

STATE OF MAINE

SUPREME JUDICIAL COURT
Sitting as the Law Court

NO. PEN-15-562

STATE OF MAINE)
)
 v.)
)
 RUSSELL CARTER)

BRIEF OF APPELLANT

On Appeal from Penobscot Unified Criminal Docket

The Appellant,
Russell Carter

The Appellee,
State of Maine

Hunter J. Tzovarras
Bar No. 4429
P.O. Box 391
Hampden, Maine 04444
(207) 735-4570
mainedefender@gmail.com

A.D.A. Tracy Collins, Esq.
97 Hammond Street
Bangor, Maine 04401
(207) 942-8552

RECEIVED
APR 13 2016
Clerk's Office
Maine Supreme Judicial Court

STATE OF MAINE

SUPREME JUDICIAL COURT
Sitting as the Law Court

NO. PEN-15-562

STATE OF MAINE

v.

RUSSELL CARTER

)
)
)
)
)

BRIEF OF APPELLANT

On Appeal from Penobscot Unified Criminal Docket

The Appellant,
Russell Carter

Hunter J. Tzovarras
Bar No. 4429
P.O. Box 391
Hampden, Maine 04444
(207) 735-4570
mainedefender@gmail.com

The Appellee,
State of Maine

A.D.A. Tracy Collins, Esq.
97 Hammond Street
Bangor, Maine 04401
(207) 942-8552

TABLE OF CONTENTS

I. PROCEDURAL HISTORY	1
II. STATEMENT OF FACTS	2
III. ISSUES PRESENTED	9
IV. SUMMARY OF ARGUMENT	10
V. LAW & ARGUMENT	11
1. Russell Carter renounced any intent or solicitation to engage in a prohibited act.	11
2. The evidence was insufficient to prove Mr. Carter had the intent to engage in a prohibited act with the putative minor.	17
3. Venue was improper in Penobscot County because any offense would have occurred in Sagadahoc County.	19
VI. CONCLUSION	20
CERTIFICATE OF SERVICE	21
APPENDIX	

TABLE OF AUTHORITY

State v. Bickart, 963 A.2d 183 (Me. 2009)	18
State v. Cook, 2 A.3d 333 (Me. 2010)	18
State v. Gurney, 36 A.3d 893 (Me. 2012)	12
State v. Nadeau, 1 A. 3d 445 (Me 2010)	11
17-A M.R.S.A. § 154	10, 15
17-A M.R.S.A. § 259-A	passim
U.C.D. Rule 21	19
The American Law Institute, Model Penal Code	12

I. PROCEDURAL HISTORY

On June 6, 2014, Russell Carter was charged with one Count of Solicitation of a Child to Commit a Prohibited Act, under 17-A M.R.S.A. § 259-A(1)(A), in the Penobscot Unified Criminal Docket. The Complaint alleged the offense occurred in Hermon, Penobscot County, Maine. Mr. Carter pleaded not guilty. He waived his right to a jury trial.

A bench trial was held on September 10, 2015. After the State rested, the Defendant moved to dismiss the case for lack of venue. (Trial Transcript at p. 108-110). The Court denied the motion to dismiss and found venue proper in Penobscot County. (*Id.* at p. 116-117).

On October 16, 2015, the trial court returned a verdict of guilty. Mr. Carter was sentenced on October 30, 2015 to 6 months all suspended and one year of probation. Notice of appeal was filed on November 2, 2015. The sentence was stayed pending appeal.

II. STATEMENT OF FACTS

From March 28 until April 20, 2014, Russell Carter was chatting online with someone he believed to be thirteen year old girl from Carmel, Maine. In reality, he was chatting with a detective from the Bangor Police Department. The online chats would often turn sexual in nature and discuss sexual acts Mr. Carter would like to engage in. Mr. Carter would be in Bowdoin, Sagadahoc County, Maine when he was online chatting.¹ Twice a date was set for Mr. Carter to travel to Carmel, Maine to meet with the believed-to-be minor. Both times, Mr. Carter never left the Richmond area, or took any steps to travel to Carmel. Before Mr. Carter ever learned he was talking with a detective, he decide to stop chatting with the putative minor, and deleted the application he was using to chat from his phone because he realized it was "stupid" to keep doing this.

In early 2014, the Carmel elementary school discovered a thirteen year old female student was having inappropriate conversations with two adult males on a website called Meet24.² (Trial Tr. at p. 14). A

¹ Mr. Carter was living in Bowdoin at the time. (Trial Tr. at p. 40-41). During a lot of the conversations, Mr. Carter indicated he was at home or at the Fire Department in Bowdoin. (*Id.* at p. 41).

² These adult males were not Mr. Carter. (*Id.* at p. 14).

detective from the Bangor Police Department took over the student's iPad so he could access the Meet24 account posing as the 13 year old student. (*Id.*).

On March 18th, Mr. Carter sent a message to the student's Meet24 account saying, "hi". (*Id.* at p. 17). Ten days later, on March 28th, the detective responded to the message. (*Id.*). Mr. Carter's profile on Meet24 listed his name and indicated he was from the Bowdoin area. (*Id.* at p. 17-18).

Beginning on March 28th, Mr. Carter, and the detective (posing as the student) began texting on the Meet24 website. (*Id.* at p. 18). Meet24 is a website geared towards adults meeting other adults. (*Id.* at p. 32). They continued to text until April 20, 2014. (*Id.* at 67). After that date, Mr. Carter stopped contacting "student" because he

realized it was "stupid".³ (State's Exhibit 1: Interview of Russell Carter).

Before Mr. Carter stopped texting with the "student" on April 20, 2014, the conversations were often sexual in nature. (State's Exhibits 2 & 3). Mr. Carter would ask the "student" if he could engage in certain intimate or sexual acts with her. (*Id.*) The detective would agree to Mr. Carter's requests and not discourage him. (*Id.* at p. 44-45). The conversations would often go on for hours throughout the day and into the night. (*Id.* at p. 53).

On March 29th, the detective brings up the idea of meeting with Mr. Carter. (*Id.* at p. 54). Mr. Carter says they can meet soon and provides no further plans on meeting. (*Id.*). Later, Mr. Carter brings up the idea of meeting and says he will not try anything they will just

³ The online texting occurred over two separate accounts during this time period. At one point the detective switched to another online texting service called Kik Messenger. (Trial Tr. at p. 22). State's Exhibit 2 covers the texts between March 28 and March 30, 2014 on the Meet24 website. State's Exhibit 3 covers the texts between April 7 and April 20, 2014 on the Kik Messenger account. Not all the conversations on Kik Messenger were saved to the account and contained in State's Exhibit 3. (Trial Tr. at p. 23). The detective started using Kik Messenger on March 30, 2014. (*Id.* at p. 23, 64). He later discovered the messages from March 30 to April 7 were missing when he went to download them. (*Id.* at p. 23). The missing messages are of the same general theme of the other messages available in the exhibits. (Tr. 23-24).

hangout. (*Id.* at p. 56). The detective asks when Mr. Carter wants to meet. (*Id.* at p. 24, 58). Mr. Carter says next weekend. (*Id.*).

The detective provides Mr. Carter with an address in Carmel where they can meet on April 6th. (*Id.* at p. 25). Mr. Carter asks the "student" if she was a cop. (*Id.* at p. 24). The detective says he is not a cop and that if Mr. Carter is uncomfortable meeting then they can just text. (*Id.* at p. 26). Mr. Carter says he wants to meet. (*Id.* at p. 26). Surveillance was set up at the meeting place on April 6, 2014. (*Id.* at p. 25, 31-32). Mr. Carter never showed up for the meeting. (*Id.* at p. 25).

The next day Mr. Carter texts that there was a family emergency that kept him from coming up to meet. (*Id.* at p. 25-26, 95, 96). Mr. Carter continues texting with "student" on the days to follow. (*Id.* at p. 26).

The conversations typically did not involved discussion of meeting. The conversations on April 7 do not include any plans to meet. (*Id.* at p. 70). On April 8, 2014, the detective broaches the subject of when they will meet to engage in the sexual acts Mr. Carter is describing. (*Id.* at p. 70). Mr. Carter says they can meet next weekend. (*Id.*). Mr. Carter does not discuss any further plans about meeting, such as

when, where, or how they'd meet. (*Id.*) There was no further discussions on April 9th or April 10th, 11th, or 12th about meeting up. (*Id.* at p. 73-75).

During the conversation on April 13th, the detective again broaches the subject of when Mr. Carter plans to meet to engage in the sexual acts he talks about. (*Id.* at p. 75). Mr. Carter says next weekend. (*Id.*) Mr. Carter does not go into any more detail or discussion about when and where the meeting will take place. (*Id.* at p. 76). There is not further discussion by Mr. Carter on April 16th, 17th, and 18th about meeting up. (*Id.* at p. 77-78). On April 19th, the detective brings up again meeting on the weekend. (*Id.* at p. 79-80). The detective brings up a time for Mr. Carter to meet the next day. (*Id.* at p. 81).

On the morning of April 20th, Mr. Carter has some conversation with the detective. (*Id.* at p. 82). Mr. Carter says he will be there around 11:00 a.m. and engages in some sexually explicit talk. (State Exhibit #3). Mr. Carter's last text is at 8:34 a.m. (*Id.* at p. 67, 84). It is the last text Mr. Carter ever sends to the "student". (*Id.* at p. 84, 85). The detective sends 10 texts throughout the day to contact Mr. Carter about whether he is coming up but there is no response. (*Id.* at

p. 84). Mr. Carter never came to the meeting planned for April 20th. (*Id.* at p. 31-32).

