

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of General Sessions

Diane Shafer Goodstein, Circuit Court Judge

Unpublished Opinion No. 2020-UP-239
Appellate Case No. 2018-001915

The State,

Respondent

v.

Daemon Michael Crim,

Appellant

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

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October 19, 2020

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S.C. SUPREME COURT

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Court of General Sessions
The Honorable Diane S. Goodstein, Judge.

Case No. 2018-001915

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SC Court of Appeals

The State of South Carolina,.....Respondent.

v.

DAEMON MICHAEL CRIM

.....Appellant.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER	)	
	)	
State of South Carolina,	)	2016-GS-18-1409
	)	2016-GS-18-1410
	)	
PLAINTIFF,	)	TRANSCRIPT OF RECORD
	)	
VS.	)	
	)	
Daemon Crim,	)	
	)	
DEFENDANT.	)	
	)	

June 11, 2018

St. George, South Carolina

B E F O R E:

The Honorable Diane S. Goodstein

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If you need an additional copy of this transcript or a sealed transcript or if opposing counsel requires a copy of the transcript, you should contact the court reporter.

Certification will satisfy Rule 80, Stenographic Report of Transcript as Evidence.

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1

1 MR. SORENSON: The State calls Daemon Crim.

2 Good afternoon, ma'am.

3 THE COURT: Yes, sir.

4 MR. SORENSON: Before you, Your Honor, is Daemon
5 Crim with his attorney Larry Weidner with the Beaufort
6 County Bar.

7 We are here, Your Honor, to enter guilty pleas on
8 two indictments, 2016-GS-18-1409, 1410, two counts of
9 criminal sexual conduct with a minor in the second
10 degree.

11 (WHEREUPON, counselors confer and documents signed by
12 defendant.)

13 MR. SORENSON: May I approach, Your Honor?

14 THE COURT: Yes.

15 MR. SORENSON: And these, Your Honor, would be they
16 are both criminal sexual conduct with a minor second
17 degree under Statute 16-3-665(B). One of them is under
18 Subsection 1, and one of them is under Subsection 2.

19 THE CLERK: State your name for the record.

20 THE WITNESS: Daemon Crim.

21 (WHEREUPON, the witness was duly sworn.)

22 THE COURT: All right. You are Daemon Michael Crim?

23 MR. CRIM: Yes, ma'am.

24 THE COURT: All right. And you are represented by
25 Mr. Weidner?

1 MR. CRIM: Yes, Your Honor.

2 THE COURT: And is that right, Weidner instead of
3 Weidner?

4 MR. WEIDNER: Weidner.

5 THE COURT: Known as Weidner, okay.

6 MR. SORENSON: I'm sorry.

7 THE COURT: No, no worries.

8 MR. SORENSON: The minute it came out of my mouth it
9 was like I am not positive ---

10 THE COURT: No worries.

11 MR. SORENSON: --- that is right.

12 THE COURT: No worries. All right.

13 Mr. Crim, I have questions for your attorney and
14 then questions for you.

15 Counsel, have you advised your client regarding the
16 nature of these offenses, the maximum possible penalty,
17 and his constitutional rights including his rights to a
18 jury trial?

19 MR. WEIDNER: Yes, ma'am, I have.

20 THE COURT: Have you also discussed with your client
21 the classification of these offenses; one of them is a
22 violent offense -- or the classification of violent and
23 the classification of most serious?

24 MR. WEIDNER: Yes, ma'am, I have.

25 THE COURT: All right. And in your opinion does

1 your client understand the nature of these offenses, the
2 maximum possible penalty, and consequences in his rights?

3 MR. CRIM: Yes, ma'am.

4 THE COURT: Tell me how he wishes to plead to each
5 of these two offenses?

6 MR. WEIDNER: To each of the two offenses he pleads
7 guilty.

8 THE COURT: And do you concur with his decisions?

9 MR. WEIDNER: Yes, ma'am.

10 THE COURT: From your investigation of the facts and
11 circumstances of your client's case do you believe that
12 the State could produce sufficient evidence to convict
13 and establish your client's guilt beyond a reasonable
14 doubt and if he was to stand trial that his conviction
15 would be probable?

16 MR. WEIDNER: Yes, ma'am.

17 THE COURT: And do you have any concerns regarding
18 your client's competency?

19 MR. WEIDNER: No, ma'am.

20 THE COURT: All right.

21 Now Mr. Crim, I have many questions to ask of you.
22 The reason that I am asking you these questions is to be
23 sure that you are entering into these proceedings freely
24 and voluntarily, knowingly and intelligently.

25 If at any point in time you do not understand my

1 question, do not answer it but let me know that you do
2 not understand my question. There are many ways to
3 explain any one thing.

4 And if you need to stop and speak with Mr. Weidner I
5 want you to feel free to do that. Do you understand?

6 MR. CRIM: Yes, Your Honor.

7 THE COURT: All right. Tell me how old you are.

8 MR. CRIM: Twenty-three, Your Honor.

9 THE COURT: How far did you go in school?

10 MR. CRIM: To graduated high school, Your Honor.

11 THE COURT: Are you married?

12 MR. CRIM: No, Your Honor.

13 THE COURT: Where are you employed?

14 MR. CRIM: I am currently employed at Pilot Travel
15 Center off -- in Charleston.

16 THE COURT: Have you ever been treated for alcohol
17 or drug abuse?

18 MR. CRIM: No, Your Honor.

19 THE COURT: Have you ever been treated for mental
20 health challenges?

21 MR. CRIM: No, Your Honor.

22 THE COURT: In the last 72 hours have you had any
23 alcohol?

24 MR. CRIM: Yes, Your Honor.

25 THE COURT: All right. When?

1 MR. CRIM: It was about two days ago, Your Honor.
2 THE COURT: That would have been Saturday?
3 MR. CRIM: Yes, Your Honor.
4 THE COURT: All right. What did you have?
5 MR. CRIM: A few beers, Your Honor.
6 THE COURT: Can you help me be a little more
7 specific?
8 MR. CRIM: About four, Your Honor.
9 THE COURT: Okay. Anything else?
10 MR. CRIM: No, Your Honor.
11 THE COURT: All right. Have you had any drugs?
12 MR. CRIM: No, Your Honor.
13 MR. WEIDNER: Have you had any medicine?
14 MR. CRIM: Yes, Your Honor.
15 THE COURT: All right. What medicine?
16 MR. CRIM: I am under Flomax, Your Honor, for kidney
17 stones currently.
18 THE COURT: Okay. Anything else?
19 MR. CRIM: No, Your Honor.
20 THE COURT: All right. Did you have your Flomax
21 yesterday?
22 MR. CRIM: Yes, Your Honor.
23 THE COURT: And today?
24 MR. CRIM: And this morning, Your Honor.
25 THE COURT: All right. And is there anything about

1 your kidney stone situation or the medicine that would
2 interfere with your ability to know what you are doing
3 here today?

4 MR. CRIM: No, Your Honor.

5 THE COURT: All right. Now is there anything about
6 the fact that you had four beers on Saturday that would
7 keep you from knowing or understanding or interfering
8 with your ability to know what we are doing here today?

9 MR. CRIM: No, Your Honor.

10 THE COURT: Do you agree with that, Mr. Weidner?

11 MR. WEIDNER: Yes, ma'am.

12 THE COURT: All right. Now are you aware of any
13 issues or challenges or problems that you have - and I am
14 going to give you some examples - a physical problem, a
15 mental problem, a nervous problem, a drug or an alcohol
16 problem, are you aware of any issues or challenges or
17 problems that you have in life that might or could
18 interfere with your ability to know exactly what you are
19 doing here today?

20 MR. CRIM: No, Your Honor.

21 THE COURT: All right. Now, Mr. Crim, are you on
22 probation or parole currently?

23 MR. CRIM: No, Your Honor.

24 THE COURT: All right. Now let's -- I want to talk
25 with you about these two offenses.

1 MR. CRIM: Yes, Your Honor.

2 THE COURT: I am first going to talk to you about
3 2016-GS-18-1410 and then 2016-GS-18-1409.

4 Mr. Crim, do you understand first of all that this
5 offense is punishable by 20 years in prison?

6 MR. CRIM: Yes, Your Honor.

7 THE COURT: All right. And do you understand that
8 this offense has specific classifications, the first of
9 which is violent, the other is most serious. I want to
10 talk first about the classification of violent and then
11 the classification of the most serious, okay.

12 MR. CRIM: Yes, Your Honor.

13 THE COURT: If you have questions I want you to
14 certainly to ask me or ask your attorney.

15 Now, Mr. Crim, when a person is convicted of a
16 violent offense that classification has an impact on an
17 individual both inside the Department of Corrections if a
18 person is sentenced to the Department of Corrections and
19 then when the person is released from the Department of
20 Corrections to their -- the rules that govern the way
21 they can live once they are out of the Department of
22 Corrections. And I want to give you that overarching
23 description, and then I am going to be a little more
24 specific.

25 So my first question for you is do you understand

1 that because this is a violent offense and has that
2 classification if you are incarcerated you will be
3 incarcerated in a facility intended for violent
4 offenders; do you understand that?

5 MR. CRIM: Yes, Your Honor.

6 THE COURT: And then do you understand that a person
7 who is convicted of a violent offense is not allowed to
8 earn work credits or educational credits; do you
9 understand that?

10 MR. CRIM: Yes, Your Honor.

11 THE COURT: All right. Do you understand that there
12 are also consequences for when that person is released
13 from the Department of Corrections; for example, that
14 person because they have been convicted of a violent
15 offense they are not allowed to work in any capacity in
16 the School District; do you understand?

17 MR. CRIM: Yes, Your Honor.

18 THE COURT: Those individuals are not allowed to
19 have a residential care license; do you understand that?

20 MR. CRIM: Yes, Your Honor.

21 THE COURT: All right. And unless it is a part of
22 their employment they are not allowed to own body armor
23 or use body armor; do you understand that?

24 MR. CRIM: Yes, Your Honor.

25 THE COURT: All right. And there are other

1 consequences to the classification of a violent offense.

2 Do you understand?

3 MR. CRIM: Yes, Your Honor.

4 THE COURT: Is there any question in your mind that
5 this offense is a violent offense?

6 (WHEREUPON, Mr. Crim confers with counsel.)

7 MR. CRIM: Yes, Your Honor.

8 THE COURT: Okay. It has that classification.

9 MR. CRIM: Yes, Your Honor.

10 THE COURT: Okay. Now this offense also is
11 classified as most serious. And I need you to listen
12 very carefully.

13 Under the Statute 17-25-45, which is a statute which
14 has been passed by legislature and it is intended no
15 doubt from a policy standpoint of being an anti-
16 recidivism statute, and what this statute says is that
17 there will be certain crimes that will have certain
18 classifications in South Carolina and if a person is
19 convicted of a crime with the classification which is
20 most serious - and those are offenses like criminal
21 sexual conduct with a minor under (B)(1). Murder,
22 kidnapping, burglary in the first degree are examples of
23 most serious offenses - if a person is convicted of one
24 most-serious offense and they are then charged over the
25 course of their life with a second most-serious offense

1 and the State serves that person notice that the State
2 intends to seek a penalty of life without the possibility
3 of parole and the person is then convicted of that second
4 most-serious offense then the person will spend the rest
5 of their life in prison without the possibility of
6 parole. Do you understand that?

7 MR. CRIM: Yes, Your Honor.

8 THE COURT: That is a consequence to this plea here
9 today. Do you understand?

10 MR. CRIM: Yes, Your Honor.

11 THE COURT: You will have a most-serious strike. Do
12 you understand?

13 MR. CRIM: Yes, Your Honor.

14 THE COURT: All right. There is another
15 consequence. Under the same statute, 17-25-45, there is
16 another group of crimes which are serious crimes. They
17 have that classification.

18 And the rule with regard to the serious crime is if
19 a person is convicted of one most-serious and a serious
20 crime and they are then charged with a second serious
21 offense and the State serves that person notice that the
22 State intends to seek a penalty of life without the
23 possibility of parole and the person is then convicted
24 they would spend the rest of their life in prison without
25 the possibility of parole. Do you understand?

1 MR. CRIM: Yes, Your Honor.

2 THE COURT: In other words, a most-serious can also
3 be a strike under the three-strike rule or it can be
4 considered as most-serious to -- most-serious or under
5 the classification of serious. It can be one of the
6 three. Do you understand?

7 MR. CRIM: Yes, Your Honor.

8 THE COURT: All right. Do you have any questions
9 about that?

10 MR. CRIM: No, Your Honor.

11 THE COURT: All right. One of the things that I do,
12 one of my practices, is that I establish at this point
13 what strike a person has. And I intend to do that. I am
14 going to begin with Mr. Sorenson and then Mr. Weidner and
15 then finally you.

16 All right. Mr. Sorenson, what strike do you believe
17 this is?

18 MR. SORENSON: This would be -- he doesn't have any
19 prior record. This would be his first strike.

20 THE COURT: All right. Very well.

21 Do you concur, Mr. Weidner?

22 MR. WEIDNER: Yes, ma'am, I do.

23 THE COURT: And most importantly, Mr. Crim, this
24 would be as you understand it your first strike?

25 MR. CRIM: Yes, Your Honor.

1 THE COURT: All right. Now do you understand, Mr.
2 Crim, that in the event that I sentence you to time in
3 prison, whatever that sentence is, is the time that you
4 need to count on serving?

5 MR. CRIM: Yes, Your Honor.

6 THE COURT: All right. Very well.

7 Now I want to talk about 2016-GS-18-1409 which is
8 criminal sexual conduct with a minor. And this is under
9 16-36-55(B) (2). First of all, do you understand that this
10 offense also carries 20 years in prison?

11 MR. CRIM: Yes, Your Honor.

12 THE COURT: Do you understand that your exposure
13 here today is 40 years in prison?

14 (WHEREUPON, Mr. Crim confers with counsel.)

15 THE COURT: You can ask your lawyer. You can talk
16 to your lawyer.

17 (WHEREUPON, Mr. Crim confers with counsel.)

18 MR. CRIM: Yes, Your Honor.

19 THE COURT: All right. In other words, if I gave
20 you consecutive time, 20 plus 20 is 40; do you
21 understand?

22 MR. CRIM: Yes ---

23 THE COURT: That is how I arrived at that. All
24 right.

25 Now, Counsel, violent -- it is also violent?

1 MR. SORENSON: Yes -- yes, ma'am.

2 THE COURT: And it is also ---

3 MR. SORENSON: My position is it is most serious. I
4 think that is what we spent a fair amount of time ---

5 THE COURT: Yes, fair amount of time.

6 MR. SORENSON: --- back in chambers talking about.

7 THE COURT: Yes. Yes. And I will go over it in
8 just that way.

9 MR. SORENSON: Yes, ma'am.

10 THE COURT: Do you understand that everything that I
11 told you a moment ago about the classification of the
12 prior crime is violent; this one likewise is violent?

13 MR. CRIM: Yes, Your Honor.

14 THE COURT: And all of the consequences that I just
15 told you about when we talked about 2016-GS-18-1410 apply
16 to this offense as well.

17 MR. CRIM: Yes, Your Honor.

18 THE COURT: All right. Now there is a question
19 about whether or not this offense is a most-serious
20 offense. And I have spent a fair amount of time talking
21 to your lawyer as well as Mr. Sorenson about how the law
22 has developed and whether or not the State has changed an
23 old statute that would affect this offense from being a
24 most-serious offense.

25 And the State takes the position this is a

1 most-serious offense. And your very bright, capable
2 lawyer believes that there is a substantial argument that
3 this is no longer a most-serious offense. Do you
4 understand that?

5 MR. CRIM: Yes, Your Honor.

6 THE COURT: I don't know that there is clarity about
7 that. But for purposes of your plea here today you need
8 to assume that this is a most-serious offense. Do you
9 understand?

10 MR. WEIDNER: Yes, Your Honor.

11 THE COURT: All right.

12 MR. WEIDNER: And, ma'am, just to be clear, I am
13 taking the position that given the proper findings that
14 neither of these would be a most-serious offense.

15 THE COURT: That is correct. That is absolutely
16 correct. Thank you.

17 MR. WEIDNER: I didn't interrupt you before. I just
18 wanted to make sure that I had that.

19 THE COURT: That is absolutely appropriate, Mr.
20 Weidner. That is absolutely appropriate. Thank you.

21 MR. WEIDNER: Thank you.

22 THE COURT: Yes. Yes. And for our record, I think
23 that the question is only about this one.

24 MR. WEIDNER: I understand.

25 THE COURT: I don't believe that there is a question

1 about whether or not 2016-GS-18-1410 is a most-serious
2 offense. I think it is.

3 And I think that you have a certainly a very
4 legitimate argument that this one may or may not be.

5 MR. WEIDNER: I understand your ruling.

6 THE COURT: Yes. This one being 2016-GS-18-1409.
7 Now very well.

8 So, Mr. Crim, again, what I have just explained to
9 you about most-serious offenses would and ought be
10 considered by you with regards to 2016-GS-18-1409. Do
11 you understand?

12 MR. CRIM: Yes, Your Honor.

13 THE COURT: All right. Very well. Now I will ask
14 you -- or first of all, say that you have told me that
15 you understand the nature of these offenses. Well, let
16 me stop there because I failed to go over the sex-
17 offender registry.

18 Mr. Crim, do you understand that at the conclusion
19 of today's plea that you very well may be required to
20 register as a sex offender?

21 MR. CRIM: Yes, Your Honor.

22 THE COURT: For the rest of your life?

23 MR. CRIM: Yes, Your Honor.

24 THE COURT: All right. And do you know that there
25 are a number of requirements for those who are registered

1 sex offender; do you understand?

2 MR. CRIM: Yes, Your Honor.

3 THE COURT: Govern where you can live. It is -- you
4 have to -- how often you have to register. If you change
5 your residence, for example, you have three days to
6 reregister that new address. And, quite frankly, our
7 Legislature is known to change those requirements from
8 time to time, and you are responsible for keeping up
9 with -- or would be responsible for keeping up with those
10 requirements. Do you understand?

11 MR. CRIM: Yes, Your Honor.

12 THE COURT: All right. And do you understand that
13 GPS monitoring for the rest of your life may be required
14 as well?

15 MR. CRIM: Yes, Your Honor.

16 THE COURT: All right. All right. Now and finally
17 do you understand that if you do not comply with the
18 requirements of the sex-offender registry that there are
19 penalties that are associated with violations?

20 MR. CRIM: Yes, Your Honor.

21 THE COURT: All right. And they are -- some of them
22 are mandatory.

23 MR. CRIM: Yes, Your Honor.

24 THE COURT: And they are graduated. Meaning if you
25 fail to comply, first offense there is a penalty. If you

1 fail to comply with your sex-offender registry
2 requirements second offense the penalties are worse. Do
3 you understand?

