

*This opinion is nonprecedential except as provided by  
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A20-0005**

State of Minnesota,  
Respondent,

vs.

Joshua Chukwuebuke Ineh,  
Appellant.

**Filed January 19, 2021  
Affirmed  
Cochran, Judge**

Hennepin County District Court  
File No. 27-CR-18-5335

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Linda Freyer, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Soren Petrek, Bridge Litigators, Minneapolis, Minnesota (for appellant)

Considered and decided by Jesson, Presiding Judge; Cochran, Judge; and Slieter, Judge.

**NONPRECEDENTIAL OPINION**

**COCHRAN, Judge**

In this direct appeal, appellant argues that his convictions of soliciting a juvenile prostitute and soliciting a juvenile through electronic communication to engage in sexual conduct should be reversed because (1) the evidence was insufficient, (2) the jury erred in

rejecting his entrapment defense, and (3) the district court improperly instructed the jury. Because the evidence was sufficient, the jury reasonably rejected appellant's entrapment defense, and the district court properly instructed the jury, we affirm.

## **FACTS**

On February 1, 2018, police placed an advertisement on backpage.com, a website known by police for its prostitution activity. The police placed the advertisement as part of a sting operation targeting individuals soliciting minors for sex. Because the website would not allow minors to post advertisements, the advertisement indicated that the poster's age was 18 years old. The advertisement also included a picture showing the back of a female. The female's face was not visible. The police posted the fictitious advertisement in the "women seeking men" section of backpage.com.

Appellant Joshua Chukwuebuke Ineh contacted the fictitious poster using the phone number provided in the advertisement and said, "Hey beautiful, I will love to make an appointment with you." Ineh also asked about her "service." An undercover police officer texted back approximately five minutes later, posing as the fictitious poster. The undercover officer provided information about the fictitious poster's rates and stated that the poster was available that night in St. Paul. Ineh responded that he wanted to book an appointment "for 1:30 p.m. tomorrow." The undercover officer responded, "Sorry, I will be in school."

Ineh then asked the fictitious poster when she would be available "tomorrow." The undercover officer replied that she was unsure if she would be available that day because her parents might be back. After receiving that response, Ineh requested to talk to the

fictitious poster on the telephone “so we can fix up something.” The undercover officer answered, “My phone doesn’t have minutes.” Ineh then asked for a picture of the fictitious poster. The undercover officer responded by sending a photograph of a woman’s chest with cleavage showing. The officer told Ineh that she did not send face pictures and, in response to a question from Ineh, clarified that Ineh would have to travel to the fictitious poster’s location. Ineh continued to ask the fictitious poster about when her parents would be back the next day and what time would work best to meet. The officer did not respond to those questions.

The next morning, Ineh resumed contact and asked, “Will you be available today?” A different undercover officer responded as the fictitious poster, saying, “I’m in Plymouth today.” Ineh asked when they could meet, and the officer replied that she was ready “now” if he was. Ineh then asked the fictitious poster if she did “GFE” and “BBBJ” and if they could meet at 1:30 p.m. In response to Ineh’s question about “GFE” and “BBBJ,” the undercover officer responded that she can do both. The undercover officer also confirmed the 1:30 p.m. meeting time. At trial, the officer testified that “GFE” means “girlfriend experience,” which is sexual conduct that simulates a romantic relationship between the parties. “BBBJ” means oral sex without a condom.

Six minutes after the undercover officer confirmed the meeting time, Ineh texted back: “Just making sure. Black guys welcomed?” The officer responded, “Of course, as long as you’re cool with me being younger than my ad.” Ineh then asked the fictitious poster how old she was. The officer replied, “I’m 15, but it’s cool.” Upon learning the fictitious poster’s age, Ineh asked if he would get in trouble. Just fourteen seconds after

asking if he would get in trouble, and before receiving a response to his question, Ineh followed up by asking the fictitious poster where he was meeting her. The undercover officer responded to both of Ineh's questions in one text message, telling him "no trouble no" and that they would meet at a hotel. Ineh responded by saying, "OK then send me your location."

