STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions
The Honorable R. Markley Dennis, Jr.

Case No.: 2019-000957

State of South Carolina,

Respondent,

vs.

Louis Neal "Skip" ReVille,

Appellant.

FINAL BRIEF OF APPELLANT
(Including repaginated Reply to Initial Brief of Respondent)

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STATEMENT OF ISSUE ON APPEAL

The circuit court abused its discretion by improperly sentencing Appellant and then denying Appellant's motion for reconsideration of sentencing, thus denying Appellant an effective opportunity to enter the Sexually Violent Predator Program.

STATEMENT OF THE CASE

On or about October 29, 2011, Mr. ReVille ("Appellant") turned himself in to the Mount Pleasant Police Department after becoming aware of allegations of inappropriate conduct with minor boys. He was indicted on or about April 2, 2012 for the counts listed below with their respective sentences, as well as some others that were dismissed. These charges arose in Dorchester, Berkeley, and Charleston Counties. On June 13, 2012, Appellant pleaded guilty to all counts before the Honorable R. Markley Dennis, Jr. in the Charleston County Courthouse.[1] He was represented by V. Craig Jones, Jr., Esquire, and the State was represented by Scarlett Wilson, Esquire and Debbie Herring-Lash, Esquire of the Ninth Circuit Solicitor's Office and Meghan Hall, Esquire of the First Circuit Solicitor's Office. Judge Dennis sentenced Appellant to a total of fifty years' imprisonment, specifically:

• 2012-GS-10-01835	CSC with a minor, 2nd	twenty years
• 2012-GS-10-01833	CSC with a minor, 2nd	twenty years
• 2012-GS-10-01921	Lewd Act with a minor	fifteen years
• 2012-GS-10-01847	CSC with a minor, 2nd	twenty years
• 2012-GS-10-01923	Lewd Act with a minor	fifteen years
• 2012-GS-10-02045	Lewd Act with a minor	fifteen years
• 2012-GS-10-01846	CSC with a minor, 2nd	twenty years
• 2012-GS-10-01927	Dissemination of Obscene Mat. to a minor	ten years
• 2012-GS-10-01977	Dissemination of Obscene Mat. to a minor	ten years
• 2012-GS-10-01978	Lewd Act with a minor	fifteen years
• 2012-GS-08-0353	CSC with a minor, 2nd	twenty years
• 2012-GS-08-0356	CSC with a minor, 2nd	twenty years
• 2012-GS-08-0361	Dissemination of Obscene Mat. to a minor	ten years
• 2012-GS-18-0425	Lewd act with a minor under 16	fifteen years
• 2012-GS-18-0426	Criminal Solicitation of a Minor	ten years
• 2012-GS-18-0427	Criminal Solicitation of a Minor	ten years
• 2012-GS-18-0430	Lewd act with a minor under 16	fifteen years
• 2012-GS-18-0433	CSC with a minor, 2nd	
• 2012-GS-18-0437	Dissemination of Obscene Mat. to a minor	ten years
• 2012-GS-18-0438	Criminal Solicitation of a Minor	ten years

[1] Appellant waived the right to have the charges heard in their respective counties.

Judge Dennis defined the controlling sentences as those for 12-GS-18-0436, criminal sexual conduct with a minor in the first degree, with the sexual battery being fellatio, carrying a sentence of fifty years. He noted that it "probably will be interrupted, that community supervision, by the Sexually Violent Predator proceeding...." Tr. p.129, lines 11-23. He also stated that 12-GS-18-0042,[2] lewd act on a minor, would carry a sentence of fifteen years, be suspended in its entirety, and carry probation of five years, consecutive to the CSC 1st sentence.

On June 22, 2012, Appellant filed a motion for reconsideration of sentencing. This remained pending for years and was followed by a request for hearing on the same dated April 30, 2018. The State filed a return to the motion on May 29, 2019, and Appellant filed a reply on June 26, 2019. A hearing was held on June 29, 2019, and an order denying relief filed on July 5, 2019.

Notice of this appeal was filed June 7, 2019 and this initial brief follows.

[2] Due to the volume of charges, Appellant believes that the indictment numbers were confused; however, he acknowledges that he pleaded guilty to at least one count of lewd act on a minor, for which this sentence is controlling.