4 MR. CRIM: Yes, Your Honor.

5 THE COURT: All right. All right. Now so you have
6 told me that you understand the nature of these offenses,
7 the maximum possible penalty, the consequences of your
8 plea here today. Keeping these matters in the forefront
9 of your mind, Mr. Crim, how to you plead to 2016-GS-18-
10 1409?

11 MR. CRIM: Guilty, Your Honor.

12 THE COURT: How do yo plead to 2016-GS-18-1410?

13 MR. CRIM: Guilty, Your Honor.

14 THE COURT: Do you understand that when you plead
15 guilty you give up certain very important constitutional
16 rights?

17 MR. CRIM: Yes, Your Honor.

18 THE COURT: We are going to go over some of them.
19 We will not go over all of them. But if you have
20 questions I certainly want you to stop, talk to your
21 lawyer, ask me. Okay?

22 MR. CRIM: Yes, Your Honor.

23 THE COURT: All right. First you give up the right
24 to remain silent. You are talking to me ---

25 MR. CRIM: Yes, ma'am.

1 THE COURT: --- so you are not being silent. That
2 is your Fifth Amendment right.

3 You give up your right against self-incrimination.
4 What that means is is that no one can make you testify
5 against yourself. Do you understand that?

6 MR. CRIM: Yes, Your Honor.

7 THE COURT: You are under oath. You just told me
8 that you are guilty. That was self-incriminating. Do
9 you understand?

10 MR. CRIM: Yes, Your Honor.

11 THE COURT: You just gave up your Fifth Amendment
12 right. Do you understand?

13 MR. CRIM: Yes, Your Honor.

14 THE COURT: You give up your right to require that
15 the State prove you guilty beyond a reasonable doubt if
16 they can. You give up your right to have your lawyer
17 cross-examine the witnesses who would testify against
18 you. You give up your right to have your lawyer summon
19 witnesses to testify in your defense. You give up your
20 right to present defenses. You give up your right to
21 challenge any incrementing statements that you may have
22 made in this case; for example and typically what I am
23 talking about, are from oft-times confessions that were
24 given to law-enforcement. Well, those are self -- or
25 those are incriminating statements given to the

1 government. You give up your right to have your lawyer
2 challenge those. Do you understand that?

3 MR. CRIM: Yes, Your Honor.

4 THE COURT: That is -- that is -- you give up your
5 right to have your lawyer challenge any stops or searches
6 or seizures that you think were not appropriate. You
7 give up your right to a jury trial. Do you understand?

8 MR. CRIM: Yes, Your Honor.

9 THE COURT: Now do you fully understand, Mr. Crim,
10 that if you wanted a jury trial you would certainly have
11 a jury trial?

12 MR. CRIM: Yes, Your Honor.

13 THE COURT: And at that trial it would be up to you
14 to decide whether to testify or not. And in the event
15 that you chose to go to trial and you chose not to
16 testify, exercise your Fifth Amendment right, that the
17 judge would tell the jury trying your case that they
18 could not consider your decision not to testify. In
19 fact, the judge would tell the jury that the jury could
20 not even discuss your decision not to testify in the jury
21 room because that was the exercise of your Fifth
22 Amendment right and you didn't have to prove anything.
23 That the burden to prove guilty is and remains on the
24 State to prove guilt beyond a reasonable doubt and you
25 would not have to prove anything. Do you understand

1 that?

2 MR. CRIM: Yes, Your Honor.

3 THE COURT: All right. Now do you clearly
4 understand that when you plead guilty that you give up
5 certain very important constitutional rights?

6 MR. CRIM: Yes, Your Honor.

7 THE COURT: And some of which we have talked about,
8 and there are others in which we have not. Do you
9 understand?

10 MR. CRIM: Yes, Your Honor.

11 THE COURT: All right. And do you wish to enter
12 your plea of guilty understanding that you give up
13 certain very important constitutional rights?

14 MR. CRIM: Yes, Your Honor.

15 THE COURT: All right. Now do you clearly
16 understand that when you plead guilty that you give up
17 your right to have a jury determine if you are guilty or
18 not guilty?

19 MR. CRIM: Yes, Your Honor.

20 THE COURT: And do you understand if I accept your
21 plea I will sentence you?

22 MR. CRIM: Yes.

23 THE COURT: All right.

24 (WHEREUPON, Mr. Crim confers with counsel.)

25 THE COURT: Now I want to pause here for a moment

1 because I want to review what you have told me. You
2 have told me that you understand the nature of these
3 offenses, your sex offenses, maximum possible penalty 40
4 years. Consequences we have been through them, violent,
5 most-serious, sex offender registry. And you have also
6 told me that you understand your constitutional rights.

7 Keeping all of these matters absolutely in the
8 forefront of your mind do you still wish to continue with
9 your plea of guilty to each of these two offenses?

10 MR. CRIM: Yes, Your Honor.

11 THE COURT: All right. I want you to listen very
12 carefully, because at this point I am going to ask Mr.
13 Sorensen to go over the facts that the State is prepared
14 to present at trial for the purpose of proving your
15 guilt.

16 And when he is finished I am going to ask you is
17 that what happened. Let me tell you that the reason that
18 I am going through this part of the plea is because every
19 plea must be supported by a factual basis. And that is
20 the reason for it. Okay?

21 MR. CRIM: Yes, Your Honor.

22 THE COURT: So I need you to listen carefully. When
23 he is finished I will ask you is that what happened. You
24 need to correct anything that I am told that needs to be
25 corrected to be sure that I have an accurate picture of

1 what happened. Okay?

2 MR. CRIM: Yes, Your Honor.

3 THE COURT: All right. Yes, sir, Mr. Sorenson.

4 MR. SORENSON: Thank you. May it please the court,
5 Your Honor.

6 THE COURT: Yes.

7 MR. SORENSON: This offense occurred, Your Honor,
8 back on the early part of July of 2016. I need to give
9 Your Honor a little bit of kind of background to how
10 these events kind of came to be at that time.

11 Back in the early part of 2016, at the time, the
12 defendant was 21 years of age. He was employed at that
13 time by the United States Marine Corp and was stationed
14 as a correctional officer over at the Naval Brig.

15 At some point in time he became acquainted with one
16 of the victims in this case, [REDACTED] Victim 1 [REDACTED]. Her
17 mother and stepfather -- I believe the stepfather was
18 working over doing IT work over at the Naval Weapons
19 Station and had become -- had gotten to know Mr. Crim.

20 Apparently, from kind of looking through and talking
21 to everybody there, the home that they lived in they were
22 allowing some of the people that worked over there to
23 kind of get off of the barracks and to come kind of crash
24 at their house. I guess they had kind of a big game room
25 with several beds set up in it. And the defendant was

1 one of those individuals that were coming over there.

2 The early part of 2016, specifically right around
3 Valentine's Day of 2016, in talking to [Victim 1] is the
4 first time that her and the defendant had kind of started
5 their relationship. It had gotten beyond just
6 acquaintances and/or friends.

7 She was at the time 13 years of age. Her birthday
8 is [REDACTED] of 2002. So she would have been about 13
9 years and approximate four months when the two of them
10 first -- she indicates the first time that they kissed.
11 Which would have been somewhere right around Valentine's
12 Day of 2016.

13 Over the next approximately four to five months
14 according to [Victim 1] that relationship escalated and did
15 turn into a sexual relationship between the two of them
16 where she indicates that -- and us. Her statement to law
17 enforcement was that she had had sexual intercourse with
18 the defendant twice. In talking to her she indicates it
19 was a lot more than that. Leading up to ultimately, as I
20 indicated, the early part of July around the July 4th
21 holiday.

22 The other victim in this case, [REDACTED] [Victim 2]
23 [Victim 2] birthday is on [REDACTED] of 2002. So she is
24 about six months older than [Victim 1]. So at the time of
25 our incident she was 14 years of age and about three

1 months.

2 She is on -- the two -- just a little background,
3 Your Honor. These two girls went to middle school
4 together. They had been friends for about two years.
5 Over in Goose Creek in that area.

6 Ultimately [Victim 1] and her family moved to North
7 Charleston. And our ultimate incident location is their
8 home at [REDACTED] which is located in North
9 Charleston in Dorchester County.

10 So at that point in time the two of them they had
11 still -- they were out for the summer. I believe they
12 had both completed the eighth grade at that point in
13 time.

14 As I indicated, over that -- on the Fourth of July
15 holiday [Victim 2] had come to spend several days at
16 [Victim 1]'s home. They had basically had done that over
17 the last couple of years, kind of going back and forth
18 spending the night at each other's homes.

19 Our incident that is alleged in the indictments,
20 Your Honor, occurred on the early morning hours one of
21 those nights that [Victim 2] was over [Victim 1]'s home. They
22 were up in that game room watching -- watching movies
23 when ultimately they ended up engaging not only sexual
24 intercourse but digital penetration and the defendant
25 performing oral sex on both of -- both of the girls.

1 [Victim 2] indicates to us that ultimately she ended up
2 bleeding as a result of that. They basically all of that
3 ended. They went to bed. And the next morning [Victim 2]
4 went home.

5 Over the next day or two she ends up saying
6 something to her father and her father's girlfriend about
7 having some itching going on. They attempt to, you know,
8 provide her with some vaginal cream. That doesn't --
9 doesn't stop the problem. And several days after that is
10 when she confides in her dad what had happened that
11 night.

12 Her father takes her at that point in time to
13 Trident Medical Center. We are outside the range where
14 they could do a sexual assault kit on her in an attempt
15 to find any evidence. But they do do at that point in
16 time a general exam of her. And it is a female
17 physician's assistant that does that and does -- does
18 note some trauma to her genital area which would be
19 consistent with what she had reported.

20 At that point in time the Dorchester County
21 Sherriff's Office was contacted. Lieutenant Peters is
22 assigned the case. Upon him learning at that point in
23 time that the defendant was active-duty Marine, Naval
24 Criminal Investigative Services was also contacted. And
25 it is an agent, Erin Longo, who is assigned through NCIS.

1 They had learned at that point in time actually from
2 [Victim 1]'s mother - because I believe she had actually
3 paid for the defendant ticket - that he actually had
4 flown home to deal with some medical issues with his
5 mother to the State of Nevada. They had learned also
6 when he was supposed to return and ultimately were
7 waiting for Mr. Crim at the Charleston Metropolitan
8 Airport.

9 He was taken into custody. Lieutenant Peters had
10 obtained these two warrants at that point in time. Was
11 brought back to the Dorchester County Sheriff's Office.

12 And after a little bit of questioning after being
13 mirandized by the two of them and waiving his rights he
14 ultimately ended up giving a what amounted to about a
15 six-page handwritten in his own handwriting confession
16 admitting to having -- having sex with [Victim 1] on two
17 occasions and admitting to the incident that I just
18 described to Your Honor with all three of them. Admitted
19 to knowing their ages. Admitted to knowing that that was
20 the age of consent in South Carolina being 16. Admitted
21 that apparently - and I didn't know this before that -
22 but I believe the actually the age of consent in the
23 military is actually 18.

24 But that would basically be the facts, Your Honor.

25 THE COURT: All right. Is that what happened?

1 (WHEREUPON, Mr. Crim turns toward counsel.)

2 MR. CRIM: There was like -- there's parts in there
3 that were wrong ...

4 (WHEREUPON, Mr. Crim confers with counsel.)

5 MR. CRIM: Yes, Your Honor.

6 THE COURT: All right. Now has anyone promised you
7 anything or held out any hope of any sort of a reward to
8 get you to plead guilty?

9 MR. CRIM: No, Your Honor.

10 THE COURT: Has anyone tried to force you or
11 threaten you, pressure you or intimidate you to make you
12 plead guilty?

13 MR. CRIM: No, Your Honor.

14 THE COURT: Have you had enough time to make up
15 your mind that this is what you want to do?

16 MR. CRIM: Yes, Your Honor.

17 THE COURT: And are you pleading guilty here today
18 freely and voluntarily?

19 MR. CRIM: Yes, Your Honor.

20 THE COURT: And are you pleading guilty because you
21 are in fact guilty?

22 MR. CRIM: Yes, Your Honor.

23 THE COURT: All right. Now I want to talk about
24 your relationship with Mr. Weidner. Have you spoken with
25 Mr. Weidner for as many times and for as long a period of

1 time on each occasion as you believe appropriate for him
2 to properly represent you?

3 MR. CRIM: Yes, Your Honor.

4 THE COURT: All right. Has Mr. Weidner investigated
5 your case?

6 MR. CRIM: Yes, Your Honor.

7 THE COURT: Has he -- and I will go back and ask.
8 Have you met with him many times?

9 MR. CRIM: Yes, Your Honor.

10 THE COURT: All right. More than five times?

11 MR. CRIM: Yes, Your Honor.

12 THE COURT: All right. And has he discussed with
13 you the elements of these two statutory provisions?

14 MR. CRIM: Yes, Your Honor.

15 THE COURT: And has he been over with you the
16 evidence that the State has to present at trial for the
17 purpose of proving your guilt?

18 MR. CRIM: Yes, Your Honor.

19 THE COURT: Has he been over all of the discovery
20 with you that he has received from the State?

21 MR. CRIM: Yes, Your Honor.

22 THE COURT: I don't know that you asked for copies,
23 but if you did ask did he give them to you?

24 MR. CRIM: I did not ask for any copies, Your Honor.

25 THE COURT: Okay. Now has he spoken to those that

1 you wished him to speak with?

2 MR. CRIM: Yes, Your Honor.

3 THE COURT: All right. Now has Mr. Weidner been

4 over with you the consequences of your plea here today?

5 MR. CRIM: Yes, Your Honor.

6 THE COURT: And do you have any lingering questions

7 of him at this point?

8 MR. CRIM: No, Your Honor.

9 THE COURT: And has he answered all of your

10 questions?

11 MR. CRIM: Yes, Your Honor.

12 THE COURT: Has Mr. Weidner done everything for you

13 in your case that you believe he could have done or

14 should have done to properly represent you?

15 MR. CRIM: Yes, Your Honor.

16 THE COURT: Has he done anything in his

17 representation of you that you think he should not have

18 done?

19 MR. CRIM: No, Your Honor.

20 THE COURT: Are you completely satisfied with the

21 representation that you have received from Mr. Weidner?

22 MR. CRIM: Yes, Your Honor.

23 THE COURT: Has anyone associated with your case;

24 your attorney, the solicitor, any of the police officers

25 involved with your arrest or any of the folks at the

1 Detention Center if you were in fact detained, has anyone
2 associated with your case mistreated you in any way?

3 MR. CRIM: No, Your Honor.

4 THE COURT: Have you understood my questions?

5 MR. CRIM: Yes, Your Honor.

6 THE COURT: Is there anything that you want to ask
7 me about what we have just been over?

8 MR. CRIM: No, Your Honor.

9 THE COURT: Do you understand that you have a right
10 to appeal your guilty plea and any sentence that I
11 impose, however, if you wish to appeal you or an attorney
12 on your behalf must appeal within ten days. Do you
13 understand?

14 MR. CRIM: Yes, Your Honor.

15 THE COURT: Now with respect to each and every
16 answer that you have given me here today have you been
17 absolutely candid with me?

18 MR. CRIM: Yes, Your Honor.

19 THE COURT: Have you been truthful with me?

20 MR. CRIM: Yes, Your Honor.

21 THE COURT: All right. And have your answers been
22 your own?

23 MR. CRIM: Yes, Your Honor.

24 THE COURT: Whose answers have you given me today?

25 MR. CRIM: My own, Your Honor.

1 THE COURT: Has anyone told you how to answer my
2 questions?

3 MR. CRIM: No, Your Honor.

4 THE COURT: I find that there is a substantial
5 factual basis for Mr. Crim's plea to these two charges.
6 I find that his decision to plead guilty is freely and
7 voluntarily and knowingly and intelligently made, that he
8 has had advice of counsel in Mr. Weidner with whom he
9 tells me he is satisfied. And I will accept the plea.

10 All right. Victim's record, please.

11 MR. SORENSON: No ---

12 THE COURT: No record you told me earlier.

13 MR. SORENSON: --- prior record. That would be
14 correct, Your Honor.

15 I do have several people that like to address the
16 court.

17 THE COURT: Certainly.

18 MR. SORENSON: Present, Your Honor -- I am going to
19 go from Your Honor's right to left. In the far back we
20 have Ms. Roxanne Taylor. That would be Victim-1's mother.

21 THE COURT: Okay.

22 MR. SORENSON: She had indicated before I don't
23 believe she wishes to address the court. So but she is
24 here.

25 And then in the front row all the way to Your

1 Honor's left is Shaun Mammano who is [Victim 2]'s father.
 2 And then [Victim 2] in the blue right next to him. And I do
 3 believe they would like to address the court.

4 THE COURT: Happy to hear from both of them.

5 MR. MAMMANO: This is Shawn Mammano.

6 THE COURT: Yes. And that is S-H ...?

7 MR. MAMMANO: ... A-U-N.

8 THE COURT: ... U-N. Not ... W-N. Thank you for
 9 that.

10 MR. MAMMANO: Yes, ma'am.

11 THE COURT: And your last name is spelled?

12 MR. MAMMANO: M-A-M-M-A-N-O.

13 THE COURT: Thank you.

14 MR. MAMMANO: Yes, ma'am.

15 THE COURT: Yes.

16 MR. MANNANO: I am currently serving in the
 17 military, Your Honor, in the United States Air Force. I
 18 have been in for almost 20 years. I retire coming up in
 19 August. And I am military police, security forces.

20 So I am not a big fan of, you know, this type of
 21 behavior and him being in the military. We are trained
 22 on this kind of thing especially in our profession. It
 23 is unacceptable to me and to that of a military member of
 24 this type of behavior.

25 How it has impacted my family, you know, counseling,

1 therapy sessions, her dealing with guilt. At first she
2 was too young at the time. So it has been a couple of
3 years that.

4 So in regards to sentencing I would ask you don't go
5 lightly, Your Honor. That is all I have.

6 THE COURT: Thank you.

7 MR. MANNANO: Yes, sir. Thank you.

8 [Victim 2]: I am [Victim 2]. I am about to -- I am
9 16. I am going into my junior year. (Pause for
10 composure.) I apologize.

11 THE COURT: You don't need to.

12 [Victim 2]: This has been really -- really tough
13 on me. Because at first I thought I was in the wrong,
14 you know, like. But he gave me some sad story about his
15 grandma dying. And I felt bad for him. And, you know,
16 at the time I felt like -- I was like this is kind of
17 interesting. And I was -- it's not. It is -- it is
18 disgusting. In my opinion as well as a lot of others.

