
vs.	)	Docket# 21-ALJ-04-0165-AP
)	
South Carolina Department of Corrections,)	
)	
Respondent.)	

I hereby certify that a copy of the foregoing motion was, this date, served upon the following individuals by placing a copy of the same via mail to his/her last known address as follows:

Inmate James A. Primus
Inmate Number: 252315
MacDougall Correctional Institution
Dorm-Room-Bunk: B1B-0013-A


Cheron Hess
Administrative Coordinator
Office of General Counsel
South Carolina Department of Corrections
4444 Broad River Road
P.O. Box 21787
Columbia, South Carolina 29221-1787
(803) 896-3922

August 16, 2021

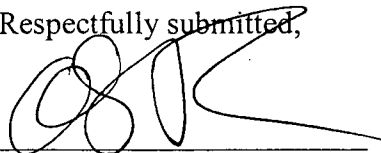
**STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT**

James A. Primus, #252315	)	Docket No.: 21-ALJ-04-0165-AP
	)	[Grievance No.: MACCI 128-20]
Appellant,)	
	)	<i>Hon. S. Phillip Lenski</i>
v.)	
)	
South Carolina Department of Corrections,	)	RESPONDENT'S MOTION TO
	)	SUPPLEMENT THE RECORD
Respondent.)	
)	

This matter is before the South Carolina Administrative Law Court (Court) pursuant to the Notice of Appeal filed by James Primus (Appellant), an inmate currently in the custody of the South Carolina Department of Corrections (Respondent or Department). In Appellant's Step 1 and Step 2 Grievance, Appellant grieved the application of jail time credit. Respondent filed its brief on August 24, 2021. On September 13, 2021, the Court ordered the Department to provide a supplemental brief addressing Appellant's earned work credits and how the Department arrived at a projected release date of January 1, 2028 for Appellant.

In order to fully address these issues, Respondent respectfully requests to supplement the record with Appellant's disciplinary history, earned work credits history, and earned education credits history to fully address the issues. The information contained in the documents is relevant to the issues raised in the September 13, 2021 Order.

Respectfully submitted,



Annie Laurie Rumler
Deputy General Counsel
S.C. Department of Corrections
4444 Broad River Road Columbia,
Columbia, South Carolina 29221
(803) 896-8508

September 28, 2021
Columbia, South Carolina

401 37

**STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT**

James A. Primus, #252315)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)
)

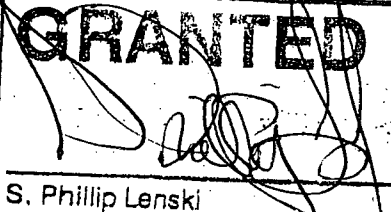
Docket No.: 21-ALJ-04-01 65-AP
 [Grievance No.: MACCI 128-20]

Hon. S. Phillip Lenski

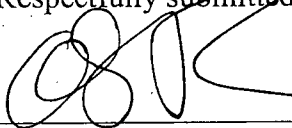
**RESPONDENT'S MOTION TO
SUPPLEMENT THE RECORD**

This matter is before the South Carolina Administrative Law Court (Court) pursuant to the Notice of Appeal filed by James Primus (Appellant), an inmate currently in the custody of the South Carolina Department of Corrections (Respondent or Department). In Appellant's Step 1 and Step 2 Grievance, Appellant grieved the application of jail time credit. Respondent filed its brief on August 24, 2021. On September 13, 2021, the Court ordered the Department to provide a supplemental brief addressing Appellant's earned work credits and how the Department arrived at a projected release date of January 1, 2028 for Appellant.

In order to fully address these issues, Respondent respectfully requests to supplement the record with Appellant's disciplinary history, earned work credits history, and earned education credits history to fully address the issues. The information contained in the documents is relevant to the issues raised in the September 13, 2021 Order.

