STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
Honorable DeAndrea G. Benjamin, Circuit Court Judge
Appellate Case No. 2013-000933

THE STATE,

Respondent,

vs.

CONRAD LAMONT SLOCUMB,

Appellant.

FINAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

Slocumb's aggregate term-of-years sentence of one hundred and thirty years was not categorically unconstitutional and did not violate the mandates of the United States Supreme Court's decision in Graham v. Florida, 560 U.S. 48 (2011), because that decision was expressly applicable only to life without parole sentences for juvenile non-homicide offenders and not to term-of-years sentences like Slocumb's. However, even assuming the decision in Graham was applicable to Slocumb's sentence, the circuit court judge committed no error in sentencing Slocumb under the unique facts and circumstances of Slocumb's case. Furthermore, to the extent that Slocumb is challenging the constitutionality of the portion of his aggregate sentence related to his non-burglary offenses, that challenge cannot properly be considered on appeal because the circuit court judge only resentenced Slocumb on his vacated first-degree burglary conviction. Moreover, Slocumb's aggregate sentence for his non-burglary crimes was entirely proper and did not constitute cruel and usual punishment even if that sentence somehow could be addressed on appeal.

STATEMENT OF THE CASE

On March 6, 1996, Appellant Conrad Lamont Slocumb was arrested at the age of sixteen following his escape from law enforcement custody and his commission of a litany of crimes that included him raping and robbing a female victim after forcing his way into her home. Later that month, the Richland County grand jury indicted Slocumb for first-degree burglary, first-degree criminal sexual conduct, kidnapping, armed robbery, and escape. On November 12, 1996, a jury trial was commenced in the Richland County court of general sessions with the Honorable James W. Johnson, Jr., circuit court judge, presiding. At the conclusion of trial, the jury convicted Slocumb of first-degree burglary, first-degree criminal sexual conduct, kidnapping, escape, and the lesser-included offense of strong-arm robbery. Following the verdict, Judge Johnson sentenced Slocumb to life without parole pursuant to S.C. Code Ann. § 17-25-45 for first-degree burglary, first-degree criminal sexual conduct, and kidnapping based on Slocumb's prior 1993 conviction for first-degree criminal sexual conduct along with consecutive terms of imprisonment of fifteen years for strong-arm robbery and five years for escape. Slocumb then timely filed and perfected an appeal.

Thereafter, while his direct appeal was pending, Slocumb filed applications for post-conviction in regard to his 1996 convictions and his 1993 conviction. Slocumb's application for post-conviction relief in regard to his 1996 convictions was dismissed without prejudice due to his pending appeal, and his application for post-conviction relief in regard to his 1993 conviction was denied on the merits. Slocumb then timely appealed the denial of his application for post-conviction relief in regard to the 1993 conviction.

Subsequently, on August 16, 1999, the Court of Appeals issued a published opinion unanimously affirming Slocumb's direct appeal in regard to his 1996

convictions. State v. Slocumb, 336 S.C. 619, 521 S.E.2d 507 (Ct. App. 1999). Thereafter, on November 8, 1999, the Supreme Court issued a published opinion reversing the denial of Slocumb's post-conviction relief application in regard to his 1993 conviction and vacating his 1993 guilty plea to first-degree criminal sexual conduct. Slocumb v. State, 337 S.C. 46, 522 S.E.2d 809 (1999).

As a result of the Supreme Court's decision, a resentencing hearing in regard to Slocumb's 1996 convictions was conducted on March 16, 2000, in the Richland County court of general sessions with the Honorable James W. Johnson, Jr., circuit court judge, again presiding. At the conclusion of the hearing, Judge Johnson resentenced Slocumb to consecutive sentences of life without parole for first-degree burglary, thirty years for first-degree criminal sexual conduct, thirty years for kidnapping, fifteen years for robbery, and five years for escape. Slocumb then timely filed and perfected an appeal.

However, at that time, Slocumb's original direct appeal of his 1996 convictions had not yet concluded. As a result, the Court of Appeals vacated the sentences imposed during the resentencing hearing due to a lack of jurisdiction, and Slocumb's case was remitted to the circuit court on December 3, 2003. Thereafter, on February 18, 2004, another resentencing hearing was held in the Richland County court of general sessions with the Honorable James W. Johnson, Jr., circuit court judge, once again presiding. At the conclusion of the hearing, Judge Johnson resentenced Slocumb to consecutive terms of imprisonment of life without parole for first-degree burglary, thirty years for first-degree criminal sexual conduct, thirty years for kidnapping, fifteen years for robbery, and five years for escape. Slocumb then timely filed and perfected an appeal.

Subsequently, on April 7, 2005, the Court of Appeals dismissed Slocumb's appeal pursuant to Anders v. California, 386 U.S. 738 (1967), and granted his appellate

counsel's petition to be relieved as counsel. Following the dismissal of his appeal, Slocumb filed another application for post-conviction relief in regard to his 1996 convictions, and his application was denied on the merits. Slocumb then timely appealed the denial of his post-conviction relief application and filed a petition for a writ of certiorari in the Supreme Court. On April 21, 2010, that petition was denied.

Thereafter, on June 18, 2010, Slocumb filed a petition for a writ of habeas corpus in the United States District Court for the District of South Carolina. On September 10, 2010, the State filed a return to Slocumb's petition and conceded that Slocumb was entitled to have his life without parole sentence for first-degree burglary vacated pursuant to the United States Supreme Court's decision in Graham v. Florida, 560 U.S. 48 (2010). On May 12, 2011, United States Magistrate Judge Bristow Marchant issued a report and recommendation recommending that Slocumb's life sentence be vacated and that the State be directed to resentence Slocumb in compliance with Graham. Subsequently, on June 2, 2011, Senior United States District Judge Henry M. Herlong, Jr. issued an opinion and order vacating Slocumb's life sentence and directing the State to resentence Slocumb for first-degree burglary.

Based on Judge Herlong's order, a resentencing hearing was conducted on April 25, 2013, in the Richland County court of general sessions with the Honorable DeAndrea G. Benjamin, circuit court judge, presiding. At the conclusion of the hearing, Judge Benjamin resentenced Slocumb to a fifty-year term of imprisonment for first-degree burglary, ordered the sentence to run consecutively to Slocumb's other sentences, and declined to readdress any of those other sentences. Slocumb then timely filed a notice of appeal.