Nine days later, on April 29, 2014, the detectives go to Mr. Carter's house in Bowdoin looking to speak with him. (Tr. 86). Mr. Carter is not home at the time. (*Id.* at p. 86). He contacts the detectives and they meet in the Dunkin Donuts parking lot in Augusta on May 9, 2014. (*Id.* at p. 87-88).

During the May 9th meeting with the detectives, Mr. Carter tells them he stopped talking to the student "because that's stupid...." (State Ex. #1). He told the detectives how he deleted the conversation because he realized it was "stupid". (*Id.*) He said he deleted the application used to talk with the minor from his phone. (*Id.*) Mr. Carter explains how he was in a depression because his grandfather had passed recently and was acting out talking to the "student" because of his depression. (*Id.*) Mr. Carter admits he arranged to meet with her twice but "I backed out both times because it's just not right." (*Id.*) He said he never left the Bowdoin/Richmond area. (*Id.*)

The Detectives took Mr. Carter's phone. (Trial Tr. at p. 30). He agreed to a search of the phone. (*Id.* at p. 30). They found the Kik

Messenger account used to talk with the "student" had been deleted from the phone . (*Id.* at p. 30, 89).

III. ISSUES PRESENTED

1. Did the trial court err in finding the affirmative defense of renunciation did not apply and that Mr. Carter had completely and fully abandoned any intent to engage in a prohibited act with the putative minor by stopping all communication with her and removing the application used to text with her from his phone?
2. Did the trial court err in finding the evidence was sufficient to establish Mr. Carter had the intent to commit a prohibited act with the putative minor?
3. Did the trial court err in finding venue was proper in Penobscot County when any solicitation committed by Mr, Carter occurred in Sagadahoc County?

IV. SUMMARY OF ARGUMENT

1. The affirmative defense of renunciation applied to the charge in this case. renunciation is a defense to inchoate crimes, such as attempt or solicitation crimes. solicitation of a minor, under 17-A M.R.S.A. § 259-A, is an inchoate offense. Maine law recognizes an affirmative defense of renunciation, under 17-A M.R.S.A. § 154. Mr. Carter completely and abandoned any intent to engage in a prohibited act. He stopped communicating with the "student" all together. He deleted the application used to communicate with the student from his phone. He stopped because he realized it was "stupid" and wrong. The trial court erred in not applying the affirmative defense of renunciation and finding Mr. Carter had proven the defense.

2. The trial court erred in finding the evidence was sufficient beyond a reasonable doubt that Mr. Carter had an intent to engage in a prohibited act with the "student." Mr. Carter's intent was to engage in sexually explicit conversations online with the "student" but he never had the intent to meet with her and engage in the acts. Mr. Carter talked little about meeting with the "student". The detective

often broached the subject of meeting. Mr. Carter never came to either meeting planned and never left his home area.

3. Venue was improper in Penobscot County because any offense occurred in Sagadahoc County. If Mr. Carter committed the offense of soliciting a minor, he was in Sagadahoc County when he solicited.

V. LAW & ARGUMENT

1. Russell Carter renounced any intent or solicitation to engage in a prohibited act.

Even if the trial court was correct in finding Mr. Carter had the intent to engage in a prohibited act with the putative minor, he renounced that intent by not leaving to meet with the minor, stopping all communication with the minor, and deleting the application used to communicate with the minor from his phone because he realized it was "stupid" and wrong.

The Court reviews the legal question of whether the affirmative defense of renunciation applies to offenses under 17-A M.R.S.A. § 259-A de novo. *State v. Nadeau*, 1 A. 3d 445, 453 (Me 2010) (questions of law reviewed de novo). The Court then reviews whether the facts compel a finding of not guilty based on the affirmative

defense of renunciation.⁴ See *State v. Gurney*, 36 A.3d 893 (Me. 2012) (standard of review on whether trial court erred in rejecting affirmative defense).

The offense of solicitation of a minor, under 17-A M.R.S.A. § 259-A, requires in relevant part: "The actor, with the intent to engage in a prohibited act with the other person, knowingly solicits directly or indirectly that person by any means to engage in a prohibited act...." The required *mens rea* is the intent to commit the prohibited act. This is an inchoate offense as the completion of the criminal act is not required, i.e. no prohibited act needs to occur. It is the attempt or solicitation to commit the act that is prohibited.

Historically renunciation has been a defense to inchoate crimes. The American Law Institute ('A.L.I. '), through its Model Penal Code *8 ('Code' or 'Model Code'), proposed in 1960 that a defense of renunciation should be recognized for inchoate crimes. It provided that "when the actor's conduct would otherwise constitute an attempt . . . it is an affirmative defense that he abandoned his effort to commit the crime or otherwise prevented its commission, under

⁴ It is unnecessary for the Court to remand the factual issue of whether Mr. Carter has proven the affirmative defense of renunciation as the undisputed facts at trial compel a finding of renunciation.

circumstances manifesting renunciation of his criminal purpose."

Since then twenty-six states (including Maine), the Commonwealth of Puerto Rico, and the territories of American Samoa and Guam

have enacted statutes recognizing a defense of renunciation for inchoate crimes.⁵

⁵ ALASKA STAT. § 11.31.100(c) (1983) (attempt); id. § 11.31.110(b)(2) (solicitation); id. § 11.16.120(a)(1) (complicity); ARIZ. REV. STAT. ANN. § 13-1005A (1978) (attempt); id. § 13-1005B (solicitation, conspiracy, facilitation); ARK. STAT. ANN. § 5-3-204 (1987) (attempt); id. § 5-3-302 (solicitation); id. § 5-3-405 (conspiracy); id. § 5-2-404(b) (complicity); COLO. REV. STAT. § 18-2-101(3) (1986) (attempt); id. § 18-2-401 (definition of voluntary and complete renunciation); id. § 18-2-604(2) (complicity); CONN. GEN. STAT. ANN. § 53a-48(b) (West 1985) (conspiracy); id. § 53(a)-49(c) (attempt); id. § 53a-50 (definition of voluntary and complete renunciation); id. § 53a-10 (complicity); DEL. CODE ANN. tit. 11, § 541(a) (1979) (solicitation, conspiracy); id. § 541(b) (attempt); id. § 273(3) (complicity); FLA. STAT. ANN. § 777.04(5)(a) (West 1976) (attempt); id. § 777.04(5)(b) (solicitation); id. § 777.04(5)(c) (conspiracy); GA. CODE ANN. § 16-4-5 (1984) (attempt); id. § 16-4-9 (1984) (conspiracy); HAW. REV. STAT. § 705-530(1) (1985) (attempt); id. § 705-530(2) (solicitation); id. § 705.530(3) (conspiracy); id. § 702-224(3) (complicity); IND. CODE ANN. § 35-41-3-10 (Burns 1985) (complicity, attempt, conspiracy); KY. REV. STAT. ANN. § 506.020 (Michie/Bobbs-Merrill 1985) (attempt); id. § 506.060 (solicitation, conspiracy); id. § 502.040(2) (complicity); ME. REV. STAT. ANN. tit. 17-A, § 154 (1983) (attempt, solicitation, conspiracy); id. § 57(5)(c) (complicity); MINN. STAT. ANN. § 609.17(3) (West 1964) (attempt); id. § 609.05(3) (complicity); MONT. CODE ANN. § 45-4-103(4) (1987) (attempt); id. § 45-2-302(3)(b) (complicity); NEB. REV. STAT. § 28-203 (1985) (conspiracy) (limited by *State v. Schmidt*, 213 Neb. 126, 131-32, 327 N.W.2d 624, 627 (1982) (court refused to extend renunciation defense by analogy to offenses other than conspiracy)); N.H. REV. STAT. ANN. § 629:1(III) (1986) (attempt); id. § 629:2(II) (solicitation); id. § 629:3(III) (conspiracy); id. § 626:8(VI)(c) (complicity); N.J. STAT. ANN. § 2C:5-1(d) (West 1982); (attempt); id. § 2C:5-2(e) (conspiracy); id. § 2C:2-6(e)(3) (complicity); N.Y. PENAL LAW § 40.10(1)-(4) (McKinney 1987) (complicity; facilitation, attempt, solicitation, conspiracy); N.D. CENT. CODE § 12.1-06-05(3) (1985) (attempt, solicitation, conspiracy); OHIO REV. CODE. ANN. § 2923.01(I) (Anderson 1987) (conspiracy); id. § 2923.02(D) (attempt); id. § 2923.03(E) (complicity); OR. REV. STAT. § 161.430 (1985) (attempt); id. § 161.440 (solicitation); id. § 161.460 (conspiracy); 18 PA. CONS. STAT. § 306(f)(3) (1982); id. § 901(c) (attempt); id. § 902(b) (solicitation); id. § 903(f) (conspiracy); TEX. PENAL CODE ANN. § 15.04(a), (b) (Vernon 1974) (attempt, conspiracy, solicitation); UTAH CODE ANN. § 76-2-307 (1978).

In Maine renunciation is a defense to solicitation or attempt crimes.

Maine statute recognizes an affirmative defense of renunciation. 17-A M.R.S.A. § 154(2).

In a prosecution for attempt under section 152, it is an affirmative defense that, under circumstances manifesting a voluntary and complete renunciation of his criminal intent, the defendant avoided the commission of the crime attempted by abandoning his criminal effort and, if mere abandonment was insufficient to accomplish such avoidance, by taking further and affirmative steps which prevented the commission thereof.

Id. at §154(2)(A).

In a prosecution for solicitation under section 153, or for conspiracy under section 151, it is an affirmative defense that, under circumstances manifesting a voluntary and complete renunciation of his criminal intent, the defendant prevented the commission of the crime solicited or of the crime contemplated by the conspiracy, as the case may be.

Id. at §154(2)(B).

The comment notes to 17-A M.R.S.A. § 154 indicate: "The major purpose of this section is to prove a limited defense to persons whose conduct, while criminal, has not yet brought about substantive harm, provided that they take effective steps to prevent that harm."

