

# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA  
29211  
1231 GERVAIS STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1080  
FAX: (803) 734-1499  
[www.sccourts.org](http://www.sccourts.org)

September 10, 2015

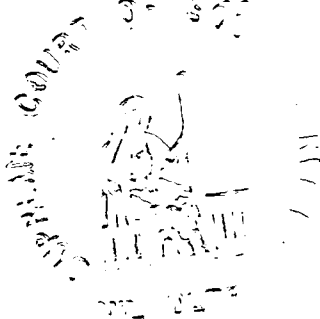
The Honorable Beverly H. Whitfield  
PO Box 678  
Walhalla SC 29691-0678

## REMITTITUR

Re: The State v. Charles M. Harris  
Lower Court Case No. 2007GS3701081  
Appellate Case No. 2014-001236

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court along with the earlier decision of the South Carolina Court of Appeals is enclosed.



Very truly yours,

CLERK

cc: Robert Michael Dudek, Esquire  
Deborah R.J. Shupe, Esquire

**THE STATE OF SOUTH CAROLINA  
In The Supreme Court**

The State, Respondent,

v.

Charles Monroe Harris, Petitioner.

Appellate Case No. 2014-001236

---

**ON WRIT OF CERTIORARI TO THE COURT OF APPEALS**

---

Appeal from Oconee County  
Alexander S. Macaulay, Circuit Court Judge

---

Opinion No. 27564  
Heard June 3, 2015 – Filed August 19, 2015

---

**AFFIRMED**

---

Chief Appellate Defender Robert Michael Dudek, of  
Columbia, for Petitioner.

Attorney General Alan McCrory Wilson and Senior  
Assistant Deputy Attorney General Deborah R.J. Shupe,  
both of Columbia, for Respondent.

---

**JUSTICE PLEICONES:** We granted certiorari to review the Court of Appeals' decision affirming the trial court's denial of petitioner's motion for a directed verdict on the charge of criminal solicitation of a minor. *State v. Harris*, Op. No.

2014-UP-160 (S.C. Ct. App. filed April 2, 2014). The issue in this case is whether the State presented sufficient evidence to withstand petitioner's directed verdict motion. We affirm.

### **Facts**

At trial, the State presented evidence that over the course of two days, petitioner engaged in an online chatroom session with "Amy," whom he believed to be a thirteen year-old girl. However, Amy was an online persona created by Officer Casey Bowling of the Oconee County Sheriff's Office, a member of the Internet Crimes Against Children task force.

The transcripts of the chatroom sessions reveal petitioner asked Amy if she wanted to have sex and that petitioner arranged for a time and place for them to meet. Officer Bowling testified that to his knowledge, petitioner never traveled to meet Amy. He also testified that while petitioner was in custody he gave a statement to the police wherein he admitted he made a mistake in asking Amy to have sex with him, but also that he was sorry and his intentions were "just to teach her a lesson." Officer Bowling further testified petitioner told police he thought he was communicating with a thirteen year-old girl. Officer Bowling was the State's only witness at trial.

Petitioner's motion for a directed verdict was denied by the trial court. Petitioner was convicted of criminal solicitation of a minor.

On appeal, petitioner argued the trial court erred in denying his motion for a directed verdict. The Court of Appeals affirmed pursuant to Rule 220(b), SCACR.

### **Issue**

Did the Court of Appeals err in affirming the trial court's denial of petitioner's directed verdict motion?

### **Law/Analysis**

Petitioner argues the Court of Appeals erred in affirming the trial court's denial of his directed verdict motion. Specifically, petitioner argues something more is required beyond communication with a minor to complete the crime of criminal solicitation of a minor. We disagree.

"When reviewing a denial of a directed verdict, this Court views the evidence and all reasonable inferences in the light most favorable to the state." *State v. Weston*,

367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006). "If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the Court must find the case was properly submitted to the jury." *State v. Brandt*, 393 S.C. 526, 542, 713 S.E.2d 591, 599 (2011).

S. C. Code Ann. § 16-15-342 provides,

A person eighteen years of age or older commits the offense of criminal solicitation of a minor if he knowingly contacts or communicates with, or attempts to contact or communicate with, a person who is under the age of eighteen, or a person reasonably believed to be under the age of eighteen, for the purpose of or with the intent of persuading, inducing, enticing, or coercing the person to engage or participate in a sexual activity as defined in Section 16-15-375(5) or a violent crime as defined in Section 16-1-60, or with the intent to perform a sexual activity in the presence of the person under the age of eighteen, or person reasonably believed to be under the age of eighteen.

S.C. Code Ann. § 16-15-342(A) (Supp. 2014).