After getting a general location from the officer, Ineh asked if the fictitious poster's hour included "multiple rounds." An officer testified at trial that "multiple rounds" means that the customer expects multiple sexual acts from the prostitute. The officer responded that Ineh's hour was his time, to which Ineh responded, "Awesome." When Ineh arrived at the hotel, the officer told him to go to a specific room. Ineh then spoke to a detective by phone, who confirmed the room number. Police arrested Ineh when he entered the hotel room. The state initially charged Ineh with solicitation of a juvenile prostitute in violation of Minn. Stat. § 609.324, subd. 1(b)(3) (2018), a felony offense. The state later added a second felony charge—solicitation of a juvenile through electronic communication to engage in sexual conduct in violation of Minn. Stat. § 609.352, subd. 2a(1) (2018).

At trial, the state presented the testimony of the two undercover officers and the detective who spoke with Ineh. The state also introduced a record of Ineh's text-message conversation with the fictitious poster and the backpage.com advertisement. Ineh chose to testify. He testified that he never believed that the poster was 15 years old. Ineh testified that he wanted to hire an 18-year-old prostitute. He also testified that, based on the pictures he saw and the voice that he heard on the telephone when he arrived at the hotel, he believed

that the poster was an adult and was lying to him about being 15. He testified that if he had seen a 15-year-old in the hotel room, he would have left immediately.

On cross-examination, Ineh admitted that he stated “[a]re you sure I won’t be in any trouble” in direct response to the fictitious poster telling him that she was 15 years old. The state then asked Ineh about a statement he made following his arrest. After reading the interview transcript, Ineh admitted that, during the interview, he stated that “she was like—she was 15, I think?” Ineh also admitted on cross-examination that he agreed to pay \$150 for an hour of sex with the poster and that he was arrested with \$150 cash on his person.

On redirect examination, Ineh’s counsel asked him about the post-arrest interview. Ineh testified that he told the officer that he thought the poster was 18 years old and that he wanted to hire an 18-year-old. The state did not introduce evidence of Ineh’s post-arrest interview other than his testimony on cross-examination. At trial, Ineh contended that he was entrapped by the state.

The jury rejected Ineh’s entrapment defense and found Ineh guilty on both counts. The district court entered convictions for both counts, ordered a stay of imposition of the sentence for count one, and did not pronounce a sentence on count two. This appeal follows.

## **DECISION**

Ineh raises three arguments on appeal, each of which he contends supports reversal of his convictions. First, he argues that the evidence introduced at trial was insufficient to support either his prostitution conviction or his electronic-solicitation conviction. Second,

he argues that the jury's rejection of his entrapment defense was not reasonably supported by the evidence. Third, he argues that the district court erred in its instructions to the jury. We address each argument in turn.

**I. The evidence was sufficient to prove that Ineh reasonably believed that the person he solicited and agreed to hire was 15 years old.**

Ineh argues that the evidence introduced at trial was insufficient to support his convictions of solicitation of a juvenile prostitute and solicitation of a juvenile through electronic communication because the state did not prove beyond a reasonable doubt that he reasonably believed the person he solicited and agreed to hire was 15 years old. He contends that the evidence instead shows that he solicited and agreed to hire an 18-year-old. We are not persuaded.

When reviewing the sufficiency of the evidence for a conviction, we undertake a “painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, was sufficient” to support the conviction. *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012) (quotation omitted). In reviewing the evidence, we “assume that the factfinder disbelieved any testimony conflicting with th[e] verdict.” *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011) (quotation omitted). We will not overturn a verdict if the factfinder, “acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude that the defendant was guilty of the charged offense.” *Ortega*, 813 N.W.2d at 100.

The jury found Ineh guilty of solicitation of a juvenile prostitute under Minn. Stat. § 609.324, subd. 1(b)(3), and solicitation of a juvenile through electronic communication under Minn. Stat. § 609.352, subd. 2a(1). A person is guilty of prostitution of a minor if he: (1) intentionally; (2) hires or offers or agrees to hire; (3) an individual who the actor reasonably believes to be under the age of 16 but at least 13 years; (4) to engage in sexual penetration or contact. Minn. Stat. § 609.324, subd. 1(b)(3). And a person is guilty of electronic solicitation of a child if he: (1) is at least 18 years old; (2) uses electronic communication; (3) to solicit someone he reasonably believes is a child to engage in sexual conduct; (4) with the intent to arouse the sexual desire of any person. Minn. Stat. § 609.352, subd. 2a(1). For both crimes, Ineh challenges only the third element—his reasonable belief as to the age of the person whom he solicited and agreed to hire.