19 It's put my dad through the ringer. And watching
20 him stress about this, it is hard. Because I have
21 already lost my mom. And I felt like -- this is just
22 affected on how I look at myself, you know. Like I
23 should be able to look at myself and think I am
24 respectable, and I feel like I can't anymore.

25 It ruined a really good friendship of mine. And I

1 would really like him to know I am extremely angry. I
2 wish I didn't lose my virginity that way. But I did.

3 And when it comes to sentencing I just wish you
4 would max it out. Because I am a headstrong person; and
5 if he could do that to me, who else, you know.

6 That's all I really have.

7 THE COURT: Thank you so much. All right. Do y'all
8 want to -- why don't y'all have a seat right over here in
9 the jury box.

10 MR. MANNONO: Yes, ma'am.

11 THE COURT: You can sit on the back row if you want
12 to. That way you can sit together. Very well. All
13 right. Anyone else?

14 MR. SORENSON: And that would be all. And just one
15 thing just to kind of touch on that **Victim 2** had
16 mentioned. She said losing a good friendship. Her and
17 **Victim 1** I don't think have talked basically since this.
18 I mean it obviously caused a lot of friction. I think
19 their parents and on all of that. But so that is what
20 she was referring to.

21 I don't believe Ms. Taylor would like to address the
22 court. I mean obviously her daughter was prepared I mean
23 to be here and testify tomorrow if need be so.

24 THE COURT: Very well. Thank you.

25 MR. SORENSON: Thank you. And just to -- just for

1 the record, Your Honor, Lieutenant Peters and Agent Longo
2 are both present. I don't believe either one of them
3 wish to address the court. Okay. Thank you.

4 THE COURT: All right. Mr. Weidner.

5 MR. WEIDNER: Yes, ma'am.

6 THE COURT: I am listening to you, sir.

7 MR. WEIDNER: Yes, ma'am, I have got just sort of
8 for housekeeping purposes I would like to put on the
9 record that I had provided you statements ---

10 THE COURT: You did.

11 MR. WEIDNER: --- for you to consider on that issue
12 regarding 17-25-45 and that I understand you ruled
13 against me on the one. The other one is still out there.
14 I am asking for a finding pursuant to the appropriate
15 statute of a consent on that issue.

16 I also gave you copies of Mr. Crim's military
17 appreciation certificates and awards that he had received
18 as a military service member. I have also given you a
19 statement by a Dr. McKee who did a psychosexual
20 evaluation. And I have also given you a number of
21 personal letters from friends and family on my client's
22 behalf.

23 My client also has friends and family here in the
24 gallery. Several who -- several of whom would like to
25 address the court. First is his mother Ms. Kelly Leuthi.

1 THE COURT: Just -- yeah, come on forward. All I
2 need you to do is to identify yourself for our record.

3 MS. LUTHIE: I am Kelly Leuthi, Daemon's mom.

4 THE COURT: And how do you spell your last name?

5 MS. LUTHIE: It is L-E-U-T-H-I.

6 THE COURT: Okay.

7 MS. LUTHIE: I'm sorry, I am nervous.

8 THE COURT: Oh, I understand.

9 MS. LUTHIE: I just wanted to -- of course I am his
10 mom; so I am going to say everything that I possibly can,
11 because he is a wonderful child. It is a lack of
12 judgment that took place that day. I -- there is not --
13 I am so sorry. I am just

14 THE COURT: It's okay. And there is some tissue
15 right there for you.

16 MS. LUTHIE: This is my -- my first born. I am
17 extremely proud of him for the person that he is. I am
18 not proud of the situation that took place that day.

19 And I do know that he was also very young and naïve
20 and has been through a lot himself. He has lost a lot of
21 family members in very harsh ways. I raised him on my
22 own until I was gracious enough to have met my wonderful
23 husband now.

24 And I would just like the court to please have
25 leniency as much as they possibly can to know that he can

1 and will be a better person, but he has to have the
2 chance to do that and being that long of a time away is
3 not going to help that and can actually made him even a
4 harder of a person instead of continuing to be the loving
5 person that he is, that I know him and all of his whole
6 family. I would have more family here, but they are all
7 gone. So -- passed away.

8 So thank you for letting me take the time. And to
9 the other families, I apologize. Being a mother. And
10 that's all I can say.

11 THE COURT: Thank you.

12 MS. LUTHIE: Thank you.

13 THE COURT: Thank you so much.

14 MR. WEIDNER: I would also note that his stepfather
15 is here. His boss is here. Mr. Thomas Mayes. This is
16 as direct supervisor at his place of employment.

17 THE COURT: Yes. Yes, sir, again I just need you to
18 identify yourself.

19 MR. MAYES: My name is Thomas Mayes, Your Honor.

20 THE COURT: And how do you spell your last name?

21 MR. MAYES: M-A-Y-E-S.

22 THE COURT: Thank you. Yes, sir.

23 MR. MAYES: I want to say that when we first hired
24 Daemon on to work with us at Pilot he had a very strong
25 go-to get-going attitude. Always a hard-worker. Never

1 late. Always on time and always pushing. Which
2 ultimately led to him being reviewed for management
3 position and higher.

4 The only thing that was holding him back was this
5 case. And he was very open and forward with us. And he
6 was still just as hard going and just as pushing, just as
7 being a good team member and a good friend and a good
8 mentor. To other people as well. And we would gladly
9 have him back tomorrow if we could.

10 THE COURT: Thank you so much.

11 MR. MAYES: You are welcome, Your Honor.

12 MR. WEIDNER: And then Daemon has a number of
13 friends in the gallery. But I think they have -- Mr.
14 Dolan, Mike Dolan, is going to be the spokesman for the
15 group. But I would like to make the court aware that all
16 of those people are here in support of my client.

17 MR. DOYLE: Hi, Your Honor.

18 THE COURT: Hello. And all I need you to do, again,
19 is just to identify yourself for our records.

20 MR. DOYLE: Okay. My name is Michael Doyle.
21 D-O-Y-L-E.

22 THE COURT: Yes.

23 MR. DOYLE: I have known Crim, Daemon, for nine to
24 ten years. I think I am his longest friend that he still
25 talks to. This is a man with - I'm sorry. I am nervous

1 public speaking.

2 THE COURT: That's all right.

3 MR. DOYLE: He is a good person. We all make
4 mistakes. And we all fall down. This is not who he is.
5 He is -- he is a very good person. I have known him in
6 high school. We did multiple different extracurricular
7 as well as school. He has always been a very good
8 student and very devoted to his extracurricular
9 activities. He is a standup person.

10 If you were to give him the maximum, truly a
11 detriment to society would be transpiring. I feel like
12 he has a part to play in society in what is coming next,
13 and I just ask that you please consider that.

14 THE COURT: I will. Thank you.

15 MR. DOYLE: Thanks.

16 MR. WEIDNER: My client would like to address the
17 court, please.

18 THE COURT: Indeed.

19 MR. CRIM: Do I need to state myself again, Your
20 Honor, for the record?

21 THE COURT: No, sir.

22 MR. CRIM: Okay. I would just like to first off
23 apologize to first of all the victim and the victims
24 involved and the parents that were involved.

25 It was -- I am guilty and I have no excuse. It was

1 a horrible lapse in judgment, a horrible time in my life,
2 and something that I will never -- never be able to
3 forgive myself for.

4 And I have been doing my best to keep moving
5 forward. And I will do my best to keep moving forward no
6 matter the verdict that I get today, Your Honor. That is
7 it, Your Honor.

8 THE COURT: Thank you. Very well.

9 Yes, sir.

10 MR. WEIDNER: Well, just some thoughts, ma'am. And
11 I think you can tell by the silence in the courtroom that
12 everybody recognizes this is really a sad situation all
13 the way around.

14 Just there is just so much immaturity within this
15 whole case going around. You know, we had a young marine
16 who is far from home. He puts himself in a situation
17 that he should not have. And he knows that. His mom was
18 sick. He was going through some other personal issues.
19 And he had some young ladies who were, you know,
20 essentially, I don't know, unsupervised and engaging in
21 behaviors that perhaps they -- I don't know if they
22 thought would make them cool like the Kardashian's or
23 something. I don't know what was going on. But this was
24 just a bad situation that should never have happened.

25 My client did not have the maturity and the judgment

1 to extricate himself from that. And he is paying for
2 that now. No question about it. He has fessed up and he
3 has admitted that he was wrong.

4 Just everybody acting without any conscious regard
5 of the consequences. My client the biggest one. And you
6 are going to punish him as you see fit.

7 I ask that -- certainly we have seen a broad
8 spectrum of these types of cases. You know, from what we
9 have here all the way out to someone grabbing somebody
10 off the street and doing bad things. And I would ask you
11 to keep in mind when you are talking about the spectrum
12 of punishment to keep in mind where on this spectrum of
13 misconduct this particular case rests.

14 You have heard from his friends. He has kept his
15 head up while he has been working. You heard from his
16 boss. He has kept charging forward. He has kept his
17 head up.

18 He is trying to do the right things. Warehousing
19 him for the next 10, 15, 20 years that is -- that is just
20 warehousing him. That is not going to do anything
21 positive in the end of this.

22 Again, there is a punishment component. I get it.
23 He gets it. But I don't think the right answer is to
24 warehouse him forever.

25 As part of the punishment he has already -- he has

1 just stood here and pled guilty essentially to a life
2 sentence because now he is going to have to register as a
3 sex offender for the rest of his life.

4 He has also lost a promising career in the Marine
5 Corp that meant a lot to him. I mean you have seen the
6 awards and decorations that he had. He was doing great
7 things. Just got stupid. Just bad.

8 And that is sad. That is a lot of -- a lot of
9 potential that has at least been put on pause here
10 depending on how you rule on this.

11 Now I don't think that you can -- I ask the court to
12 consider his rehabilitative potential. You have heard
13 testimony. You have got documentation that shows that
14 this is an aberration in his behavior. This is not
15 something that he does.

16 You have got, you know, Dr. McKee's letter there
17 that says he is not a pedophile, he is not a sexual
18 predator, he is not likely to reoffend. That is good
19 information for you to use to make a decision.

20 You have got his acceptance of responsibility. He
21 never denied it. He cooperated with the cops. He gave a
22 full confession. Has come in here and confessed and pled
23 guilty straight up.

24 And you heard him: Hey, I was wrong.

25 I accept that he has fallen on his sword and he is

1 taking his medicine. That says a lot about where his
2 head is going forward.

3 And so I think that that speaks well for his
4 rehabilitative potential. He has got the support of
5 family and friends, coworkers.

6 We are just asking that you give him an opportunity
7 to have a future and to learn something from this and
8 make something positive out of it or at least get himself
9 moving forward again.

10 You heard that that is his personality. You have
11 got his record. Clearly he charges forward in the Marine
12 Corp. He go to work, he charges forward. I think it is
13 fair to surmise that he is going to -- he is going to
14 take a hit here, but he is going to charge forward and he
15 is going to learn from it and he is going to try to go
16 forward to do things.

17 And we are just trying to ask you to give him on
18 opportunity before he is an old man. Warehousing him is
19 just that is just a waste of future potential.

20 We ask you to consider all those things in
21 sentencing, ma'am. Thank you.

22 THE COURT: Thank you. Thank you so much.

23 Now I have a number of documents. I know that you
24 wanted the originals back.

25 MR. WEIDNER: Just his military stuff, ma'am.

1 THE COURT: Exactly.

2 MR. WEIDNER: The others I can put in, but ---

3 THE COURT: And I think that I would like these --
4 and I read the letters that were passed up. Many of
5 them -- well, all of them very eloquent. And I have read
6 Jeffrey McKee's report. I think they should be made a
7 part of this record.

8 MR. WEIDNER: Yes, ma'am.

9 THE COURT: And they can be one exhibit. Because I
10 have considered them.

11 I have looked at the voluntary statements. And I
12 believe that I have looked at two from Victim 2 and one
13 from Victim 1. And I do not believe -- and I think based
14 upon my review of, if you will, our old statute and our
15 new statute -- and we talked about 17-25-45, and the
16 statute -- the old statute allowed after conviction for
17 the court to make an inquiry, and the statute -- the
18 statutory section that is referred to with regards to
19 criminal sexual conduct in the second degree is the
20 statute referred to is 655-3.

21 There is no 655-3 in our new statute. There was a
22 655-3 under the old, if you will, which has now been
23 amended, statute, criminal sexual conduct. And what that
24 statute said is that if following conviction the court
25 made a determination that the matter was one of consent

1 that -- that the court could make that finding.

2 I have read the statements. And I want to address
3 first of all that I do not believe that this applies to
4 the 13-year-old. And the reason that I don't is because
5 it clearly under the old statute did not apply to a 13-
6 year-old.

7 And given the statute as it has been amended, I
8 don't believe that it applies to the 13-year-old because
9 as you look at the two statute I believe that the
10 language, the consent language, which addressed victims
11 between the ages of 14 and 16, and I believe that that
12 was the Legislature's ability to address the Romeo
13 circumstance.

14 And I believe that currently that the bulk of those
15 considerations are dealt with in the statutes themselves
16 when they deal with the ages of the alleged victim and
17 the defendants. Clearly under the 655-3 as it existed,
18 that analysis was not possible for a 13-year-old or a 12-
19 year-old or an 11-year-old.

20 I know, counsel, that you have urged the court to
21 consider the language that we addressed in chambers and
22 that you have urged the court to consider that a 13-year-
23 old the consent language can be considered with regard to
24 a 13-year-old.

25 I think that. -- and that is based upon what appears

1 to be a Scribner's error made by the Legislature as they
2 recrafted the statutes.

3 If I was to adopt your theory and I understand it,
4 that would mean that the Legislature made it possible to
5 analyze whether or not an eleven-year-old could consent
6 to sexual intercourse. And I find that, if you will,
7 beyond the pale. I cannot imagine that the Legislature
8 intended that.

9 Because, as you know, the age groups are 11
10 through -- or under the age of 14, which would be 11, 12,
11 and 13. And then the other group of potential victims
12 would be 14, 15, 16.

13 So for that reason I do not believe that the consent
14 analysis is appropriate with regards to the 13-year-old.

15 With regards to the 14-year-old there is an
16 ambiguity in the law. I know that, Mr. Sorenson, you
17 take the position that it doesn't apply all, that it
18 clearly is a Scribner's error.

19 And there is no statute. There is no 655-3. It
20 just doesn't exist. So there is no provision in the new
21 law to even consider the consent language.

22 However, this is a criminal statute. It ought be
23 construed in favor of the defendant. And in doing so I
24 think it is appropriate to go through the consent
25 analysis.

1 Now I have read the statements. I have listened to
2 all of you. I am convinced that through relationship
3 with her friend, through some amount of alcohol, through
4 perhaps the very date and around the Valentine Time time
5 of the year, and the fact of this 21-year-old older
6 person I believe after having read all of these things
7 that [Victim 2]'s will was overcome. I do not believe there
8 was consent.

9 MR. SORENSON: Okay, and just to make sure we are
10 clear on that just so there is no -- she would not
11 have -- she didn't meet him until July.

12 THE COURT: That is -- oh, that is correct. Thank
13 you for that clarification.

14 MR. SORENSON: It would have been [Victim 1] ---

15 THE COURT: Yes.

16 MR. WEIDNER: Right.

17 THE COURT: Started -- started when they kissed on
18 Valentine's Day.

19 MR. SORENSON: Well, that ---

20 MR. WEIDNER: That is the other ---

21 THE COURT: That is ---

22 MR. SORENSON: That is ---

23 THE COURT: --- the 13-year-old.

24 MR. SORENSON: That is the 13-year-old, yes.

25 THE COURT: I do know that.

1 MR. SORENSON: Yes.

2 THE COURT: I do know that. That was ---

3 MR. SORENSON: [Victim 2] indicates and I believe

4 [Victim 1] ---

5 THE COURT: July the 1st.

6 MR. SORENSON: That is -- the night that this
7 happened was the first day she had ever met the
8 defendant.

9 THE COURT: Exactly. Exactly. Thank you for that
10 clarification.

11 And I do -- I guess what I focused on with the 13-
12 year-old is if -- should I do the analysis and if I do
13 the analysis what am I thinking. And I really don't
14 believe that is what the law is. And so I moved on to
15 the 14-year-old.

16 And you are right with [Victim 2]. And that was in
17 July. You are absolutely correct.

18 However, there is no question in my mind but that
19 her will was overcome. There was no consent. And her
20 descriptions are very clear to me in that regard.

21 So that would be the determination of the court.

22 I know that, Mr. Weidner, that that was a
23 determination that you requested. And I note your
24 exception for the record.

25 MR. WEIDNER: Thank you, ma'am.

1 THE COURT: Now anything else in that regard?

2 MR. SORENSON: No, Your Honor.

3 MR. WEIDNER: No, ma'am.

4 THE COURT: All right. I have entered my sentences.

5 And I am going -- **Victim 2**, you are -- where is **Victim 2**?

6 **Victim 2**: Over here.

7 THE COURT: There you are. I do want to see you

8 when I am finished with sentencing, okay. All right.

9 And you too, Dad. I would like you to be present.

10 All right. With regard to 2016-GS-18-1409, criminal

11 sexual conduct with a minor, Mr. Crim, I am going to

12 commit you to the State Department of Corrections for a

13 period of 20 years. You will register as a sex offender

14 with GPS monitoring.

15 With regards to 2016-GS-18-1410 I am going to

16 likewise sentence you to the State Department of

17 Corrections for a period of 20 years.

18 These sentences will run concurrent. You will

19 register as a sex offender, as I stated, with GPS

20 monitoring. And you will be given credit for the time

21 that you've served. Very well.

22 (WHEREUPON, bench conference was had with victim and her

23 father.)

24 (WHEREUPON, Court's Exhibit Number 1, statements and Dr.

25 McKee report and family letters, are marked for

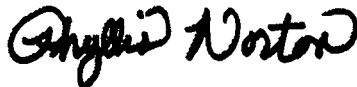
- 1 identification.)
- 2 (WHEREUPON, the hearing concluded.)

(NOTE: Please contact the court reporter for additional copies or certified transcripts.)

CERTIFICATE

I, the undersigned Phyllis Norton, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all proceedings had and evidence introduced in the captioned case, relative to appeal, in the court for South Carolina, on June 11, 2018.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.