STATEMENT OF FACTS

Facts Related to Slocumb's 1993 Conviction

In October of 1992, Appellant Conrad Lamont Slocumb, who was then a thirteen-year-old male, abducted a female high school teacher at gunpoint from the parking lot of her school. Slocumb v. State, 337 S.C. 46, 47-48, 522 S.E.2d 809, 810 (1999). Slocumb then forced his victim to drive him to a wooded area and attempted to force her into the woods with him. Id. at 48, 522 S.E.2d at 810. When she refused, Slocumb grabbed the victim, roughly squeezed her breast, digitally penetrated her vagina, and shot her five times in the face and head. Id. Slocumb then abandoned the victim on the side of the road and drove off in her car. Id. Miraculously, the victim survived the shooting and was able to walk to a nearby residence and obtain help. Id. Shortly thereafter, Slocumb was arrested and charged with numerous offenses related to the incident, and his case was transferred to the court of general sessions. Id. Subsequently, Slocumb pled guilty to first-degree criminal sexual conduct in exchange for the dismissal of his other charges and was sentenced to a thirty-year term of incarceration. Id. at 47-48, 522 S.E.2d at 810.

Facts Related to Slocumb's 1996 Convictions

On March 6, 1996, an officer from the South Carolina Department of Juvenile Justice transported Slocumb, who was then a sixteen-year-old inmate at that institution, to an off-site doctor's office for medical treatment. State v. Slocumb, 336 S.C. 619, 622, 521 S.E.2d 507, 509 (Ct. App. 1999). Once the treatment was administered, the officer began transporting Slocumb back to the Department of Juvenile Justice. Id. However, before they arrived, Slocumb escaped from the officer's custody and ran to a nearby apartment complex. Id. Slocumb then located a female resident there, asked her to assist him in finding someone in the complex, and forced his way into her apartment after she

helped him. Id. Once inside, Slocumb disconnected the victim's phone, claimed he had a gun, threatened the victim, demanded her car keys and money, and asked her for clothing so he could change out of his prison attire. Id. The victim fully complied with Slocumb's demands, and then he raped her. Id. at 623, 521 S.E.2d at 509. After that, Slocumb stole jewelry and other items from the victim's apartment, left, and was apprehended by law enforcement officers while still in possession of the victim's belongings. Id. Following his arrest, Slocumb was indicted for numerous offenses, and he proceeded to trial. Id. At the conclusion of trial, the jury convicted Slocumb of first-degree burglary, first-degree criminal sexual conduct, kidnapping, robbery, and escape. Id. Following the verdict, the trial judge sentenced Slocumb to three consecutive life sentences for first-degree burglary, first-degree criminal sexual conduct, and kidnapping along with consecutive sentences of fifteen years for robbery and five years for escape. Slocumb, 337 S.C. at 47, n. 1, 522 S.E.2d at 810.

Facts Related to April 2013 Resentencing Hearing

Subsequent to his convictions in 1993 and 1996, Slocumb's 1993 conviction was overturned on appeal based on a jurisdictional issue, and Slocumb's sentences for his 1996 convictions were vacated on several occasions for a variety of reasons. (R. pp. 3-5; pp. 18-19). By April of 2013, Slocumb was serving consecutive sentences of life without parole for first-degree burglary, thirty years for first-degree criminal sexual conduct, thirty years for kidnapping, fifteen years for robbery, and five years for escape based on his 1996 convictions. (R. p. 5). However, a federal district court judge vacated Slocumb's life sentence for first-degree burglary due to the United States Supreme Court's decision in Graham v. Florida, 560 U.S. 48 (2010). (R. p. 5). As a result,

Slocumb's case was once again remanded for resentencing, and a resentencing hearing was held on April 25, 2013. (R. p. 3; p. 5; p. 44; p. 46; pp. 48-49).

At the outset of the hearing, defense counsel acknowledged that Slocumb was before the court to be resentenced only on his first-degree burglary conviction but nevertheless moved for the circuit court judge to vacate all of Slocumb's other sentences and to resentence him for all of his convictions. (R. pp. 7-8). In support of that request, defense counsel conceded that the United States Supreme Court did not address in its Graham decision whether a lengthy term-of-year sentence that extended beyond a defendant's reasonable life expectancy constituted cruel and unusual punishment. (R. p. 8). However, defense counsel argued that there were some appellate courts in the United States that had extended the reasoning of Graham to cases where juvenile offenders had been sentenced to terms of incarceration that exceeded their projected life expectancies while noting that there were other appellate courts that had declined to do so. (R. pp. 8-9). Advocating for an extension of Graham to the circumstances of Slocumb's case, defense counsel contended that a term of incarceration that would require Slocumb to serve a minimum sentence that exceeded the average worldwide life expectancy of 67.2 years would be irreconcilable with Graham because it would deprive Slocumb of a reasonable opportunity to obtain release based on demonstrated maturity and rehabilitation. (R. pp. 9-11). For that reason, defense counsel asked the circuit court judge to vacate Slocumb's other sentences and to resentence him to an aggregate term of years that honored "the spirit and intent if not the letter of" the Graham decision. (R. p. 11).

After listening to defense counsel's arguments, the circuit court judge sought reaffirmation that Slocumb's case had been remanded solely in regard to the first-degree

burglary conviction, and defense counsel again verified that it had while arguing to the circuit court judge that she had "the authority to do what [she] deem[ed] appropriate with regard to the other sentences[.]" (R. p. 12). The solicitor then recounted the facts of Slocumb's horrendous crimes. (R. pp. 14-17). Following the recitation of the facts, the solicitor noted that the United States Supreme Court specifically stated in Graham that juvenile non-homicide offenders did not have to be released during their natural lives. (R. pp. 17-18). The solicitor additionally noted that Slocumb was classified as a security risk by the Department of Corrections and had not enrolled in, participated in, or completed any rehabilitative programs during his time in prison. (R. pp. 19-20). Furthermore, the solicitor confirmed that Slocumb had committed 218 prison disciplinary infractions between 1997 and the date of the hearing that included striking prison employees, possessing weapons, throwing substances on prison employees, possessing contraband, masturbating, and committing acts of mutilation. (R. p. 20).

In response to the solicitor's remarks, defense counsel conceded that Slocumb would likely be unable to meet a standard of demonstrating maturity and growth at that time due to his behavior subsequent to his incarceration. (R. p. 23). Defense counsel further conceded that Slocumb did not have to be guaranteed release during his lifetime. (R. p. 23). However, she argued that Slocumb would not have a meaningful opportunity for release subsequent to that point based on demonstrated maturity and rehabilitation if his sentences were not vacated and, as a result, again moved for the circuit court judge to vacate all of Slocumb's sentences and to resentence him "to a term of years that would give him the opportunity after serving 85 percent on the most serious offenses and a lesser percentage on the remaining charges to be eligible for supervised community release somewhere short of his life expectancy." (R. pp. 23-25).

