

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

STATE OF FLORIDA,

Appellant,

v.

CASE NO. 1D12-4514

THOMAS MURPHY

Appellee.

THOMAS MURPHY

Appellant,

v.

CASE NO. 1D12-4810

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed March 31, 2017.

An appeal from the Circuit Court for Leon County.
Frank Sheffield, Judge.

Pamela Jo Bondi, Attorney General, and Heather Flanagan Ross, Assistant
Attorney General, Tallahassee, for State of Florida.

Andy Thomas, Public Defender, Richard M. Summa and Megan Long, Assistant
Public Defenders, Tallahassee, for Thomas Murphy.

ON REMAND FROM THE FLORIDA SUPREME COURT

PER CURIAM.

This court previously affirmed Thomas Murphy's convictions and sentences for use of a computer service to solicit a person believed to be the parent of a child to engage in unlawful sexual conduct with a person believed to be a child in violation of section 847.0135(3)(b), Florida Statutes (2011), and for thereafter traveling for the purpose of engaging in unlawful sexual conduct with a person believed to be a child in violation of section 847.0135(4)(b), Florida Statutes (2011). See State v. Murphy, 124 So. 3d 323 (Fla. 1st DCA 2013). After issuance of that opinion, the Florida Supreme Court ruled that double jeopardy principles prohibit separate convictions for solicitation and traveling based on the same conduct. State v. Shelley, 176 So. 3d 914, 919 (Fla. 2015).

In light of Shelley, the Florida Supreme Court quashed our opinion in Murphy. See Murphy v. State, No. SC13-2068 (Fla. Apr. 27, 2016). Therefore, in accordance with the mandate from the supreme court, this cause is remanded to the trial court with instructions to vacate Murphy's conviction and sentence for the lesser-included offense of solicitation as prohibited by section 847.0135(3)(b).

REMANDED with instructions.

LEWIS, OSTERHAUS, and JAY, JJ., CONCUR.