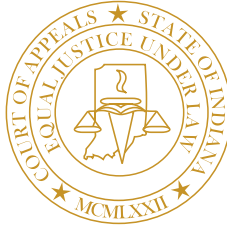


## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



# IN THE Court of Appeals of Indiana

Christopher S. Busch,  
*Appellant-Defendant*

v.

State of Indiana,  
*Appellee-Plaintiff*



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May 20, 2025

Court of Appeals Case No.  
24A-CR-2387

Appeal from the Johnson Circuit Court  
The Honorable Andrew S. Roesener, Judge

Trial Court Cause No.  
41C01-2309-F4-101

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**Memorandum Decision by Judge DeBoer**  
Judges Bailey and Vaidik concur.

**DeBoer, Judge.**

## **Case Summary**

[1] Christopher Busch appeals his conviction for Level 4 felony child solicitation, raising three issues, which we restate as follows:

- (1) whether the State presented sufficient evidence to support the conviction;
- (2) whether the State failed to rebut his entrapment defense; and
- (3) whether the four-year sentence he received is inappropriate in light of the nature of the offense and his character.

We affirm.

## **Facts and Procedural History**

[2] In April 2023, 55-year-old Busch responded to an ad posted on a prostitution website called List Crawlers. The ad depicted a photo of the profile of a female purporting to be eighteen years old.<sup>1</sup> The person pictured was a “decoy” being used by law enforcement to conduct a multi-day sting operation from an apartment complex near State Road 135 and County Line Road in Johnson County. Transcript Vol. 1 at 188. The decoy was an adult law enforcement officer who “looked very young[.]” *Id.* Busch texted the phone number listed

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<sup>1</sup> The websites used by law enforcement, including List Crawlers, removed ads if they stated they had been made by people under eighteen years of age.

in the ad and began communicating with Detective Emily Watson (Chatter), one of the undercover law enforcement officers assigned to serve as “chatters” to message individuals who responded to ads during the sting operation. *Id.* at 192.

- [3] After Busch asked about Chatter’s availability, confirmed her general location, and offered a sum of money, they exchanged the following messages:

Busch: Lets have fun[.] Im close

Chatter: Where u at

Busch: Greenwood[.] You ready for sum fun

Chatter: F\*\*\* yeah. Gotta be discreet. I’m almost 16 and can’t get in trouble.

Busch: Not cool[.] Show me a pic? Your ad said 18

Exhibits Vol. 3 at 3-4 [sic throughout].

- [4] Chatter sent a picture of a female decoy covering her face with her phone, as well as a picture of a female’s backside in red underwear. Thirty-one minutes later, at 4:22 p.m., Chatter messaged Busch, “U there[?]” *Id.* at 5. Within seconds, Busch responded, “Yes[.]” *Id.* The conversation continued between 4:23 and 5:10 p.m.:

Chatter: So what’s up

Busch: Nothing at the moment

Chatter: Where’d you find me

Busch: List Crawlers[.] You sound like the [police officer emoji]

Chatter: Wtf?? How

Busch: Under age is a scary thing[.] What are you into? Hello?

Chatter: Wtf you mean by fun??

Busch: Anything you like doing

Chatter: My times valuable... tell me what you want!!

Busch: Eat your pu\*\*\*

Chatter: As long as you let me suck that D\*\*\* too. I have no gag reflex

Busch: 69 it will be

Chatter: When you thinking?

Busch: I horny now lol

Chatter: You're not a troll are you?

Busch: What do you mean by that

Chatter: Are you hot?? Not a serial killer?

Busch: Im not hot but no killer

Chatter: Well let's do this!!

Busch: [Picture of himself]

Chatter: Who said you're not hot??

Busch: Where ?

Chatter: My house?

Busch: K[.] What street?

Chatter: You know where county line and 135 is

Busch: Yup

Chatter: Stone hedge apartments[.] How long until you're here

Busch: Not long[.] What's the catch?

Chatter: \$75 for 69?

Busch: That's to low

Chatter: \$100 then. Damn it I'm trying to be nice[.] I'm horny af

Busch: Much better

Chatter: U cummin

Busch: Say when

Chatter: Now

*Id.* at 5-10 [sic throughout].

[5] At 5:39 p.m., Busch texted, "What's your name[?]" *Id.* at 11. Chatter responded "Cami" and Busch said his name was "Scott[.]" *Id.* The conversation continued:

Chatter: You coming or not?? I hope you're not teasing

Busch: Im a little scared

Chatter: Wtf why

Busch: Jail don't sound fun[.] Show me what im eating

Chatter: Idk what you're talking about[.] I don't send nudes

Busch: Cop sting operation im alittle freaked out

Chatter: Idk what a cop sting operation is[.] I'm not here to play games. I'm here to get my pu\*\*\* ate and f\*\*\*.

Busch: Ok where do i go when i get there

Chatter: I need to know you're coming for sure before I tell you what apartment

Busch: Why so long on a reply

Chatter: I took my trash down to the dumpster

Busch: Oh ok be heading that way in 10 mins

Chatter: Ok[.] How long will it take you to get here

Busch: 10

Chatter: Ok[.] I'll watch for you. Watcha cumming in[.] I'm on my balcony[.] [Picture from balcony]

*Id.* at 11-14 [sic throughout].