GRANTED

 S. Phillip Lenski
 SC Administrative Law Judge
 Date: Oct 1, 2021

Respectfully submitted,



Annie Laurie Rumler
 Deputy General Counsel
 S.C. Department of Corrections
 4444 Broad River Road Columbia
 Columbia, South Carolina 29221
 (803) 896-8508

CERTIFICATE OF SERVICE
 This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States Mail, postage paid, or in the interagency Mail Service addressed to the party(ies) or their attorney(s), this 16 day of October 2021

The State of South Carolina
FILED
 SEP 28 2021
 Administrative Law Court

September 28, 2021
 Columbia, South Carolina

58

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

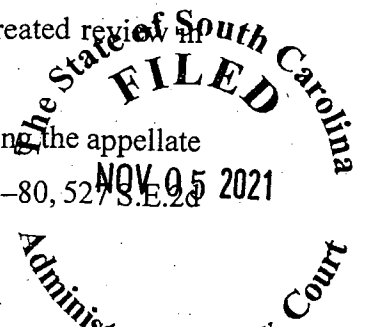
James A. Primus, #252315,	)	Docket No.: 21-ALJ-04-0165-AP
)	
Appellant,)	
)	
v.	)	FINAL ORDER
)	
South Carolina Department of Corrections,)	
)	
Respondent.)	
<hr style="width: 40%; margin-left: 0;"/>		

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed by James A. Primus (Appellant), an inmate in the custody of the South Carolina Department of Corrections (Respondent or Department). After the Appellant's Step 1 and Step 2 Grievances were denied, the Appellant filed a Notice of Appeal with this court on April 21, 2021. The Appellant is appealing the Department's denial of his grievance in which the Appellant alleges that the Department has not applied any time jail credit to his kidnapping conviction sentence.

STANDARD OF REVIEW

The court's 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 inmate is deprived of an interest encompassed by the Fourteenth Amendment's protection of liberty and property." *Wicker v. S.C. Dep't of Corrs.*, 360 S.C. 421, 424, 602 S.E.2d 56, 58 (2004) (citation omitted). Such a liberty interest is at stake in the calculation of an inmate's sentence. *Tant v. S.C. Dep't of Corrs.*, 408 S.C. 334, 341, 759 S.E.2d 398, 401 (2014) (citation omitted) ("There can be no doubt the length of an inmate's incarceration implicates a constitutional liberty interest."); see also *Sullivan v. S.C. Dep't of Corrs.*, 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 calculation cases).

In sentence calculation cases, the court sits in an appellate capacity, applying the appellate standard of the Administrative Procedures Act (APA). *Al-Shabazz*, 338 S.C. at 377-80, 527 S.E.2d



DM 39

at 754-56. Consequently, the court's review is limited to the record. S.C. Code Ann. § 1-23-380(4). Additionally, the court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact but may modify or reverse the decision of the agency when substantial rights of the appellant have been prejudiced. S.C. Code Ann. § 1-23-380(5). Substantial rights of the appellant are prejudiced when the agency's decision, including the agency's findings, inferences, and conclusions, 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. *Id.*

DISCUSSION

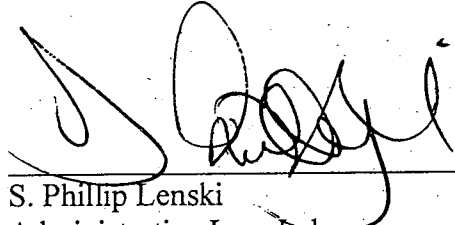
The Appellant claims that the Department has failed to apply any jail time credits to his kidnapping sentence when it is stated on his sentencing sheet that he is to get credit for jail time. On September 1, 1998, the Appellant was sentenced to thirty (30) years for Kidnapping and ten (10) years for Assault and Battery of a High and Aggravated Nature (ABHAN) to run consecutive to the Appellant's thirty-year sentence for Kidnapping. On the Appellant's sentencing sheet for the ABHAN conviction, the sentencing judge also wrote that the Appellant was to get "credit for jail time since July 15, 1997." On the Appellant's sentencing sheet for the kidnapping conviction, the sentencing judge wrote "credit for jail time since July 15, 1998." However, this date was amended and the "1998" scratched out and the year "1997" is written under it, circled, and initialed.

The Department explained that because the Appellant's sentencing judge wrote on his sentencing sheets that the Appellant is entitled to jail time credit beginning on July 15, 1997, the Department gave the Appellant this credit by entering his sentence start date as July 15, 1997, rather than entering a particular number of days on the jail time credit line. The Appellant was sentenced on September 1, 1998, therefore, by starting the Appellant's sentence on July 15, 1997 rather than September 1, 1998, the Department has applied the Appellant's jail time credit to his sentence.

