

FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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No. 1D14-2634

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DANNY PASICOLAN,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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On appeal from the Circuit Court for Clay County.  
John H. Skinner, Judge.

May 2, 2019

**ON REMAND FROM THE FLORIDA SUPREME COURT**

PER CURIAM.

Following a jury trial, the appellant, Danny Pasicolan, was convicted of one count of traveling to meet a minor to do unlawful acts after using a computer online service, contrary to section 847.0135(4)(a), Florida Statutes (2013) (Count I); one count of unlawful use of a two-way communications device, contrary to section 934.215, Florida Statutes (2013) (Count II); one count of transmission of material harmful to minors, contrary to section 847.0138(2), Florida Statutes (2013) (Count III); and one count of unlawful use of computer services to solicit a child to engage in sexual conduct, contrary to section 847.0135(3)(a), Florida Statutes (2013) (Count IV). The information alleged that each of these offenses occurred on October 10, 2013. After trial, the

appellant timely appealed his convictions and raised three issues on appeal. We affirm the first two issues without further comment.

In his third issue, the appellant argued that two of his convictions violated his constitutional right against double jeopardy. Specifically, he argued that use of computer services to solicit a minor (Count IV) was subsumed by traveling to meet a minor (Count I) and that unlawful use of a two-way communications device (Count II) was subsumed by the other three counts. We affirmed these convictions under our decision in *Lee v. State*, 223 So. 3d 342 (Fla. 1st DCA 2017). In 2018, the Supreme Court quashed our opinion in *Lee* and held that a reviewing court should only consider the charging document to determine whether multiple convictions for solicitation, unlawful use of a two-way communications device, and traveling were based upon the same conduct for purposes of double jeopardy. *Lee v. State*, 258 So. 3d 1297 (Fla. 2018) (*Lee II*). Applying *Lee II* to this case, the appellant's convictions in Counts II and IV are VACATED. The appellant's convictions in Counts I and III are AFFIRMED.

ROBERTS, RAY, and KELSEY, JJ., concur.

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

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Andy Thomas, Public Defender, and Courtenay H. Miller, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General; Lauren Gonzalez and Michael L. Schaub, Assistant Attorneys General, Tallahassee, for Appellee.