PHYLLIS NORTON, CVR

Date: June 27, 2018

Certified Transcript Provided For: Erin E. Bailey
Certification Reference #062718 Original

ORCHESTER COUNTY SHERIFF OFFICE

Page 1 of 3

VOLUNTARY STATEMENT

CASE # 16007080

LAST NAME <u>Victim 2</u>	FIRST NAME <u>[REDACTED]</u>	MIDDLE NAME <u>[REDACTED]</u>	AGE <u>14</u>	DOB <u>[REDACTED] 02</u>
NICKNAME AKA <u>[REDACTED]</u>	M ☐ F ☒ SSN <u>[REDACTED]</u>	STREET ADDRESS <u>[REDACTED]</u>		
CITY <u>Goose Creek</u>	STATE <u>SC</u>	ZIP <u>29445</u>	MAILING ADDRESS IF DIFFERENT <u>Same as above</u>	
HOME TELEPHONE <u>[REDACTED]</u>	WORK TELEPHONE <u>N/A</u>	CELL TELEPHONE <u>N/A</u>	OCCUPATION <u>[REDACTED]</u>	
EMPLOYER <u>[REDACTED]</u>		EMPLOYER ADDRESS <u>[REDACTED]</u>		
DRIVER'S LICENSE NUMBER STATE <u>[REDACTED]</u>		DATE AND TIME OF INTERVIEW <u>7/23/16 1145</u>		
LOCATION OF INTERVIEW <u>212 Durre Way</u>				
INTERVIEWING AGENT <u>PETER J</u>	DEPARTMENT <u>CID</u>	INTERVIEWING AGENT <u>[REDACTED]</u>	DEPARTMENT <u>[REDACTED]</u>	

I, Victim 2, understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can read and write and completed the 8th grade in school.

The day this all happened, it was 1 day since I had been there. Daemon had told me, that morning I think, that Victim 1 had wanted to try a threesome some day and it to be w/ someone she trusted. Later on, I asked Victim 1 about it and she told me yes. Later that night, they asked me if I was comfortable with it & I really just shrugged my shoulders. I agreed with it, had a few beers, and a mixed drink of some sort, and it all happened. But before then they kept asking me if I was comfortable & I just kept saying I guess. When we all went (Vic. 1, me, & Daemon) to watch the movie, and he was rubbing on my thighs, and I covered my face. I knew what we were doing was wrong. Vic. 1 & Daemon started to kiss as he was rubbing my thighs, and he started to rub my vagina. I didn't really make a sound. I was told to be quiet by both of them. Then Victim 1 told me to take off my pants, I wondered why,

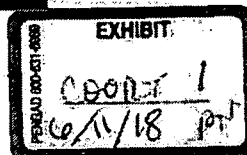
I have read each page of this statement consisting of 3 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 07/23/16 Time: 12:47Victim 2

Signature of person giving voluntary statement

WITNESS:

WITNESS:

I certify that I have been given a copy of this statement consisting of 3 pages.

DORCHESTER COUNTY

PAGE NO 2 OF 3 PAGESVOLUNTARY STATEMENT
SUPPLEMENTAL

Victim 2

Statement of, Continued.

but I just continued to do it. I took off my leggings and left my shirt & underwear on. She wanted to try and go down on me, which I was uncomfortable, but I wasn't comfortable either. But she got scared and told Daemon to do it so he did. I stayed quiet b/c they both asked me if I would be quiet, so I did. [Vic. 1] had started to go down on him & they started to have sex. I stayed to the right of the floor for a few minutes. After they got done, I believe he put a condom on, and he started to have sex with me. After he started, I was starting to really think about the age difference, and was more disappointed in myself. It started to hurt after awhile, and I said ow, & he stopped. Him & [Vic. 1] got intimate for a while than me & [Vic. 1] went to her room. [Vic. 1] said, so, how was it? I told her it was hard to stay quiet, and then I told her, but I really started to think about the age difference, and I felt bad that I even agreed to that b/c it was her boyfriend but she told me it was fine. The next 3 days, there was really nothing said about it except for when I went on snap chat & told Logan about it, I just didn't mention the age difference. I think Daemon took me home 3 days later, and in the car he asked me if [Victim 1] & I had talked about it at all and I told him the night of & then he asked if it was in a bad way and I told him no. I was told not to say anything to my dad, and I wouldn't have if I didn't have any problems.

Person giving statement to place initials behind
last word of statement as appears on last page.

Victim 2

Signature of person giving voluntary statement

DORCHESTER COUNTY

PAGE NO 3 OF 3 PAGESVOLUNTARY STATEMENT
SUPPLEMENTAL

Victim 2

Statement of, Continued.

Q SGT. D. PETERS

A. Victim 2

Q. who took off your clothes?

A me

Q. who took off Vic. 1 clothes?

A. her.

Q. who took off DAEMON's clothes?

A him

Q. where did he get the condom from?

A Under the pillow

Q. who did he have sex with first?

A Victim 1

Q. Then he had sex with you?

A YES

Q. what position were you in?

A Laying on my back on the floor.

Q. Did he ejaculate?

A NO

Q. Have you had any contact with DAEMON or Vic. 1 since you told you did

A NO.

Person giving statement to place initials behind
last word of statement as appears on last page.

Victim 2

Signature of person giving voluntary statement

Section 16-3-655 Criminal sexual conduct with a minor; aggravating and mitigating circumstances; penalties; repeat offenders

(A) A person is guilty of criminal sexual conduct with a minor in the first degree if:

(1) the actor engages in sexual battery with a victim who is less than eleven years of age; or

(2) the actor engages in sexual battery with a victim who is less than sixteen years of age and the actor has previously been convicted of, pled guilty or nolo contendere to, or adjudicated delinquent for an offense listed in Section 23-3-430(C) or has been ordered to be included in the sex offender registry pursuant to Section 23-3-430(D).

(B) A person is guilty of criminal sexual conduct with a minor in the second degree if:

(1) the actor engages in sexual battery with a victim who is fourteen years of age or less but who is at least eleven years of age; or

(2) the actor engages in sexual battery with a victim who is at least fourteen years of age but who is less than sixteen years of age and the actor is in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim. However, a person may not be convicted of a violation of the provisions of this item if he is eighteen years of age or less when he engages in consensual sexual conduct with another person who is at least fourteen years of age.

(C) A person is guilty of criminal sexual conduct with a minor in the third degree if the actor is over fourteen years of age and the actor wilfully and lewdly commits or attempts to commit a lewd or lascivious act upon or with the body, or its parts, of a child under sixteen years of age, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of the actor or the child. However, a person may not be convicted of a violation of the provisions of this subsection if the person is eighteen years of age or less when the person engages in consensual lewd or lascivious conduct with another person who is at least fourteen years of age.

(D)(1) A person convicted of a violation of subsection (A)(1) is guilty of a felony and, upon conviction, must be imprisoned for a mandatory minimum of twenty-five years, no part of which may be suspended nor probation granted, or must be imprisoned for life. In the case of a person pleading guilty or nolo contendere to a violation of subsection (A)(1), the judge must make a specific finding on the record regarding whether the type of conduct that constituted the sexual battery involved sexual or anal intercourse by a person or intrusion by an object. In the case of a person convicted at trial for a violation of subsection (A)(1), the judge or jury, whichever is applicable, must designate as part of the verdict whether the conduct that constituted the sexual battery involved sexual or anal intercourse by a person or

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intrusion by an object. If the person has previously been convicted of, pled guilty or nolo contendere to, or adjudicated delinquent for first degree criminal sexual conduct with a minor who is less than eleven years of age or a federal or out-of-state offense that would constitute first degree criminal sexual conduct with a minor who is less than eleven years of age, he must be punished by death or by imprisonment for life, as provided in this section. For the purpose of determining a prior conviction under this subsection, the person must have been convicted of, pled guilty or nolo contendere to, or adjudicated delinquent on a separate occasion, prior to the instant adjudication, for first degree criminal sexual conduct with a minor who is less than eleven years of age or a federal or out-of-state offense that would constitute first degree criminal sexual conduct with a minor who is less than eleven years of age. In order to be eligible for the death penalty pursuant to this section, the sexual battery constituting the current offense and any prior offense must have involved sexual or anal intercourse by a person or intrusion by an object. If any prior offense that would make a person eligible for the death penalty pursuant to this section occurred prior to the effective date of this act and no specific finding was made regarding the nature of the conduct or is an out-of-state or federal conviction, the determination of whether the sexual battery constituting the prior offense involved sexual or anal intercourse by a person or intrusion by an object must be made in the separate sentencing proceeding provided in this section and proven beyond a reasonable doubt and designated in writing by the judge or jury, whichever is applicable. If the judge or jury, whichever is applicable, does not find that the prior offense involved sexual or anal intercourse by a person or intrusion by an object, then the person must be sentenced to imprisonment for life. For purposes of this subsection, imprisonment for life means imprisonment until death.

(2) A person convicted of a violation of subsection (A)(2) is guilty of a felony and, upon conviction, must be imprisoned for not less than ten years nor more than thirty years, no part of which may be suspended nor probation granted.

(3) A person convicted of a violation of subsection (B) is guilty of a felony and, upon conviction, must be imprisoned for not more than twenty years in the discretion of the court.

(4) A person convicted of a violation of subsection (C) is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than fifteen years, or both.

(E) If the State seeks the death penalty, upon conviction or adjudication of guilt of a defendant pursuant to this section, a statutory aggravating circumstance is found beyond a reasonable doubt pursuant to items (1) and (2), and a recommendation of death is not made, the trial judge must impose a sentence of life imprisonment. For purposes of this section, "life imprisonment" means until death of the offender without the possibility of parole, and when requested by the State or the defendant, the judge must charge the jury in his instructions that life imprisonment means until the death of the defendant without the possibility of parole. No person sentenced to life imprisonment, pursuant to this subsection, is eligible for parole, community supervision, or any early release program, nor is the person

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eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory life imprisonment required by this section. Under no circumstances may a female who is pregnant be executed, so long as she is pregnant or for a period of at least nine months after she is no longer pregnant. When the Governor commutes a sentence of death imposed pursuant to this section to life imprisonment pursuant to the provisions of Section 14, Article IV of the Constitution of South Carolina, 1895, the commuttee is not eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the mandatory imprisonment required by this subsection.

(1) When the State seeks the death penalty, upon conviction or adjudication of guilt of a defendant pursuant to this section, the court shall conduct a separate sentencing proceeding. In the proceeding, if a statutory aggravating circumstance is found, the defendant must be sentenced to either death or life imprisonment. The proceeding must be conducted by the trial judge before the trial jury as soon as practicable after the lapse of twenty-four hours unless waived by the defendant. If trial by jury has been waived by the defendant and the State, or if the defendant pled guilty, the sentencing proceeding must be conducted before the judge. In the sentencing proceeding, the jury or judge shall hear additional evidence in extenuation, mitigation, or aggravation of the punishment. Only evidence in aggravation as the State has informed the defendant in writing before the trial is admissible. This section must not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States, or the State of South Carolina, or the applicable laws of either. The State, the defendant, and his counsel are permitted to present arguments for or against the sentence to be imposed. The defendant and his counsel shall have the closing argument regarding the sentence to be imposed.

(2) In sentencing a person, upon conviction or adjudication of guilt of a defendant pursuant to this section, the judge shall consider, or he shall include in his instructions to the jury for it to consider, mitigating circumstances otherwise authorized or allowed by law and the following statutory aggravating and mitigating circumstances which may be supported by the evidence:

(a) Statutory aggravating circumstances:

(i) The victim's resistance was overcome by force.

(ii) The victim was prevented from resisting the act because the actor was armed with a dangerous weapon.

(iii) The victim was prevented from resisting the act by threats of great and immediate bodily harm, accompanied by an apparent power to inflict bodily harm.

(iv) The victim is prevented from resisting the act because the victim suffers from a physical



or mental infirmity preventing his resistance.

(v) The crime was committed by a person with a prior conviction for murder.

(vi) The offender committed the crime for himself or another for the purpose of receiving money or a thing of monetary value.

(vii) The offender caused or directed another to commit the crime or committed the crime as an agent or employee of another person.

(viii) The crime was committed against two or more persons by the defendant by one act, or pursuant to one scheme, or course of conduct.

(ix) The crime was committed during the commission of burglary in any degree, kidnapping, or trafficking in persons.

(b) Mitigating circumstances:

(i) The defendant has no significant history of prior criminal convictions involving the use of violence against another person.

(ii) The crime was committed while the defendant was under the influence of mental or emotional disturbance.

(iii) The defendant was an accomplice in the crime committed by another person and his participation was relatively minor.

(iv) The defendant acted under duress or under the domination of another person.

(v) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired.

(vi) The age or mentality of the defendant at the time of the crime.

(vii) The defendant was below the age of eighteen at the time of the crime.

The statutory instructions as to statutory aggravating and mitigating circumstances must be given in charge and in writing to the jury for its deliberation. The jury, if its verdict is a recommendation of death, shall designate in writing, and signed by all members of the jury, the statutory aggravating circumstance or circumstances, which it found beyond a reasonable doubt. The jury, if it does not recommend death, after finding a statutory aggravating circumstance or circumstances beyond a reasonable doubt, shall designate in writing, and signed by all members of the jury, the statutory aggravating circumstance or circumstances it found beyond a reasonable doubt. In nonjury cases, the judge shall make the designation of

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the statutory aggravating circumstance or circumstances. Unless at least one of the statutory aggravating circumstances enumerated in this section is found, the death penalty must not be imposed.

When a statutory aggravating circumstance is found and a recommendation of death is made, the trial judge shall sentence the defendant to death. The trial judge, before imposing the death penalty, shall find as an affirmative fact that the death penalty was warranted under the evidence of the case and was not a result of prejudice, passion, or any other arbitrary factor. When a statutory aggravating circumstance is found and a sentence of death is not recommended by the jury, the trial judge shall sentence the defendant to life imprisonment as provided in this subsection. Before dismissing the jury, the trial judge shall question the jury as to whether or not it found a statutory aggravating circumstance or circumstances beyond a reasonable doubt. If the jury does not unanimously find any statutory aggravating circumstances or circumstances beyond a reasonable doubt, it shall not make a sentencing recommendation. When a statutory aggravating circumstance is not found, the trial judge shall sentence the defendant to life imprisonment. No person sentenced to life imprisonment pursuant to this section is eligible for parole or to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the sentence required by this section. If the jury has found a statutory aggravating circumstance or circumstances beyond a reasonable doubt, the jury shall designate this finding, in writing, signed by all the members of the jury. The jury shall not recommend the death penalty if the vote for the death penalty is not unanimous as provided. If members of the jury after a reasonable deliberation cannot agree on a recommendation as to whether or not the death sentence should be imposed on a defendant upon conviction or adjudication of guilt of a defendant pursuant to this section, the trial judge shall dismiss the jury and shall sentence the defendant to life imprisonment, as provided in this subsection.

(3) Notwithstanding the provisions of Section 14-7-1020, in cases involving capital punishment a person called as a juror must be examined by the attorney for the defense.

(4) In a criminal action pursuant to this section, which may be punishable by death, a person may not be disqualified, excused, or excluded from service as a juror by reason of his beliefs or attitudes against capital punishment unless those beliefs or attitudes would render him unable to return a verdict according to law.

(F)(1) In all cases in which an individual is sentenced to death pursuant to this section, the trial judge, before the dismissal of the jury, shall verbally instruct the jury concerning the discussion of its verdict. A standard written instruction must be promulgated by the Supreme Court for use in capital cases brought pursuant to this section.

(2) The verbal instruction must include:

(a) the right of the juror to refuse to discuss the verdict;



(b) the right of the juror to discuss the verdict to the extent that the juror so chooses;

(c) the right of the juror to terminate any discussion pertaining to the verdict at any time the juror so chooses;

(d) the right of the juror to report any person who continues to pursue a discussion of the verdict or who continues to harass the juror after the juror has refused to discuss the verdict or communicated a desire to terminate discussion of the verdict; and

(e) the name, address, and phone number of the person or persons to whom the juror should report any harassment concerning the refusal to discuss the verdict or the juror's decision to terminate discussion of the verdict.

(3) In addition to the verbal instruction of the trial judge, each juror, upon dismissal from jury service, shall receive a copy of the written jury instruction as provided in item (1).

(G)(1) Whenever the death penalty is imposed pursuant to this section, and upon the judgment becoming final in the trial court, the sentence shall be reviewed on the record by the Supreme Court of South Carolina. The clerk of the trial court, within ten days after receiving the transcript, shall transmit the entire record and transcript to the Supreme Court of South Carolina together with a notice prepared by the clerk and a report prepared by the trial judge. The notice shall set forth the title and docket number of the case, the name of the defendant and the name and address of his attorney, a narrative statement of the judgment, the offense, and the punishment prescribed. The report shall be in the form of a standard questionnaire prepared and supplied by the Supreme Court of South Carolina.

(2) The Supreme Court of South Carolina shall consider the punishment as well as any errors by way of appeal.

(3) With regard to the sentence, the court shall determine whether the:

(a) sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

(b) evidence supports the jury's or judge's finding of a statutory aggravating circumstance as enumerated in subsection (E)(2)(a); and

(c) sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant.

(4) Both the defendant and the State shall have the right to submit briefs within the time provided by the court and to present oral arguments to the court.

(5) The court shall include in its decision a reference to those similar cases which it took into



consideration. In addition to its authority regarding correction of errors, the court, with regard to review of death sentences, is authorized to:

(a) affirm the sentence of death; or

(b) set the sentence aside and remand the case for resentencing by the trial judge based on the record and argument of counsel. The records of those similar cases referred to by the Supreme Court of South Carolina in its decision, and the extracts prepared as provided for, must be provided to the resentencing judge for his consideration. If the court finds error prejudicial to the defendant in the sentencing proceeding conducted by the trial judge before the trial jury as outlined in subsection (E)(1), the court may set the sentence aside and remand the case for a resentencing proceeding to be conducted by the same or a different trial judge and by a new jury impaneled for this purpose. In the resentencing proceeding, the new jury, if the defendant does not waive the right of a trial jury for the resentencing proceeding, shall hear evidence in extenuation, mitigation, or aggravation of the punishment in addition to any evidence admitted in the defendant's first trial relating to guilt for the particular crime for which the defendant has been found guilty.

(6) The sentence review is in addition to direct appeal, if taken, and the review and appeal must be consolidated for consideration. The court shall render its decision on all legal errors, the factual substantiation of the verdict, and the validity of the sentence.

(H)(1) Whenever the solicitor seeks the death penalty pursuant to this section, he shall notify the defense attorney of his intention to seek the death penalty at least thirty days prior to the trial of the case. At the request of the defense attorney, the defense attorney must be excused from all other trial duties ten days prior to the term of court in which the trial is to be held.