Thereafter, Slocumb's victim advised the circuit court judge of the impact that Slocumb's crimes had upon her and requested that Slocumb be resentenced to a lengthy consecutive term of incarceration. (R. p. 26). Following the victim's remarks, the solicitor reiterated that Slocumb had sexually assaulted a teacher, shot her, left her to die, later escaped from Department of Juvenile Justice custody, committed the same type of traumatic acts upon his next victim, and then showed no subsequent signs of rehabilitation, maturity, or growth while repeatedly committing disciplinary infractions during his ensuing years in prison. (R. pp. 26-27). Subsequently, at the conclusion of the hearing, the circuit court judge resentenced Slocumb to a fifty-year term of incarceration for first-degree burglary, ordered the sentence to run consecutively to Slocumb's other sentences, and declined to entertain Slocumb's challenge to his other sentences. (R. p. 28). Following the imposition of the sentence, defense counsel did not object to the sentence and, instead, thanked the circuit court judge. (R. p. 28).

ARGUMENT

Slocumb's aggregate term-of-years sentence of one hundred and thirty years was not categorically unconstitutional and did not violate the mandates of the United States Supreme Court's decision in Graham v. Florida, 560 U.S. 48 (2011), because that decision was expressly applicable only to life without parole sentences for juvenile non-homicide offenders and not to term-of-years sentences like Slocumb's. However, even assuming the decision in Graham was applicable to Slocumb's sentence, the circuit court judge committed no error in sentencing Slocumb under the unique facts and circumstances of Slocumb's case. Furthermore, to the extent that Slocumb is challenging the constitutionality of the portion of his aggregate sentence related to his non-burglary offenses, that challenge cannot properly be considered on appeal because the circuit court judge only resentenced Slocumb on his vacated first-degree burglary conviction. Moreover, Slocumb's aggregate sentence for his non-burglary crimes was entirely proper and did not constitute cruel and usual punishment even if that sentence somehow could be addressed on appeal.

Slocumb contends that his aggregate one-hundred-and-thirty-year sentence imposed for five different offenses he committed as a juvenile violates the Eighth Amendment's prohibition against cruel and unusual punishment. In support of that contention, Slocumb maintains that his lengthy aggregate term-of-years sentence is the functional equivalent of a life without parole sentence and, for that reason, urges this Court to find his sentence to be categorically unconstitutional in light of the United States Supreme Court's decision in Graham v. Florida, 560 U.S. 48 (2011), which prohibits the imposition of a life without parole upon a juvenile who committed a non-homicide offense. Contrary to Slocumb's contentions, the Supreme Court's decision in Graham was not applicable to the facts and circumstances of his case because the Supreme Court expressly limited its holding and analysis in Graham to juvenile offenders sentenced to life without parole sentences. Since Slocumb did **not** actually receive such a sentence, a sentence like Slocumb's is not categorically prohibited, and Slocumb's aggregate sentence did not constitute cruel and unusual punishment. However, even assuming the decision in Graham was somehow applicable to term-of-years sentences like Slocumb's,

Slocumb's sentence was still not unconstitutional under the unique circumstances of his case. Furthermore, to the extent that Slocumb is challenging the constitutionality of the portion of his aggregate sentence related to his non-burglary crimes, that issue is not appropriately before this Court due to the fact that the circuit court judge only resentenced him for – and had the jurisdiction to resentence him for – his vacated first-degree burglary conviction. However, even assuming the propriety of Slocumb's non-burglary sentence could properly be considered on appeal, Slocumb's aggregate sentence for those crimes was entirely proper. For the foregoing reasons, the circuit court judge committed no error in resentencing Slocumb for his first-degree burglary conviction, and his aggregate one-hundred-and-thirty-year sentence is not categorically unconstitutional. Slocumb's convictions and sentences should be affirmed.

A. Constitutionality of Slocumb's Aggregate One-Hundred-and-Thirty-Year Sentence

In criminal cases, a trial judge has broad discretion in imposing a sentence within the statutory limits. State v. Sidell, 262 S.C. 397, 398, 205 S.E.2d 2, 3 (1974); see State v. Hicks, 377 S.C. 322, 325, 659 S.E.2d 499, 500 (Ct. App. 2008) ("A judge or other sentencing authority is to be accorded very wide discretion in determining an appropriate sentence, and must be permitted to consider any and all information that reasonably might bear on the proper sentence for the particular defendant, given the crime committed."). Generally, appellate courts will only interfere with the discretion of a judge in the imposition of a sentence in rare and unusual circumstances. State v. Ferguson, 221 S.C. 300, 307, 70 S.E.2d 355, 358 (1952). "Absent partiality, prejudice, oppression, or corrupt motive, [the appellate court] lacks jurisdiction to disturb a sentence

that is within the limits prescribed by statute." State v. Barton, 325 S.C. 522, 531, 481 S.E.2d 439, 444 (Ct. App. 1997).

Notwithstanding a trial judge's authority to impose a sentence falling within the statutory limits, the Eighth Amendment of the United States Constitution prohibits the imposition of cruel and unusual punishment. See U.S. Const. amend. VIII ("Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."). Pursuant to the Eighth Amendment, punishments must not be "inherently barbaric" and must be graduated and proportioned to the offense. Graham v. Florida, 560 U.S. 48, 59 (2011); see Atkins v. Virginia, 536 U.S. 304, 311 (2002) (instructing that it is a precept of justice that punishment for a crime should be graduated and proportioned to the offense). However, "[t]he Eighth Amendment does not require strict proportionality between crime and sentence." Harmelin v. Michigan, 501 U.S. 957, 1001 (1991). Instead, "it forbids only extreme sentences that are 'grossly disproportionate' to the crime." Id. (citations omitted).

In general, there are two classifications of cases involving challenges raised pursuant to the Eighth Amendment: (1) cases involving a case-specific challenge to a term-of-years sentence based on the circumstances of a particular case; and (2) cases involving a categorical challenge to a particular sentencing practice. Graham, 560 U.S. at 59. Significantly, the analysis to be applied by the court varies and is dependent on the type of challenge being raised in each individual case. Id. at 61-62.