The renunciation defense statute was enacted in 1976. It does not mention a renunciation defense to Solicitation of a Minor, under 17-A M.R.S.A. § 259-A, because that statute was not enacted until 2011. The

renunciation defense applies to Section 259-A offenses because it is an inchoate offense, and serves the purpose of renunciation defenses under the comment note.

The purpose of a renunciation defense is served by applying it to the inchoate offenses under Section 259-A. The substantive harm sought to be avoided through the statute is having the intent to engage in a prohibited act with a minor.⁶ If a person solicits a minor with such an illicit intent, but later fully and completely renounces the bad intent and harm sought to be prevented by the statute is avoided.

The trial court erred in finding renunciation was not a defense in this case. Mr. Carter proved it was more likely than not he abandoned the solicitation and intent to commit the prohibited act.

- He did not show up for the April 20th meeting.
- He stopped all communications with the believed minor.
- He did not respond to any further texts sent by the minor.
- He removed the application used to communicate with the minor from his phone.

⁶ The offense could also be considered an attempt offense in that it aims to prohibit the substantive harm of actually engaging in a prohibited act with a minor.

- He never attempted to communicate with the minor again.
- Mr. Carter did all of the because he realized it was "stupid" and wrong.

Mr. Carter abandoned the bad intent without any suspicion he would be caught. He did not know he was talking to a detective at the time. He only asked on April 6th if the "student" was a police officer. He was told no. He continued texting extensively for the next 2 weeks. He then stops all communication nine days before the police ever showed up at his home looking to speak with him.

Under the facts of this case, Mr. Carter proved he renounced the criminal attempt and solicitation. The trial court erred in not applying this defense and acquitting Mr. Carter based on his complete and full abandonment of the offense.

2. The evidence was insufficient to prove Mr. Carter had the intent to engage in a prohibited act with the putative minor.

The evidence was insufficient to prove beyond a reasonable Mr. Carter had the intent to commit a prohibited act with the believed to be minor.

“When a defendant alleges that the evidence is insufficient to support his convictions, we view the evidence in the light most

favorable to the State to determine whether the trier of fact rationally could have found beyond a reasonable doubt every element of the offense[s] charged." *State v. Bickart*, 963 A.2d 183, 185 (Me. 2009). Evidence that "is too tenuous for a rational fact-finder to determine that it is almost certainly true" cannot support a conviction. *State v. Cook*, 2 A.3d 333, 339 (Me. 2010).

The evidence shows Mr. Carter had the intent to talk sexually explicit with the putative minor, but is too tenuous to prove he actually intended to engage in a prohibited act. Mr. Carter's conversations with the minor were sexually explicit, but not focused on meeting to perform the sexually explicit acts. It was the detective who broaches the subject of meeting and sets the location and time. Mr. Carter did not talk about meeting unless raised by the detective. The conversations show his intent was just to talk sexually explicit. This was proven out by Mr. Carter's lack of followthrough on the plans to meet. He never left his home area or attempted to come up to Carmel to meet.

The trial court erred in determining beyond a reasonable doubt Mr. Carter had the intent to commit the prohibited act with the minor. The Court should find the evidence insufficient and vacate the conviction.

3. Venue was improper in Penobscot County because any offense would have occurred in Sagadahoc County.

The trial court erred in finding venue was proper in Penobscot County because any solicitation committed by Mr. Carter occurred while he was in Sagadahoc County. The determination of venue is a question of law the Court reviews de novo.

Rule 21(a) of the UCD states: "The trial shall be in the county in which the crime was allegedly committed, except as otherwise provided by law."

The evidence at trial showed Mr. Carter was in Bowdoin, Maine while he was communicating with the detective. If the offense of soliciting a minor was committed it was while Mr. Carter was in Bowdoin.

The offense of soliciting a minor is an inchoate offense and does not require an actual harm to occur. The existence of an actual victim is not necessary. There was no victim or harm in this case. Thus, no harm was caused in Penobscot County by Mr. Carter talking the detective.

Mr. Carter did not waive a challenge to venue by not bringing a motion to transfer before trial. The complaint properly pleaded venue. The complaint alleged the offense took place in Penobscot County.

The evidence at trial showed otherwise. Thus, a motion to dismiss based on lack of venue was properly brought at the close the State's case.

Therefore, the Court should find the Court erred in finding venue was proper in Penobscot County and vacate the conviction.

VI. CONCLUSION

For all the reasons set forth above, it is respectfully requested the Court vacate the conviction.

Dated: April 12, 2016

Respectfully submitted,

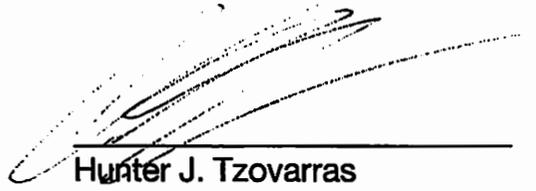


Hunter J. Tzovarras
Bar No. 4429
P.O. Box 391
Hampden, Maine 04444
(207) 735-4570
mainedefender@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2016 that two copies of the Appellant's brief was provided to:

District Attorney
97 Hammond Street
Bangor, Maine 04401



Hunter J. Tzovarras
Bar No. 4429

STATE OF MAINE

SUPREME JUDICIAL COURT
Sitting as the Law Court

NO. PEN-15-562

STATE OF MAINE)

v.)

RUSSELL CARTER)

APPENDIX

On Appeal from Penobscot Unified Criminal Docket

The Appellant,
Russell Carter

Hunter J. Tzovarras
Bar No. 4429
P.O. Box 391
Hampden, Maine 04444
(207) 735-4570
mainedefender@gmail.com

The Appellee,
State of Maine

A.D.A. Tracy Collins, Esq.
97 Hammond Street
Bangor, Maine 04401
(207) 942-8552

08/11/2014 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 09/02/2014 at 08:30 a.m.

08/11/2014 TRIAL - DOCKET CALL SCHEDULED FOR 10/09/2014

08/11/2014 TRIAL - JURY TRIAL SCHEDULED FOR 10/10/2014 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

08/22/2014 MOTION - MOTION FOR APPOINTMENT OF CNSL FILED BY DEFENDANT ON 08/11/2014

08/22/2014 MOTION - MOTION FOR APPOINTMENT OF CNSL GRANTED ON 08/11/2014
WILLIAM R ANDERSON , JUSTICE
DEF PART IND PAY 50 MO UP TO 495 1ST PAY 11-7-14

TZOVARRAS

08/22/2014 Party(s): RUSSELL CARTER
ATTORNEY - PARTIALLY INDIGENT ORDERED ON 08/11/2014

Attorney: HUNTER TZOVARRAS

08/22/2014 HEARING - DISPOSITIONAL CONFERENCE NOTICE SENT ON 08/22/2014

09/03/2014 TRIAL - DOCKET CALL NOT HELD ON 09/02/2014

09/03/2014 TRIAL - JURY TRIAL NOT HELD ON 09/02/2014

09/03/2014 HEARING - DISPOSITIONAL CONFERENCE HELD ON 09/02/2014
WILLIAM R ANDERSON , JUSTICE

09/03/2014 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 11/04/2014 at 10:00 a.m.

09/03/2014 TRIAL - DOCKET CALL SCHEDULED FOR 12/04/2014 at 08:30 a.m.

09/03/2014 TRIAL - JURY TRIAL SCHEDULED FOR 12/05/2014 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

11/04/2014 TRIAL - JURY TRIAL NOT HELD ON 11/04/2014

11/04/2014 TRIAL - DOCKET CALL NOT HELD ON 11/04/2014

11/04/2014 HEARING - DISPOSITIONAL CONFERENCE HELD ON 11/04/2014
GREGORY CAMPBELL , JUDGE

11/04/2014 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 12/08/2014

12/08/2014 HEARING - DISPOSITIONAL CONFERENCE HELD ON 12/08/2014
ANN MURRAY , JUSTICE
Attorney: HUNTER TZOVARRAS
DA: TRACY COLLINS

12/08/2014 TRIAL - DOCKET CALL SCHEDULED FOR 01/08/2015 at 08:30 a.m.

12/08/2014 TRIAL - JURY TRIAL SCHEDULED FOR 01/09/2015 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

01/09/2015 TRIAL - JURY TRIAL NOT HELD ON 01/08/2015

01/09/2015 TRIAL - DOCKET CALL HELD ON 01/08/2015
ANN MURRAY , JUSTICE

01/09/2015 REQUEST - WAIVER OF JURY TRIAL FILED ON 01/08/2015
CR_200



APPENDIX TABLE OF CONTENTS

Docket Record	1
Verdict	8
Decision on Venue	18
Complaint	20

08/11/2014 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 09/02/2014 at 08:30 a.m.

08/11/2014 TRIAL - DOCKET CALL SCHEDULED FOR 10/09/2014

08/11/2014 TRIAL - JURY TRIAL SCHEDULED FOR 10/10/2014 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

08/22/2014 MOTION - MOTION FOR APPOINTMENT OF CNSL FILED BY DEFENDANT ON 08/11/2014

08/22/2014 MOTION - MOTION FOR APPOINTMENT OF CNSL GRANTED ON 08/11/2014
WILLIAM R ANDERSON , JUSTICE
DEF PART IND PAY 50 MO UP TO 495 1ST PAY 11-7-14

TZOVARRAS

08/22/2014 Party(s): RUSSELL CARTER
ATTORNEY - PARTIALLY INDIGENT ORDERED ON 08/11/2014

Attorney: HUNTER TZOVARRAS

08/22/2014 HEARING - DISPOSITIONAL CONFERENCE NOTICE SENT ON 08/22/2014

09/03/2014 TRIAL - DOCKET CALL NOT HELD ON 09/02/2014

09/03/2014 TRIAL - JURY TRIAL NOT HELD ON 09/02/2014

09/03/2014 HEARING - DISPOSITIONAL CONFERENCE HELD ON 09/02/2014
WILLIAM R ANDERSON , JUSTICE

09/03/2014 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 11/04/2014 at 10:00 a.m.

