



JACKSON COUNTY STATE'S ATTORNEY

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FINAL

INTERIM

To: Deputy Dwayne Seibert / Jackson County Sheriff's Department

Subject/Offender: Carl J. Campanella Victim: JUVENILE

Offense: Aggravated Criminal Sexual Abuse

Date Received: 11/02/2017 Police Dep. Case J2017009341

We have elected not to file criminal charges against the above named for the reasons indicated below.

- Insufficient evidence that crime occurred. More investigation needed. (see remarks).
- Charge brought is not widely accepted by public; little chance of conviction.¹
- Physical evidence lacking or untested (e.g. drugs, etc.).
- Charges supported entirely by confession or admission; no corroborative evidence, More investigation needed. (see remarks).
- Key witness/victim unwilling to testify or unavailable.
- Key witness/victim issues (e.g. prior convictions, was an accomplice, financial interest, delay reporting crime, etc.) or conviction unlikely.
- Accused has reasonably effective defense (e.g. consent, self-defense, alibi, insanity, etc.).
- Accused imprisoned by another jurisdiction and/or prosecuted elsewhere.
- Accused has, or will, cooperate with law enforcement officials in other investigations.
- A motion to suppress key evidence will probably succeed.
- Other. (see remarks).

REMARKS: This case involves a 15-year-old who engaged in two sexual encounters in October of this year with the suspect, Carl J. Campanella. The suspect was 65 years old. A DeSoto police officer observed Campanella's car parked in a parking lot north of DeSoto on October 25, 2017, and found the two occupants in various stages of undress. Both admitted to a sexual encounter. The suspect informed law enforcement that he had met the youth through an on-line dating site which requires users to verify that they are over 18. The youth verified that he lied about his age to gain access to the site and that he did not tell the suspect his real age. When asked by the suspect about his young appearance, the youth explained that he just laughed and did not tell the suspect that he was under age.

In Illinois, a person commits Aggravated Criminal Sexual Abuse if that person commits an act of sexual penetration or sexual conduct with a victim who is at least 13 years of age but under 17 years of age and the person is at least five years older than the victim. 720 ILCS 5/11-160(d). Aggravated Criminal Sexual Abuse is a Class 2 Felony which carries a maximum potential sentence of from 3-7 years' incarceration. Section 1.70 (b) of that provision states that it is a defense that the accused reasonably believed the person to be 17 years old or over.

In this case, the suspect cooperated with the police. He verified that he met the youth through a dating site which requires participants to verify that they are 18 years of age. The statutory defense to this charge arises if the suspect reasonably believes that the youth is 17 or older. The prosecutor's responsibility if such a defense is raised is to prove beyond a reasonable doubt that the suspect's belief was unreasonable.

Under the circumstances of this case, this cannot be done. The youth did not tell him how old he was and although he appeared to the suspect to be younger than 18, there is nothing to suggest that the suspect believed he was under 17. The youth admitted that when asked about his youthful appearance, he did nothing to suggest that he was under 17. The reasonableness of a person's judgement that someone is over 17 is not subject to precise measurement. The difference in appearance between a 15 and 17-year-old is so subjective that, absent proof that the suspect knew his real age, a prosecution for this offense cannot be brought.

Our burden requires that we prove that the suspect was unreasonable in his belief, beyond a reasonable doubt. Ethically, prosecutors are prohibited from bringing any charge unless each element of an offense can be proved to the satisfaction of all 12 jurors. Neither the facts of this investigation or the appearance of this youth prove beyond a reasonable doubt that the suspect's belief was unreasonable.



MICHAEL C. CARR
State's Attorney

Date: January 2, 2018

Copies to: MCC, Declination file

ⁱ Requires approval of State's Attorney