

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DORCHESTER)
)
 STATE OF SOUTH CAROLINA,)
 Plaintiff,)
)
 v.)
)
 DAEMON MICHAEL CRIM,)
 Defendant.)

RULE 203 (B) (IV)
WRITTEN EXPLANATION OF
BASIS FOR APPEAL

2018 OCT 22 AM 10:35
 CLERK OF DISTRICT COURT
 DORCHESTER COUNTY

CERTIFIED COPY

PERSONALLY appeared before me Erin Bailey, who being duly sworn, desposes and says:

1. Larry W. Weidner II, Esquire (hereinafter trial counsel), represented the above named defendant before The Honorable Diane Schafer Goodstein on 11 June 2018 at which time the defendant enter a guilty plea to his pending charges.
2. Trial counsel filed a timely motion to reconsider the sentence, and a hearing was held on 15 October 2018, at which time The Honorable Diane Shafer Goodstein denied the motion to reconsider the sentence.
3. At the motion to reconsider the sentence, trial counsel raised the following issues of facts and law:
 - a. The court erred in finding the Defendant guilty of a Most Serious Offense.

The Defendant presently has been found guilty and sentenced for two (2) violent, most serious offenses. However, the applicable statute provides for an exception to the finding of a most serious offense.

South Carolina Code § 17-25-45 (C)(1) provides:

(C) As used in this section:

(1) "Most serious offense" means:

...16-3-655 Criminal sexual conduct with minors, except where evidence presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was

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younger than the actor, as contained in Section 16-3-655(3)...

The court's analysis as to the consensual nature of the encounter focused on the age of the victim, not the act itself. This analysis was an erroneous application of the law because the Defendant had already admitted guilt to sexual relations with a person under the age of capacity. The purpose of this section of the statute is to determine if the act itself was one of battery. The court applied the wrong standard.

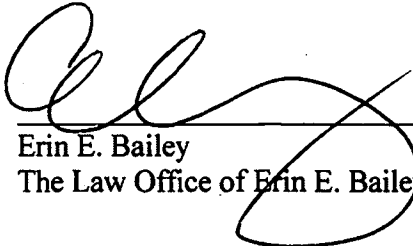
b. The court abused its discretion as the finder of fact when ordering lifetime electronic monitoring. The applicable statute of the South Carolina Code of Laws § 23-3-540(B) states that "[U]pon conviction, ... guilty plea, or plea of nolo contendere of a person for any other offense listed in subsection (G), the court *may order (emphasis added)* that the person upon release from incarceration ... shall be monitored ... with an active electronic monitoring device." Most applicable to this decision, the Court was provided with the psychosexual evaluation of the Defendant by Dr. Geoffrey R. McKee, Ph.D, ABPP. In that report, Dr. McKee details his findings that Defendant does not meet the criteria for Pedophilia or Pedophilic Disorder, does not meet the criteria for a Sexually Violent Predator, and further found the Defendant to be a low risk for sexual violence and recidivism. Given these findings, which the court ignored, the imposition of electronic monitoring following the Defendant's term of incarceration is unnecessary and excessive.

c. The court abused its discretion when sentencing the Defendant to 20 years of incarceration. The Court was presented with ample information which would mitigate against the imposition of the maximum sentence in this case.

The record shows that no force was utilized in the commission of the acts for which the Defendant plead and was found guilty. To the contrary, the Court was provided information *from the victims themselves* indicating that they had discussed engaging in the acts with the Defendant and a "threesome" was on their "bucket list." The Defendant's conduct was far from the extremes of behaviors normally resulting in a maximum sentence.


As to the Defendant himself, the record shows that this was an aberration in his normal behavior. The Court was presented with statements and information indicating that prior to the commission of the offense, the Defendant had been a model citizen. He was a United States Marine with an exemplary record of accomplishment and no prior record for misconduct. The Defendant did not deny his conduct and cooperated with law enforcement, provided a complete confession and pled straight up to the offenses as charged.

Finally, while this matter was pending, the Defendant had been actively and gainfully employed and has had the support of a wide range of family, friends, co-workers and employers. The Defendant respectfully avers that he possesses a strong rehabilitative potential which should have been considered in determining an appropriate sentence. Simply stated, given all of the facts of the misconduct, the Defendant's past history, his rehabilitative potential and the findings of Dr. McKee, the Defendant respectfully suggests that the sentence of this Honorable Court was disproportionate and excessive under the circumstances, and constituted an abuse of discretion.



Erin E. Bailey
The Law Office of Erin E. Bailey LLC

Sworn and Subscribed before me
19th Day of October, 2018



Notary Public for South Carolina

My Commission Expires: November 30, 2020

0-2018

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Dorchester)
STATE VS.)
Daemon Michael Crim)
AKA:)
Race: WHITE Sex: M Age: 23)
DOB: SS#:)
Address:)
City, State, Zip:)
DL#: SID#:)

INDICTMENT/CASE#: 2016GS18-1409
A/W#: 2016A1810300678
Date of Offense: 7/3/2016
S.C. Code § : 16-3-655(B)(2)
CDR Code #: 0397

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*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

CONVICTED OF or PLEADS

TO: Criminal Sexual Conduct with Minor - Victim Under 16 Yrs of Age - Second Degree

in violation of § 16-3-655(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0397

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: 9512
Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 20 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 6-11-2018

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the SCDOC.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:
 Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5%)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(I) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$ 3.75	\$

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk Cheryl Graham
Court Reporter: Margaret Norton
SCCA/217 (04/2018)

Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other: Must register as a sex offender for 6 yrs
no driving

Appointed PD or appointed other counsel.
Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.
Presiding Judge: Jane S. H.
Judge Code: 2112
Sentence Date: 6-11-2018

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Dorchester)
STATE VS.)
Daemon Michael Crim)
AKA:)
Race: WHITE Sex: M Age: 23)
DOB: SS#:)
Address:)
City, State, Zip:)
DL#: SID#:)

INDICTMENT/CASE#: 2016GS18-1410
A/W#: 2016A1810300685
Date of Offense: 7/3/2016
S.C. Code §: 16-3-655(B)(1)
CDR Code #: 0396

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SENTENCE SHEET Court of Appeals

*CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was
TO: Criminal Sexual Conduct with Minor - Victim 11 to 14 Yrs of Age inclusive - Second Deg.

in violation of § 16-3-655(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0396
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] 9512 [Signature] 12029
Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 20 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 6-11-2018
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the SCDOP.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment
Payment Terms: _____
 Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5%)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100
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§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk: [Signature]
Court Reporter: [Signature]
SCCA/217 (04/2018)

Obtain GED
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: Must report on
a sex offender; \$8
monthly

Appointed PD or appointed other counsel.
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.
Presiding Judge: [Signature]
Judge Code: 212
Sentence Date: 6-11-2018