Viewing the evidence in the light most favorable to the conviction, as we must, we conclude that the evidence was sufficient to prove beyond a reasonable doubt that Ineh reasonably believed that the person he solicited and agreed to hire was 15 years old. The evidence shows that Ineh learned directly from the fictitious poster that she was 15 years old. While exchanging messages with the poster, Ineh asked, “How old are you?” The poster responded, “I’m 15.” After learning that she was 15 years old, Ineh asked if he could get in “trouble.” Then, just fourteen seconds later and before the poster responded to his question, he proceeded to ask where he could meet her and asked her to send her location. After that, despite knowing that she was 15 years old, he requested multiple rounds of sex and continued to communicate with her about the meeting location. He then

arrived at the hotel room specified by the poster with the exact amount of cash needed to pay for one hour of her services. And, during his post arrest interview, Ineh acknowledged that the person he solicited and agreed to hire was 15 years old. This evidence, viewed in the light most favorable to the verdict, was sufficient to permit the jury to find that Ineh reasonably believed that the person he solicited and agreed to hire was 15 years old.

Ineh contends that the evidence was insufficient to prove that he reasonably believed that the fictitious poster was 15 years old because when he first agreed to meet with her, she had not yet told him that she was 15 years old. Ineh emphasizes that he did not ask her how old she was until after they had agreed to meet at 1:30 p.m. on the day in question. He argues that his solicitation and offer to hire was “complete” when they agreed to meet, and, at that point he believed that the poster was 18 years old. Ineh maintains that the subsequent text messages between Ineh and the poster—in which he learned that she was 15 years old and thereafter requested multiple rounds of sex—are not properly considered in our determination of whether the evidence was sufficient. We are not persuaded.

As we stated in a factually similar case: “That [the defendant] did not initially intend to solicit a 13-16 year old does not change the fact that he ultimately solicited a minor to engage in prostitution. The crime is what [the defendant] did, not what he initially intended to do.” *State v. Dentz*, 919 N.W.2d 97, 102 (Minn. App. 2018). By the same token, Ineh’s initial agreement to meet with the poster does not change the fact that he ultimately solicited and agreed to hire a person that he reasonably believed to be 15 years old to engage in prostitution. The record reflects that after initially agreeing to meet, Ineh proceeded to ask the poster how old she was, continued to negotiate with her for multiple

rounds of sex despite learning that she was a minor, and ultimately arrived at the agreed-upon location with money in hand.

The two cases that Ineh relies upon to support his argument do not persuade us otherwise. Both cases involve adult prostitution, in which the age of the prostitute is not an element of the offense. *See State v. Crist*, 281 N.W.2d 657, 657-58 (Minn. 1979) (involving prostitution under Minn. Stat. § 609.32, subd. 4(1) (1978), which makes it a crime for an adult to engage in prostitution); *State v. Kelly*, 379 N.W.2d 649, 652 (Minn. App. 1986) (involving prostitution under Minn. Stat. § 609.324, subd. 3(2) (1984), which makes it a crime for an adult to offer to engage in prostitution with another adult). Accordingly, Ineh's argument is unavailing.

In sum, we conclude that there is sufficient evidence to support Ineh's convictions because, viewing the evidence in the light most favorable to the convictions, the jury could conclude beyond a reasonable doubt that Ineh reasonably believed the person he solicited and agreed to hire was 15 years old.

## **II. The evidence was sufficient to support the jury's decision to reject Ineh's entrapment defense.**

Ineh next argues that his convictions must be reversed because the jury improperly rejected his entrapment defense. We disagree.

A defendant raising an entrapment defense must "establish by a fair preponderance of the evidence that the state induced the defendant to commit the offense by improper pressure, badgering, or persuasion." *State v. Bauer*, 776 N.W.2d 462, 470 (Minn. App. 2009). The defendant must show that the state went beyond merely soliciting the

commission of the offense. *State v. Olkon*, 299 N.W.2d 89, 107 (Minn. 1980). If the defendant establishes that he was induced to commit the crime, the “burden shifts to the state to prove beyond a reasonable doubt that the defendant was predisposed to commit the offense.” *Bauer*, 776 N.W.2d at 470.