09/03/2014 TRIAL - DOCKET CALL SCHEDULED FOR 12/04/2014 at 08:30 a.m.

09/03/2014 TRIAL - JURY TRIAL SCHEDULED FOR 12/05/2014 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

11/04/2014 TRIAL - JURY TRIAL NOT HELD ON 11/04/2014

11/04/2014 TRIAL - DOCKET CALL NOT HELD ON 11/04/2014

11/04/2014 HEARING - DISPOSITIONAL CONFERENCE HELD ON 11/04/2014
GREGORY CAMPBELL , JUDGE

11/04/2014 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 12/08/2014

12/08/2014 HEARING - DISPOSITIONAL CONFERENCE HELD ON 12/08/2014
ANN MURRAY , JUSTICE
Attorney: HUNTER TZOVARRAS
DA: TRACY COLLINS

12/08/2014 TRIAL - DOCKET CALL SCHEDULED FOR 01/08/2015 at 08:30 a.m.

12/08/2014 TRIAL - JURY TRIAL SCHEDULED FOR 01/09/2015 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

01/09/2015 TRIAL - JURY TRIAL NOT HELD ON 01/08/2015

01/09/2015 TRIAL - DOCKET CALL HELD ON 01/08/2015
ANN MURRAY , JUSTICE

01/09/2015 REQUEST - WAIVER OF JURY TRIAL FILED ON 01/08/2015
CR_200

APPENDIX TABLE OF CONTENTS

Docket Record	1
Verdict	8
Decision on Venue	18
Complaint	20

08/11/2014 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 09/02/2014 at 08:30 a.m.

08/11/2014 TRIAL - DOCKET CALL SCHEDULED FOR 10/09/2014

08/11/2014 TRIAL - JURY TRIAL SCHEDULED FOR 10/10/2014 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

08/22/2014 MOTION - MOTION FOR APPOINTMENT OF CNSL FILED BY DEFENDANT ON 08/11/2014

08/22/2014 MOTION - MOTION FOR APPOINTMENT OF CNSL GRANTED ON 08/11/2014

WILLIAM R ANDERSON , JUSTICE

DEF PART IND PAY 50 MO UP TO 495 1ST PAY 11-7-14

TZOVARRAS

08/22/2014 Party(s): RUSSELL CARTER

ATTORNEY - PARTIALLY INDIGENT ORDERED ON 08/11/2014

Attorney: HUNTER TZOVARRAS

08/22/2014 HEARING - DISPOSITIONAL CONFERENCE NOTICE SENT ON 08/22/2014

09/03/2014 TRIAL - DOCKET CALL NOT HELD ON 09/02/2014

09/03/2014 TRIAL - JURY TRIAL NOT HELD ON 09/02/2014

09/03/2014 HEARING - DISPOSITIONAL CONFERENCE HELD ON 09/02/2014

WILLIAM R ANDERSON , JUSTICE

09/03/2014 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 11/04/2014 at 10:00 a.m.

09/03/2014 TRIAL - DOCKET CALL SCHEDULED FOR 12/04/2014 at 08:30 a.m.

09/03/2014 TRIAL - JURY TRIAL SCHEDULED FOR 12/05/2014 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

11/04/2014 TRIAL - JURY TRIAL NOT HELD ON 11/04/2014

11/04/2014 TRIAL - DOCKET CALL NOT HELD ON 11/04/2014

11/04/2014 HEARING - DISPOSITIONAL CONFERENCE HELD ON 11/04/2014

GREGORY CAMPBELL , JUDGE

11/04/2014 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 12/08/2014

12/08/2014 HEARING - DISPOSITIONAL CONFERENCE HELD ON 12/08/2014

ANN MURRAY , JUSTICE

Attorney: HUNTER TZOVARRAS

DA: TRACY COLLINS

12/08/2014 TRIAL - DOCKET CALL SCHEDULED FOR 01/08/2015 at 08:30 a.m.

12/08/2014 TRIAL - JURY TRIAL SCHEDULED FOR 01/09/2015 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

01/09/2015 TRIAL - JURY TRIAL NOT HELD ON 01/08/2015

01/09/2015 TRIAL - DOCKET CALL HELD ON 01/08/2015

ANN MURRAY , JUSTICE

01/09/2015 REQUEST - WAIVER OF JURY TRIAL FILED ON 01/08/2015

APPENDIX TABLE OF CONTENTS

Docket Record	1
Verdict	8
Decision on Venue	18
Complaint	20

DA: MARIANNE LYNCH
Defendant Present in Court

202/8:59:54 & 9:31:33
CR_200

Page 1 of 7

Printed on: 11/23/2015

08/11/2014 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 09/02/2014 at 08:30 a.m.
08/11/2014 TRIAL - DOCKET CALL SCHEDULED FOR 10/09/2014
08/11/2014 TRIAL - JURY TRIAL SCHEDULED FOR 10/10/2014 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

08/22/2014 MOTION - MOTION FOR APPOINTMENT OF CNSL FILED BY DEFENDANT ON 08/11/2014

08/22/2014 MOTION - MOTION FOR APPOINTMENT OF CNSL GRANTED ON 08/11/2014
WILLIAM R ANDERSON , JUSTICE
DEF PART IND PAY 50 MO UP TO 495 1ST PAY 11-7-14

TZOVARRAS

08/22/2014 Party(s): RUSSELL CARTER
ATTORNEY - PARTIALLY INDIGENT ORDERED ON 08/11/2014

Attorney: HUNTER TZOVARRAS

08/22/2014 HEARING - DISPOSITIONAL CONFERENCE NOTICE SENT ON 08/22/2014

09/03/2014 TRIAL - DOCKET CALL NOT HELD ON 09/02/2014
09/03/2014 TRIAL - JURY TRIAL NOT HELD ON 09/02/2014

09/03/2014 HEARING - DISPOSITIONAL CONFERENCE HELD ON 09/02/2014
WILLIAM R ANDERSON , JUSTICE

09/03/2014 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 11/04/2014 at 10:00 a.m.

09/03/2014 TRIAL - DOCKET CALL SCHEDULED FOR 12/04/2014 at 08:30 a.m.
09/03/2014 TRIAL - JURY TRIAL SCHEDULED FOR 12/05/2014 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

11/04/2014 TRIAL - JURY TRIAL NOT HELD ON 11/04/2014

11/04/2014 TRIAL - DOCKET CALL NOT HELD ON 11/04/2014

11/04/2014 HEARING - DISPOSITIONAL CONFERENCE HELD ON 11/04/2014
GREGORY CAMPBELL , JUDGE

11/04/2014 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 12/08/2014

12/08/2014 HEARING - DISPOSITIONAL CONFERENCE HELD ON 12/08/2014
ANN MURRAY , JUSTICE

Attorney: HUNTER TZOVARRAS

DA: TRACY COLLINS

12/08/2014 TRIAL - DOCKET CALL SCHEDULED FOR 01/08/2015 at 08:30 a.m.
12/08/2014 TRIAL - JURY TRIAL SCHEDULED FOR 01/09/2015 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

01/09/2015 TRIAL - JURY TRIAL NOT HELD ON 01/08/2015

01/09/2015 TRIAL - DOCKET CALL HELD ON 01/08/2015
ANN MURRAY , JUSTICE

01/09/2015 REQUEST - WAIVER OF JURY TRIAL FILED ON 01/08/2015
CR_200



APPENDIX TABLE OF CONTENTS

Docket Record	1
Verdict	8
Decision on Venue	18
Complaint	20

08/11/2014 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 09/02/2014 at 08:30 a.m.

08/11/2014 TRIAL - DOCKET CALL SCHEDULED FOR 10/09/2014

08/11/2014 TRIAL - JURY TRIAL SCHEDULED FOR 10/10/2014 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

08/22/2014 MOTION - MOTION FOR APPOINTMENT OF CNSL FILED BY DEFENDANT ON 08/11/2014

08/22/2014 MOTION - MOTION FOR APPOINTMENT OF CNSL GRANTED ON 08/11/2014
WILLIAM R ANDERSON , JUSTICE
DEF PART IND PAY 50 MO UP TO 495 1ST PAY 11-7-14

TZOVARRAS

08/22/2014 Party(s): RUSSELL CARTER
ATTORNEY - PARTIALLY INDIGENT ORDERED ON 08/11/2014

Attorney: HUNTER TZOVARRAS

08/22/2014 HEARING - DISPOSITIONAL CONFERENCE NOTICE SENT ON 08/22/2014

09/03/2014 TRIAL - DOCKET CALL NOT HELD ON 09/02/2014

09/03/2014 TRIAL - JURY TRIAL NOT HELD ON 09/02/2014

09/03/2014 HEARING - DISPOSITIONAL CONFERENCE HELD ON 09/02/2014
WILLIAM R ANDERSON , JUSTICE

09/03/2014 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 11/04/2014 at 10:00 a.m.

09/03/2014 TRIAL - DOCKET CALL SCHEDULED FOR 12/04/2014 at 08:30 a.m.

