

State v. Lamberson

Case Number

A-17-0857

Court Number

Sarpy

Call Date

September 13, 2018

Case Time

9:30 AM

Case Audio

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Case Summary**A-17-0857, State v. Lamberson (Appellant)**

Sarpy County, District Court Judge Stefanie A. Martinez

Attorney for Appellant: Douglas J. Peterson, Austin N. Relph (Attorney General's Office)

Attorney for Appellee: Sean M. Reagan, Karah A. Stalets (Reagan, Melton & Delaney, L.L.P.)

Criminal Action: child enticement by an electronic communication device

Action Taken by Trial Court: Following a trial to the court, appellant was convicted of child enticement by an electronic communication device and sentenced to a mandatory minimum of 3 years? to 4 years? imprisonment.

Assignments of Error on Appeal: The appellant contends that there was insufficient evidence to support his conviction and his trial counsel was ineffective by withdrawing his motion to suppress and failing to renew the motion during trial and failing to adduce evidence in the appellant's defense.

Extended Case Summary

17-857, State of Nebraska v. Cody Lamberson (Appellant), a criminal case, to be argued 9/13/2018 at York College.

In March 2016, twenty-four-year-old Cody Lamberson was having text conversation with his 15-year-old adopted sister via Snapchat and, then later, via text message. During their text message conversation, Lamberson told his sister "Would you really hook up with me??, "I know but I want u," and "Your super hot and show you how good it feels." After his sister told him "Cody I'm your little sister," he stated "I know it makes me want it a little more but I'll stop and not bring it up again I'm sorry." After the text messages were brought to the attention of law enforcement, Lamberson was charged with child enticement by an electronic communication device, in violation of Neb. Rev. Stat. § 28-320.02 (Reissue 2016). This offense is a Class ID felony punishable by a mandatory minimum of 3 years? imprisonment and a maximum of 50 years? imprisonment.

Lamberson did not have a jury trial; instead, he decided to have a trial where the district court

was the fact-finder and determined whether he was guilty or not guilty. The district court found that Lamberson was guilty of the charged offense - child enticement by an electronic communication device. Thereafter, the district court sentenced Lamberson to the mandatory minimum of 3 years? up to 4 years? imprisonment.

Lamberson has now appealed to the Nebraska Court of Appeals claiming that the evidence was insufficient for the district court to find him guilty. Specifically, he argues that his text messages did not establish that he had knowingly solicited, coaxed, or lured his 15-year-old adopted sister by means of an electronic communication device (cell phone) to engage in sexual penetration. He claims his use of the term "hook up" was not an attempt to persuade his sister to engage in sexual penetration.

Lamberson also argues that his trial counsel was ineffective for withdrawing his motion to suppress statement he made to law enforcement and failing to renew that motion during trial. Finally, Lamberson argues that his trial counsel was ineffective in failing to adduce evidence in Lamberson's defense, specifically in failing to challenge or present evidence to refute testimony by a law enforcement officer that the term "hook up" was "in relation to getting together for sexual contact."

Case Location

York College

Court Type

District Court

Schedule Code

A1

Panel Text

Pirtle, Riedmann, and Welch, Judges