STATEMENT OF FACTS

These charges stem from a series of incidents that transpired between Appellant and underaged males in the lowcountry between 2001 and 2011. They came to light on October 28, 2011, when the Mount Pleasant Police Department was contacted by the Lowcountry Children's Center regarding a parent making an appointment for her child due to his allegation of sexual assault by Appellant. By that date, Appellant had also sent an email to several parents describing vague acts he committed during his tenure as a camp counselor, coach, and church member in several capacities. This email was sent on October 27, 2011, the same evening a meeting was scheduled between parents who had concerns regarding Appellant.

The details of the activities between Appellant and the boys are provided in the plea transcript but range from his providing pornography and encouraging masturbation to performing and receiving oral sex. (R. p.32 – 44) These activities were framed by Appellant as a way for the boys to be "cooler," to join a sort of fraternity or brotherhood. Multiple victim impact statements by the victims and their parents were read, and one victim spoke live in the courtroom. The plea court also heard from William H. Burke, LPC, who had evaluated Appellant and his propensities, including opining that he believed Appellant would qualify for and benefit from the Sexually Violent Predator Act's ("SCP") accommodations. (R. p.101, lines 15-23)

Throughout the hearing, Judge Dennis referenced SVP and what it could mean for Appellant and his sentence. For instance, he referenced SVP as civil incarceration, noting that it could occur after his criminal incarceration ended. (R. p.46, lines 4-14) He also questioned Mr. Burke about the safety of predators in the community as they age, alluding that SVP and release would be possible for Appellant. (R. p. 102, lines 1-12) Throughout his pronouncement of the sentence, Judge Dennis referenced the Sexually Violent Predator Act, stating that "it's a great program" and "protects everybody in this room." (R. p. 125, lines 4-6) He stated that he "doubt[ed]

very seriously...this won't happen in this case" while describing how he intentionally did not give Appellant a life sentence so that he can address his issues. (R. p.125, line 25 to p.126, line 9) Judge Dennis went so far as to emphasize that this treatment program is started too late – "It needs to be started early on. To put people in jail and let them sit for years and years and vegetate and then put them in the treatment program, we've lost time." (R. p.126, lines 10-13.)

STANDARD OF REVIEW

"A judge must be permitted to consider any and all information that reasonably might bear on the proper sentence for a particular defendant. 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) (citations omitted).

ARGUMENT

The circuit court abused its discretion by improperly sentencing Appellant and then denying Appellant's motion for reconsideration of sentencing, thus denying Appellant an effective opportunity to enter the Sexually Violent Predator Program.

In 1998, the South Carolina General Assembly created the Sexually Violent Predator Treatment Program through passage of the Sexually Violent Predator Act, S.C. Code Ann. §44-48-10, *et seq*. The purposes of this Act and Program were to provide for "long-term care, control, and treatment" through involuntary civil commitment of "a mentally abnormal and extremely dangerous group of sexually violent predators." In outlining this act, the legislature identified the predators as defined by the crimes of which they were found guilty. This was delineated in §44-48-30 (2) (a) through (p). Of these, Appellant pleaded guilty to three: criminal sexual conduct with a minor in the first degree, criminal sexual conduct with a minor in the second degree, and criminal solicitation of a minor. These facts are not in dispute.

During the entry of Appellant's guilty plea, the Honorable R. Markley Dennis, Jr. repeatedly mentioned the existence and benefits of the Sexually Violent Predator Treatment Program. Most tellingly, he stated, "It needs to be started early on. To put people in jail and let them sit for years and years and vegetate and then put them in the treatment program, we've lost time." (R. p.126, lines 10-13) The considerations of the benefits of SVP treatment were clearly on his mind, despite sentencing Appellant to fifty years. At release, he will be 74 years old. It is unlikely that, despite being convicted of three sexually violent crimes, he would be considered likely to reoffend. Any hope at rehabilitation would have been lost. It is clear Judge Dennis lost sight of this goal of punishment.