(2)(a) Whenever any person is charged with first degree criminal sexual conduct with a minor who is less than eleven years and the death penalty is sought, the court, upon determining that the person is unable financially to retain adequate legal counsel, shall appoint two attorneys to defend the person in the trial of the action. One of the attorneys so appointed shall have at least five years' experience as a licensed attorney and at least three years' experience in the actual trial of felony cases, and only one of the attorneys so appointed may be the public defender or a member of his staff. In all cases when no conflict exists, the public defender or member of his staff must be appointed if qualified. If a conflict exists, the court then shall turn first to the contract public defender attorneys, if qualified, before turning to the Office of Indigent Defense.

(b) Notwithstanding another provision of law, the court shall order payment of all fees and costs from funds available to the Office of Indigent Defense for the defense of the indigent. Any attorney appointed must be compensated at a rate not to exceed fifty dollars per hour for time expended out of court and seventy-five dollars per hour for time expended in court. Compensation may not exceed twenty-five thousand dollars and must be paid from funds available to the Office of Indigent Defense for the defense of indigent represented by court-



appointed, private counsel.

(3)(a) Upon a finding in ex parte proceedings that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or sentence, the court shall authorize the defendant's attorneys to obtain services on behalf of the defendant and shall order the payment, from funds available to the Office of Indigent Defense, of fees and expenses not to exceed twenty thousand dollars as the court deems appropriate. Payment of these fees and expenses may be ordered in cases where the defendant is an indigent represented by either court-appointed, private counsel, or the public defender.

(b) Court-appointed counsel seeking payment for fees and expenses shall request these payments from the Office of Indigent Defense within thirty days after the completion of the case. For the purposes of this statute, exhaustion of the funds shall occur if the funds administered by the Office of Indigent Defense and reserved for death penalty fees and expenses have been reduced to zero. If either the Death Penalty Trial Fund or the Conflict Fund has been exhausted in a month and the other fund contains money not scheduled to be disbursed in that month, then the Indigent Defense Commission must transfer a sufficient amount from the fund with the positive fund balance to the fund with no balance and pay the obligation to the extent possible.

(4) Payment in excess of the hourly rates and limit in item (2) or (3) is authorized only if the court certifies, in a written order with specific findings of fact, that payment in excess of the rates is necessary to provide compensation adequate to ensure effective assistance of counsel and payment in excess of the limit is appropriate because the services provided were reasonably and necessarily incurred. Upon a finding that timely procurement of services cannot await prior authorization, the court may authorize the provision of and payment for services nunc pro tunc.

(5) After completion of the trial, the court shall conduct a hearing to review and validate the fees, costs, and other expenditures on behalf of the defendant.

(6) The Supreme Court shall promulgate guidelines on the expertise and qualifications necessary for attorneys to be certified as competent to handle death penalty cases brought pursuant to this section.

(7) The Office of Indigent Defense shall maintain a list of death penalty qualified attorneys who have applied for and received certification by the Supreme Court as provided for in this subsection. In the event the court-appointed counsel notifies the chief administrative judge in writing that he or she does not wish to provide representation in a death penalty case, the chief administrative judge shall advise the Office of Indigent Defense which shall forward a name or names to the chief administrative judge for consideration. The appointment power is vested in the chief administrative judge. The Office of Indigent Defense shall establish guidelines as are necessary to ensure that attorneys' names are presented to the judges on a



fair and equitable basis, taking into account geography and previous assignments from the list. Efforts must be made to present an attorney from the area or region where the action is initiated.

(8) The payment schedule provided in this subsection, as amended by Act 164 of 1993, shall apply to any case for which trial occurs on or after July 1, 1993.

(9) Notwithstanding another provision of law, only attorneys who are licensed to practice in this State and residents of this State may be appointed by the court and compensated with funds appropriated to the Death Penalty Trial Fund in the Office of Indigent Defense. This item shall not pertain to any case in which counsel has been appointed on the effective date of this act.

(10) The judicial department biennially shall develop and make available to the public a list of standard fees and expenses associated with the defense of an indigent person in a death penalty case.

(I) Notwithstanding another provision of law, in any trial pursuant to this section when the maximum penalty is death or in a separate sentencing proceeding following the trial, the defendant and his counsel shall have the right to make the last argument.

HISTORY: 1977 Act No. 157 Section 5; 1978 Act No. 639 Section 1; 1984 Act No. 509; 2005 Act No. 94, Section 1, eff June 1, 2005; 2006 Act No. 342, Section 3, eff July 1, 2006; 2006 Act No. 346, Section 1, eff July 1, 2006; 2008 Act No. 335, Section 18, eff June 16, 2008; 2010 Act No. 289, Section 6, eff June 11, 2010; 2012 Act No. 255, Section 1, eff June 18, 2012.

Editor's

Note

2006 Act No. 342, Section 1, provides as follows:

"This act may be cited as the 'Sex Offender Accountability and Protection of Minors Act of 2006'."

2006 Act No. 342, Section 12, provides as follows:

"It is the intent of the General Assembly that one of the purposes of this act is to provide for the death penalty for a subsequent offense of first degree criminal sexual conduct with a minor who is less than eleven years of age and that this act does not alter or amend and is separate and distinct from the provisions of Section 16-3-20, providing for the imposition of the death penalty for murder."

2006 Act No. 346, Section 5, provides as follows:

"Expenses incurred relating to the defense of a constitutional challenge to the application of



the provisions of Section 16-3-655, relating to the imposition of the death penalty, must be borne in their entirety by the Office of the Attorney General. The Office of the Attorney General is solely responsible for the defense of these actions and the Prosecution Coordination Commission and the offices of the individual circuit solicitors in the State must be held harmless."

2006 Act No. 346, Section 6, provides as follows:

"The General Assembly is aware that this act amends sections of the South Carolina Code of Laws that are also amended in S.1267 of 2006 [Act 342], and it is the intent of the General Assembly that the provisions of this act control in their entirety as to those code sections."



DORCHESTER COUNTY SHERIFF'S OFFICE

Page 1 of 1

VOLUNTARY STATEMENT

CASE # 16007080

LAST NAME Victim 2	FIRST NAME [REDACTED]	MIDDLE NAME [REDACTED]	AGE 14	D.O.B. [REDACTED] 02
NICKNAME/AKA [REDACTED]	SSN [REDACTED]	STREET ADDRESS [REDACTED]		
CITY Choose Creek	STATE SC	ZIP 29445	MAILING ADDRESS IF DIFFERENT Same as above	
HOME TELEPHONE [REDACTED]	WORK TELEPHONE N/A	CELL TELEPHONE N/A	OCCUPATION [REDACTED]	
EMPLOYER [REDACTED]		EMPLOYER ADDRESS [REDACTED]		
DRIVER'S LICENSE NUMBER/STATE [REDACTED]		DATE AND TIME OF INTERVIEW June 12, 2016 12:13 a.m.		
LOCATION OF INTERVIEW 9300 Medical Plaza Dr. N. Charleston, S.C. 29406				
INTERVIEWING AGENT [REDACTED]	DEPARTMENT Sheriff	INTERVIEWING AGENT [REDACTED]	DEPARTMENT [REDACTED]	

I, **Victim 2** understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can not read and write and completed the 8th grade in school.

at about 9:30 p.m. Daemon Crim, **Victim 1**, and I all layed down to watch a movie. Daemon layed in the middle & started to grope my inner thighs. (This was on Thursday night) Daemon then started to finger me while Daemon & his **Victim 1** were making out. After they were done, he layed over me, and stuck it in. He did this for about 10 minutes and rolled back over. **Victim 1** crawled over top of Daemon & started to "ride" him. I rolled over and just stayed that way. After that, was all over, he crawled over to my feet and started to grope, and kiss down my thighs then started to lick me. He continued for almost 10 mins. I cried only to myself. After that was over and I went to bed. I was there for another 2 days and went home. I waited a day, well until tonight and told my dad, Shawn, and his girlfriend Heather. At first I lied to my

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 7-12-16 Time: 12:13 a.m.**Victim 2**

Signature of person giving voluntary statement

WITNESS: [Signature] 7/16/16 WITNESS: [Signature]I certify that I have been given a copy of this statement consisting of 1 pages.

DORCHESTER COUNTY

PAGE NO 2 OF 2 PAGESVOLUNTARY STATEMENT
SUPPLEMENTAL

Victim 2

16007080

Statement of, Continued.

Dad and told him that I didn't remember to much about it. But when I slipped out the truth, dad wasn't happy. But wasn't angry either. I don't really know how ~~much~~ old **Victim 1** is, but she is in a relationship with Daemon. I do know that her parents know about their relationship. Matt (**Victim 1** is step dad) has threatened to throw Daemon under the bus because he has some type of clearance, but never has even reported im assuming.

Question and Answer conducted by Deputy Cole:

Q: Did Daemon Crim put his penis in your vagina?

A: yes.

Q: Did you have consensual sex with Daemon Crim?

A: yes.

Q: Did you report the incident on that day?

A: No.

Person giving statement to place initials behind last word of statement as appears on last page.

Victim 2

Signature of person giving voluntary statement

DORCHESTER COUNTY SHERIFF'S OFFICE

Page 1 of 3

VOLUNTARY STATEMENT

CASE # 16007080

LAST NAME <u>Victim 1</u>	FIRST NAME <u>[REDACTED]</u>	MIDDLE NAME <u>[REDACTED]</u>	AGE <u>13</u>	D.O.B. <u>[REDACTED] 02</u>
NICKNAME/AKA <u>[REDACTED]</u>	M ☐ F ☒ SSN <u>[REDACTED]</u>	STREET ADDRESS <u>[REDACTED]</u>		
CITY <u>Niches</u>	STATE <u>[REDACTED]</u>	ZIP <u>[REDACTED]</u>	MAILING ADDRESS IF DIFFERENT <u>[REDACTED]</u>	
HOME TELEPHONE <u>[REDACTED]</u>	WORK TELEPHONE <u>[REDACTED]</u>	CELL TELEPHONE <u>[REDACTED]</u>	OCCUPATION <u>STUDENT</u>	
EMPLOYER <u>[REDACTED]</u>	EMPLOYER ADDRESS <u>[REDACTED]</u>			
DRIVER'S LICENSE NUMBER STATE <u>[REDACTED]</u>		DATE AND TIME OF INTERVIEW <u>7/15/16 1033</u>		
LOCATION OF INTERVIEW <u>20540</u>				
INTERVIEWING AGENT <u>Blanchard</u>	DEPARTMENT <u>[REDACTED]</u>	INTERVIEWING AGENT <u>[REDACTED]</u>	DEPARTMENT <u>[REDACTED]</u>	

I, Victim 1 understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can read and write and completed the 8th grade in school.

I first met Daemon on Feb 12, 2016. Daemon progressed to come over because he liked me, and my family. One of our former roommates had a discussion with me for the fact that Daemon had a crush on me. So Feb 14th is when it all started. Late evening (5/6pm or so) me and him were upstairs watching Mr. Robot and sitting together (really close) and I honestly had a huge crush on him too. So we kissed. Best feeling ever. A few days later, next month me and Daemon decided to tell my mother that we had feelings for each other. She said don't do anything stupid! No PDA, kissing, or anything extreme. So our relationship continued on. We moved to a new house and by then, Daemon was pretty much living with us. One day, in the pool, a couple days before Kaitlyn came over, me and him had intercourse. I was a virgin at the time, so it hurt a little. In the pool I was sitting on his lap, cuddling against his neck. I look down and see he is aroused. He whispers into my ear and asks me if I wanna have sex with him. Granted I was turned on, I told him I wasn't so sure since I never had sex before. He said he wouldn't if I said no. Well I told him yes, I wanted to know how sex felt like. So we had intercourse, he ejaculated in the pool not on me.

Victim 1

I have read each page of this statement consisting of 3 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 7/15/16 Time: 1155

Victim 1

Signature of person giving voluntary statement

WITNESS: Det M Blanchard

WITNESS: _____

I certify that I have been given a copy of this statement consisting of 3 pages.

16007080

DORCHESTER COUNTY

PAGE NO 2 OF 3 PAGES

VOLUNTARY STATEMENT
SUPPLEMENTAL

Victim 1

Statement of. Continued.

So When [Victim 2] came over, her "fuckbun" aka [Other 1] apparently did some crazy stuff with her before I picked her up. [Victim 2] talks to tons of boys, so she always has one doing crazy stuff for her. One day when she was over, she was talking about sex with [Other 1] and brought up the idea to have a threesome with me & Daemon. I didn't exactly like it, but it was on my bucket list. Later on that day, we were watching South Park, [Victim 2] was on Daemon's phone on her snapchat, talking to boys. One of them asks for nude pics. She didn't but it did bring up the idea to have a threesome. Like I said, didn't like that idea. So I leaned over to Daemon (we were on the floor) and told him I didn't like it. He said he would do it unless I say it was OK. So we ended up having a threesome just so she ([Victim 2]) would shut up about it. He first ~~sex~~ did oral with her and touching ~~her~~ me. Then he did oral on me, for like 2 min Great feeling, then he put a condom on and had intercourse with me (comen Amazing) Then did it with her. He did ejaculate, but I am unaware of what he did with the condom. [Victim 2] did sneake some alcohol from Daemon to drink.

Q: Det. Blanchard

A: [Victim 1]

Q: Did you tell [Victim 2] about losing your virginity to Daemon?

A: Yes, after she arrived at my house.

Q: You said [Victim 2] brought up having a threesome with you & Daemon, was this conversation just between you and [Victim 2]?

A: Yes, she continued to mention it to me for the next couple days she was there.

Q: Did you have any conversation with Daemon about [Victim 2] wanting to have a threesome?

A: No, not until the night she was on snapchat and asked again while we were in the bedroom.

Person giving statement to place initials behind
last word of statement as appears on last page.

Victim 1

Signature of person giving voluntary statement

16007080

DORCHESTER COUNTY

PAGE NO 3 OF 3 PAGESVOLUNTARY STATEMENT
SUPPLEMENTAL

Victim 1

Statement of: Continued.

Q: Who was in the bedroom when she asked again while on Snapchat

A: Me, Daemon, and Victim 2

Q: What time did the threesome take place?

A: Sometime between 4/5 a.m.

Q: Do you remember what day this happened?

A: Early morning hours of Wednesday

Q: How did Victim 2 "sneak" alcohol from Daemon?

A: He brought some upstairs, and went to the bathroom. When he left the room, she drank some of the alcohol

Q: What kind of alcohol was it?

A: Yägermeister

Q: Did you see ~~her~~ Victim 2 drink any other kind of alcohol that night?

A: Yes, she drank some Bud Light. I saw her coming up the stairs with it. Don't know how she got it.

Victim 1

Statement

Person giving statement to place initials behind
last word of statement as appears on last page.

Victim 1

Signature of person giving voluntary statement

Geoffrey R. McKee, PhD, ABPP
Forensic Psychological Services



31 May 2018

Larry Weidner, Esq.



Re: Daemon Crim

Dear Mr. Weidner:

Pursuant to your recent request, below is a summary of my forensic psychosexual evaluation of **Daemon Crim**, a 21 year old male, completed on 2/24/17. He had been charged with sexual acts allegedly occurring in 2016. Prior to the evaluation I reviewed documents sent to me by your office. I collected an extensive personal and sexual history from Mr. Crim and administered the Information & Orientation Scale (I&O), the Competency to Stand Trial Assessment Instrument (CAI), the Personality Assessment Inventory (PAI), the Trauma Symptom Inventory (TSI), the Substance Abuse Subtle Screening Inventory-3rd Edition (SASSI-3), and the Screening Scale for Pedophilic Interests (SSPI). Following the evaluation, I scored various measures of sexual recidivism risk: the Static 99-Revised (S99-R), Static 2002-Revised (S2002-R), Minnesota Sex Offender Screening Tool-Revised (MnSOST-R), Rapid Risk Assessment for Sex Offense Recidivism (RRASOR), Sexual Violence Risk-20 (SVR-20), and New Jersey Registrant Risk Assessment Scale (NJ-RRAS). I also calculated measures of recidivism for non-sexual crimes; that is, his risk of probation violation for general criminal offenses: the Salient Factor Score (SFS) used for decades by the U.S. Probation Office, and the SC Department of Probation, Parole, and Pardon Services' Parole Risk Assessment (PRA).

- Mr. Crim's clinical interview, sexual history, and test results (SSPI, SVR-20, S-99R, S2002-R, MnSOST-R, RRASOR, TSI Sexual Concerns and Dysfunctional Sexual Behavior scales) suggested he does *not* meet the criteria for Pedophilia or Pedophilic Disorder or another sexual deviance diagnosis.
- Mr. Crim's psychological test results (TSI, PAI, and I&O) do not indicate that he is presently faking any psychological or emotional symptoms to evade his present legal situation. During the evaluation, he was alert, cooperative, interactive and responsive. There was no indication of psychotic symptoms (e.g., delusions, hallucinations) or suicidal ideation. His intellectual functioning likely falls within the upper Average range consistent with his expressive and receptive vocabulary.

Crim, Daemon

5/31/18

1

His long- and short-term memory is intact. His affect was anxious and constricted but appropriate to his current legal situation. His judgment and reasoning are presently intact and realistic. Mr. Crim denied a history of alcohol or drug abuse/dependence corroborated by his PAI and SASSI-3 results below.