Ineh contends that he showed that the state entrapped him when it induced him to commit both offenses, and that the state did not meet its burden to prove beyond a reasonable doubt that he was predisposed to commit the offenses. The state argues that the evidence was sufficient to support the jury’s verdict that Ineh was not entrapped because the evidence shows that law enforcement did not induce Ineh to commit the offenses, but rather gave him the opportunity.

We apply the sufficiency of the evidence standard of review to determine if Ineh’s argument regarding the entrapment defense requires reversal. *Bauer*, 776 N.W.2d at 469-70. We view the evidence in the light most favorable to the convictions and assume that the jury believed the evidence supporting the guilty verdict and disbelieved any contrary evidence. *Id.* at 470; *see also State v. Chambers*, 589 N.W.2d 466, 477 (Minn. 1999). We will not disturb a guilty verdict if a reasonable jury could find that the defendant failed to establish either element of the entrapment defense from the record. *See Bauer*, 776 N.W.2d at 471 (declining to reach the second prong because a reasonable jury could have found that the defendant did not show inducement).

Ineh argues that the state induced him to solicit a prostitute by placing an advertisement on backpage.com. But, to establish inducement, the defendant must establish that the state did something more than merely solicit the commission of the crime.

*Olkon*, 299 N.W.2d at 107. The placing of an advertisement shows only that the state solicited the commission of the crime. It does not provide evidence of something in the nature of pressure, badgering, or persuasion—the type of evidence needed to demonstrate inducement. *Olkon*, 299 N.W.2d at 107-08 (stating that “something in the nature of persuasion, badgering, or pressure by the state must occur before the inducement element is satisfied” and concluding that the defendant did not demonstrate inducement because he “readily agreed” to assist an undercover officer with filing a false claim).

Ineh also argues that he had to be “cajoled and given assurances” to proceed with meeting the fictitious poster, but Ineh does not specify when or how the alleged cajoling occurred. Moreover, the record does not support this contention. Rather, the record shows that Ineh initiated contact with the poster and was seeking an appointment from the very beginning. In his initial text message, he stated: “Hey beautiful. I will love to make an appointment with you. Pls let me know more about your service and how I can go about booking an appointment.” The two then exchanged text messages about when the poster would be available. Ineh sent the final text message of the day, asking, “What time works for you best tomorrow?” The next morning, it was Ineh who reinitiated the conversation, not the poster. He asked the poster when she would be available. Following that question, there were additional text messages between the two about a variety of topics including the poster’s age, the meeting time, whether “Black guys [are] welcome[,]” the services to be provided, and the exact meeting location. None of the text messages indicate any type of cajoling.

Viewing the evidence in the light most favorable to the convictions, a reasonable jury could easily have concluded that Ineh was not entrapped. There is no evidence in the record to support Ineh's contention that the state induced Ineh to solicit and hire the poster. And, because we conclude that a reasonable jury could find that Ineh failed to establish by a fair preponderance of the evidence that he was induced to solicit the fictitious poster, we need not address whether he was predisposed to commit the offense. *See Bauer*, 776 N.W.2d at 471 (declining to reach second prong of the defendant's entrapment defense). The evidence is sufficient to support the jury's rejection of Ineh's entrapment defense.

### **III. The district court did not err in its instructions to the jury.**

Ineh argues that the district court erred by failing to instruct the jury as to the standard of proof by which it was to evaluate his entrapment defense and also by failing to define one of the terms used in the jury instructions. We disagree.

Because Ineh did not object to the jury instructions at trial, we review for plain error. *State v. Reek*, 942 N.W.2d 148, 158 (Minn. 2020). This standard requires Ineh to "show that: (1) there was an error; (2) the error was plain; and (3) the error affected substantial rights." *State v. Campbell*, 861 N.W.2d 95, 101 (Minn. 2015). An error is plain when it "contravenes case law, a rule, or a standard of conduct." *State v. Webster*, 894 N.W.2d 782, 787 (Minn. 2017) (quotation omitted). "If plain error is established, the defendant bears a heavy burden of showing that substantial rights have been affected." *State v. Johnson*, 915 N.W.2d 740, 746 (Minn. 2018) (quotation omitted). If Ineh satisfies all three prongs,

this court will then assess “whether it should address the error to ensure fairness and the integrity of the judicial proceedings.” *State v. Griller*, 583 N.W.2d 736, 740 (Minn. 1998).