The record in this case establishes that the Department's decision is supported by substantial evidence and that the Appellant has failed to prove that the Department's decision is clearly erroneous, or arbitrary or capricious, or an abuse of discretion. When reviewing the

Department's decisions in inmate grievance matters, the court sits in an appellate capacity. Consequently, the review in inmate grievance cases is limited to the Record presented. An Administrative Law Judge may not substitute their judgment for that of an agency "as to the weight of the evidence on questions of fact." S.C. Code Ann. § 1-23-380(5). In the case at hand, the court will not substitute its judgment for that of the agency because there is substantial evidence to support the Department's assertion that the Appellant has been awarded all of the jail time credit to which he is entitled. Based upon the foregoing,

IT IS THEREFORE ORDERED the decision of the Department is **AFFIRMED**.
AND IT IS SO ORDERED.

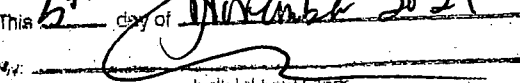


S. Phillip Lenski
Administrative Law Judge

November 5, 2021
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States Mail, postage paid, or in the interagency Mail Service addressed to the party(ies) or their attorney(s).

This 5th day of November 2021

Judicial Law Clerk

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)

IN THE COURT OF GENERAL SESSIONS

CERTIFIED COPY

INDICTMENT/CASE # 97-GS-18-1045

STATE VS. James A. Pennally 2001 JAN 30 PM 3:58

AKA James A. Pennally
Race: B Sex: M

DOB: 6-10-59
SSN: 248-12-6872
DL#: _____
SID#: _____

A/W#: E 091978
Date of Offense: 7-13-97
S.C. CODE §: 16-3-652
CDR Code #: 13

SENTENCE
 PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO Violation of § 16-3-652 of the S.C. Code of Laws, bearing CDR Code # 13

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS

The charge is: As Indicted Lesser Included Offense, Defendant Waives Presentment to Grand Jury
The plea is: Without Negotiations or Recommendation Negotiated Sentence Recommendation by the State

ATTEST
Margaret A. Gray
Solicitor

Margaret A. Gray
Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, or Under Youthful Offender Act for a term of 10 days/months/years and/or to pay a fine of \$ _____; provided the sentence be suspended upon the service of _____ days/months/years and/or payment of \$ _____ plus costs and assessments as applicable*; the balance suspended with probation for _____ months/years.

CONCURRENT or CONSECUTIVE to sentence on: 97-GS-18-1046

SPECIAL CONDITIONS:

RESTITUTION Heard, Waived, Ordered
Total: \$ _____
Pay Terms: _____
Recipient: _____

- PTUP
- _____ days/hours Public Service Employment
- Obtain GED
- Attend Voc Rehab. or Job Corps
- May serve W/E beginning _____
- Substance Abuse Counseling
- Random Drug/Alcohol Testing
- Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
- Other: Credit for jail time since July 15, 1997
- Other: _____

*Fine.....	\$	_____
§14-1-206 - Assessments 100%.....	\$	_____
§14-1-211 - Surcharge.....	\$	<u>100.00</u>
Exceptions: See §14-1-211		
§56-5-2995 (DUI).....	\$	_____
TOTAL.....	\$	<u>100.00</u>

Deal E. Stange
Clerk of Court/Deputy Clerk
Court Reporter: R. Keil

PRESIDING JUDGE _____
Sentence Date: 9-1-98
Judge Code: 090

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

STATE VS.

James H. Purnas

AKA

Race: B Sex: M

DOB: 6-10-59 Age: _____

SSN: 248-12-6872

DL#:

SID#:

IN THE COURT OF GENERAL SESSIONS

97 INDICTMENT/CASE #: 1046
-GS-

A/W#: E091999

Date of Offense: 7-13-97

S.C. CODE §: 16-3-910

CDR Code #: 95

SENTENCE

PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO:

kidnapping

in violation of § _____ of the S.C. Code of Laws, bearing CDR Code # 95

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury

The plea is: Without Negotiations or Recommendation Negotiated Sentence

Recommendation by the State

ATTEST:

Margaret H. Dowd
Solicitor

Defendant

William Purnas
Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, or Under Youthful Offender Act for a term of 30 days/months/years and/or to pay a fine of \$ _____; provided the sentence be suspended upon the service of _____ days/months/years and/or payment of \$ _____ plus costs and assessments as applicable*; the balance suspended with probation for _____ months/years.