- On the TSI, all clinical scales were within normal limits suggesting that he has not been experiencing high levels of anxious arousal, depression, anger/irritability, intrusive thoughts/memories, dissociation (transient disruptions of attention), low self-esteem, or self-harming impulsivity. Of direct relevance to his current charge, TSI scales measuring sexual distress (Sexual Concerns) and inappropriate/indiscriminate sexual behavioral impulsivity (Dysfunctional Sexual Behavior) were within normal limits. His TSI results do not indicate that he suffers from Posttraumatic Stress Disorder (PTSD) or other anxiety disorders.
- On the PAI, all clinical scales were within normal limits suggesting that Mr. Crim is not experiencing elevated symptoms of anxiety, depression, mania, paranoia, schizophrenia, antisocial or borderline personality disorders, alcohol abuse/dependence, drug abuse/dependence, aggression, or suicidal thinking/planning. Two scales measuring tendencies to use force (Aggression) and/or verbal/physical coercion (Dominance) in interpersonal relationships were well within normal limits. His score on the Violence Potential Index (VPI; combination of PAI scales and subscales) was also well within normal limits suggesting that his risk of harm to others is very low. The PAI does not directly assess sexual urges or behavior, however, Mr. Crim's overall PAI scales' profile does not empirically match (statistical Goodness of Fit) the scales' profile of a sample of rapists referenced in the PAI Manual. These PAI data were consistent with Mr. Crim's results on the Sexual Violence Risk-20 (SVR-20): his score of 2 (40 maximum) fell in the Low Risk category for sexual violence.
- On the SASSI-3, Mr. Crim's responses corroborated his PAI results described above. Determination of whether an individual might have a diagnosis of alcohol or drug dependence on the SASSI-3 is based on 9 different "decision rules"; any rule scored 'Yes' would indicate that the individual had a "High Probability of having a Substance Dependence Disorder." (Test Manual) All nine "decision rules" were scored "No" suggesting that Mr. Crim's alcohol and drug use in the six months before his alleged offenses indicated a "Low Probability of Alcohol or Drug Dependence."
- The sexual recidivism scales which follow (including the SVR-20 above) have been scored in a light most positive to the prosecution; that is, an assumption that the allegations are true. These scales have been the subject of dozens of peer-reviewed published research involving thousands of adult male sex offenders over the past 20 years. Mr. Crim's scores on the S99-R (3; 12 maximum), S2002-R (3; 16 maximum), RRASOR (2; 6 maximum), and MnSOST-R (-3; 31 maximum) fell in a low risk category for sexual recidivism. Less than 9% of men with similar

scores on the S99-R, S2002-R, RRASOR, and MnSOST-R would likely be charged with another sexual offense within the next 5 to 6 years.

- In New Jersey where the NJ-RRAS was developed by a state commission of academics and practitioners, Mr. Crim's score of 26 (111 maximum) fell in the lowest risk category: the men in the category were *not required* to maintain their names on the state's Sex Offender Registry.
- It is my opinion, based on Mr. Crim's responses to the CAI, that he is capable of understanding the proceedings against him and assisting his attorney in his defense. He did not display any current long- or short-term memory difficulties. He has a factual and rational understanding of the charges against him.
- Mr. Crim's scores on the SFS (10; 11 best score) and PRA (7; 20-41 High Probation Violation risk) fell in the category of the best likelihood to complete probation without incident. On the PRA, over 92 % of SC probationers/parolees with similar scores successfully complete their community supervision; *none* (0.00%) had their probation revoked due to a new violent crime.
- It is my opinion that given his very low sexual recidivism and NJ-RRAS scores, there is no empirical/quantitative reason to place Mr. Crim on the state's Sex Offender Registry.
- It is my opinion that Mr. Crim does *not* meet the state's statutory definition of a Sexually Violent Predator (SVP) based on my 35+ years of evaluating, treating, and conducting peer-reviewed published research on sex offenders—including 13 years of service on the SVP Act's Multidisciplinary Team reviewing over 6,000 cases of adolescent and adult sex offenders.

Please contact me at [REDACTED] or at [REDACTED] (cell) if you have questions regarding this report or need further information about Mr. Crim. I have attached a summary of my Curriculum Vitae for your and the Court's review.



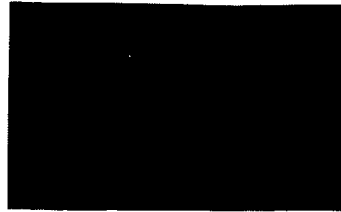
Geoffrey R. McKee, PhD, ABPP
 Board Certified in Forensic Psychology
 Clinical Professor, Department of Neuropsychiatry
 University of South Carolina School of Medicine &
 Clinical Professor, Department of Psychiatry
 Medical University of South Carolina

Geoffrey R. McKee, PhD, ABPP
Forensic Psychological Services

Curriculum Vitae Summary 2018

- Boardcertified in Forensic Psychology, American Board of Professional Psychology (ABPP)
- Clinical Professor, Department of Neuropsychiatry, U. of South Carolina School of Medicine (pro bono). 2007 Chairman's Award for Outstanding Contributions to Forensic Psychiatry Training Program
- Clinical Professor, Department of Psychiatry, Medical University of South Carolina (Pro bono)
- Private practice in criminal and domestic Forensic Psychology since 1976; licensed psychologist in AZ (197280), ND (198185), MN (198485), NC (199699; 2011-2012), and SC since 1985
- Chief Psychologist, Division of Forensic Evaluation Services, SCDMH 19982011.
- SCDMH member to Multidisciplinary Team of SC Sexually Violent Predator Act 1998-2011
- Chief Psychologist, Forensic Psychiatry Division, Hall Psychiatric Institute, 198698. Director of Training, Forensic Psychology Rotation, APAapproved clinical psychology internship
- Consultations/evaluations to state and county child protection services agencies on issues of child sexual assault (victims and perpetrators) in AZ, ND, and SC since 1976
- Child custody and parenting capacity evaluations and expert testimony for Family Courts in AZ, ND, and SC since 1976
- Forensic psychological evaluations in over 500 murder cases at state and federal level including gang- related homicides as well as other major felonies.
- Retained by defense or prosecution for evaluation, consultation, and/or expert testimony in state and federal courts in over 200 criminal and 30 death penalty trials or appeals in SC, AZ, ND, IN, NC, CA, KY, GA, OR, MS, and TX.
- Expert testimony before the SC Supreme Court twice.
- Past President, American Academy of Forensic Psychology, 199294
- Founder & President, ISA Metrics, LLC. Visual technology products to aid forensic mental health sciences investigations and training
- Invited Continuing Legal Education lectures to State Bar, Family Court judges, and public defenders associations in VA, WI, and SC and law students in SC and NY.
- Former Consulting Faculty, National Advocacy Center, US Department of Justice
- Former Consulting Faculty, National Advocacy Center, National District Attorneys Association
- Author, Why Mothers Kill: A Forensic Psychologist's Casebook (2006; Oxford University Press). www.whymotherskill.com
- Publications in peerreviewed journals and book chapters on maternal filicide, juveniles' trial competency, homicidal and violent adolescents, MMPI/MMPI2 profiles of adult criminal defendants/sex offenders, and criminal forensic psychology practice.
- Peer-reviewed research presentations/workshops on homicide, violent crimes, and sex offenders
- Case analyst/commentator on "Wicked Attractions" television series, 2009-final episode (2012)

June 8, 2018



To Whom It May Concern,

Re: Character Reference - Daemon Crim

My name is Jay Wolf and I am the Managing Partner of Juniper Capital Partners, LLC. Juniper is a real estate private equity firm based in Los Angeles, California with offices in New York and Miami.

I have known Daemon Crim for over 10 years. Throughout that time I've observed him to be a loving son, brother and mentor to his two younger siblings Tanner and Kalani. He often assisted them with their homework and school projects and served as a positive role model. He was always kind and respectful and that behavior carried on as he blossomed into a young man who enlisted in the Marines to serve his country. I have never known Daemon to be in any trouble whether at school, home or in his personal life and I was shocked and saddened to learn what had transpired.

In speaking with Daemon, I know he feels incredible remorse and regret, but as is true to his nature he takes responsibility for his actions regardless of the circumstances. Since being discharged, I know he has sought to make a positive contribution to society and has remained gainfully employed as a Shift Team Leader at the Pilot Travel Center while awaiting the outcome of these proceedings.

Among other assets our firm owns the Hard Rock Resort and Casino in Las Vegas, Nevada where Daemon's family currently resides. If Daemon were able to return to Las Vegas we would have a job for him at our hotel. I don't make this offer lightly, especially in light of these events, but I know who Daemon is.

I recognize that Daemon needs to be punished for his actions, but I hope the court in its wisdom can be mindful that Daemon is still an outstanding young man who served his country. I know he can still be a positive contributor to society if given the opportunity.

I would respectfully implore the court to be lenient as it decides what punishment is suitable. My thoughts and prayers go out to the victims and their families, but I also hate to see a life so full of promise and possibility irreparably damaged in the pursuit of justice.

I do not envy your task and I thank you for taking my thoughts into consideration.

Respectfully,

A handwritten signature in black ink, appearing to be 'Jay Wolf' with a stylized flourish.
Jay Wolf

June 8, 2018

To Whom It May Concern:

This email note is addressed to the Court handling the criminal case involving Mr. Daemon Crim. I'm writing to provide a character reference for Daemon.

I have had the pleasure of knowing Daemon for approximately ten years and consider him to be part of our family. So much so a part of our family that when my wife and I learned he had been arrested and accused of a crime we offered to post his bail, which we happily did without reservation or hesitation. Daemon is like a son to us.

I understand that mistakes happen in life and that Daemon is not perfect - none of us are. However, with that said, I believe in Daemon's character and I believe he's a good man, a good adult and someone with honor and integrity.

By writing this letter I am offering my knowledge of Daemon as a good person and person that does not need to go to prison. I also offer the testament that should he go to prison he'll be robbed of a life that is just beginning and that has so much promise and potential. Society will also be robbed of the benefit of having this young man be part of our society and be someone that can offer meaningful contributions.

Professionally I am a Certified Fraud Investigator, an Accredited Healthcare Fraud Investigator, a Certified Insurance Fraud Investigator and a licensed Private Investigator. As such, I have spent my entire professional life around criminals and those that try to harm others and manipulate the system. Daemon is not a criminal, he is not a threat to society, he is a very young man who needs a chance at pursuing his life and making a positive difference in our world. **Please don't send this young man to prison. It will do more harm than good.** I assure the Court of this and stake my professional reputation on this.

Edward (Ted) Doyle

Sincerely,
Edward ("Ted") Doyle

[REDACTED]

[REDACTED]

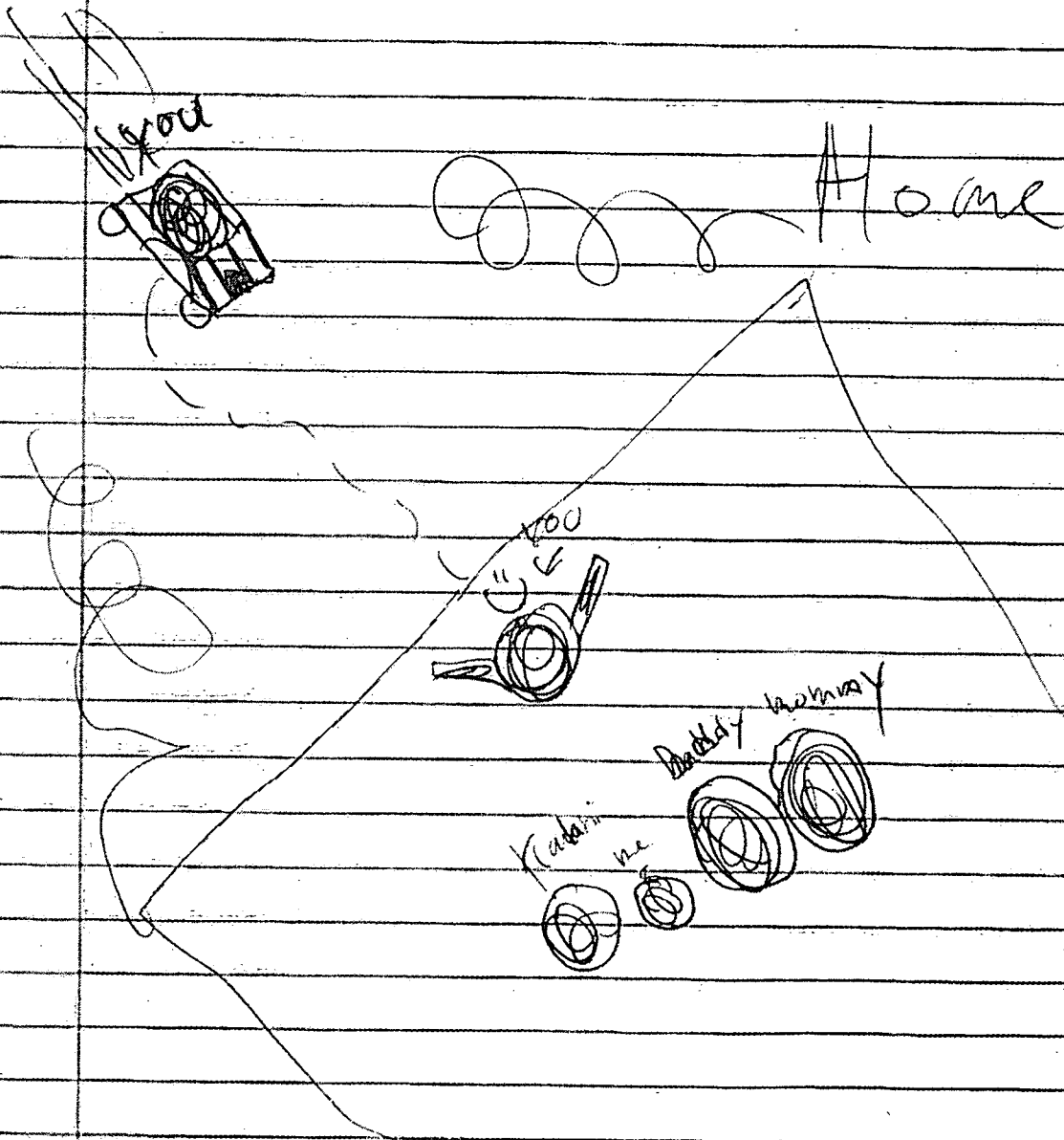
[REDACTED]

6-8-18

My name is

Tanner L.

I am Daemoh's brother. I miss him and love him. I want him to come home please.



by Tanner L.

6-8-18

My Name is Kalani L [REDACTED]

Please Let my Brother come home.
He is the reason why I Love
Video Games even since I was
Born my ~~my~~ Big Brother helped
me anyway he could, he is a
great Big Brother and I miss
him so much let him come home.

Kalani L [REDACTED]

6-8-18

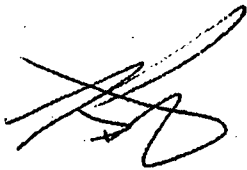
6/9/2018

To the court of South Carolina,

My name is Kai Luthi and i am Daemons stepfather, i work as a freelancer doing internet and
wifl in Las Vegas.

I am writing this letter to say how much Daemon has grown into an amazing man. Dedicated to
everything he puts his heart in to. School, friendships, work and the Marines he has excelled in
every aspect of these endeavors. He has a caring heart full of compassion and love.

I strongly believe that my son feels remorse and regret so please seek leniency.

A handwritten signature in black ink, appearing to be 'Kai Luthi', with a large, stylized 'K' and 'L'.

Kai Luthi

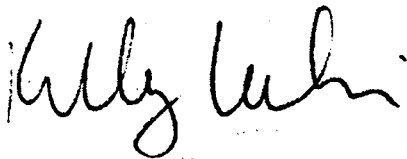
6-9-2018

To whoever it may concern,

My name is Kelly Luthi and I am the proud mother of Daemon Crim and his two younger brothers Kalani and Tanner. Daemon has been a big influence on his brother lives they look up to him with love. Daemon has always been from a very young age a joy to be around. He is strong willed, honest, hardworking and respectful. I could go on for days saying what a amazing son I have.

The circumstances that have brought us here today painfully and overwhelmingly have affected not only Daemon and his future in the military but our family and the other families involved. With that said and a open heart and prayer with god we are sincerely sorry for the actions that took place. Daemon is a amazing young man with a bright future ahead of him please take in consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kelly Luthi'. The signature is fluid and cursive, with the first name 'Kelly' and last name 'Luthi' clearly distinguishable.

Kelly Luthi

June 9th, 2018

Re: Daemon Crim

Your Honor,

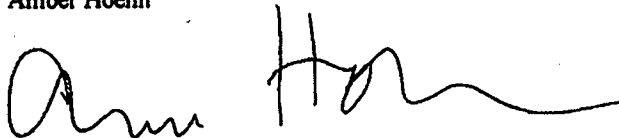
My name is Amber Hoehn. I am Daemon's Aunt (the sister of his mother). I live in San Diego, CA with my husband and two daughters. I have known Daemon his whole life. I remember the day he was born, and how excited I was to become an Aunt. I spent a lot of time with Daemon when he was a child. We lived in the same home for a period of time, when he lived with my parents (his grandparents). As he and I got older, he would stay at my house on the weekends for sleepovers or I would take him camping. I always cherished my time with him. Because of our age difference, he became more like a little brother to me (the younger sibling I never had). As a boy he was very close with my mother (his Nana) and also my Grandmother (his great-Grandmother). I know losing both of them, was very hard on him. My daughters had the opportunity to meet Daemon at our Grandmother's funeral in 2015, they adored him just as much as the rest of the family. Even though Daemon was also grieving that day, it was admirable to watch him step up and be a strong man for our family. Consoling my sisters and I. My daughters still talk about him regularly because of that visit in which he stayed with us, asking when he will visit next.

When I learned that Daemon would be joining the military, I and the rest of our family were so very proud of him. As a boy Daemon loved to dress in camo and play Army men. It was a dream of his. When you asked him what he wanted to be when he was older, the answer never changed - A Soldier. I am so proud of him for taking the steps to follow his dreams. I am aware of the charges that Daemon faces, and it saddens me that something that was supposed to be an opportunity for a better life for Daemon, has brought him here. I know that Daemon will learn from this experience and be able to continue on with all his dreams in life and as a strong member of society.

I can say that in all the time I have known Daemon, I have seen him be nothing but respectful and caring. I have always trusted him and felt safe with him, as well as trusted him with my children. Thank you for your time in this matter, if any additional information is needed I can be reached at: [REDACTED]

Sincerely,

Amber Hoehn

A handwritten signature in black ink, appearing to read 'Amber Hoehn', with a stylized, flowing script.

To whoever it may concern,

I have known Daemon since freshman year of high school which was over 10 years ago. Since I've known him, I have been able to see his personal growth and witness him becoming a man. Since a young age, Daemon has always tried to do the right thing when called upon while striving for excellence both academically and with extracurricular activities.

Daemon made the choice from a very young age that he wanted to serve our country and standup for our collective freedom. This choice was made with full knowledge and complete understanding that he may not return, however he knew that this country is worth the risk and wanted to do his part for it. Daemon demonstrated true patriotism when he enlisted and only had the best intentions when choosing to serve. Daemon has and always demonstrated a strong work ethic and a code of moral fiber.

Daemon is not without fault, but when confronted with a situation he usually chooses to do the right thing. That being said, Daemon should be allowed back into society. I truly believe that not letting this young man back out into the world would be a travesty and potentially rob us all of a hardworking, and good willed member of society. One moment should not determine one's entire life, he should be given a chance to make things right and prove that he still a valued member of society.