09/03/2014 TRIAL - JURY TRIAL SCHEDULED FOR 12/05/2014 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

11/04/2014 TRIAL - JURY TRIAL NOT HELD ON 11/04/2014

11/04/2014 TRIAL - DOCKET CALL NOT HELD ON 11/04/2014

11/04/2014 HEARING - DISPOSITIONAL CONFERENCE HELD ON 11/04/2014
GREGORY CAMPBELL , JUDGE

11/04/2014 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 12/08/2014

12/08/2014 HEARING - DISPOSITIONAL CONFERENCE HELD ON 12/08/2014
ANN MURRAY , JUSTICE

Attorney: HUNTER TZOVARRAS

DA: TRACY COLLINS

12/08/2014 TRIAL - DOCKET CALL SCHEDULED FOR 01/08/2015 at 08:30 a.m.

12/08/2014 TRIAL - JURY TRIAL SCHEDULED FOR 01/09/2015 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

01/09/2015 TRIAL - JURY TRIAL NOT HELD ON 01/08/2015

01/09/2015 TRIAL - DOCKET CALL HELD ON 01/08/2015
ANN MURRAY , JUSTICE

01/09/2015 REQUEST - WAIVER OF JURY TRIAL FILED ON 01/08/2015

CR_200

Page 2 of 7

Printed on: 11/23/2015



APPENDIX TABLE OF CONTENTS

Docket Record	1
Verdict	8
Decision on Venue	18
Complaint	20

STATE OF MAINE
vs
RUSSELL CARTER
1548 AUGUSTA ROAD
BOWDOIN ME 04287

CRIMINAL DOCKET
PENOBSCOT, ss.
Docket No PENCDCR-2014-02207

DOCKET RECORD

DOB: 11/24/1982
Attorney: HUNTER TZOVARRAS
LAW OFFICE OF HUNTER J TZOVARRAS
PO BOX 391
HAMPDEN ME 04444
PARTIALLY INDIGENT 08/11/2014

State's Attorney: R ALMY

Filing Document: CRIMINAL COMPLAINT
Filing Date: 06/16/2014

Major Case Type: MISDEMEANOR (CLASS D,E)

Charge(s)

1 SOLICITATION OF CHILD BY COMPUTER 04/02/2014 HERMON
Seq 12576 17-A 259-A(1) (A) Class D
CANARR / PEN

Docket Events:

06/16/2014 FILING DOCUMENT - CRIMINAL COMPLAINT FILED ON 06/16/2014

06/16/2014 Charge(s): 1

HEARING - ARRAIGNMENT SCHEDULED FOR 06/19/2014 at 08:30 a.m. in Room No. 7

NOTICE TO PARTIES/COUNSEL

06/26/2014 Charge(s): 1

HEARING - ARRAIGNMENT HELD ON 06/19/2014

ANN MURRAY , JUSTICE

DA: BRENDAN TRAINOR

Defendant Present in Court

DEFENDANT INFORMED OF CHARGES. 21 DAYS TO FILE MOTIONS

9:36:05

DEFENDANT INDICATES THAT HE WILL HIRE HIS OWN ATTY

ROOM 101 TIME
JAIL IS CERTIFIED AND

06/26/2014 Charge(s): 1

PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 06/19/2014

06/26/2014 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 08/11/2014 at 08:30 a.m.

06/26/2014 TRIAL - JURY TRIAL SCHEDULED FOR 09/03/2014 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

08/11/2014 TRIAL - JURY TRIAL NOT HELD ON 08/11/2014

08/11/2014 HEARING - DISPOSITIONAL CONFERENCE HELD ON 08/11/2014

WILLIAM R ANDERSON , JUSTICE

DA: MARIANNE LYNCH

Defendant Present in Court

202/8:59:54 & 9:31:33

CR_200

Page 1 of 7

Printed on: 11/23/2015

08/11/2014 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 09/02/2014 at 08:30 a.m.

08/11/2014 TRIAL - DOCKET CALL SCHEDULED FOR 10/09/2014

08/11/2014 TRIAL - JURY TRIAL SCHEDULED FOR 10/10/2014 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

08/22/2014 MOTION - MOTION FOR APPOINTMENT OF CNSL FILED BY DEFENDANT ON 08/11/2014

08/22/2014 MOTION - MOTION FOR APPOINTMENT OF CNSL GRANTED ON 08/11/2014

WILLIAM R ANDERSON , JUSTICE

DEF PART IND PAY 50 MO UP TO 495 1ST PAY 11-7-14

TZOVARRAS

08/22/2014 Party(s): RUSSELL CARTER

ATTORNEY - PARTIALLY INDIGENT ORDERED ON 08/11/2014

Attorney: HUNTER TZOVARRAS

08/22/2014 HEARING - DISPOSITIONAL CONFERENCE NOTICE SENT ON 08/22/2014

09/03/2014 TRIAL - DOCKET CALL NOT HELD ON 09/02/2014

09/03/2014 TRIAL - JURY TRIAL NOT HELD ON 09/02/2014

09/03/2014 HEARING - DISPOSITIONAL CONFERENCE HELD ON 09/02/2014

WILLIAM R ANDERSON , JUSTICE

09/03/2014 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 11/04/2014 at 10:00 a.m.

09/03/2014 TRIAL - DOCKET CALL SCHEDULED FOR 12/04/2014 at 08:30 a.m.

09/03/2014 TRIAL - JURY TRIAL SCHEDULED FOR 12/05/2014 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

11/04/2014 TRIAL - JURY TRIAL NOT HELD ON 11/04/2014

11/04/2014 TRIAL - DOCKET CALL NOT HELD ON 11/04/2014

11/04/2014 HEARING - DISPOSITIONAL CONFERENCE HELD ON 11/04/2014

GREGORY CAMPBELL , JUDGE

11/04/2014 HEARING - DISPOSITIONAL CONFERENCE SCHEDULED FOR 12/08/2014

12/08/2014 HEARING - DISPOSITIONAL CONFERENCE HELD ON 12/08/2014

ANN MURRAY , JUSTICE

Attorney: HUNTER TZOVARRAS

DA: TRACY COLLINS

12/08/2014 TRIAL - DOCKET CALL SCHEDULED FOR 01/08/2015 at 08:30 a.m.

12/08/2014 TRIAL - JURY TRIAL SCHEDULED FOR 01/09/2015 at 08:30 a.m.

NOTICE TO PARTIES/COUNSEL

01/09/2015 TRIAL - JURY TRIAL NOT HELD ON 01/08/2015

01/09/2015 TRIAL - DOCKET CALL HELD ON 01/08/2015

ANN MURRAY , JUSTICE

01/09/2015 REQUEST - WAIVER OF JURY TRIAL FILED ON 01/08/2015

CR_200

Page 2 of 7

Printed on: 11/23/2015

01/09/2015 REQUEST - WAIVER OF JURY TRIAL APPROVED ON 01/08/2015
ANN MURRAY , JUSTICE

01/16/2015 TRIAL - BENCH SCHEDULE OTHER COURT ON 03/06/2015 at 08:30 a.m. in Room No. 99

BANSC

01/16/2015 TRIAL - BENCH NOTICE SENT ON 01/16/2015

02/26/2015 MOTION - MOTION TO CONTINUE FILED BY STATE ON 02/25/2015

3-6 BENCH TRIAL

NO OBJECTION ATTY TZOVARRAS

02/27/2015 MOTION - MOTION TO CONTINUE GRANTED ON 02/26/2015
JOHN LUCY , JUDGE
COPY TO PARTIES/COUNSEL

02/27/2015 TRIAL - BENCH CONTINUED ON 02/26/2015

02/27/2015 TRIAL - BENCH SCHEDULE OTHER COURT ON 04/17/2015 at 08:30 a.m.

BANSC

04/16/2015 MOTION - MOTION TO CONTINUE FILED BY STATE ON 04/16/2015

4/17 JWT

04/16/2015 MOTION - MOTION TO CONTINUE GRANTED ON 04/16/2015
BRUCE JORDAN , JUDGE
COPY TO PARTIES/COUNSEL

04/16/2015 TRIAL - BENCH CONTINUED ON 04/16/2015

04/17/2015 TRIAL - BENCH SCHEDULE OTHER COURT ON 09/21/2015 at 08:30 a.m. in Room No. 99

BANSC

05/14/2015 TRIAL - DOCKET CALL SCHEDULE OTHER COURT ON 06/04/2015 at 08:30 a.m.

BANSC

06/26/2015 TRIAL - DOCKET CALL CONTINUED ON 06/04/2015
ANN MURRAY , JUSTICE

06/26/2015 TRIAL - DOCKET CALL SCHEDULE OTHER COURT ON 07/09/2015 at 08:30 a.m.

BANSC

07/16/2015 TRIAL - DOCKET CALL HELD ON 07/09/2015
ANN MURRAY , JUSTICE

07/16/2015 TRIAL - DOCKET CALL SCHEDULE OTHER COURT ON 08/06/2015 at 08:30 a.m.

BANSC

07/16/2015 TRIAL - DOCKET CALL NOTICE SENT ON 07/16/2015

07/27/2015 MOTION - MOTION TO CONTINUE FILED BY STATE ON 07/27/2015

8/6 DOCKET

07/31/2015 MOTION - MOTION TO CONTINUE GRANTED ON 07/27/2015
JOHN LUCY , JUDGE
COPY TO PARTIES/COUNSEL

07/31/2015 TRIAL - DOCKET CALL CONTINUED ON 07/27/2015

CR_200

10. not own, possess or use any firearm or dangerous weapon if you have ever been convicted of a crime in any jurisdiction with a potential penalty of one year or more or any crime involving domestic violence or the use of a firearm or dangerous weapon.

11. pay to the Department of Corrections a supervision fee of \$ 10.00 per month.