In cases involving a case-specific challenge, the appropriate analysis involves first comparing the gravity of the offense to the severity of the sentence imposed. Harmelin, 501 U.S. at 1004-1005. Then, if that comparison leads to an inference of "gross" disproportionality, the court should compare the defendant's sentence to the sentences of

offenders who committed the same offense in the defendant's jurisdiction along with the sentences of offenders who committed the same offense in other jurisdictions to determine if the defendant's sentence actually was grossly disproportionate to his crime. Id. at 1005. Importantly though, no single factor is dispositive in the proportionality analysis. See Solem v. Helm, 463 U.S. 277, 291, n. 17 (1983) ("[N]o single criterion can identify when a sentence is so grossly disproportionate that it violates the Eighth Amendment.").

In cases involving a categorical challenge to a particular sentencing practice, the appropriate analysis involves the court first considering objective indicia of society's standards to determine whether a national consensus exists against the challenged sentencing practice. Graham, 560 U.S. at 61; see also Trops v. Dulles, 356 U.S. 86, 101 (1958) ("The Amendment must draw its meaning from the evolving standards of decency that mark the progress of a maturing society."). In making that determination, the court should look to legislation enacted by the legislatures in the United States because the clearest and most reliable expression of society's contemporary values can be derived from such legislation. State v. Pittman, 373 S.C. 527, 563, 647 S.E.2d 144, 162 (2007). Furthermore, the court making such a determination should remember that "[i]t is not the burden of the state to establish a national consensus approving what their citizens have voted to do; rather, it is the heavy burden of the defendant to establish a national consensus against it." State v. Williams, 380 S.C. 336, 347, 669 S.E.2d 640, 646 (Ct. App. 2008); see Gregg v. Georgia, 428 U.S. 153, 175 (1976) ("[I]n assessing a punishment selected by a democratically elected legislature against the constitutional measure, we presume its validity. We may not require the legislature to select the least severe penalty possible so long as the penalty selected is not cruelly inhumane or

disproportionate to the crime involved. And a heavy burden rests on those who would attack the judgment of the representatives of the people."). Next, after determining whether a national consensus exists against a particular sentencing practice, the court "must determine in the exercise of its own independent judgment whether the punishment in question violates the Constitution." Graham, 560 U.S. at 61. Critically, that determination should be "guided by 'the standards elaborated by controlling precedents and by the Court's own understanding and interpretation of the Eighth Amendment's text, history, meaning, and purpose[.]' " Id. (quoting Kennedy v. Louisiana, 554 U.S. 407, 421 (2008)).

Recently, in Graham v. Florida, a narrow majority of the United States Supreme Court applied the analysis applicable to categorical challenges to sentencing practices and concluded that the imposition of a life sentence without the possibility of parole upon a juvenile offender who committed a non-homicide offense violates the Eighth Amendment's prohibition against cruel and unusual punishment. Id., 560 U.S. at 81. In reaching that conclusion, the Supreme Court limited its consideration only to life without parole sentences for juvenile non-homicide offenders and found that a national consensus existed against such sentences for such offenders based on the small number of life without parole sentences that had actually been imposed on juvenile non-homicide offenders in the United States. Id. at 67. The Supreme Court then applied its own "independent judgment" and concluded that life without parole sentences for juvenile non-homicide offenders were unconstitutional due to the lessened culpability of juveniles, the severity of life with parole sentences, and the lack of sufficient penalogical justifications for the sentencing practice in regard to juveniles. Id. at 74. For those reasons, the Supreme Court held:

> A State is not required to guarantee eventual freedom to a juvenile offender convicted of a nonhomicide crime. What the State must do, however, is give defendants like Graham some meaningful opportunity for release based on demonstrated maturity and rehabilitation. It is for the State, in the first instance, to explore the means and mechanisms for compliance. It bears emphasis, however, that while the Eighth Amendment forbids a State from imposing a life without parole sentence on a juvenile nonhomicide offender, it does not require the State to release that offender during his natural life. Those who commit truly horrifying crimes as juveniles may turn out to be irredeemable, and thus deserving of incarceration for the duration of their lives. The Eighth Amendment does not foreclose the possibility that persons convicted of nonhomicide crimes committed before adulthood will remain behind bars for life. It does forbid the State from making the judgment at the outset that those offenders never will be fit to reenter society.

Id. at 75.

Subsequent to the decision in Graham, numerous appellate courts across the country have struggled with the question of whether the Supreme Court's holding in that case is applicable to lengthy term-of-years sentences for juvenile non-homicide offenders even though such sentences are not actually sentences of life without parole. Many of the appellate courts considering the question have concluded that the holding in Graham does not apply to term-of-years sentences for juvenile non-homicide offenders due to the fact that the decision in Graham was expressly limited to life without parole sentences. See Bunch v. Smith, 685 F.3d 546, 552 (6th Cir. 2012) (finding that Bunch's eighty-nine-aggregate sentence did not clearly violate Graham even though it may have been the functional equivalent of a life without parole sentence and noting that the Supreme Court's analysis in Graham did not address such a situation); Walle v. State, 99 So. 3d 967, 973 (Fla. Dist. Ct. App. 2012) (declining to apply Graham to an aggregate ninety-two-year term of imprisonment for a juvenile non-homicide offender); Henry v. State, 82 So. 3d 1084, 1089 (Fla. Dist. Ct. App. 2012) (declining to extend Graham beyond the way it was written or to apply it to a ninety-year prison term for a juvenile offender);

Adams v. State, 288 Ga. 695, 701, 707 S.E.2d 359, 365 (Ga. 2011) (finding that the decision in Graham did not categorically bar anything other than life without parole sentences for juvenile non-homicide offenders); State v. Brown, 118 So. 3d 332, 341-342 (La. 2013) ("In our view, Graham does not prohibit consecutive term of year sentences for multiple offenses committed while a defendant was under the age of 18, even if they might exceed a defendant's lifetime, and, absent any further guidance from the United States Supreme Court, we defer to the legislature which has the constitutional authority to authorize such sentences."); see also Graham, 560 U.S. at 63 ("The instant case concerns **only** those juvenile offenders sentenced to life without parole solely for a nonhomicide offense." (emphasis added)). However, a few appellate courts have reached a different conclusion and found that term-of-years sentences carrying the same practical effect as life sentences violate the Graham decision's explicit prohibition against life without parole sentences for juvenile non-homicide offenders. See People v. Caballero, 55 Cal. 4th 262, 268, 282 P.3d 291, 295 (Cal. 2012) (concluding based on Graham "that sentencing a juvenile offender for a nonhomicide offense to a term of years with a parole eligibility date that falls outside the juvenile offender's natural life expectancy constitutes cruel and unusual punishment"); Floyd v. State, 87 So. 3d 45, 46 (Fla. Dist. Ct. App. 2012) (finding an aggregate eighty-year sentence for a juvenile non-homicide offender to be unconstitutional in light of the decision in Graham).