We review jury instructions in their entirety to determine whether they “fairly and adequately explain the law.” *State v. Milton*, 821 N.W.2d 789, 805 (Minn. 2012) (quotation omitted). But district courts have “broad discretion and considerable latitude in choosing the language of jury instructions.” *Id.* (quoting *State v. Smith*, 674 N.W.2d 398, 400 (Minn. 2004)). A district court abuses that discretion if its instructions “confuse, mislead, or materially misstate the law.” *State v. Taylor*, 869 N.W.2d 1, 14-15 (Minn. 2015) (quotation omitted).

The district court gave the following instructions to the jury with regard to entrapment:

The defendant asserts that he was entrapped. A person is entrapped when he commits an act or engages in conduct otherwise criminal if the criminal design does not originate with the person but is conceived in the mind of a government agent and the person is by coercion, persuasion, deceitful representation, or inducement lured into committing an act the person otherwise would not have committed and had no intention of committing. If a person is willing and ready to commit the crime, the fact that the government agents has provided what appears to be a favorable opportunity is not a defense. The state must prove beyond a reasonable doubt that the defendant had the ready willingness to commit the act. The defendant is not guilty of a crime if he was entrapped into committing a crime.

This language mirrors the language applicable at the time of the offense in the Jury Instruction Guides for the defense of entrapment. 10 *Minnesota Practice*, CRIMJIG 7.02 (2018).

Ineh first argues that these jury instructions confused or misled the jury because they failed to specify that the defendant must prove inducement by a preponderance of the evidence. But Ineh has not provided any authority supporting his contention that the district court was required to expressly instruct the jury in this manner. Nor does he cite to any authority suggesting that the language from the Jury Instructions Guides is in anyway misleading or confusing. Instead, he cites to cases involving other types of jury instructions in unrelated matters that have been found to be erroneous: jury instructions on the “reasonable doubt” standard and jury instructions on the elements of an offense. *See, e.g., Sullivan v. Louisiana*, 508 U.S. 275, 279-82, 113 S. Ct. 2078, 2081-83 (1993) (holding that use of a definition of “reasonable doubt” previously found to be unconstitutional was an error); *Yates v. Evatt*, 500 U.S. 391, 401-02, 111 S. Ct. 1884, 1892 (1991) (holding that instructions that shift the burden of proving an essential element of the offense to the defendant were erroneous). Because Ineh cites no case law establishing that jury instructions on the entrapment defense must include an explanation that the defendant is required to prove inducement by a preponderance of the evidence, Ineh has failed to demonstrate that the district court plainly erred in this regard. And, even assuming plain error, Ineh has not shown that his substantial rights were affected by this alleged jury-instruction error because, as discussed above, there is no evidence to support his claim that he was induced by the state to commit prostitution or electronic solicitation of a minor.

Ineh next argues that the district court committed plain error because it did not define the term “criminal design” in the jury instructions for the entrapment defense. The state argues that Ineh cannot show plain error because he cites no case law that clearly required the court to define the term. We agree with the state that Ineh has not shown plain error. Like Ineh’s first jury-instruction argument, this argument also fails because he has not provided any controlling legal authority that supports his claim. Further, he has not demonstrated that the jury instructions were confusing or misleading due to the failure to include a definition of “criminal design.” Accordingly, we discern no plain error resulting from the absence of the definition. And, because there is no plain error in this regard, we need not address whether Ineh’s substantial rights were affected by the alleged error. *See State v. Lilienthal*, 889 N.W.2d 780, 786 (Minn. 2017) (declining to consider whether the defendant’s substantial rights were affected because the defendant failed to show plain error).

In sum, because the district court instructed the jury on the entrapment defense according to the Jury Instruction Guides and there is no authority to suggest that doing so was clearly erroneous, we conclude that Ineh has not demonstrated plain error with regard to the jury instructions. Therefore, Ineh has not demonstrated that reversal of his convictions is required.

**Affirmed.**