12a. provide a DNA sample if convicted of applicable offense listed in 25 MRSA Section 1574. EXHIBIT A INCORPORATED HEREIN: A: PROVIDE PPO WITH A LIST OF ALL DEVICES CAPABLE OF INTERNET ACCESS TO WHICH HE HAS ACCESS; B: ACCESS THE INTERNET WITH ONLY THOSE DEVICES LISTED WITH THE PPO; C: ALLOW PPO TO RANDOMLY CHECK ALL DEVICES WITH INTERNET ACCESS; AND D: MAY HAVE UNSUPERVISED CONTACT WITH HIS NIECES AND WITH THE CHILDREN OF MS. LEWIA. OTHERWISE, MR. CARTER SHALL HAVE NO UNSUPERVISED CONTACT WITH FEMALES UNDER THE AGE OF 18 EXCEPT WITH THE WRITTEN PERMISSION OF HIS PPO.

11/10/2015 BAIL BOND - PR BAIL BOND RELEASE ACKNOWLEDGED ON 11/10/2015

Date Bailed: 10/16/2015

11/10/2015 OTHER FILING - FINE PAYMENT SCHEDULE ORDERED ON 11/10/2015

INSTALLMENT PYMTS: 0;DAILY: F;WEEKLY: F;BI-WEEKLY: F;MONTHLY: F;BI-MONTHLY: F;PYMT BEGIN: AT 0;PYMT IN FULL: 20151113 AT 0;THRU PPO: F;PYMT DUE AMT: 20;PMT DUE: 20151113 AT 0;OTHER:

11/10/2015 Charge(s): 1

RULING - ORIGINAL ISSUED ON 10/30/2015

DEFENDANT ACKNOWLEDGES RECEIPT

11/10/2015 Charge(s): 1

OTHER FILING - NOTICE OF DUTY TO REGISTER GIVEN IN HAND TO DEFENDANT ON 10/30/2015

11/10/2015 Charge(s): 1

APPEAL - NOTICE OF APPEAL FILED ON 11/02/2015

11/10/2015 ORDER - TRANSCRIPT ORDER ENTERED ON 11/02/2015

11/10/15 COPY FORWARDED TO MAUREEN WHITEHOUSE ALONG WITH NOTICE OF APPEAL

11/10/2015 MOTION - MOTION TO PREPARE TRANSCRIPT FILED BY DEFENDANT ON 11/02/2015

AT STATE EXPENSE

11/10/2015 Charge(s): 1

MOTION - MOTION FOR STAY OF EXECUTION FILED BY DEFENDANT ON 11/02/2015

STAY PENDING APPEAL MOTION GIVEN TO JUSTICE MURRAY FOR REVIEW

11/10/2015 MOTION - MOTION TO PREPARE TRANSCRIPT GRANTED ON 11/10/2015

GREGORY CAMPBELL , JUDGE

COPY TO ELECTRONIC RECORDING DIVISION AND ATTORNEYS OF RECORD

11/10/2015 Charge(s): 1

APPEAL - NOTICE OF APPEAL SENT TO REPORTER/ER ON 11/10/2015

11/10/2015 Charge(s): 1

APPEAL - NOTICE OF APPEAL SENT TO LAW COURT ON 11/10/2015

FORWARDED TO THE LAW COURT BY EMAIL

11/16/2015 Charge(s): 1

MOTION - MOTION FOR STAY OF EXECUTION GRANTED ON 11/11/2015

CR_200

Page 6 of 7

Printed on: 11/23/2015

01/09/2015 REQUEST - WAIVER OF JURY TRIAL APPROVED ON 01/08/2015

ANN MURRAY , JUSTICE

01/16/2015 TRIAL - BENCH SCHEDULE OTHER COURT ON 03/06/2015 at 08:30 a.m. in Room No. 99

BANSC

01/16/2015 TRIAL - BENCH NOTICE SENT ON 01/16/2015

02/26/2015 MOTION - MOTION TO CONTINUE FILED BY STATE ON 02/25/2015

3-6 BENCH TRIAL

NO OBJECTION ATTY TZOVARRAS

02/27/2015 MOTION - MOTION TO CONTINUE GRANTED ON 02/26/2015

JOHN LUCY , JUDGE

COPY TO PARTIES/COUNSEL

02/27/2015 TRIAL - BENCH CONTINUED ON 02/26/2015

02/27/2015 TRIAL - BENCH SCHEDULE OTHER COURT ON 04/17/2015 at 08:30 a.m.

BANSC

04/16/2015 MOTION - MOTION TO CONTINUE FILED BY STATE ON 04/16/2015

4/17 JWT

04/16/2015 MOTION - MOTION TO CONTINUE GRANTED ON 04/16/2015

BRUCE JORDAN , JUDGE

COPY TO PARTIES/COUNSEL

04/16/2015 TRIAL - BENCH CONTINUED ON 04/16/2015

04/17/2015 TRIAL - BENCH SCHEDULE OTHER COURT ON 09/21/2015 at 08:30 a.m. in Room No. 99

BANSC

05/14/2015 TRIAL - DOCKET CALL SCHEDULE OTHER COURT ON 06/04/2015 at 08:30 a.m.

BANSC

06/26/2015 TRIAL - DOCKET CALL CONTINUED ON 06/04/2015

ANN MURRAY , JUSTICE

06/26/2015 TRIAL - DOCKET CALL SCHEDULE OTHER COURT ON 07/09/2015 at 08:30 a.m.

BANSC

07/16/2015 TRIAL - DOCKET CALL HELD ON 07/09/2015

ANN MURRAY , JUSTICE

07/16/2015 TRIAL - DOCKET CALL SCHEDULE OTHER COURT ON 08/06/2015 at 08:30 a.m.

BANSC

07/16/2015 TRIAL - DOCKET CALL NOTICE SENT ON 07/16/2015

07/27/2015 MOTION - MOTION TO CONTINUE FILED BY STATE ON 07/27/2015

8/6 DOCKET

07/31/2015 MOTION - MOTION TO CONTINUE GRANTED ON 07/27/2015

JOHN LUCY , JUDGE

COPY TO PARTIES/COUNSEL

07/31/2015 TRIAL - DOCKET CALL CONTINUED ON 07/27/2015

CR_200

Page 3 of 7

Printed on: 11/23/2015

07/31/2015 TRIAL - DOCKET CALL SCHEDULE OTHER COURT ON 09/10/2015 at 08:30 a.m.

BANSC

09/11/2015 TRIAL - DOCKET CALL HELD ON 09/10/2015

ANN MURRAY , JUSTICE

09/21/2015 TRIAL - BENCH HELD ON 09/21/2015

ANN MURRAY , JUSTICE

Attorney: HUNTER TZOVARRAS

DA: TRACY COLLINS Reporter: MAUREEN WHITEHOUSE

Defendant Present in Court

JWT HELD. STATE'S EXB 2, 3, & 1 MARKED OFFERED, ADM W/O OBJ. STATES EXB 4 & 5 MARKED FOR
ID. STATE RESTS. DEFENSE RESTS. UNDER ADVISEMENT

09/21/2015 Charge(s): 1

MOTION - MOTION FOR JDGMT OF ACQUITTAL MADE ORALLY BY DEF ON 09/21/2015

09/21/2015 Charge(s): 1

MOTION - MOTION FOR JDGMT OF ACQUITTAL DENIED ON 09/21/2015

ANN MURRAY , JUSTICE

COPY TO PARTIES/COUNSEL

09/21/2015 MOTION - MOTION TO DISMISS MADE ORALLY BY DEF ON 09/21/2015

09/21/2015 MOTION - MOTION TO DISMISS DENIED ON 09/21/2015

ANN MURRAY , JUSTICE

COPY TO PARTIES/COUNSEL

09/21/2015 CASE STATUS - DECISION UNDER ADVISEMENT ON 09/21/2015

ANN MURRAY , JUSTICE

09/21/2015 CASE STATUS - CASE FILE LOCATION ON 09/21/2015

JUDGE ANN MURRAY HAS FILE

10/09/2015 HEARING - OTHER HEARING SCHEDULE OTHER COURT ON 10/16/2015 at 01:00 p.m.

BANSC

10/09/2015 HEARING - OTHER HEARING NOTICE SENT ON 10/09/2015

10/16/2015 CASE STATUS - CASE FILE RETURNED ON 10/16/2015

10/16/2015 HEARING - OTHER HEARING HELD ON 10/16/2015

ANN MURRAY , JUSTICE

Attorney: HUNTER TZOVARRAS

DA: TRACY COLLINS Reporter: MAUREEN WHITEHOUSE

Defendant Present in Court

COURT FINDING ENTERED - GUILTY

10/16/2015 Charge(s): 1

FINDING - GUILTY ENTERED BY COURT ON 10/16/2015

ANN MURRAY , JUSTICE

10/16/2015 Charge(s): 1

FINDING - GUILTY CONT FOR SENTENCING ON 10/16/2015

10/16/2015 BAIL BOND - PR BAIL BOND SET BY COURT ON 10/16/2015

ANN MURRAY , JUSTICE

CR_200

Page 4 of 7

Printed on: 11/23/2015

10/16/2015 BAIL BOND - PR BAIL BOND FILED ON 10/16/2015

Date Bailed: 10/16/2015

10/16/2015 HEARING - SENTENCE HEARING SCHEDULE OTHER COURT ON 10/30/2015 at 08:30 a.m.

BANSC

10/16/2015 HEARING - SENTENCE HEARING NOTICE SENT ON 10/16/2015

10/30/2015 HEARING - SENTENCE HEARING HELD ON 10/30/2015

ANN MURRAY , JUSTICE

Attorney: HUNTER TZOVARRAS

DA: TRACY COLLINS

Defendant Present in Court

202/8:43:01 THRU 9:27:55

11/10/2015 BAIL BOND - PR BAIL BOND BAIL RELEASED ON 10/30/2015

Date Bailed: 10/16/2015

11/10/2015 Charge(s): 1

RULING - ORIGINAL ORDERED ON 10/30/2015

INSERTED VIA FEE PROCESSING

It is adjudged that the defendant is guilty of 1 SOLICITATION OF CHILD BY COMPUTER 17-A 259-A(1)(A) Class D as charged and convicted.

