

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

RICKY HARRIS,

Appellant,

v.

Case No. 5D13-1125

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed January 16, 2015

Appeal from the Circuit Court for
Citrus County,
Richard A. Howard, Judge.

Terrence E. Kehoe, of Law Office of
Terrence E. Kehoe, Orlando, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Kristen L. Davenport,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Ricky Harris appeals his convictions for Count 1, use of the internet to lure a parent of a child; Count 2, use of the internet to lure a child; Count 3, traveling to meet a minor for illegal sexual conduct; and Count 4, attempted lewd or lascivious battery of a child 12 years of age or older but less than 16 years of age. We reverse only that portion of Harris' probation order imposing the cost of incarceration as a special condition and remand for

removal of that condition.¹ We remand also for correction of a scrivener's error in the judgment. In Count 2 of the information, the State named the offense charged as use of the internet to lure a child and recited the elements for that offense, but cited to section 847.0135(3)(b), Florida Statutes, the statutory provision proscribing use of the internet to lure a parent of a child.² The judgment identifies the offense for which Harris was convicted on Count 2 as use of the internet to lure a parent of a child, whereas the order of sex offender probation identifies the offense for which Harris was convicted on Count 2 as use of the internet to lure a child. The record indicates that, as to Count 2, Harris pled to use of the internet to lure a child, not use of the internet to lure a parent of a child. Accordingly, Harris' judgment needs to be corrected to reflect a conviction on Count 2 for use of the internet to lure a child, pursuant to section 847.0135(3)(a), Florida Statutes. In all other respects, we affirm.

AFFIRMED in part, REVERSED in part, and REMANDED with instructions.

PALMER, LAWSON and BERGER, JJ., concur.

¹ On remand, the trial court has the authority to enter a civil restitution lien order with respect to the cost of incarceration. See Smith v. Fla. Dep't of Corrections, 27 So. 3d 124, 126 (Fla. 1st DCA 2010); § 960.29(1)(a), Fla. Stat.; 960.292(2), Fla. Stat.

² We have previously held that an erroneous reference to a statute in an information is not fatal to a conviction as long as the information properly pleads the necessary elements of the offense. See Foss v. State, 834 So. 2d 404,405 (Fla. 5th DCA 2003).