Notably, in State v. Kasic, 228 Ariz. 228, 229, 265 P.3d 410, 411 (Ariz. Ct. App. 2011), the Arizona Court of Appeals considered the impact of the Graham decision upon a situation highly similar to the facts and circumstances of Slocumb's case. In that case, Kasic argued the reasoning of the Graham decision warranted a finding that his aggregate sentence of nearly one-hundred-and-forty years for offenses he committed as both a

juvenile and an adult was unconstitutional. Id. at 232, 265 P.3d at 414. However, the Court of Appeals rejected that argument. Id. In doing so, the Court of Appeals initially found that Graham did not categorically bar a term-of-years sentence like Kasic's based on the fact that the Supreme Court expressly limited its decision in Graham solely to life without parole sentences for juvenile non-homicide offenders. Id. at 232-233, 265 P.3d at 414-415. Then, after concluding Kasic's aggregate term-of-years sentence was not categorically barred through Graham, the Court of Appeals considered whether Kasic's sentences taken individually and in the aggregate were grossly disproportionate to his crimes. Id. at 233-234, 265 P.3d at 415-416. Upon finding that they were not, the Court of Appeals held "that the Eighth Amendment does not prohibit Kasic's sentences for the crimes he committed as a juvenile." Id. at 234, 265 P.3d at 416.

In the case at bar, Slocumb was **not** sentenced to a life without parole sentence for a non-homicide offense. See Graham, 560 U.S. at 63 ("The instant case concerns only those juvenile offenders sentenced to life without parole solely for a nonhomicide offense."). Instead, like the defendant in Kasic, Slocumb was sentenced to consecutive terms of imprisonment for multiple distinct and highly serious crimes with all of his individual sentences falling within the permissible sentencing limits for those crimes. For that reason, the decision in Graham was not applicable to Slocumb's case. See Walle, 99 So. 3d at 970 ("The Supreme Court itself limited the scope and breadth of its decision in Graham by stating that its decision 'concern[ed] only those juvenile offenders sentenced to life without parole solely for a nonhomicide offense.' From this statement we identify the four necessary analytical factors: (1) the offender was a juvenile when he committed his offense, (2) the sentence imposed applied to a singular nonhomicide offense, (3) the offender was 'sentenced to life,' and (4) the sentence does not provide the

offender with any possibility of release during his lifetime." (brackets in original and citations omitted)).

In challenging the constitutionality of his aggregate sentence, Slocumb has not suggested that his aggregate sentence is grossly disproportionate to his specific crimes – most likely due to the undeniably egregious nature of his offenses. See Graham, 560 U.S. at 75 (recognizing that a juvenile non-homicide offender can constitutionally receive a sentence for an offense that would result in the offender spending the remainder of his life in jail); see also State v. Johnson, 350 S.C. 543, 547, 567 S.E.2d 486, 488 (Ct. App. 2002) ("[F]ew would argue that first-degree burglary, armed robbery, and kidnapping are anything other than grave offenses of the 'most serious' nature."); see, e.g., Kasic, 228 Ariz. at 233, 265 P.3d at 415 ("[I]f a sentence for a particular offense is not disproportionately long, it does not become so merely because it is consecutive to another sentence for a separate offense or because the consecutive sentences are lengthy in aggregate. This proposition holds true even if a defendant faces a total sentence exceeding a normal life expectancy as a result of consecutive sentences." (brackets in original and citations omitted)). Instead, Slocumb contends that his aggregate one-hundred-and-thirty-year sentence is unconstitutional because it is the functional equivalent of a life without parole sentence even though he did not actually receive one. Based on that contention, Slocumb asks this Court to extend the Graham decision beyond its express limits, apply it to consecutive term-of-years sentences such as his own, and declare his aggregate sentence to be categorically unconstitutional. However, the Graham decision cannot properly be – and should not be – extended beyond the express limits that the Supreme Court placed upon its holding in that case.

Critically, through its express language, the Supreme Court limited the decision in Graham to life without parole sentences for juvenile non-homicide offenders alone. See Graham, 560 U.S. at 74 (holding that the Eighth Amendment prohibits juvenile non-homicide offenders from being sentenced to life without parole sentences and indicating that the holding is a "clear line"). Because its focus was limited in that manner, the Supreme Court in Graham did not analyze any information regarding the number of jurisdictions with sentencing practices that permitted circuit court judges to sentence juvenile offenders to lengthy or consecutive term-of-years sentences exceeding the offenders' projected life expectancies, and it was unnecessary for the Supreme Court to do so. See Bunch, 685 F.3d at 552 ("The [United States Supreme Court in Graham] did not analyze sentencing laws or actual sentencing practices regarding consecutive, fixed-term sentences for juvenile non-homicide offenders. This demonstrates that the Court did not even consider the constitutionality of such sentences, let alone clearly establish that they can violate the Eighth Amendment's prohibition on cruel and unusual punishments."). Likewise, the Supreme Court in Graham also did not analyze or consider any information regarding the number of juvenile offenders across the country that had already been sentenced to and were actually serving term-of-years sentences that would exceed their natural life expectancies. As a result, since the Supreme Court itself did not consider the constitutionality of term-of-years sentences in the Graham decision, the Supreme Court's conclusions regarding life without parole sentences in that decision cannot fairly or reasonably be extended to a sentencing practice that was not analyzed, explored, or addressed by the Supreme Court.[1] See Graham, 560 U.S. at 124 (Alito, J.,

[1] Significantly, the Supreme Court's decision to specifically limit its holding solely to life without parole sentences likely resulted from the fact that its analysis was confined to that type of sentence alone. See Hutto v. S. Farm Bureau Life Ins. Co., 259 S.C. 170, 173, 191 S.E.2d 7, 8-9 (1972) ("It is, of course, settled

dissenting) ("Nothing in the Court's opinion affects the imposition of a sentence to a term of years without the possibility of parole.").

