

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEAL
APPEAL FROM THE ADMINISTRATIVE LAW COURT
Administrative Law Judge S. Phillip Lenski
ALC Case No. 21-ALJ-04-0164-AP
APPELLATE CASE No. 2021-000879

James Anthony Primus 252315

Appellant

v

South Carolina Department of Correction

Respondent

FINAL REPLY BRIEF OF APPELLANT

RECEIVED

MAY 18 2022

SC Court of Appeals

James Anthony Primus 252315

James Anthony Primus Pro Se
MACDougal Correctional Institution
1516 Old Gilliland Road
Ridgville S.C. 29472

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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 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

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.* 395 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 cases. 3

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 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 REVIEWING SCDC 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 ENBANK DECISION OF *Morgan 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 CASE IN WHICH AN INMATE CHALLENGES PRISON OFFICIALS HAVE ERRONEOUSLY CALCULATED HIS SENTENCE, SENTENCE RELATED CREDITS, OR CUSTODY STATUS; 2 CASES IN WHICH SCDC 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, SCDC MOTION TO SUPPLEMENT THE RECORD, SEPTEMBER 28, 2021, ALL

ARGUMENT

James Anthony Primus (Appellant) vs. Inmate Incarceration

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 that the ALC erred in summarily

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

Additionally Appellant challenges the enforcement of the policy

that formed 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 Begg 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

~~James Anthony Primus~~ ~~vs.~~ ~~Inmate Incarceration~~

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 sentence 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 v

State 314562313 Tan t v State SC00 759 V SC00 459 SE2D 714
24-13-98 State v Boggs 696 SE2D 597 TANT v SC00 759-SE2D 714

Conclusion

Where Fore For all The Reason the Court should Grant Appellant Appeal S.C. Code 2016

DATE ~~_____~~ ~~_____~~ ~~_____~~
MAY 13 2022

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Respectfully Submitted
James Anthony Pelmas 252315
1516 old Gilliland Rd
Rt. 1 Box 29472 S.C. 29472

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THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From Administrative Law Court

Administrative Law JUDGE S. Phillip LenSKI

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

Appellate Case No. 2021 - 000879

James Anthony Primus 252315

Appellant

v

South Carolina Department of Corrections Respondent

Certificate of Counsel

The undersigned hereby certifies that the Final 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 filing.

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