

**ORIGINAL**

STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM DORCHESTER COUNTY

Court of General Sessions  
Honorable Dianne Schafer Goodstein, Circuit Court Judge

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Appellate Case No. 2018-001915

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THE STATE,

Respondent,

v.

DAEMON MICHAEL CRIM,

Appellant.

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FINAL BRIEF OF RESPONDENT

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## STATEMENT OF ISSUES ON APPEAL

### I.

A trial court has broad discretion to sentence within the statutory range. Crim, a 21-year-old Marine, had sex with two eighth-grade girls. He pled guilty to two counts of CSC with a Minor, 2<sup>nd</sup> degree, which carries a maximum penalty of 20 years' incarceration. He received 20-year concurrent sentences. Does the abuse of discretion standard of review permit this Court to overturn his sentence on the ground that it was too severe?

## STATEMENT OF THE CASE

Daemon Crim pled guilty to two counts of Criminal Sexual Conduct with a Minor, 2<sup>nd</sup> Degree before the Honorable Diane S. Goodstein and was sentenced to concurrent terms of twenty years' incarceration. Crim, who was 21 years old at the time of the crimes, admitted to having a sexual relationship with a 13-year-old girl. (R.p.26). On one occasion, Crim engaged in sexual intercourse with her and one of her friends, a 14-year-old girl, simultaneously. (R.pp.26-27). Crim admitted his conduct to police and confessed he was aware of the girls' ages and that they were under the legal age of consent. (R.p.29). Crim appeals the judgment of the court, alleging the facts of the case did not warrant a twenty year sentence.

## STANDARD OF REVIEW

A sentence will not be overturned absent an abuse of discretion when the ruling is based on an error of law or a factual conclusion without evidentiary support. In re M.B.H., 387 S.C. 323, 326, 692 S.E.2d 541, 542 (2010).

## ARGUMENT

### I.

#### **The trial court lawfully sentenced Crim within statutory limits.**

Under South Carolina law, the appellate court sits to review errors of law only. S.C. Code Ann. § 14-3-330. Sentencing is the domain of the trial court, and a trial judge has broad discretion in sentencing within statutory limits. In re M.B.H., 387 S.C. 323, 326, 692 S.E.2d 541, 542 (2010). An appellate court should not overturn a sentence within the statutory range absent judicial oppression or corrupt motive. State v. Goodall, 221 S.C. 175, 178, 69 S.E.2d 915, 916 (1952) (“It is the established rule in this state that this court has no jurisdiction on appeal to correct a sentence alleged to be excessive, when it is within the limits prescribed by law for the discretion of the trial judge, and is not the result of partiality, prejudice, oppression, or corrupt motive.”).

Although the United States Supreme Court has recognized that a “grossly disproportionate” sentence may violate the Eighth Amendment prohibition against cruel and unusual punishment in “exceedingly rare” cases, Crim has not come close to meeting that threshold. See Ewing v. California, 538 U.S. 11, 21, 123 S. Ct. 1179, 1185, 155 L. Ed. 2d 108 (2003) (upholding life sentence under recidivist statute for petty theft and explaining in “term-of-years” cases, the Eighth Amendment contains a “narrow proportionality principle,” that “does not require strict proportionality between crime and sentence” but rather “forbids only extreme sentences that are ‘grossly disproportionate’ to the crime”); compare United States v. Cobler, 748 F.3d 570, 580 (4th Cir. 2014) (affirming a 120-year sentence in a child pornography case) with Solem v. Helm, 463 U.S. 277, 290 (1983) (finding life without parole sentence for check fraud violated Eighth Amendment).

The newspaper articles cited in the Brief of Appellant, documenting sentences in various other cases with distinct facts, do not establish a constitutional violation.<sup>1</sup> Nor do those sentences vary greatly from the sentence in this case. They include several 20-year sentences, including a case involving sex crimes with multiple victims. See Brief of Appellant at 6, n.1. Of course, sentences are often the product of plea negotiations and vary depending on the strength of the case. This case, in which Crim gave a full confession to both the actus reus and mens rea of the crimes, was exceptionally strong.

While Crim repeatedly insists he received the maximum sentence for his crimes, this is not accurate; he received half of the maximum possible sentence. The court ordered his sentences to run concurrently although she had the authority to run them consecutively. The record clearly demonstrates that the trial court thoroughly considered the facts of the case, including the relevant exhibits, mitigation, victim impact, and arguments of counsel. See In re M.B.H., 387 S.C. at 326, 692 at 542–43 (finding no abuse of discretion where the court “considered all the facts and circumstances of this case, both aggravating and mitigating”). Whatever this Court believes to be an appropriate sentence for a 21-year-old Marine who has sex with two eighth-grade girls, the power to pronounce sentence resides with the trial court, whose decision should not be overturned absent a manifest abuse of discretion. State v. Corey D., 339 S.C. 107, 118, 529 S.E.2d 20, 26 (2000) (characterizing abuse of discretion review as “violent disagreement” with the lower court). That is not the case here. The court’s sentence was lawful (i.e. within statutory limits) and based on a careful review of clearly established facts (i.e. not arbitrary or oppressive). This Court should affirm.

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<sup>1</sup> Moreover, the articles were not presented to Judge Goodstein for consideration and therefore are not properly before this court for review.

**CONCLUSION**

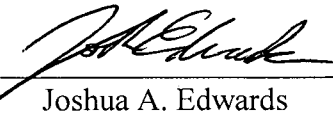
For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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**CERTIFICATE OF COUNSEL**

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The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

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