Because the specific and limited holding of Graham was not applicable to Slocumb's case, the heavy burden remained on Slocumb in raising his categorical constitutional challenge to lengthy aggregate term-of-years sentences for juvenile non-homicide offenders to establish that a national consensus existed against such sentences. See id. at 61 (indicating that the first step in a categorical constitutional challenge to a particular sentencing practice is to determine whether a national consensus exists against the challenged practice); see also Williams, 380 S.C. at 347, 669 S.E.2d at 646 ("[I]t is the heavy burden of the defendant to establish a national consensus against [a particular sentencing practice]."). Significantly though, Slocumb failed to do so.

Specifically, in seeking an extension of the holding in Graham to a type of sentence not addressed in the decision, Slocumb did **not** cite to any data regarding the number of juveniles sentenced to sentences similar to his own or present any information regarding the number of jurisdiction that do and do not allow such sentences to be imposed upon offenders like him. However, without such objective indicia of society's standards, Slocumb cannot show that the particular sentencing practice he is presently challenging has been rejected in the United States on a near universal basis and cannot meet his burden of establishing a national consensus existed against the imposition of

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law that 'a case cannot be considered as a binding precedent on a legal point that was not argued in the case and not mentioned in the opinion.' " (citations omitted)). Moreover, the Supreme Court may have chosen to limit its holding to avoid the practical complications that would arise in regard to the application of the holding if it was extended to term-of-years sentences in addition to life without parole sentences. See, e.g., Henry, 82 So. 3d at 1089 ("At what number of years would the Eighth Amendment become implicated in the sentencing of a juvenile: twenty, thirty, forty, fifty, some lesser or greater number? Would gain time be taken into account? Could the number vary from offender to offender based on race, gender, socioeconomic class or other criteria? Does the number of crimes matter? . . . Without any tools to work with, . . . we can only apply Graham as it is written. If the Supreme Court has more in mind, it will have to say what that is.").

sentences like the one he received. Cf. Walle, 99 So. 3d at 971 (declining to apply the decision in Graham beyond its express limitations to a term-of-years sentence where "[t]he limited record before this court [did] not contain the vast amounts of information regarding societal values, penological theories, or psychological effects that the Supreme Court had at its disposal"). In the absence of a national consensus against sentences like Slocumb's, there is no proper basis to categorically declare Slocumb's sentence to be unconstitutional or to categorically extend the limited holding of Graham to his case. See Arkansas v. Sullivan, 532 U.S. 769, 772 (2001) (instructing that state courts cannot interpret an amendment to the United States Constitution to provide greater protections than those provided by the precedent of the United States Supreme Court); see, e.g., Oregon v. Hass, 420 U.S. 714, 719 (1975) ("[A] State is free as far as a matter of its own law to impose greater restrictions on police activity than those this Court holds to be necessary upon federal constitutional standards. But, of course, a State may not impose such greater restrictions as a matter of federal constitutional law when this Court specifically refrains from imposing them." (citations omitted)). As a result, the circuit court judge committed no error in imposing the fifty-year consecutive sentence on Slocumb, and Slocumb's aggregate one-hundred-and-thirty-year sentence does not categorically constitute cruel and unusual punishment.

However, even if the Supreme Court's interpretation of the Eighth Amendment in Graham could somehow properly be extended to apply to a term-of-year sentence that could be considered the functional equivalent of a life without parole sentence, the decision in Graham still would not entitle Slocumb to any relief based on the unique circumstances of his case. Looking to the decision in Graham, the Supreme Court specifically recognized that it is constitutionally permissible for juvenile non-homicide

offenders who turn out to be irredeemable to be incarcerated for the remainder of their lives. See Graham, 560 U.S. at 75 ("[The Eighth Amendment] does not require the State to release that offender during his natural life. Those who commit truly horrifying crimes as juveniles may turn out to be irredeemable, and thus deserving of incarceration for the duration of their lives."). Importantly though, the Supreme Court placed a key limitation on sentencing judges' authority to imprison juvenile offenders for the remainder of their lives by explicitly precluding a sentencing judge from making a determination of irredeemability in regard to a juvenile non-homicide offender from the outset without granting that offender an opportunity to demonstrate the maturity and growth that could potentially come as the offender transitioned from adolescence into adulthood. See id. ("The Eighth Amendment does not foreclose the possibility that persons convicted of nonhomicide crimes committed before adulthood will remain behind bars for life. It does forbid the State **from making the judgment at the outset** that those offenders never will be fit to reenter society." (emphasis added)). Thus, the decision in Graham does not prohibit the imposition of a life without parole sentence on a juvenile non-homicide offender and, instead, simply prohibits such a sentence from being imposed at the outset without the juvenile being afforded a meaningful opportunity for release based on demonstrated maturity and growth.

Significantly, in Slocumb's case, the circuit court judge did not sentence Slocumb to the consecutive fifty-year sentence that resulted in his aggregate sentence of one-hundred-and-thirty years at the outset of his conviction, which arguably could have violated the mandates of Graham if that decision was applicable to term-of-years sentences constituting the functional equivalent of sentences of life without parole. Instead, at the time the circuit court judge imposed Slocumb's first-degree burglary

sentence seventeen years after he committed his crimes, Slocumb was thirty-three years old and had been incarcerated for the offense since he was sixteen years old. Resultantly, Slocumb had been afforded a lengthy opportunity to demonstrate maturity and growth during the fifteen years that had elapsed since he reached adulthood, and the circuit court judge was in the unique position to consider his behavior as a juvenile along with his subsequent behavior as an adult when fashioning his sentence. See Williams v. New York, 337 U.S. 241, 247 (1949) ("A sentencing judge . . . is not confined to the narrow issue of guilt. His task within fixed statutory or constitutional limits is to determine the type and extent of punishment after the issue of guilt has been determined. Highly relevant – if not essential – to his selection of an appropriate sentence is the possession of the fullest information possible concerning the defendant's life and characteristics.").

Turning to information available to her at the time of Slocumb's sentencing hearing, the circuit court judge was aware of the facts of all of Slocumb's appalling crimes, including both the crimes he committed when he was thirteen years old and the crimes he committed when he was a sixteen-year-old inmate at the Department of Juvenile Justice. Furthermore, the circuit court judge was informed of Slocumb's subsequent behavioral record as an adult in the Department of Corrections, and that record of wholly negative behavior, which consisted of hundreds of transgressions and included acts of a violent and sexual nature, established that Slocumb had neither demonstrated any signs of maturity or growth nor taken any steps to rehabilitate himself since reaching adulthood. Therefore, unlike the typical situation in which a circuit court judge is required to sentence a juvenile offender without actual insight into the offender's future potential for growth and maturity, the circuit court judge in Slocumb's case was in an extraordinary, ideal position to impose the appropriate sentence for Slocumb, who was

an adult instead of a juvenile like he had been at the outset of his conviction seventeen years earlier, due to the extra information she had in regard to Slocumb's growth, maturity, and potential for rehabilitation **after** he had grown out of childhood and advanced well into his adult years. See Wasman v. United States, 468 U.S. 559, 563-564 (1984) ("The sentencing court or jury must be permitted to consider any and all information that reasonably might bear on the proper sentence for the particular defendant, given the crime committed. . . . Allowing consideration of such a breadth of information ensures that the punishment will suit not merely the offense but the individual defendant.").

