

ARKANSAS COURT OF APPEALS

DIVISION I
No. CACR08-102

BOBBY DEAN HARRISON
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered October 8, 2008

APPEAL FROM THE SALINE
COUNTY CIRCUIT COURT,
[NO. CR07-75-2]

HONORABLE GRISHAM PHILLIPS,
JUDGE

AFFIRMED

LARRY D. VAUGHT, Judge

Appellant Bobby Dean Harrison was convicted of internet stalking of a child and was sentenced to eight years' imprisonment. On appeal he argues that there was insufficient evidence to establish that he attempted to arrange a meeting with an individual whom he believed to be a fourteen-year-old girl. Specifically, he claims that a police officer (posing as the young girl) initiated the in-person encounter. Based on these claims, Harrison tendered two, timely, directed-verdict motions. Both were denied, and finding no error in the trial court's decision to deny these motions, we affirm Harrison's conviction.

A motion for directed verdict is treated as a challenge to the sufficiency of the evidence. *Baughman v. State*, 353 Ark. 1, 110 S.W.3d 740 (2003). In determining if the evidence is sufficient, we view it in a light most favorable to the State. *Id.* Only evidence that supports the conviction will be considered on appeal, and the conviction will be affirmed if

it is supported by substantial evidence. *Stone v. State*, 348 Ark. 661, 74 S.W.3d 591 (2002). Substantial evidence is evidence that will compel a conclusion without conjecture. *Id.*

A person commits internet stalking if he is twenty-one years or older and knowingly uses an internet service to seduce, solicit, lure, or entice an individual who he believes is fifteen years old or younger in an effort to arrange a meeting for the purpose of engaging in sexual intercourse, sexually explicit conduct, or deviate sexual activity as defined by the Arkansas General Assembly. Ark. Code Ann. § 5-27-306(a)(2) (Repl. 2006). “The gravamen of soliciting a crime is in the urging.” *Heape v. State*, 87 Ark. App. 370, 375, 192 S.W.3d 281, 285 (2004) (holding that evidence was sufficient to show that the defendant intended his remarks to solicit sex with fourteen-year-old victim).

Here, the evidence supporting the guilty verdict is ample to uphold the conviction. First, on October 24, 2006, a police officer, posing as a young girl, engaged Harrison in an internet exchange. At the outset (eight-lines in), Harrison was on notice that he was corresponding with a fourteen-year-old girl. Then, he made the first mention of a sexual encounter, by inquiring “hmm wanna f[***].”¹ Although he immediately qualified his crass offer with a “lol” (laugh out loud), he then followed this up with a request for the would-be girl’s telephone number. Thereafter, he called the number he was provided and carried on a thirty-minute phone conversation, with a police-department employee posing as the young girl. This conversation was littered with sexually solicitous dialogue and role-play. Via this phone exchange, Harrison most definitely demonstrated his willingness to engage in sexual

¹ In the original text, all the characters of this expletive were included. We have omitted three of the letters for the sake of our readership.

intercourse with a minor, by making suggestive and lewd remarks, such as “I want to f*** your little pu***.”

After the telephone conversation, he returned to the internet exchange with the decoy and asked for an assurance that the police were not involved. He then arranged to meet her after she added him to a “my space” internet site. After she completed the requested task, he followed through with his visit, traveling from Cabot to Benton. At the time of the would-be sexual encounter with the fourteen-year-old minor, Harrison was twenty-three years old.

The content of the internet and phone exchanges established that, despite the girl’s confirmed youth, he was attempting to entice her for sex. He also manifested knowledge that his activity was illegal (seeking assurance that police were not involved). Finally, Harrison clearly solicited a telephone number from the would-be victim over the internet in order to make travel arrangements so he could consummate his request for intercourse. As such, we are satisfied that the evidence presented at trial was more than sufficient to support Harrison’s conviction for internet stalking of a child.

Affirmed.

ROBBINS and MARSHALL, JJ., agree.