The defendant is sentenced to the PENOBSCOT COUNTY JAIL for a term of 6 month(s).

It is ordered that all of the sentence as it relates to confinement be suspended.

It is ordered that the defendant be placed on a period of probation for a term of 1 year(s) upon conditions attached hereto and incorporated by reference herein. Said Probation to commence 10/30/2015

The defendant has been convicted of an applicable offense listed in 25 MRSA sec. 1574(4).
The defendant shall submit to having a DNA sample drawn.

§ 20 VICTIMS COMPENSATION FUND

TOTAL DUE: \$ 20.00.

Special Conditions of Probation:

1. refrain from all criminal conduct and violation of federal, state and local laws.
2. report to the probation officer immediately and thereafter as directed and within 48 hours of your release from jail.
3. answer all questions by your probation officer and permit the officer to visit you at your home or elsewhere.
4. obtain permission from your probation officer before changing your address or employment.
5. not leave the State of Maine without written permission of your probation officer.
6. maintain employment and devote yourself to an approved employment or education program.
7. not possess or use any unlawful drugs and not possess or use alcohol.
8. identify yourself as a probationer to any law enforcement officer if you are arrested, detained or questioned for any reason and notify your probation officer of that contact within 24 hours.
9. waive extradition back to the State of Maine from any other place.

10. not own, possess or use any firearm or dangerous weapon if you have ever been convicted of a crime in any jurisdiction with a potential penalty of one year or more or any crime involving domestic violence or the use of a firearm or dangerous weapon.

11. pay to the Department of Corrections a supervision fee of \$ 10.00 per month.

12a. provide a DNA sample if convicted of applicable offense listed in 25 MRSa Section 1574. EXHIBIT A INCORPORATED HEREIN: A: PROVIDE PPO WITH A LIST OF ALL DEVICES CAPABLE OF INTERNET ACCESS TO WHICH HE HAS ACCESS; B: ACCESS THE INTERNET WITH ONLY THOSE DEVICES LISTED WITH THE PPO; C: ALLOW PPO TO RANDOMLY CHECK ALL DEVICES WITH INTERNET ACCESS; AND D: MAY HAVE UNSUPERVISED CONTACT WITH HIS NIECES AND WITH THE CHILDREN OF MS. LEWIA. OTHERWISE, MR. CARTER SHALL HAVE NO UNSUPERVISED CONTACT WITH FEMALES UNDER THE AGE OF 18 EXCEPT WITH THE WRITTEN PERMISSION OF HIS PPO.

11/10/2015 BAIL BOND - PR BAIL BOND RELEASE ACKNOWLEDGED ON 11/10/2015

Date Bailed: 10/16/2015

11/10/2015 OTHER FILING - FINE PAYMENT SCHEDULE ORDERED ON 11/10/2015

INSTALLMENT PYMTS: 0;DAILY: F;WEEKLY: F;BI-WEEKLY: F;MONTHLY: F;BI-MONTHLY: F;PYMT BEGIN: AT 0;PYMT IN FULL: 20151113 AT 0;THRU PPO: F;PYMT DUE AMT: 20;PMT DUE: 20151113 AT 0;OTHER:

11/10/2015 Charge(s): 1

RULING - ORIGINAL ISSUED ON 10/30/2015

DEPENDANT ACKNOWLEDGES RECEIPT

11/10/2015 Charge(s): 1

OTHER FILING - NOTICE OF DUTY TO REGISTER GIVEN IN HAND TO DEFENDANT ON 10/30/2015

11/10/2015 Charge(s): 1

APPEAL - NOTICE OF APPEAL FILED ON 11/02/2015

11/10/2015 ORDER - TRANSCRIPT ORDER ENTERED ON 11/02/2015

11/10/15 COPY FORWARDED TO MAUREEN WHITEHOUSE ALONG WITH NOTICE OF APPEAL

11/10/2015 MOTION - MOTION TO PREPARE TRANSCRIPT FILED BY DEFENDANT ON 11/02/2015

AT STATE EXPENSE

11/10/2015 Charge(s): 1

MOTION - MOTION FOR STAY OF EXECUTION FILED BY DEFENDANT ON 11/02/2015

STAY PENDING APPEAL MOTION GIVEN TO JUSTICE MURRAY FOR REVIEW

11/10/2015 MOTION - MOTION TO PREPARE TRANSCRIPT GRANTED ON 11/10/2015

GREGORY CAMPBELL, JUDGE

COPY TO ELECTRONIC RECORDING DIVISION AND ATTORNEYS OF RECORD

11/10/2015 Charge(s): 1

APPEAL - NOTICE OF APPEAL SENT TO REPORTER/ER ON 11/10/2015

11/10/2015 Charge(s): 1

APPEAL - NOTICE OF APPEAL SENT TO LAW COURT ON 11/10/2015

FORWARDED TO THE LAW COURT BY EMAIL

11/16/2015 Charge(s): 1

MOTION - MOTION FOR STAY OF EXECUTION GRANTED ON 11/11/2015

CR_200

Page 6 of 7

Printed on: 11/23/2015

ANN MURRAY , JUSTICE

ORDER FILED. GRANTED. PR BAIL - DEFENDANT MUST PRESENT HIMSELF TO SIGN THE BAIL WITHIN
10 DAYS. COPY TO ATTORNEYS OF RECORD AND TO PROBATION AND PAROLE.

11/23/2015 APPEAL - RECORD ON APPEAL DUE IN LAW COURT ON 11/23/2015

11/23/2015 APPEAL - RECORD ON APPEAL SENT TO LAW COURT ON 11/23/2015

ORIGINAL CASE FILE FORWARDED TO THE LAW COURT BY UPS

Receipts

10/31/2014	Attorney Payment	\$50.00	MO	paid.
12/04/2014	Attorney Payment	\$50.00	MO	paid.
01/05/2015	Attorney Payment	\$50.00	MO	paid.
02/04/2015	Attorney Payment	\$50.00	MO	paid.
03/04/2015	Attorney Payment	\$50.00	MO	paid.
04/03/2015	Attorney Payment	\$50.00	MO	paid.
05/05/2015	Attorney Payment	\$50.00	MO	paid.
06/04/2015	Attorney Payment	\$50.00	CA	paid.
07/07/2015	Attorney Payment	\$50.00	MO	paid.
08/06/2015	Attorney Payment	\$45.00	MO	paid.
11/10/2015	Case Payment	\$20.00	CK	paid.

FINE PAYMENT SCHEDULE

Execution/payment stayed to pay in full by 11/13/2015 or warrant to issue.

A TRUE COPY

ATTEST: _____

Clerk

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF MAINE

PENOBSCOT, ss.

SUPERIOR COURT
Criminal Action
Docket No. CR-14-2207
Law Court Docket No. PEN-15-562

STATE OF MAINE)
)
 v.)
)
 RUSSELL CARTER,)
)
 Defendant.)

VERDICT

BEFORE: HONORABLE ANN M. MURRAY,
JUSTICE OF THE SUPERIOR COURT

Penobscot Judicial Center
78 Exchange Street
Bangor, Maine

October 16, 2015

APPEARANCES:

For the State: TRACY COLLINS, ESQ.

For the Defendant: HUNTER J. TZOVARRAS, ESQ.

Maureen A. Whitehouse
Official Court Reporter

1 require any additional comment.

2 The real issue in this case is whether or not the
3 defendant had the intent to engage in the prohibited act.

4 Having said that I wasn't going to offer any other
5 comment, I am going to offer one. With respect to the
6 solicitation, there is no doubt that that was for a
7 prohibited act. The messages are very sexually explicit,
8 and they would constitute prohibited acts.

9 So the question really is whether or not the
10 defendant had the intent to engage in a pro -- prohibited
11 act at the time the solicitation was sent.

12 I've considered many factors in deciding this case.
13 I've considered the nature of the communications. The
14 communications were explicit, and they speak for
15 themselves. I'm satisfied the defendant asked the person
16 with whom he was communicating whether or not that person
17 was a police officer. I am satisfied that there were
18 specific and concrete plans made to meet on April 6th and
19 on April 20th. There was a date, a place, and even a
20 vehicle identified.

21 I've considered the testimony of Detective Beaulieu
22 that he sent a communication posing as Samantha that,
23 if you are uncomfortable meeting, we can just text, to
24 which the defendant responded, no, he wanted to meet.

25 I've also looked at the fact that the defendant did

1 not appear for either of the meetings that had been
2 planned. I don't find that *State v. Rivers* is
3 dispositive. This crime of solicitation of a child to
4 commit a prohibited act is committed -- it's com -- and
5 completed at the time of the communication if, at that
6 time, the defendant had the intent to engage in a
7 prohibited act.

8 I've looked at the interview of the defendant. In
9 fact, I've played the -- I received a copy of the --
10 I've -- I've heard the disk again since the date of the
11 trial to look specifically at the words used by the
12 defendant, and his words is that he backed out both
13 times, and I have the quote here, I just backed out both
14 times because it was not right.

15 I find the defendant certainly exercised good
16 judgment and sense in not showing up for the meetings,
17 but I am satisfied, based upon all of the above facts,
18 that at the time Mr. Carter engaged in the communication,
19 the solicitation, he did have the intent to engage in the
20 acts, and, therefore, I find the contemporaneous
21 communication and intent, and, therefore, I do find the
22 defendant guilty of the offense charged.

23 Several of the factors mentioned by the defendant in
24 defense of this matter certainly, I think, would be
25 relevant for sentencing, but I do find the defendant

1 guilty.