Armed with the information available to her regarding both Slocumb's horrendous acts as a juvenile and failure to show any subsequent maturity, growth, or rehabilitation as an adult, the circuit court judge sentenced Slocumb to the consecutive sentence that resulted in his aggregate one-hundred-and-thirty-year sentence based on his failure to demonstrate any signs of redeemability after reaching adulthood. At the time the sentence was imposed, Slocumb was no longer a juvenile being sentenced at the outset of his conviction and, instead, was a thirty-three-year-old man who had already had a fifteen-year opportunity to show maturity, growth, and rehabilitation after becoming an adult in the eyes of the law. As a result, the sentence imposed by the circuit court judge did not run afoul of the mandates of Graham. See Graham, 560 U.S. at 75 (specifically recognizing that juvenile offenders who prove to be irredeemable as adults can be imprisoned for life but instructing that juveniles cannot be found to be irredeemable from the outset of their convictions); see also Hicks, 377 S.C. at 325, 659 S.E.2d at 500 ("A judge or other sentencing authority is to be accorded very wide discretion in determining an appropriate sentence, and **must be permitted to consider**

any and all information that reasonably might bear on the proper sentence for the particular defendant, given the crime committed." (emphasis added)). For those reasons and assuming the decision in Graham was applicable to a term-of-years sentence like Slocumb's, the imposition of Slocumb's consecutive fifty-year sentence for first-degree burglary did not constitute cruel and unusual punishment even though that sentence resulted in Slocumb's aggregate one-hundred-and-thirty-year term of incarceration. Slocumb's convictions and sentences should be affirmed.

B. Impropriety of Slocumb's Request to Be Resentenced On All of His Convictions

"Generally, a [circuit court] judge is without authority to consider a criminal matter once the term of court during which judgment was entered expires." State v. Warren, 392 S.C. 235, 238, 708 S.E.2d 234, 235 (Ct. App. 2011); see State v. Hinson, 303 S.C. 92, 94, 399 S.E.2d 422, 422 (1990) ("It is a long-standing rule of law that a trial judge is without jurisdiction to consider a criminal matter once the term of court during which judgment was entered expires."). However, that general rule is inapplicable when either: (1) a timely post-trial motion is filed; or (2) a motion for a new trial based on after-discovered evidence is filed. State v. Campbell, 376 S.C. 212, 215, 656 S.E.2d 371, 373 (2008). As a result, a circuit court judge lacks the authority to act in a particular matter if either the term of court has ended and a post-trial motion was not made within ten days of sentencing or a proper new trial motion based on an after-discovered evidence claim has not been filed. Id.; see Rule 29(a), SCRCrimP ("Except for motions for new trials based on after-discovered evidence, post-trial motions shall be made within ten (10) days after the imposition of the sentence.").

Furthermore, when a case is properly appealed and later remanded to the circuit court, the circuit court judge has no authority to act in the remanded case in a manner that exceeds the mandates of the appellate court. South Carolina Dep't of Soc. Servs. v. Basnight, 346 S.C. 241, 250, 551 S.E.2d 275, 279 (Ct. App. 2001); see Parker v. Shecut, 359 S.C. 143, 152, 597 S.E.2d 793, 798-799 (2004) (instructing that the circuit court obtains jurisdiction to enforce the judgment and take any actions consistent with the appellate court's ruling when an appellate court remits a case to the circuit court). An appellate court's mandate is jurisdictional, and a circuit court judge has a duty to follow the appellate court's directions. Prince v. Beaufort Mem'l Hosp., 392 S.C. 599, 605, 709 S.E.2d 122, 125 (Ct. App. 2011); see Ackerman v. McMillan, 324 S.C. 440, 443, 477 S.E.2d 267, 268 (Ct. App. 1996) ("It is the duty of the trial court to follow the decision of the appellate court."). Accordingly, when a case is remanded to the circuit court on limited grounds, a circuit court judge commits reversible error by considering an issue outside of the scope of the remand. Ackerman, 324 S.C. at 443, 477 S.E.2d at 268; see Prince, 392 S.C. at 605, 709 S.E.2d at 125 ("When we remand a case, the trial court has only the jurisdiction and authority mandated by this court.").

In the case sub judice, Slocumb contends his entire sentence is unconstitutional and asks this Court to remand his case for resentencing on **all** of his convictions. However, the issue of the propriety of all of Slocumb's sentences was not properly before the circuit court judge and cannot now appropriately be raised on appeal. Critically, at the resentencing hearing in 2004, Slocumb received a life without parole sentence for first-degree burglary and an aggregate sentence of eighty years for his other convictions. Subsequently, Slocumb unsuccessfully appealed his convictions and unsuccessfully applied for post-conviction relief before he eventually obtained relief through a federal

habeas action in the form of the vacation of his first-degree burglary sentence. Because only the first-degree burglary sentence was vacated, the circuit court judge only had the authority and jurisdiction to resentence Slocumb on remand in regard to his first-degree burglary conviction, and Slocumb's aggregate sentence for the other offenses could not properly be disturbed.[2] See Basnight, 346 S.C. at 250, 551 S.E.2d at 279 ("[A] trial court has no authority to exceed the mandate of the appellate court on remand."); see also Campbell, 376 S.C. at 215, 656 S.E.2d at 373 (recognizing that a trial judge does not have jurisdiction to consider a criminal matter once the term of court during which judgment was entered expires unless a timely post-trial motion is made or a proper new trial motion based on after-discovered evidence is filed). Therefore, the circuit court judge correctly declined to reconsider Slocumb's existing aggregate eighty-year sentence, and there is no basis for appellate review of that sentence at the present time. See State v. Wilson, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001) ("In criminal cases, the appellate court sits to review errors of law only."); cf. Ackerman, 324 S.C. at 443, 477 S.E.2d at 268 ("The decision of the appellate court is final as to all questions decided. It is the duty of the trial court to follow the decision of the appellate court. It was therefore error for the trial court to reconsider the issue of liability in this case in view of the fact this court remanded the case for a determination of damages only. As we read the respondents' brief, they implicitly concede this issue." (citations omitted)).

