NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted August 3, 2023*
Decided August 3, 2023

Before

AMY J. ST. EVE, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 23-1342

UNITED STATES OF AMERICA, *Plaintiff-Appellee*,	Appeal from the United States District Court for the Southern District of Illinois.
v.	No. 21-cr-40035-JPG
JONATHAN ERICKSEN, *Defendant-Appellant*.	J. Phil Gilbert, *Judge*.

O R D E R

Jonathan Ericksen was found guilty, after a jury trial, for attempted enticement of a minor. Ericksen sought acquittal on the basis that his "hypothesis of innocence" was consistent with the government's evidence—a standard that he recognizes is foreclosed by *Jackson v. Virginia*, 443 U.S. 307 (1979). Applying controlling precedent, the district

* We granted the parties' joint motion to waive oral argument and have agreed to decide the case on the briefs and the record. FED. R. APP. P. 34(f).

court rightly concluded that a reasonable trier of fact could find beyond a reasonable doubt that Ericksen was guilty. We affirm.

At trial, the government introduced evidence that Ericksen exchanged sexually charged messages with an individual who he believed to be named "Lindsey." "Lindsey" turned out to be an undercover FBI agent. In their communications, "Lindsey" revealed that she was 15 years old. Undeterred, Ericksen made plans to meet her at her home and have sex with her while her mother was away. Ericksen drove from his home in Tennessee to the meeting point in Illinois. After arriving, Ericksen was stopped by FBI agents. He then agreed to a post-*Miranda* interview. During the interview, he admitted to agents that he had messaged "Lindsey" online and knew that she was 15 years old.

Ericksen was charged with attempted enticement of a minor, 18 U.S.C. § 2422(b), and a two-day trial was held. The government called three of the participating FBI agents to testify about the chats, the meeting plans, and the interview. After the close of the government's case, Ericksen moved for acquittal under Rule 29(a) of the Federal Rules of Criminal Procedure. He argued that, because he believed at times that "Lindsey" was only a fictitious 15-year old, he could not have attempted to knowingly induce a minor to engage in sexual activity—an element of the offense. The district court denied the motion. Ericksen did not present evidence and rested his case. The jury found him guilty.

Ericksen then renewed his Rule 29 motion for acquittal. This time, he argued that the evidence presented was insufficient under the "hypothesis of innocence" test, which requires the district court to enter an acquittal if the trier of fact could not reasonably conclude that the evidence is inconsistent with the hypothesis of the defendant's innocence. *See, e.g.*, *United States v. Moya*, 721 F.2d 606, 609 (7th Cir. 1983). Ericksen conceded that this test had been rejected by the Supreme Court and this court, *Jackson*, 443 U.S. at 325; *Moya*, 721 F.2d at 610, but he argued that he wished to preserve the appeal for Supreme Court review.

The district court denied Ericksen's motion. The court explained that the hypothesis of innocence test was foreclosed by the Supreme Court's decision in *Jackson* and Seventh Circuit precedent. And in any event, there was ample evidence—Ericksen's interstate travel, his messages, and his admissions at his interview with agents—upon which the jury could convict him.

Ericksen states that the main purpose of this appeal is to preserve this issue for Supreme Court review. This he has done. *Jackson* rejected the hypothesis-of-innocence test; we remain bound by that decision. Until the Supreme Court revises its position, his arguments in this court are foreclosed. *See Grayson v. Schuler*, 666 F.3d 450, 453 (7th Cir. 2012).

The judgment of the district court is AFFIRMED.