Petitioner argues something more than communication with the minor is required to complete the offense of criminal solicitation of a minor. We hold the offense is complete when the defendant knowingly contacts or communicates with the minor, or a person he believes to be a minor, with the intent to entice her to engage in sexual activity. *See generally State v. Gaines*, 380 S.C. 23, 667 S.E.2d 728 (2008) (finding the defendant's directed verdict motion on the charge of criminal solicitation of a minor was properly denied because the State presented evidence that the defendant communicated with a person whom he believed to be a minor with the intent of enticing her to participate in sexual activity, and § 16-15-342 required nothing more). We agree with the Court of Appeals that the trial court properly denied petitioner's directed verdict motion because the State presented direct evidence that petitioner communicated with a person he believed to be a minor with the intent to entice her to engage in sexual activity. Further, petitioner's statement that he only meant to teach Amy "a lesson" created a jury question whether petitioner had the requisite intent<sup>1</sup> to entice Amy to engage in sexual

---

<sup>1</sup> During oral argument, petitioner cited *Morissette v. United States*, 342 U.S. 246

activity.

The Court of Appeals' decision is **AFFIRMED**.

**TOAL, C.J., BEATTY, HEARN, JJ., and Acting Justice Alison Renee Lee concur.**

---

(1952), and *Elonis v. United States*, \_\_ U.S. \_\_, 135 S.Ct. 2001, \_\_ L.Ed. \_\_ (2015), to support his argument that § 16-15-342 is a strict liability offense that dispenses with the requirement of criminal intent. However, § 16-15-342 has an express *mens rea* element of purpose or intent of enticing a minor to engage in sexual activity. This requires a jury to determine beyond a reasonable doubt whether the defendant possessed the requisite criminal intent. *See Morissette* at 274 ("Where intent of the accused is an ingredient of the crime charged, its existence is a question of fact which must be submitted to the jury."). Accordingly, § 16-15-342 is not a strict liability offense.

**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.

Charles Monroe Harris, Appellant.

Appellate Case No. 2012-212797

---

Appeal From Oconee County  
Alexander S. Macaulay, Circuit Court Judge

---

Unpublished Opinion No. 2014-UP-160  
Submitted February 1, 2014 – Filed April 2, 2014

---

**AFFIRMED**

---

Chief Appellate Defender Robert Michael Dudek, of  
Columbia, for Appellant.

Attorney General Alan McCrory Wilson and Senior  
Assistant Deputy Attorney General Deborah R.J. Shupe,  
both of Columbia, for Respondent.

---

**PER CURIAM:** Affirmed pursuant to Rule 220(b), SCACR, and the following  
authorities: *State v. Zeigler*, 364 S.C. 94, 101, 610 S.E.2d 859, 863 (Ct. App.  
2005) ("On appeal from the denial of a directed verdict in a criminal case, an  
appellate court must view the evidence in the light most favorable to the State.");

*id.* ("When ruling on a motion for a directed verdict, the trial court is concerned with the existence or nonexistence of evidence, not its weight."); *id.* at 102; 610 S.E.2d at 863 ("If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, an appellate court must find the case was properly submitted to the jury."); *id.* ("On the other hand, a defendant is entitled to a directed verdict when the State fails to produce evidence of the offense charged."); *id.* ("The trial [court] should grant a directed verdict when the evidence merely raises a suspicion that the accused is guilty."); *id.* ("'Suspicion' implies a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof."); *id.* at 102-03, 610 S.E.2d at 863 ("However, a trial [court] is not required to find that the evidence infers guilt to the exclusion of any other reasonable hypothesis."); *id.* at 103, 610 S.E.2d at 863 ("The appellate court may reverse the trial [court's] denial of a motion for a directed verdict only if there is no evidence to support the [trial court's] ruling."); S.C. Code Ann. § 16-15-342(A) (Supp. 2013) ("A person eighteen years of age or older commits the offense of criminal solicitation of a minor if he knowingly contacts or communicates with, or attempts to contact or communicate with, a person who is under the age of eighteen, or a person reasonably believed to be under the age of eighteen, for the purpose of or with the intent of persuading, inducing, enticing, or coercing the person to engage or participate in a sexual activity as defined in Section 16-15-375(5) or a violent crime as defined in Section 16-1-60, or with the intent to perform a sexual activity in the presence of the person under the age of eighteen, or person reasonably believed to be under the age of eighteen."); *State v. Gaines*, 380 S.C. 23, 32, 667 S.E.2d 728, 733 (2008) (holding a defendant's argument that criminal solicitation of a minor requires "some 'overt act' in furtherance of the criminal solicitation, such as travel to a destination, arrival with condoms, booking of hotel rooms, etc." to be without merit because "[t]he plain language of the statute imposes no such requirements").

**AFFIRMED.**<sup>1</sup>

**WILLIAMS, KONDUROS, and LOCKEMY, JJ., concur.**

---

<sup>1</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.