Michael Doyle

6/2/18

Mike Doyle

Daemon Crim

I've known Daemon for about 4 years now. I met him while we were both serving in the Marine Corps at Naval Consolidated Brig Charleston. He was under me at the time, being new to the command. He was always polite and on time, with an amazing work ethic. After a couple months I really start to get to know him and we start to become really close. We would talk about anything and everything under the sun. He became one of my closest friends at the brig. We didn't hang out too much outside of work because I have a family, but there were a couple occasions where he came over and hung out with my wife and I. Daemon is just a genuine person. A person that you know you can trust, because of how he carries himself and how he acts towards other people. So this is me reaching out for somebody I genuinely believe is a good person. For the short amount of time that I've known Daemon he's been nothing but kind and genuine, and I would stand up for Daemon any chance I get. He made my time at the brig a lot more enjoyable because I knew I had a friend that I could trust.

Signed,

Samuel Thomas

A handwritten signature in black ink, appearing to read 'Samuel Thomas', written in a cursive style.

June 9, 2018

The Presiding Magistrate
South Carolina Local Court

Your Honour,

My name is Sidney Johnson and I am proud to offer my Character recommendation of Mr. Daemon to whom I have personally known for 1 year as my friend and colleague.

During my relationship with Mr. Daemon I have experienced an individual who always shows up to work no matter how he feels or his body condition, works hard, and carries him in a polite, respectable manner. In addition, Mr. Daemon is a person of good moral character. I realize that might seem hard to believe, given the circumstances, but it's true nonetheless. He is a decent person at the core.

I know Daemon to be a dependable, responsible and courteous person. He is also a faithful team player. His good judgment and mature outlook ensure a logical and practical approach to his endeavors.

Daemon has made mistakes, and he is incredibly remorseful and is willing to do whatever it takes to make reparations, financially and emotionally, if possible. But to do that he needs you to give him an opportunity to get a second chance. I just hope you will recognize the power you wield with regard to the future of this man and make a fair decision.

If you wish to verify the contents of the statement, please do not hesitate to contact me [REDACTED]

A handwritten signature in black ink, appearing to be 'S28' followed by a long horizontal stroke.

Sidney T Johnson

6/8/18

To Whom It May Concern;

I have had the pleasure of meeting Daemon Crim when my son, Kai, started dating Daemon's mother, Kelly, 15 years ago.

Proudly I became his grandmother when Kai and Kelly married in 2005. Throughout the years, I fell in love with this polite, happy, loving, good-natured boy who grew into a wonderful, helpful yet shy young man.

When Daemon worked hard to realize his dream of becoming a Marine, our hearts burst with pride. I could not have asked for a more kind-hearted and well-mannered grandson.

Sincerely,
Cynthia Webb

THE STATE OF SOUTH CAROLINA
In The Court of General Sessions

APPEAL FROM DORCHESTER COUNTY
Court of General Sessions
The Honorable Diane S. Goodstein, Judge.

Case No. 2018-001915

RECEIVED
NOV 21 2019
SC Court of Appeals

The State of South Carolina,.....Respondent.

v.

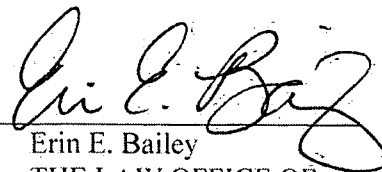
Daemon Crim,.....Appellant.

CERTIFICATION BY APPELLANT

I certify that the Record on Appeal contains all of the material proposed to be included by any of the parties and not any other material.

November 19, 2019

By: _____



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THE STATE OF SOUTH CAROLINA
In The Court of General Sessions

APPEAL FROM DORCHESTER COUNTY
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The State of South Carolina,.....Respondent.

v.

Daemon Crim,.....Appellant.

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

1. DOES A CIRCUIT COURT JUDGE ABUSE HER DISCRETION IN ISSUING A CRIMINAL SENTENCE THAT IMPOSES THE MAXIMUM SENTENCE WHERE THE DEFENSE PRESENTS SIGNIFICANT MITIGATION EVIDENCE, WHERE THERE IS NO ALLEGATION OF AGGRAVATING CIRCUMSTANCES, WHERE THE DEFENDANT HAD NO PRIOR RECORD, AND WHERE THE RECORD REFLECTS SUBSTANTIAL EVIDENCE OF THE REHABILITATIVE POTENTIAL AND GOOD CHARACTER OF THE DEFENDANT?

STATEMENT OF THE CASE

This appeal arises from a criminal sentence issued by The Honorable Diane S. Goodstein after a guilty plea. On June 11, 2018, Judge Goodstein sentenced twenty-one year old Daemon Crim to a period of twenty years incarceration for two counts of Criminal Sexual Conduct with a Minor in the second degree after Crim pled guilty to both counts. On October 8, 2018, Judge Goodstein held a hearing on a motion to reconsider the sentence. That motion was denied.

The prosecution did not request or recommend any sentence during the plea hearing. The Defense presented a multitude of mitigating evidence. This appeal followed.

STATEMENT OF FACTS

The defense presented ample mitigating evidence at the sentencing hearing. At the time of the offense, Crim was a twenty-one year old Marine, stationed as a correctional officer at the Naval Brig in North Charleston. (R. 25, lines 11-14). He had no prior criminal record. (R. 14, lines 18-

19). The defense presented Crim's military awards and commendations to the Judge. (R. 38, lines 16-18).

The defense presented the report of Dr. Geoffrey McKee, who performed a psychosexual evaluation of Crim. (R. 38, lines 18-20). That report indicated that Crim "does not meet the criteria for Pedophilia or Pedophilic Disorder or another sexual deviance diagnosis." (R. 73). Additionally, Dr. McKee's report found that Crim "was well within normal limits suggesting that his risk of harm to others is very low." (R. 74). On the sexual recidivism scales, Dr. McKee indicated that Crim "fell in a low risk category for sexual recidivism." (R. 74). Finally, Dr. McKee found that Crim "fell in the category of the best likelihood to complete probation without incident... over 92% of SC probationers/parolees with similar scores successfully complete their community supervision; none (0.00%) had their probation revoked due to a new violent crime." (R. 75). Dr. McKee classified Crim in the Low Risk category for sexual violence. (R. 74). This report was not contested by the prosecution.

The defense also presented eleven character reference letters from Crim's friends, family, and acquaintances. (R. 38, lines 20-22, R. 77-87). Those letters present Crim as "an outstanding young man," (R. 77), "a good man, a good adult, and someone with honor and integrity," (R. 78), "an amazing man... [who] has a caring heart full of compassion and love," (R. 81), "an amazing young man with a bright future," (R. 82), trustworthy and respectful, (R. 83), "a good willed member of society," (R. 84), "a person that you know you can trust," (R. 85), "a person of good moral character," (R. 86), and "kind-hearted and well-mannered." (R. 87).

Kelly Luthi, mother of the Defendant, spoke to the court about Crim's background and asked for leniency in sentencing. (R. 39, lines 16-25, R. 40, lines 1-10). At the time of his sentencing, Crim worked as a shift supervisor at a Pilot truck stop. (R. 40, lines 23-25). Crim's

supervisor, Thomas Mayes addressed the court regarding Crim's work ethic and positive attitude, indicating "we would gladly have him back tomorrow if we could." (R. 40, lines 23-25, R. 41, lines 1-9). Crim's longtime friend, Mike Doyle, addressed the court, indicating that Crim "is a very good person...he is a standup person." (R. 41, lines 23-25. R. 42, lines 1-13). Finally, Crim himself addressed the court. Crim expressed remorse, apologized to the victims, indicated he had "a horrible lapse in judgment," and said this incident was something "I will never – never be able to forgive myself for." (R. 42, 22-25, 43, lines 1-3).

Trial counsel for Crim made the court aware that this arrest had cost Crim a promising career in the United States Marine Corps (R. 45, lines 4-7). Trial counsel also asked the Judge to consider the wide range of offenses sentenced under this statute, including strangers who "grab somebody off the street and doing [sic] bad things." (R. 44, lines 7-10). Trial counsel extensively told the court about Crim's rehabilitative potential (R. 45, lines 11-15, 46, lines 3-9).

As to the facts of the crime, while the Defendant admitted on the record to having sexual intercourse with two girls at the same time, there was no evidence in the record of any force, coercion, or violence. Victim 2 indicated that Victim 1 told her to take her pants off. (R. 55). Victim 2 also said that Victim 1 told Crim to engage in intercourse with her. (R. 56). Victim 1 indicated that it was Victim 2's idea to have a threesome with Crim. (R. 71). Victim 1 said she agreed with her friend to have a threesome because it was "on her bucket list," and "so she would shut up about it." (R. 71). Victim 2 indicated that when she told Crim to stop, he did. (R. 56). Victim 1 indicated she "wanted to know how sex felt like." (R. 70). Both victims indicated that they disrobed themselves, and that the sexual encounters were consensual. (R. 55, 57, 69, 70).

STANDARD OF REVIEW

The standard of review in reviewing a criminal trial court proceeding is abuse of discretion. “In criminal cases, the appellate court sits to review errors of law only. State v. Jacobs, 393 S.C. 584, 586, 713 S.E.2d 621, 622 (2011). A sentence will not be overturned absent an abuse of discretion or when the ruling is based on an error of law. Id.” State v. Dawson, 402 S.C. 160, 163, 740 S.E.2d 501, 502 (2013). “An abuse of discretion occurs when the trial court’s ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support.” State v. Hicks, 377 S.C. 322, 324-25, 659 S.E.2d 499, 500 (Ct. App. 2008) citing Clark v. Cantrell, 339 S.C. 369, 389, 529 S.E.2d 528, 539 (2000). “When the trial judge is vested with discretion, but his ruling reveals no discretion was, in fact, exercised, an error of law has occurred.” Fontaine v. Pietz, 291 S.C. 536, 538, 354 S.E.2d 565, 566 (1987).

ARGUMENT

1. A CIRCUIT COURT JUDGE ABUSES HER DISCRETION IN ISSUING A CRIMINAL SENTENCE THAT IMPOSES THE MAXIMUM SENTENCE WHERE THE DEFENSE PRESENTS SIGNIFICANT MITIGATION EVIDENCE, WHERE THERE IS NO ALLEGATION OF AGGRAVATING CIRCUMSTANCES, WHERE THE DEFENDANT HAD NO PRIOR RECORD, AND WHERE THE RECORD REFLECTS SUBSTANTIAL EVIDENCE OF THE REHABILITATIVE POTENTIAL AND GOOD CHARACTER OF THE DEFENDANT.

Judge Goodstein abused her discretion when she sentenced Crim to twenty years, the maximum sentence for the crimes for which he pled guilty, because she ignored the mountain of mitigating evidence showing Crim was unlikely to re-offend, expressed remorse, had good character, was well employed, and had great rehabilitative potential. This twenty year sentence constitutes cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution, and the cruel and unusual clause of the South Carolina State Constitution because it is disproportionate to the crime committed. U.S. Const. amnd. XIII.

Despite the substantial evidence presented in mitigation of the sentence at the sentencing hearing, Judge Goodstein issued a twenty year sentence, the maximum prescribed by law, which was without evidentiary support and was not grounded in factual conclusions. This constitutes an abuse of discretion. State v. Hicks, 377 S.C. 322, 324-25, 659 S.E.2d 499, 500 (Ct. App. 2008) citing Clark v. Cantrell, 339 S.C. 369, 389, 529 S.E.2d 528, 539 (2000). In addition, a sentence to the maximum was a failure to exercise any discretion, which in and of itself is an abuse of discretion. Fontaine v. Pietz, 291 S.C. 536, 538, 354 S.E.2d 565, 566 (1987).

The Criminal Sexual Conduct with a Minor, second degree statute provides that anyone convicted of this section may be sentenced to not more than twenty years. S.C. Code Ann. §16-003-0655(b)(1)-(2). The General Assembly provided this wide discretion to Circuit Judges because some cases have aggravating factors and some defendants have substantial criminal records. However, in this case, there is nothing in the record to support the high end of this wide range of sentence. Crim had no prior criminal record. (R. 14, lines 18-19). The prosecution presented no aggravating factors. No force, coercion, or violence were used in the commission of the crime. (R. 55-58, 70-72). Crim was not in a position of authority over the victims; he was not their coach, teacher, youth group leader, step-father, or guardian. Crim was seven years older than

one victim and eight years older than the other. (R. 25, lines 11-12, 26, lines 7-25). Crim was well employed at the time of the crime and at the time of sentencing. (R. 25, lines 12-15, 40, lines 23-25). Crim presented eleven good character letters at sentencing that demonstrate that he was a good, hard working young man, and had live witnesses say the same at his sentencing hearing. (R. 39-42, 77-87). Crim's psychosexual evaluation, uncontested by the prosecution, presented him at low risk to re-offend, and high risk to successfully complete probation or parole. (R. 73-76). Crim expressed remorse and apologized to the victims. (R. 42, 22-25, 43, 1-3). In spite of all of these factors, Judge Goodstein sentenced Crim to the maximum sentence of twenty years.¹

¹ This sentence appears especially egregious when compared a sample of Judge Goodstein's sentences in other cases where aggravating sentencing factors existed. See Convicted Child Molester Gets 12-year Term, THE POST AND COURIER (Charleston, S.C.), Sept. 22, 2001, at B3 (reporting that Judge Goodstein sentenced a thirty year old, who was already a convicted sex offender, to twelve years for sex crimes on a victim under twelve years old); Herb Frazier, Ex-inmate Gets 15 Years in Prison Stabbing, THE POST AND COURIER (Charleston, S.C.), April 26, 2004 at 1B (reporting that Timothy Player stabbed a fellow inmate at Lieber Correctional Institution, that Player expressed no remorse, and that Judge Goodstein sentenced Player to fifteen years for Assault and Battery With Intent to Kill); Summerville Man Receives 20-year Sentence for Sex Crime, THE POST AND COURIER (Charleston, S.C.), September 5, 2018 at A5 (reporting that Judge Goodstein sentenced a fifty-eight year old man, Vernell Cooley, to twenty years for sex crimes with a minor, and that Cooley had a criminal record); Kathy Stevens, Man Could Face More Prison in Child Sex Case, THE POST AND COURIER (Charleston, S.C.), December 29, 2001 at 1B (reporting that Judge Goodstein sentenced thirty-three year old Stephen Paddock, a serial child molester, to twelve years incarceration after a guilty plea to sex crimes on a nine year old girl and twelve year old boy); St. Helena Man Gets 20 Years for 2011 Shooting, THE ISLAND PACKET (Hilton Head, S.C), September 21, 2012 at 1B (reporting that Judge Goodstein sentenced Jabari Linnen to twenty years for shooting someone five times over a road rage incident); Glen Smith, Man Gets 20 years for Beating 75-year-old, THE POST AND COURIER (Charleston, S.C.), Sept. 6, 2002 at 6B (reporting that Judge Goodstein sentenced Dennis Knight to twenty years after he pled guilty to Burglary First Degree and Assault and Battery With Intent to Kill for breaking into the house of a stranger and beating a seventy-five year old woman in the head with the gear shifter of his truck, where the charges potentially carried a sentence of life in prison); Martha Rose Brown, Man Back in Prison in Shooting; Previously Served Time in Stabbing, THE TIMES AND DEMOCRAT (Orangeburg, S.C.), November 26, 2018 (reporting that Judge Goodstein sentenced Marion Hair, Jr. to three years in prison for his role in a death by stabbing); Summerville Man Gets Prison in Robbery Spree, THE POST AND COURIER (Charleston, S.C.), November 28, 2001 at 3B (reporting that Judge Goodstein sentenced Michael Casey to twenty five years for three separate Armed Robberies with a knife, two Assaults With Intent to Kill, and a Failure to Stop for a Blue Light); Herb Frazier, Man Gets 25 years for Kidnapping Toddler During Chase, THE POST AND COURIER (Charleston, S.C.), March 21, 2003 at 3B (reporting that Judge Goodstein sentenced William Ford to twenty-five years for kidnapping a three year old from her home, stealing a car, and engaging in a high speed chase with police, where the charges potentially carried a sentence of life in prison); and Melissa Boughton, Man Sentenced to Twenty Years for Sexual Assaults, THE POST AND COURIER (Charleston, S.C.), March 4, 2016 at A6 (reporting that Judge Goodstein sentenced forty-six year old Maurice Harris to twenty years for sexual batteries of twelve and eight year old victims, and that Harris had a criminal record for Criminal Domestic Violence of a High and Aggravated Nature and Burglary).

While overturning a circuit court's sentence is an usual remedy given the high standard of review, it is not without precedent. See State v. Gregory, 198 S.C. 98, 16 S.E.2d 532 (1941) (remanding a case for re-sentencing because it was disproportionate for the crime), State v. Kimbrough, 212 S.C. 348, 46 S.E. 2d. 273 (1948), (holding a 20 year sentence for burglary inflicted cruel and unusual punishment as it was effectively a life sentence), State v. Hazel, 317 S.C. 368, 453 S.E.2d 879 (1995) (holding a trial judge abused his discretion where he refused to sentence the defendant under the Youthful Offender Act after a trial).

Our courts have found a wide range of errors to constitute an abuse of discretion. See State v. Williams, 226 S.C. 525, 85 S.E.2d 863 (1955) (finding an abuse of discretion where a judge refused to sequester witnesses where the witnesses were also guards guarding the inmate during trial), State v. Castro, 2012-UP-378, (S.C. Ct. App. Filed June 20, 2012) (granting Post Conviction Relief to petitioner whose attorney failed to object to the sentencing Judge abusing his discretion by stating he was punishing the defendant for exercising his right to a trial by jury).

Indeed, a circuit judge disregarding the facts before them can constitute an abuse of discretion. State v. Hicks, 377 S.C. 322, 324-25, 659 S.E.2d 499, 500 (Ct. App. 2008). In State v. Steadman, 216 S.C. 579, 608, 59 S.E.2d 168, 182 (1950), the South Carolina Supreme Court determined:

What the court stated in State v. Scates, 212 S.C. 150, 46 S.E.2d 693, 695, may aptly be quoted here: "An exhaustive definition of the phrase 'abuse of discretion' would be difficult, if not impossible. Each case must be determined with reference to its own peculiar facts. The exercise of a sound judicial discretion must and should be performed in every case with a conscientious regard for what is just and proper under the circumstances."

The “peculiar facts” of this case did not warrant a twenty year sentence, and the issuing of that sentence was an abuse of discretion because it ignored all of the facts presented by the defense.²

The sentence imposed by Judge Goodstein was so disproportionate to the offense committed in light of all of the circumstances presented at the sentencing hearing that it constituted cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution and Article I, §15 of the South Carolina Constitution.

The Eighth Amendment to the United States Constitution provides, “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.” U.S. Const. amnd. XIII. The cruel and unusual punishment clause requires that the duration of a sentence not be grossly disproportionate with the severity of the crime. State v. McKnight, 352 S.C. 635, 652, 576 S.E. 2d 168, 177 (2003).

