

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

ANDREW JOHNSTON ,

Appellant,

v.

STATE OF FLORIDA ,

Appellee.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D14-4074

Opinion filed February 26, 2016.

An appeal from the Circuit Court for Clay County.
Don H. Lester, Judge.

Nancy A. Daniels, Public Defender, Jennifer S. Morrissey, Assistant Public
Defender, for Appellant.

Pamela Jo Bondi, Attorney General, Julian E Markham, Assistant Attorney General,
for Appellee.

PER CURIAM.

Andrew Johnston appeals his judgments and sentences for traveling to seduce, solicit, or entice a minor for sex in violation of section 847.0135(4)(a), Florida Statutes (2013), and using a computer to seduce, solicit, or entice a minor for sex in violation of section 847.0135(3)(a). He argues, among other things, that a conviction

and sentence for both offenses violates the prohibition against double jeopardy. The State agrees, conceding error in view of the Florida Supreme Court's recent holding in State v. Shelley, 176 So. 3d 914 (Fla. 2015). See also Kim v. State, 154 So. 3d 1168 (Fla. 2d DCA 2015). We therefore affirm the section 847.0135(4)(a), traveling conviction and sentence, but vacate the lesser, section 847.0135(3)(a), soliciting conviction and sentence. See Shelley, 176 So. 3d at 919. We have considered and reject all other arguments raised by Mr. Johnston.

AFFIRMED IN PART AND VACATED IN PART.

THOMAS, OSTERHAUS, and KELSEY, JJ., concur