- [6] Busch arrived and parked his vehicle. A female officer decoy gestured from the balcony for Busch to enter the apartment building. When Busch came into the apartment and locked the door behind him, he was taken into custody. Busch admitted to detectives that he had sent the text messages. He understood that “almost 16” meant “underage” and less than sixteen years of age. Tr. Vol. 1 at 232. He said that sex acts with Cami had been “on the table” and sex itself “was possible.” *Id.* at 233.

[7] The State charged Busch with Level 4 felony child solicitation.<sup>2</sup> At his jury trial, Busch testified that he did not believe he was speaking with a child based on the pictures Chatter sent him and some of the language she used while messaging him. He believed Chatter was an adult with a “messed up fantasy[.]” Tr. Vol. 2 at 11. Alternatively, Busch suggested he thought he was involved in a prostitution sting and just drove to the apartment to “check[] things out” because he “couldn’t believe anything like this would happen this close to where [he] live[d].” *Id.* at 13. Busch conceded that he had told detectives that sex was “on the table” had he not been arrested. *Id.* at 14. He claimed he thought he could only get in trouble if he exchanged money, so he did not take any with him. Finally, Busch admitted he was unsure whether underage people could access the website he used, despite the site’s age restrictions.

[8] The trial court instructed the jury on the entrapment defense, but the jury found Busch guilty of Level 4 felony child solicitation. In his presentence investigation report (PSI) and at sentencing, Busch claimed that he was “studying people to see why they do what they do,” and he just wanted to talk to Chatter. Appellant’s App. at 116; Tr. Vol. 2 at 54-55. The trial court sentenced him to four years with two years executed in the Department of Correction (DOC) and two years suspended to probation.

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<sup>2</sup> Ind. Code § 35-42-4-6(c)(1).

## Discussion and Decision

### 1. Standard of Review

[9] Busch argues that the State failed to present sufficient evidence to support his conviction for Level 4 felony child solicitation, and that it failed to rebut his entrapment defense. Both claims “trigger a deferential standard of review in which we ‘neither reweigh the evidence nor judge witness credibility, instead reserving those matters to the province of the jury.’” *Hancz-Barron v. State*, 235 N.E.3d 1237, 1244 (Ind. 2024) (quoting *Brantley v. State*, 91 N.E.3d 566, 570 (Ind. 2018), *reh’g denied, cert. denied*, 586 U.S. 1090 (Jan. 7, 2019)); *Griesemer v. State*, 26 N.E.3d 606, 608 (Ind. 2015) (“We review a claim of entrapment using the same standard that applies to other challenges to the sufficiency of evidence.”). When conducting this review, “we consider only the evidence that supports the jury’s determination, not evidence that might undermine it.” *Hancz-Barron*, 235 N.E.3d at 1244. We affirm if the probative evidence and reasonable inferences drawn from the evidence allow a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt. *McHenry v State*, 820 N.E.2d 124, 126 (Ind. 2005).

### 2. Child Solicitation

[10] To convict Busch of Level 4 felony child solicitation, the State had to prove beyond a reasonable doubt that Busch: (1) was over twenty-one years of age and; (2) knowingly or intentionally; (3) solicited an individual; (4) he believed to be a child at least fourteen, but less than sixteen years old; (5) to engage in

sexual intercourse or other sexual conduct; (6) by using a computer network; and (7) that he traveled to meet the individual he believed to be a child. *See* Ind. Code § 35-42-4-6(c)(1).

[11] Busch only disputes one of the elements of Level 4 felony child solicitation. He argues that he did not have the requisite *belief* that the individual he was texting was under the age of sixteen because the website had age restrictions, Chatter’s pictures appeared to be of an adult, she used language not commonly used by children, and he thought he might be dealing with a prostitution sting operation.<sup>3</sup> Simply put, Busch’s arguments are all requests to reweigh the evidence. *See Van Auken v. State*, 233 N.E.3d 1042, 1051 (Ind. Ct. App. 2024) (stating “the jury, acting as the trier-of-fact, was not required to credit Van Auken’s evidence and assertions” that he reasonably believed D.M. was over sixteen years old), *trans. denied*; *Aplin v. State*, 889 N.E.2d 882, 886 (Ind. Ct. App. 2008) (concluding that Aplin’s reliance on the “youthful appearance” of a photograph and the website’s requirement that chat room users be at least eighteen years of age were invitations to reweigh evidence), *trans. denied, overruled on other grounds by King v. State*, 921 N.E.2d 1288, 1291 (Ind. 2010).