It is well-established that, under the United States' system of jurisprudence and laws, there are several known purposes for punishment. The four most often-cited goals are retribution,

rehabilitation, deterrence, and prevention. 24 C.J.S. Criminal Law § 1460 (1989). In sentencing, "the court should consider these various goals of punishment." Id. (cited by State v. Brouwer, 346 S.C. 375, 389, 550 S.E.2d 915, 923 (Ct. App. 2001)). "The goals of sentencing are to reflect the seriousness of the offense, promote respect for the law, provide appropriate punishment, deter criminal conduct, protect the public from the defendants criminal conduct, and provide the defendant with needed care or treatment." State v. Brouwer, 346 S.C. 375, 387, 550 S.E.2d 915, 922 (Ct. App. 2001) (citing United States v. Gomez-Villa, 59 F.3d 1199 (11th Cir. 1995)). In this case, Appellant is fully aware that retribution and penance are the reason for the majority of his sentence; however, he also believes that the plea court intended rehabilitation to play a significant part. By sentencing him to such a long sentence in the Department of Corrections, Appellant is unable to gain the help he needs to be rehabilitated.

Appellant's argument is the opposite of many who seek relief related to the SVP program. For instance, In re Treatment & Care of Luckabaugh, 351 S.C. 122, 568 S.E.2d 338 (2002) is a prime example of someone who attempted (very creatively) to evade the SVP program or being labeled a sexual offender. In Luckabaugh, he argued that SVP status should be determined at the beginning of a sentence so as to prevent forcible detention between the end of a prison term and the beginning of civil commitment. Id., 351 S.C. at 144, 568 S.E.2d at 349. Our Supreme Court disagreed with this assertion, in part because it did not violate due process, and also because it would change the number of people deemed SVPs – inmates, it held, benefitted from mental health counseling and other services during their incarceration. By participating in these, there was a chance for them not to be deemed violent and in need of SVP commitment at the end of their imprisonment. Id., 351 S.C. at 145, 568 S.E.2d at 350.

This time has passed for Appellant. He has been incarcerated for nearly eight years and has participated in every service offered to him through the Department of Corrections. He has worked with therapy dogs and taken college classes. He is a member of the Inmate Representative Committee. He has cooperated with civil suits that arose from his actions. He has never argued his guilt. But he is still in need of help. He has written treatises on how he groomed and chose his victims. He has analyzed psychological needs in both himself and young boys, then disseminated this information to professionals. While it is apparent that he is a very smart individual, it is also apparent that he is in need of serious help. At the plea hearing, Mr. Burke testified that Appellant would benefit from SVP treatment. (R. p.101, lines 15-23)

Additionally, Appellant was evaluated in 2017 by Dr. E. Selman Watson, a clinical and forensic psychologist. Dr. Watson noted that Appellant "has spent hundreds of hours in careful introspection, exploring his cycle of abuse, examining grooming techniques, and the cognitive distortions that allowed his offending to move forward." (R. p.170) Importantly, he found that Appellant "is in need of long-term treatment for his sex offending" and "should immediately enter the SVP program" if admitted. (R. p.171) This would allow the "highly motivated" and "extremely remorseful" Appellant to "make better use of his time in the absence of similar programming within the South Carolina Department of Corrections." (R. p.171)

By sentencing Appellant to fifty years' imprisonment, the goal of rehabilitation was completely lost by the plea court which abused its discretion in issuing this cruel sentence. A reduction in sentence would serve all goals of punishment, as Appellant would be provide retribution by the time served, serve as a deterrent and preventative example to others in similar situations and, importantly, be able to receive rehabilitation he deserves. Appellant's offenses began at a young age and his treatment will be long and intense. Transfer to the Department of

Mental Health and the Sexually Violent Predator Treatment Program are not an easy way out for Appellant as he will not leave custody any time soon. However, it will allow him a semblance of a chance at life years and decades down the road. Appellant's sentence must be reduced so that he may experience a chance at meaningful treatment and rehabilitation through the Sexually Violent Predator Treatment Program.

CONCLUSION

For the above stated reasons, Appellant respectfully requests that this Court reduce his sentences.

Respectfully submitted,

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CERTIFICATE OF COUNSEL

The undersigned certified that this Final Brief complies with Rule 211(b), SCACR.

September 24, 2020

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