

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D13-4464

TYLER SHERMAN,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Leon County.
James C. Hankinson, Judge.

May 16, 2019

ON REMAND FROM FLORIDA SUPREME COURT

PER CURIAM.

We twice earlier affirmed Appellant's separate convictions for solicitation (in violation of section 847.0135(3)(a), Florida Statutes), and traveling to meet a minor after solicitation (in violation of section 847.0135(4)(a)). *See Sherman v. State*, 160 So. 3d 494 (Fla. 1st DCA 2015); *Sherman v. State*, 247 So. 3d 663 (Fla. 1st DCA 2015). The Florida Supreme Court has now quashed our more recent decision, remanding for reconsideration in light of *Lee v. State*, 258 So. 3d 1297 (Fla. 2018). *See Sherman v. State*, No. SC18-949 (Fla. Apr. 16, 2019). In *Lee*, the court held that "to determine whether multiple convictions of solicitation of a minor, unlawful use of a two-way communications device, and traveling after solicitation of a minor are based upon the same conduct for

purposes of double jeopardy, the reviewing court should consider only the charging document.” 258 So. 3d at 1299. Applying that rule here, we must reverse the lesser conviction. On remand, the trial court should resentence for the remaining conviction. We otherwise affirm.

REVERSED in part; AFFIRMED in part.

WOLF and WINSOR, JJ., concur; MAKAR, J., concurs in result only.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Ethan Andrew Way of Gillis Way & Campbell, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Angela R. Hensel, Assistant Attorney General, Tallahassee, for Appellee.