“What constitutes cruel and unusual punishment, and thus, what violates the Eighth Amendment, is determined by ‘evolving standards of decency that mark the progress of a maturing

² An examination of trial court cases with more aggravating circumstances, but lower sentences reveals that the instant case constituted an abuse of discretion. See Katrina A. Goggins, Teacher Sentenced to Six Years for Sex With Students, DAILY-JOURNAL-MESSENGER (Seneca, S.C.), Feb. 20, 2008 at A2 (reporting that a twenty-four year old middle school teacher was sentenced to six years in prison for sexual encounters with five different boys ages fourteen and fifteen); LaDonna Beeker, Roach Found Guilty: John Roach was Found Guilty of Criminal Sexual Conduct Toward a 13-year-old Girl, DAILY JOURNAL-MESSENGER (Seneca, S.C.), October 21, 2011 at A1 (reporting that sixty-four year old John Roach was sentenced to two years in prison after his conviction for sex crimes with a thirteen year old girl); Tonya Root, Andrews Man Sentenced to 18 Years for Second Sexual Assault Charge With a Minor, THE MYRTLE BEACH SUN-NEWS, January 27, 2011 (reporting that Phillip Parsons, a thirty-one year old convicted sex offender serving as a youth minister, was sentenced to eighteen years for child sex offenses when convicted for the second time); Conway Child Molester Gets 10 Years for Assaulting 6-year-old, CBS-13 WBTW (Florence, S.C.), August 15, 2019 (reporting that fifty-three year old David Devine received a ten year prison sentence for sex crimes where the victim was six years old); 2 Plead Guilty, 2 Others to Appear at a Later Date in Case of Alleged Corry Co. Child Molesters, CBS-13 WBTW (Florence, S.C.), August 21, 2018 (reporting that fifty-seven year old convicted sex offender Panteleimon N. Spirakis received a seventeen year sentence for multiple sexual encounters with children under six years old); Lexington Man Sentenced to 15 Years in Prison for Sexually Assaulting a Minor, THE STATE (Columbia, S.C.), March 4, 2016 (reporting that forty-five year old Donald Reed received a fifteen year sentence for ongoing sexual abuse with a victim from the time she was eight years old until she was thirteen years old); and Tonya Root, Horry County Jury Convicts Sex Offender in Assault of Minor, Sentenced to 15 Years in Prison, THE MYRTLE BEACH SUN-NEWS, June 13, 2012 (reporting that fifty-nine year old Jon Jarrad, who was already a registered sex offender, was sentenced to fifteen years for sex crimes with a victim under eleven years old).

society.” State v. Pittman, 373 S.C. 527, 562, 647 S.E.2d 144, 162 (2007), cert. denied, 128 S.Ct. 1872, 170 L. Ed. 2d 751 (2008) (quoting State v. Standard, 351 S.C. 199, 204, 569 S.E. 2d 325, 328 (2002)). In implementing this test, the court looks to objective evidence of how our society views a particular punishment today. State v. Wilson, 306 S.C. 498, 509-10, 413 S.E.2d 19, 26 (1992).

The proportionality bedrock of Eighth Amendment jurisprudence is equally important a principle as the “evolving standards of decency,” and “it is a precept of justice that punishment for the crime should be graduated and proportioned to [the] offense.” Pittman, 373 S.C. at 564-65, 647 S.E.2d at 163 (quoting Atkins, 536 U.S. at 311).

Article I, Section 15 of the South Carolina Constitution provides:

All persons shall be, before conviction, bailable by sufficient sureties, but bail may be denied to persons charged with capital offenses or offenses punishable by life imprisonment, or with violent offenses defined by the General Assembly, giving due weight to the evidence and to the nature and circumstances of the event. Excessive bail shall not be required, nor shall excessive fines be imposed, nor shall cruel, nor corporal, nor unusual punishment be inflicted, nor shall witnesses be unreasonably detained.

S.C. Const. art. I, §15.

In this case, Judge Goodstein’s sentence fails the proportionality test. A twenty year sentence in light of these facts is grossly disproportionate to the crime committed.³ Even where

³ A comparison of other cases with facts similar to the instant case reveals just how disproportionate the sentence is in this case. See Tim Gulla, 21-year-old Sentenced to Five Years on Criminal Sexual Conduct Charge, THE GAFFNEY LEDGER, September 2, 2016 (reporting that an eighteen year old who pled guilty to a sex crime with a victim between eleven and fourteen years old received a five year sentence); and Man Gets 8 Years After Criminal Sex. Conduct with Minor Guilty Plea, CBS-7 WSPA (Greenville-Spartanburg, S.C.), August 23, 2018 (reporting that twenty-seven year old Matthew Reynolds pled guilty to criminal sexual conduct with a minor for acts performed with a fifteen year old victim and received an eight year sentence).

the sentence falls within the statutory limits, a grossly disproportionate sentence in light of the facts of the crime committed is still violative of the cruel and unusual punishment clauses of the U.S. Constitution and the South Carolina Constitution. "At the same time we have always recognized that even though within the statutory limits a sentence under the circumstances of a particular case may be so grossly disproportionate to the offense committed as to constitute cruel and unusual punishment in violation of the Constitution of this State. State v. Gregory, 198 S.C. 98, 16 S.E. (2d) 532; State v. Gamble, 249 S.C. 605, 155 S.E. (2d) 916; and State v. Kimbrough, 212 S.C. 348, 46 S.E. (2d) 273." State v. Queen, 264 S.C. 515, 528, 216 S.E.2d 182, 188 (1975).

The power to sentence a criminal defendant is one of the most important vested in Circuit Court Judges. It is the duty of this court to correct an abuse of discretion where it may occur, and to prevent a grossly disproportionate sentence to the crimes alleged. As the Court held in Kimbrough:

As well stated in Hawkins v. United States, 7 Cir., 14F.2d 596, 698: "There is no judicial function which makes larger drafts upon the fairness, common sense, sanity, and good judgment of the judge than that of fixing penalties for criminal offenses, no one which more vitally affects the stability of free institutions. Excessive penalties are tyrannical in the court, and abhorrent to the public; on the other hand, penalties unduly mild seriously embarrass law enforcement and encourage infractions of the criminal laws."

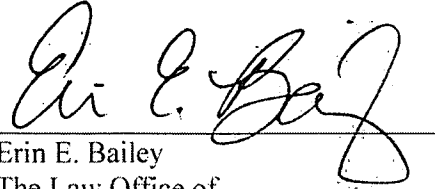
State v. Kimbrough, 212 S.C. 348, 357, 46 S.E. 2d 273 277 (1948).

The instant case presents a twenty-one year old Marine who had a sexual encounter with two underage girls who were seven and eight years younger than him. No force, coercion, or violence was used in the encounter, and the encounter was initiated by the under-aged girls. The

evidence showed that this Marine was not likely to re-offend, was not a pedophile, was well employed, and was of high moral character. In light of these facts, Judge Goodstein abused her discretion by sentencing this Marine to twenty years of incarceration, and that sentence was so disproportionate to the facts alleged, that it constituted a violation of the cruel and unusual punishment clauses of the United States Constitution and the South Carolina Constitution.

CONCLUSION

For the reasons set forth above, Appellant respectfully requests that the sentence imposed be set aside, and the matter remanded to the Circuit Court for a new sentencing hearing.



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THE STATE OF SOUTH CAROLINA
In The Court of General Sessions

APPEAL FROM DORCHESTER COUNTY
Court of General Sessions
The Honorable Diane S. Goodstein, Judge.

Case No. 2018-001915

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SC Court of Appeals

The State of South Carolina,.....Respondent.

v.

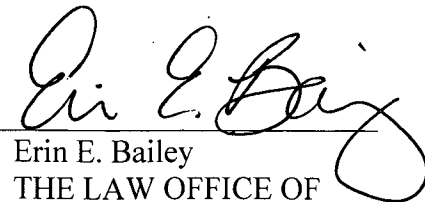
Daemon Crim,.....Appellant.

CERTIFICATION OF COMPLIANCE

I hereby certify that the Appellant's Final Brief complies with Rule 211(b) of the South Carolina Appellate Court Rules.

November 19, 2019

By: _____



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STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY

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

Appellate Case No. 2018-001915

THE STATE,

Respondent,

v.

DAEMON MICHAEL CRIM,

Appellant.

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STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY

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

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Respondent,

v.

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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, 2nd 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, 2nd 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.¹ 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.

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

CONCLUSION

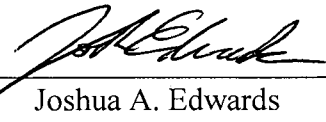
For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

ALAN WILSON
Attorney General

JOSHUA A. EDWARDS
Assistant Attorney General

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Solicitor, First Judicial Circuit

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December 4, 2019

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of General Sessions

Honorable Diane Schafer Goodstein, Circuit Court Judge

Appellate Case No. 2018-001915

THE STATE,

Respondent,

v.

DAEMON MICHAEL CRIM,

Appellant.

CERTIFICATE OF COUNSEL

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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December 4, 2019

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Daemon Michael Crim, Appellant.

Appellate Case No. 2018-001915

Appeal From Dorchester County
Diane Schafer Goodstein, Circuit Court Judge

Unpublished Opinion No. 2020-UP-239
Submitted June 1, 2020 – Filed August 12, 2020

AFFIRMED

Erin E. Bailey, of The Law Office of Erin E. Bailey LLC,
of Georgetown, for Appellant.

Attorney General Alan McCrory Wilson and Assistant
Attorney General Joshua Abraham Edwards, both of
Columbia; and Solicitor David Michael Pascoe, Jr., of
Orangeburg, all for Respondent.

PER CURIAM: Daemon Crim appeals his concurrent twenty-year sentences and requirement he register as a sex offender following his guilty plea for two counts

of second-degree criminal sexual conduct (CSC). Because the plea court did not abuse its discretion in imposing Crim's sentence that was within the statutory range, we affirm pursuant to Rule 220(b), SCACR, and the following authorities: *In re M.B.H.*, 387 S.C. 323, 326, 692 S.E.2d 541, 542 (2010) ("A [plea court] has broad discretion in sentencing within statutory limits."); *id.* (holding a sentence will not be overturned absent an abuse of discretion and explaining an abuse of discretion occurs "when the ruling is based on an error of law or a factual conclusion without evidentiary support"); S.C. Code Ann. § 16-3-653(2) (2015) ("[CSC] in the second degree is a felony punishable by imprisonment for not more than twenty years according to the discretion of the court."); S.C. Code Ann. § 23-3-430(C)(2) (Supp. 2019) (explaining that an individual convicted of second degree CSC shall be required to register as a sex offender).

AFFIRMED.¹

HUFF, THOMAS, and MCDONALD, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of General Sessions

Diane Shafer Goodstein, Circuit Court Judge

Unpublished Opinion No. 2020-UP-239
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Aug 26 2020

SC Court of Appeals

The State,

Respondent

v.

Daemon Michael Crim,

Appellant

PETITION FOR REHEARING

Pursuant to Rule 221, SCACR, Appellant, through his undersigned counsel, respectfully petitions for rehearing of the Court's decision of August 12, 2020.

I. The Court of Appeals erred by ignoring important precedent.

The opinion states that "the plea court did not abuse its discretion in imposing Crim's sentence that was within the statutory range."

However, that statement ignores several important precedents. First, as to the standard of review, an abuse of discretion can occur, even when a defendant is sentenced within the statutory range. "An abuse of discretion occurs when the trial court's ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support." State v. Hicks, 377 S.C.

322, 324-25, 659 S.E.2d 499, 500 (Ct. App. 2008) citing Clark v. Cantrell, 339 S.C. 369, 389, 529 S.E.2d 528, 539 (2000). Appellant’s final brief and the record on appeal reveal that trial counsel presented ample mitigating evidence that Crim had no prior record, was unlikely to reoffend, was well employed, and was of good moral character. The trial judge ignored all of the mitigating evidence, and sentenced Crim to the maximum sentence.

Indeed, a circuit judge disregarding the facts before them can constitute an abuse of discretion. State v. Hicks, 377 S.C. 322, 324-25, 659 S.E.2d 499, 500 (Ct. App. 2008). In State v. Steadman, 216 S.C. 579, 608, 59 S.E.2d 168, 182 (1950), the South Carolina Supreme Court determined:

What the court stated in State v. Scates, 212 S.C. 150, 46 S.E.2d 693, 695, may aptly be quoted here: “An exhaustive definition of the phrase ‘abuse of discretion’ would be difficult, if not impossible. Each case must be determined with reference to its own peculiar facts. The exercise of a sound judicial discretion must and should be performed in every case with a conscientious regard for what is just and proper under the circumstances.”

The “peculiar facts” of this case did not warrant a twenty-year sentence, and the issuing of that sentence was an abuse of discretion because it ignored all of the facts presented by the defense.

Second, the South Carolina Supreme Court has expressly sanctioned the appellate review of a sentence imposed by a trial court, even when the sentence imposed was within the limits proscribed by law. See State v. Gregory, 198 S.C. 98, 16 S.E.2d 532 (1941) (remanding a case for re-sentencing because it was disproportionate for the crime), State v. Kimbrough, 212 S.C. 348, 46 S.E. 2d. 273 (1948), (holding a 20 year sentence for burglary inflicted cruel and unusual punishment as it was effectively a life sentence), State v. Hazel, 317 S.C. 368, 453 S.E.2d 879

(1995) (holding a trial judge abused his discretion where he refused to sentence the defendant under the Youthful Offender Act after a trial).

II. The Court of Appeals erred in not addressing the Constitutional arguments.

The opinion in this case is silent to the Constitutional issues raised by Appellant in his final brief. The sentence imposed by Judge Goodstein was so disproportionate to the offense committed in light of all of the circumstances presented at the sentencing hearing that it constituted cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution and Article I, §15 of the South Carolina Constitution.

The Eighth Amendment to the United States Constitution provides, “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.” U.S. Const. amnd. XIII. The cruel and unusual punishment clause requires that the duration of a sentence not be grossly disproportionate with the severity of the crime. State v. McKnight, 352 S.C. 635, 652, 576 S.E. 2d 168, 177 (2003).

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The proportionality bedrock of Eighth Amendment jurisprudence is equally important a principle as the “evolving standards of decency,” and “it is a precept of justice that punishment for

the crime should be graduated and proportioned to [the] offense.” Pittman, 373 S.C. at 564-65, 647 S.E.2d at 163 (quoting Atkins, 536 U.S. at 311).

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S.C. Const. art. I, §15.

In this case, Judge Goodstein’s sentence fails the proportionality test. A twenty year sentence in light of these facts is grossly disproportionate to the crime committed.¹ Even where the sentence falls within the statutory limits, a grossly disproportionate sentence in light of the facts of the crime committed is still violative of the cruel and unusual punishment clauses of the U.S. Constitution and the South Carolina Constitution. “At the same time we have always recognized that even though within the statutory limits a sentence under the circumstances of a particular case may be so grossly disproportionate to the offense committed as to constitute cruel and unusual punishment in violation of the Constitution of this State. State v. Gregory, 198 S.C.

¹ A comparison of other cases with facts similar to the instant case reveals just how disproportionate the sentence is in this case. See Tim Gulla, 21-year-old Sentenced to Five Years on Criminal Sexual Conduct Charge, THE GAFFNEY LEDGER, September 2, 2016 (reporting that an eighteen year old who pled guilty to a sex crime with a victim between eleven and fourteen years old received a five year sentence); and Man Gets 8 Years After Criminal Sex. Conduct with Minor Guilty Plea, CBS-7 WSPA (Greenville-Spartanburg, S.C.), August 23, 2018 (reporting that twenty-seven year old Matthew Reynolds pled guilty to criminal sexual conduct with a minor for acts performed with a fifteen year old victim and received an eight year sentence).

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The power to sentence a criminal defendant is one of the most important vested in Circuit Court Judges. It is the duty of our appellate courts to correct an abuse of discretion where it may occur, and to prevent a grossly disproportionate sentence to the crimes alleged. As the Court held in Kimbrough:

As well stated in Hawkins v. United States, 7 Cir., 14F.2d 596, 698: “There is no judicial function which makes larger drafts upon the fairness, common sense, sanity, and good judgment of the judge than that of fixing penalties for criminal offenses, no one which more vitally affects the stability of free institutions. Excessive penalties are tyrannical in the court, and abhorrent to the public; on the other hand, penalties unduly mild seriously embarrass law enforcement and encourage infractions of the criminal laws.”

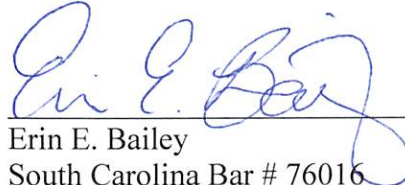
State v. Kimbrough, 212 S.C. 348, 357, 46 S.E. 2d 273 277 (1948).

The instant case presents a twenty-one year old Marine who had a sexual encounter with two underage girls who were seven and eight years younger than him. No force, coercion, or violence was used in the encounter, and the encounter was initiated by the under-aged girls. The evidence showed that this Marine was not likely to re-offend, was not a pedophile, was well employed, and was of high moral character. In light of these facts, Judge Goodstein abused her discretion by sentencing this Marine to twenty years of incarceration, and that sentence was so disproportionate to the facts alleged, that it constituted a violation of the cruel and unusual punishment clauses of the United States Constitution and the South Carolina Constitution.

CONCLUSION

For the reasons set forth above, Appellant respectfully requests this Honorable Court grant rehearing.

Respectfully submitted, this 27th day of August, 2020.



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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of General Sessions

Diane Shafer Goodstein, Circuit Court Judge

Unpublished Opinion No. 2020-UP-239
Appellate Case No. 2018-001915

The State,

Respondent

v.

Daemon Michael Crim,

Appellant

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Aug 26 2020

SC Court of Appeals

CERTIFICATE OF SERVICE

The undersigned certifies that Appellant's Petition for Rehearing was served by US Mail
on August 26th to the following Counsel for Respondent:

Joshua Edwards, Esq.
David Pascoe, Esq.


Erin E. Bailey

The South Carolina Court of Appeals

The State, Respondent,

v.

Daemon Michael Crim, Appellant.

Appellate Case No. 2018-001915

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

Thomas C. Luff

J.

Paul D. Thomas

J.

Stephen T. McBrat

J.

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire

Erin E. Bailey, Esquire

Joshua Abraham Edwards, Esquire

David Michael Pascoe, Jr., Esquire

The Honorable Diane Schafer Goodstein

FILED

September 28, 2020