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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.

**MOTION TO STRIKE CERTAIN DOCUMENTS FROM THE RECORD ON
APPEAL**

This matter is before the Court pursuant to James Anthony Primus’s appeal of Administrative Law Court Judge S. Phillip Lenski’s Ralph King Anderson’s November 5, 2021 order affirming Respondent’s final agency decision.

Appellant has included in the Record on Appeal in this case documents which were not in the Record before the ALC. Specifically, Appellant included a copy of correspondence to Appellant from SCDC employee M. Prioleau dated September 29, 2021 and attachments thereto (R. 49-51), two pages of a court transcript (R. 52-53), and a document labeled “Statement of the Case” (R. 54).

South Carolina Appellant Court Rule 210(c) states that the Record on Appeal “shall not” include anything “which was not presented to the lower court or tribunal.” The above listed documents were not part of the Record before the Administrative Law

Court. As such, Respondent requests that the Court strike a copy of correspondence to Appellant from SCDC employee M. Prioleau dated September 29, 2021 and attachments thereto (R. 49-51), two pages of a court transcript (R. 52-53), and a document labeled "Statement of the Case" (R. 54) from the Record on Appeal and not consider them or any references to them in Appellant's filings.

WHEREFORE, Respondent prays that this Court strike the above referenced documents from the Record on Appeal and for further relief as this Court may deem just and proper.



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March 30, 2022