CONCURRENT or CONSECUTIVE to sentence on: _____

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered

Total: \$ _____

Pay Terms: _____

Recipient: _____

- PTUP
- _____ days/hours Public Service Employment
- Obtain GED
- Attend Voc Rehab. or Job Corps
- May serve W/E beginning _____
- Substance Abuse Counseling
- Random Drug/Alcohol Testing
- Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
- Other: credit for good time
- Other: parole July 15, 1998.

*Fine.....	\$	_____
§14-1-206 - Assessments 100%.....	\$	_____
§14-1-211 - Surcharge.....	\$	<u>100.00</u>
(Exceptions: See §14-1-211)		
§56-5-2095 (DUI).....	\$	_____
TOTAL.....	\$	<u>100.00</u>

Deal E. Stovall
Clerk of Court/Deputy Clerk

Court Reporter: Keil

PRESIDING JUDGE

Sentence Date: 8-9-98

Judge Code: 090

DISPOSITION

This document serves as written notification of the following disposition:

KIOSK REQUEST _____

JAIL TIME _____

DETAINER: ADD---DROP _____

DESIGNATED FACILITY _____

CONVICTION _____

OTHER

DATE: 9-29-2021

NAME: James Primus

SCDC# 252315

DORM: B1B13A

Per Inmate Records Office Branch Chief,
the two (2) attached documents are the
only thing that was approved for me to
provide to you. We are not authorized to
let you review your inmate record.

SI M. Pivolan
Classification

~~5004~~ 4/4

1 **THE COURT:** All right. Appears to be in
2 order. You may publish it.

3 **THE CLERK:** Indictment number
4 97-GS-18-1045, the State of South Carolina versus
5 James Anthony Primus indicted for criminal sexual
6 conduct first degree. Verdict: Guilty of assault
7 and battery of a high and aggravated nature.

8 Indictment number 97-GS-18-1046, the State of
9 South Carolina versus James Anthony Primus, indicted
10 for kidnapping. Verdict: Guilty.

11 Indictment number 97-GS-18-1043, the State of
12 South Carolina versus James Anthony Primus indicted
13 for burglary in the second degree. Verdict: Not
14 guilty of burglary. Signed by Samuel Joyner, Jr.

15 If this is your verdict, would you please all
16 raise your right hand?

17 (All jurors raise their right hand.)

18 **THE COURT:** Appears to be in order.
19 Anything further from the State?

20 **MS. MCDONALD:** Nothing from the State,
21 your Honor.

22 **THE COURT:** Defense?

23 **MR. RUNYON:** Waive polling, Judge.

24 **THE COURT:** You waive it?

25 **MR. RUNYON:** We waive polling, yes, sir.

45

State vs. Primus

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MR. RUNYON: Thank you very much, your

honor.

THE COURT: Get credit for the jail

time.

MR. RUNYON: Thank you very much.

- - - ooo - - -

STATEMENT OF THE CASE

Appellant was charged in Dorchester County with kidnapping, burglary and assault and battery with intent to kill. He was convicted of kidnapping, acquitted of burglary and found guilty of the lesser-included offense of assault and battery of a high and aggravated nature. This was after a jury trial before the Honorable Luke N. Brown, Jr., commencing August 31, 1998. He was sentenced to thirty years for kidnapping and ten years consecutive for assault and battery of a high and aggravated nature. This appeal follows.

47

CERTIFICATE OF COUNSEL
FOR APPELLANT

Appellant certifies that this Record on APPEAL
CONTAINS all Material proposed to be included
by any of the Parties and not any other
Material

DATE

March 3 2022

James Anthony Primus 292515
James Anthony Primus K0050
MacDougall Correctional Institution
1516 Old Gilliard Road
Ridgeville S.C. 29472

RECEIVED

MAR 10 2022

SC Court of Appeals