

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

State of Utah,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	Case No. 20070732-CA
)	
v.)	F I L E D
)	(May 15, 2008)
William Henry Styer Jr.,)	
)	2008 UT App 176
Defendant and Appellant.)	

Second District, Ogden Department, 061904126
The Honorable Parley R. Baldwin

Attorneys: Randall W. Richards, Ogden, for Appellant
Mark L. Shurtleff and Joanne C. Slotnik, Salt Lake
City, for Appellee

Before Judges Greenwood, Billings, and McHugh.

PER CURIAM:

William Henry Styer Jr. appeals the sentence imposed by the district court relating to his conviction of aggravated sexual abuse of a child. This matter is before the court on the joint motion of the State and Styer to remand this matter to the district court for correction of an illegal sentence. We agree with the parties that the sentence imposed was illegal.

It is axiomatic that a sentence is illegal if it exceeds the statutory guidelines. See State v. Higginbotham, 917 P.2d 545, 551 (Utah 1996) (concluding that sentencing enhancement not authorized by statute was illegal). Styer was charged with aggravated sexual abuse of a child in November of 2006. At all relevant times, the statute applicable to the crime provided that "[a]ggravated sexual abuse of a child is a first degree felony punishable by imprisonment for an indeterminate term of not less than five years and which may be for life. Imprisonment is mandatory in accordance with Section 76-3-406." Utah Code Ann. § 76-5-404.1(5) (2003). Accordingly, the maximum term to which Styer could have been sentenced was five-years-to-life.

However, on April 20, 2007, after Styer had been charged, but before he entered a guilty plea and was sentenced, the statute was amended. The new provision provides that aggravated sexual abuse is punishable by a term of imprisonment not less than fifteen years, unless the court finds, in the interests of justice, that a lesser term of either ten or six years is warranted. See id. § 76-5-404.1(5)-(6) (Supp. 2007). At sentencing, it appears that the State, Styer, Adult Probation and Parole, and the court all operated under the mistaken belief that the new statute was applicable. Ultimately, the district court sentenced Styer to a fifteen-years-to-life term in the Utah State Prison. This fifteen-years-to-life term exceeds the maximum sentence authorized under the applicable version of the statute. Accordingly, the sentence is illegal and must be corrected. See State v. Nicholls, 2006 UT 76, ¶ 5, 148 P.3d 990.

This matter is remanded to the district court for correction of the illegal sentence.

Pamela T. Greenwood,
Presiding Judge

Judith M. Billings, Judge

Carolyn B. McHugh, Judge