Moreover, even if Slocumb's appellate challenge to his sentences for his non-burglary offenses was somehow proper, Slocumb's aggregate eighty-year sentence for those offenses is not unconstitutional in any way. Significantly, assuming the decision in

[2] Tellingly, during the resentencing hearing, defense counsel readily and repeatedly conceded to the circuit court judge that Slocumb's case had only been remanded for resentencing on Slocumb's first-degree burglary conviction. (R. pp. 7-8; p. 12).

Graham was applicable to term-of-years sentences instead of just life without parole sentences, that decision does not prohibit a circuit court judge from sentencing a juvenile non-homicide offender to a term of imprisonment that could result in the offender never being released from prison **so long as** the offender has some meaningful opportunity for release based on demonstrated maturity and growth. See Graham, 560 U.S. at 75 ("A State is not required to guarantee eventual freedom to a juvenile offender convicted of a nonhomicide crime. What the State must do, however, is give defendants like Graham some meaningful opportunity for release based on demonstrated maturity and rehabilitation."). Notwithstanding his consecutive fifty-year sentence for first-degree burglary, Slocumb's aggregate eighty-year sentence for his non-burglary offenses would **not** deny Slocumb such a meaningful opportunity for release during his projected life expectancy as a resident of the United States.

Notably, according to recent statistics compiled by the federal government, the average projected life expectancy in the United States is approximately seventy-eight years. C.D.C. Life Expectancy Data, http://www.cdc.gov/nchs/fastats/lifexpect.htm. Additionally, according to data compiled by the Social Security Administration, a United States citizen born on Slocumb's birthday – June 11, 1979 – is expected to live for roughly forty-seven more years and reach the age of eighty-two.[3] S.S.A. Life Expectancy Calculator, http://ssa.gov/planners/lifeexpectancy.htm. Furthermore, the General Assembly in South Carolina has determined that a thirty-three-year-old male, which was Slocumb's age at the time of the resentencing hearing, is expected to live for approximately forty-six more years. See S.C. Code Ann. § 19-1-150 (listing the

[3] Importantly, according to the Social Security Administration, Slocumb's projected life expectancy will continue **to climb** as he ages, with Slocumb being projected to reach the age of eighty-five if he lives to be sixty-two years old and to reach the age of eighty-seven if he lives to be seventy years old. S.S.A. Life Expectancy Calculator, http://ssa.gov/planners/lifeexpectancy.htm.

projected life expectancies of men and women of different ages in a table that can be used "to establish the life expectancy of a person from any period in his life"). Thus, even conservatively projecting Slocumb's total life expectancy to be only seventy-eight years based on the national average, Slocumb can be expected to live for an additional period of roughly forty-five years from the date of the resentencing hearing.

Looking to Slocumb's aggregate eighty-year sentence in conjunction with the projected years that he has left to live, Slocumb's aggregate sentence for his non-burglary offenses would **not** deprive him of a meaningful opportunity for release within his life expectancy assuming that he ever became capable of demonstrating the growth and maturity needed to qualify him for release according to Graham. Specifically, Slocumb's aggregate sixty-year sentence for the non-parolable offenses of first-degree criminal sexual conduct and kidnapping would require Slocumb to serve at least fifty-one years before he could be eligible for release. See S.C. Code Ann. § 24-13-150 (stating that offenders convicted of "no parole" offenses must serve at least eighty-five percent of their sentences before being eligible for release). Likewise, because Slocumb's other offenses of robbery and escape were not "no parole" offenses or violent crimes, Slocumb's aggregate twenty-year sentence for those crimes would require him to serve at least five years before he could be eligible for parole. See S.C. Code Ann. § 24-21-610 (stating that offenders convicted of non-violent crimes are entitled to be considered for parole after serving one-fourth of their sentences); see also Major v. South Carolina Dep't of Prob., Parole, & Pardon Servs., 384 S.C. 457, 468, 682 S.E.2d 795, 801 (2009) ("[I]f the consecutive sentence is a non-parolable offense then its sentence must be served and credited first against the aggregated sentence. This is necessary to give effect to the legislative grant of parole eligibility on the parole-eligible offense."). Thus, Slocumb had

to serve a minimum term of imprisonment of fifty-six years before he could be eligible for release for his non-burglary crimes, and he had already served nearly seventeen years of that sentence at the time of the resentencing hearing. Comparing the remaining thirty-year minimum term of incarceration that Slocumb was facing at the time of the resentencing hearing to Slocumb's forty-five years of projected life remaining at that time, Slocumb's life expectancy when he was resentenced exceeded the number of years he was required to serve before his earliest possible opportunity for release. Accordingly, notwithstanding his consecutive fifty-year term of imprisonment for first-degree burglary, Slocumb would have a meaningful opportunity to be released during his lifetime for his non-burglary crimes if he eventually was able to demonstrate maturity and growth in the future. See Graham, 560 U.S. at 75 (specifically recognizing that juvenile offenders who prove to be irredeemable as adults can be imprisoned for life but instructing that juveniles cannot be found to be irredeemable from the outset of their convictions). Therefore, even if his consecutive first-degree burglary sentence was somehow found to render his total aggregate sentence unconstitutional, Slocumb's aggregate eighty-year sentence for his non-burglary offenses is not itself unconstitutional and does not violate the mandates of Graham. Slocumb's convictions and sentences should be affirmed.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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April 29, 2014

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
Honorable DeAndrea G. Benjamin, Circuit Court Judge
Appellate Case No. 2013-000933

THE STATE,

Respondent,

vs.

CONRAD LAMONT SLOCUMB,

Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

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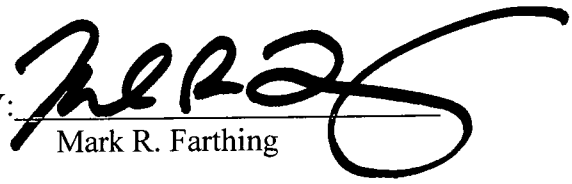
BY: 
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PROOF OF SERVICE

I, Ellen R. DuBois, certify that I have served the within Final Brief of Respondent on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

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I further certify that all parties required by Rule to be served have been served.
This 29th day of April, 2014.

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