2 Mr. Tzovarras, do you want to move to sentencing
3 at this point, or do you want to have sentencing at a
4 later time?

5 MR. TZOVARRAS: At a later time, Your Honor. We do
6 think there's some mitigating factors we want to bring to
7 the Court's attention and perhaps file a memo --
8 sentencing --

9 THE COURT: How long do you need?

10 MR. TZOVARRAS: 30 days.

11 THE COURT: Ms. Collins?

12 MS. COLLINS: That's fine, Judge.

13 MR. TZOVARRAS: Well, actually, about 30 days from
14 now, we're supposed to try a case with Justice Anderson,
15 a manslaughter case. So if we set it maybe --

16 THE COURT: What about if I set it --

17 MR. TZOVARRAS: -- towards the end of November.

18 THE COURT: What about the week of November 9th?

19 THE CLERK: You are scheduled to do the docket call
20 that day on Thursday --

21 THE COURT: What about the afternoon?

22 THE CLERK: You're -- we're going to do one thing at
23 2:30, which is the Coleman conference, which won't take
24 more than 20 minutes. Isn't that the email you just
25 sent?

1 MR. TZOVARRAS: Well, Your Honor, I'm supposed to
2 have a trial with Justice Stokes up in Caribou --

3 THE COURT: On what day?

4 MR. TZOVARRAS: The week of November 6th, so that
5 will cover through the 9th.

6 THE COURT: The 6th is a Friday. The 9th --

7 MR. TZOVARRAS: If I could check my calendar?

8 THE COURT: Sure. Go ahead. I'd like to -- I would
9 really like to get a date that everyone can agree upon.

10 MR. TZOVARRAS: I'm sorry. It's November 3rd I'm
11 supposed to go up and pick a jury for this case with
12 Justice Stokes in Caribou that was specially set, and it
13 could be a three or four-day trial, so it could go
14 through the 6th.

15 THE COURT: Okay.

16 THE CLERK: This would be -- the docket call here
17 would be the 12th -- the 11th, 12th. Wait a minute. I'm
18 sorry.

19 THE COURT: I don't think that's right, Cathy.

20 THE CLERK: I think you're right. I'm wrong.

21 THE COURT: I think the docket call here is the 5th,
22 isn't it?

23 THE CLERK: It is, Your Honor. I'm sorry. So it
24 would be the 5th. So you would be in --

25 THE COURT: What about the 12th?

1 THE CLERK: The 12th you're scheduled to do a jury
2 that day, but we could start a trial later, if you
3 wanted, or --

4 THE COURT: What about the 13th?

5 THE CLERK: Same thing.

6 THE COURT: What about the 9th and 10th?

7 THE CLERK: 9th and 10th are -- we do have two
8 judges to do the dispo conferences both days. You're
9 only available on Monday, the 9th. We don't have you on
10 the 10th.

11 THE COURT: Oh, that's right.

12 THE CLERK: Let me look and see if you have -- how
13 much time would you like to --

14 MR. TZOVARRAS: About a half hour. Maybe it will go
15 45 minutes, but at least a half hour.

16 THE COURT: What about 16th, 17th?

17 THE CLERK: You are doing motions in the morning on
18 the 16th, Your Honor, and, on the 17th, you'd be -- all
19 day miscellaneous, Rule 11s and such.

20 THE COURT: Can you see how those -- what about the
21 16th and 17th?

22 MR. TZOVARRAS: I think that's the day we're
23 supposed to try the manslaughter case with Justice
24 Anderson.

25 THE CLERK: Oh, the 17th --

1 THE COURT: You're right.

2 THE CLERK: The 16th, 17th, 18th?

3 THE COURT: Yeah, you're right.

4 THE CLERK: Is that supposed to go the whole week?

5 MR. TZOVARRAS: It'll probably be three days.

6 THE CLERK: You're not available those two days,

7 Your Honor.

8 THE COURT: No. I think we'll just have to do --

9 Cathy, you'll have to do an email.

10 THE CLERK: I will.

11 THE COURT: All right. We'll -- we'll send an email

12 to counsel to find a date.

13 THE CLERK: And you said 30 minutes, right?

14 THE COURT: I think that's about right. A strong

15 30.

16 THE CLERK: Okay. Thank you, Your Honor.

17 THE COURT: Okay. Thank you. Bail -- has bail been

18 set?

19 MR. TZOVARRAS: I don't believe he has any bail in

20 this case, Your Honor.

21 THE COURT: Well, I'm inclined to do PR bail.

22 MR. TZOVARRAS: We don't object. No objection to

23 that.

24 MS. COLLINS: That's fine with the State, Judge.

25 THE CLERK: Any conditions?

1 THE COURT: No. This has -- this has been pending
2 for quite awhile.

3 THE CLERK: Okay.

4 THE COURT: Thank you. Okay. Anything further from
5 either party? Ms. Collins?

6 MS. COLLINS: Not from the State, Judge. Thank you.

7 THE COURT: Mr. Tzovarras?

8 MR. TZOVARRAS: No. No, thank you, Your Honor.

9 THE COURT: Thank you.

10 MR. TZOVARRAS: Sign it downstairs, Cathy?

11 THE CLERK: It depends if the judge is going to take
12 a couple-minute break and I can get it done here.

13 THE COURT: Do you want me to?

14 THE CLERK: If you don't mind.

15 THE COURT: Sure.

16 MR. TZOVARRAS: So just wait in the courtroom?

17 THE CLERK: Yeah.

18 THE COURT: We'll be in recess.

19 (The proceedings in this matter were concluded
20 at 1:12 p.m.)

21 * * * * *

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I hereby certify the foregoing is an accurate transcript of my stenographic notes of the excerpted proceedings in the above-entitled cause.

Dated this 14th day of March, 2016.

Official Court Reporte

1 I think I better take a recess. I don't know quite
2 what I'm going to do about -- about the motion. I think
3 I'll take a recess and think about it.

4 MR. TZOVARRAS: Your Honor, should I go upstairs for
5 the 1:30 matter? I think that's going to be pretty
6 quick. I could deal with that very quickly.

7 THE COURT: Are they ready for him, Cathy?

8 THE CLERK: I'll find out. They were starting back
9 up at 1:00.

10 THE COURT: Why don't you run up. If -- if you're
11 not here, I'll know where you are.

12 MR. TZOVARRAS: You'll know where to find me. Okay.

13 THE COURT: And then I may get back to this before
14 they reach you upstairs. We'll be in recess.

15 (Court was recessed at 1:14 p.m. and was
16 reconvened at 2:13 p.m.)

17 THE COURT: All right. Please be seated. I've had
18 the opportunity to look at the venue issue. There is no
19 specific venue provision within Title 17-A, section
20 259-A. Therefore, I must revert to the general venue
21 provisions.

22 I think that the venue's proper in Penobscot or
23 Sagadahoc County. The statute reads, in part, that the
24 actor knowingly solicits, directly or indirectly, a
25 person, and I don't think you can solicit a particular

1 person directly or indirectly without some contact
2 directly or indirectly being made with the person. So, I
3 think that the necessary contact -- contact occurred
4 within Penobscot County. The communication was sent in
5 Sagadahoc. It was received in Penobscot. The criminal
6 impact occurred in Penobscot, and the defendant's act
7 of -- if he did, send a communication, I think it
8 intentionally set in motion a chain of events that he
9 designed to be received by a 13-year-old where she was
10 located, and she was lo -- and where he thought she was
11 located was in Penobscot County.

12 There are cases in Virginia, Michigan, Florida, and
13 probably elsewhere with similar situations that held --
14 have held that venue is proper in the location where the
15 communication was received. So, I do think venue's
16 proper in Penobscot.

17 Moreover, even if venue were not proper, I find that
18 that issue was waived under Title 4, section 155(7). So
19 the motion's denied.

20 What would you like to do?

21 MR. TZOVARRAS: Your Honor, I believe Mr. Carter
22 does not want to testify. We've kind of been going back
23 and forth on this, and I know he's been weighing it. So
24 I think maybe if the Court inquired, as well, just to
25 make sure.

STATE OF MAINE
PENOBSCOT, ss

PENOBSCOT COURT
LOCATION: BANGOR
DOCKET NO:

STATE OF MAINE

COMPLAINT

14-2207

v.

RUSSELL CARTER

DOB: 11/24/1982

SIN:

1548 Augusta Road

Bowdoin, ME 04287

G: Male Ht: 5'5" Wt: 180 H: Black

E: Brown R: White

**COUNT 1: SOLICITATION OF A CHILD
TO COMMIT A PROHIBITED ACT**

The undersigned officer, being duly sworn, states upon information and belief that:

COUNT 1:

17-A M.R.S.A. §259-A(1)(A)

Seq No: 12576

**SOLICITATION OF A CHILD TO
COMMIT A PROHIBITED ACT**

CLASS D

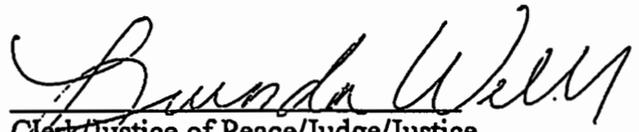
ATN/CTN 082300B / 001

On or about April 2, 2014, in Hermon, Penobscot County, Maine, **RUSSELL CARTER**, being at least 16 years of age and at least 3 years older than the expressed age of Samantha F. and knowing or believing that the other person was less than 14 years of age and with the intent to engage in a prohibited act with Samantha F., did knowingly solicit directly or indirectly Samantha F. by any means to engage in a prohibited act with **RUSSELL CARTER**.



COMPLAINANT

Sworn to before me, 6-14-, 2014



Clerk/Justice of Peace/Judge/Justice

OFFICER: Rick Canarr
DEPT: Penobscot County S.O.
ARRAIGNMENT: June 19, 2014 @ 8:30am

JW#:14-2502