

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

**JULY TERM 2003**

**DONALD WALKER,**

**Appellant,**

**v.**

**CASE NO. 5D02-3813**

**STATE OF FLORIDA,**

**Appellee.**

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**Opinion filed August 8, 2003**

**Appeal from the Circuit  
Court for Volusia County,  
David A. Monaco, Judge.**

**James B. Gibson, Public Defender, and  
Leonard R. Ross, Assistant Public Defender,  
Daytona Beach, for Appellant.**

**Charles J. Crist, Jr., Attorney General, Tallahassee, and  
Wesley Heidt, Assistant Attorney General,  
Daytona Beach, for Appellee.**

**TORPY, J.**

The sole issue in this appeal is whether Appellant was properly designated as a sexual predator, after he pled guilty to one count of lewd or lascivious molestation and one count of lewd or lascivious exhibition, wherein the victim was Appellant's minor child. We affirm.

Appellant contends that the sexual predator designation does not apply to him because of an ambiguity in the statute. The Florida Sexual Predators Act provides that an offender

shall be designated a sexual predator, upon conviction, if:

1. The felony is:
  - a. A capital, life, or first-degree felony violation, or any attempt thereof, of s. 787.01 or s. 787.02, where the victim is a minor and the defendant is not the victim's parent, or of chapter 794, s. 800.04, or s. 847.0145, or a violation of similar law of another jurisdiction; or
  - b. Any felony violation, or any attempt thereof, of s. 787.01, s. 787.02, or s. 787.025, where the victim is a minor and the defendant is not the victim's parent; chapter 794, excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04; s. 825.1025(2)(b); s. 827.071; or s. 847.0145; or a violation of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 787.01, s. 787.02, or s. 787.025, where the victim is a minor and the defendant is not the victim's parent; s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; or s. 847.0145, or a violation of a similar law of another jurisdiction.

§ 775.21(4)(a)(1), Fla. Stat. (2002). (emphasis supplied).

Appellant contends that the statute does not apply to him because he is the parent of the victim. Appellant cites the emphasized language and argues that the statute is, at a minimum, ambiguous. We disagree. Appellant was convicted of violating section 800.04(5)(a)(b), Florida Statutes, and section 800.04(7)(a)(b), Florida Statutes. The limitation to which Appellant refers does not apply to these offenses. Rather, it only applies when the defendant is convicted of violating sections 787.01, 787.02 or 787.025 of the Florida Statutes, which relate to kidnaping, false imprisonment and luring of a child, respectively.

**AFFIRMED.**

**SAWAYA, C.J., and PALMER, J., concur.**