[12] There was ample evidence for the jury to find that Busch *believed* the person he was knowingly soliciting to engage in sexual conduct was at least fourteen but

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<sup>3</sup> Busch does not contest whether he used his phone to knowingly solicit Chatter to engage in sexual conduct. The statute instructs that “solicit” means “to command, authorize, urge, incite, request, lure, entice, or advise an individual[.]” I.C. § 35-42-4-6(a)(2). However, his entrapment challenge hinges on whether Chatter induced him to commit the offense.

less than sixteen years old. Chatter told him she was “almost 16” and Busch later acknowledged he understood what this meant. Ex. Vol. 3 at 4. Rather than end the conversation, Busch asked for a picture. He later texted, “[u]nder age is a scary thing[,]” and “[j]ail don’t sound fun[.]” *Id.* at 6, 12. Despite this, he actively engaged in sex talk, offered Chatter money in exchange for sex acts, and drove to her apartment to meet her. The jury heard evidence about the events that occurred and Busch’s “beliefs” about those events, yet it resolved those factual issues by finding him guilty of child solicitation. *See Young v. State*, 198 N.E.3d 1172, 1176 (Ind. 2022) (“When there are conflicts in the evidence, the jury must resolve them.”). We do not reweigh the evidence and we conclude there was sufficient evidence showing that Busch committed the elements of Level 4 felony child solicitation beyond a reasonable doubt.<sup>4</sup> To determine whether Busch’s conviction stands, we now consider whether the State sufficiently rebutted his entrapment defense.

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<sup>4</sup> Busch makes two more arguments about the offense, both of which are meritless. First, Busch claims he believed he could not get in trouble unless money was exchanged. While the jury was not required to believe this assertion to begin with, his purported mistake of law is not a valid defense. *See Bright v. State*, 205 N.E.3d 1055, 1061 n.2 (Ind. Ct. App. 2023).

Second, Busch argues Chatter’s age was ambiguous because the ad said she was eighteen years old and “this ambiguity should be construed against the State.” Appellant’s Br. at 20. This argument is a non-starter because Chatter’s age was not in doubt; she clearly told Busch her age, Busch understood what “almost 16” meant, and he acknowledged that he could not rely on website age restrictions because “[p]eople lie all the time[.]” Ex. Vol. 3 at 4; Tr. Vol. 2 at 19. Additionally, Chatter’s age was a factual detail for the jury to resolve. Busch’s citations to cases involving ambiguous penal statutes, plea agreements, and contracts are inapt.

### 3. Entrapment

[13] In Indiana, entrapment is statutorily defined:

(a) It is a defense that:

(1) the prohibited conduct of the person was the product of a law enforcement officer, or his agent, using persuasion or other means likely to cause the person to engage in the conduct; and

(2) the person was not predisposed to commit the offense.

(b) Conduct merely affording a person an opportunity to commit the offense does not constitute entrapment.

I.C. § 35-41-3-9.

[14] A defendant may raise the entrapment defense “by affirmatively showing the police were involved in the criminal activity and expressing an intent to rely on the defense.” *Griesemer*, 26 N.E.3d at 609. Once he has shown that officers directly participated in the criminal activity, the burden shifts to the State to disprove one of the two statutory elements beyond a reasonable doubt. *Id.* “There is thus no entrapment if the State shows either (1) there was no police inducement, or (2) the defendant was predisposed to commit the crime.” *Id.* For the inducement element, “the State must prove police efforts did not produce the defendant's prohibited conduct because those efforts lacked ‘a persuasive or other force.’” *Id.* (quoting *Williams v. State*, 412 N.E.2d 1211, 1215 (Ind. 1980)) (internal citation omitted).

[15] Here, Busch successfully petitioned the trial court to instruct the jury on the defense of entrapment. He now argues the “evidence was insufficient to overcome [his] defense of entrapment” because “a law enforcement officer us[ed] persuasion to cause him to engage in child soliciting.” Appellant’s Brief at 22. He points to the provocative picture Chatter sent him, her text to him after he had not responded for thirty-one minutes, and her explicit messages throughout their exchange.

[16] But “[t]hat the crime itself may be tempting, without more, is not inducement.” *Griesemer*, 26 N.E.3d at 610 (finding sufficient evidence rebutted Griesemer’s entrapment defense where “Griesemer stared at [the undercover detective] from the road before turning around, he stopped his car near her to initiate their conversation, and he twice nodded his head to invite her into his car, all *before* [the detective] mentioned the opportunity to exchange money for a sexual act”) (emphasis in original). Here, the evidence most favorable to the verdict shows that Chatter told Busch her age and, instead of ending the conversation, he asked her to send him a picture. When he received the pictures, he did not immediately respond. When Chatter asked him “U there” thirty-one minutes later, Busch responded within seconds. Ex. Vol. 3 at 5. And it was Busch who introduced graphic sex talk to the conversation. Chatter simply mirrored Busch’s eagerness to escalate the conversation. The officer’s participation did not amount to persuasion likely to cause Busch to commit the offense; she merely afforded him the opportunity to commit the offense. *See* I.C. § 35-41-3-9. Accordingly, the State produced sufficient evidence to disprove Busch’s

entrapment defense, and we affirm his conviction for Level 4 felony child solicitation. Given that the State was only required to rebut the inducement element *or* the predisposition element of Busch’s entrapment defense, we need not consider whether Busch was predisposed to commit the offense. *See Griesemer*, 26 N.E.3d at 609.

#### **4. Appropriateness of Sentence**

- [17] Busch also asks us to revise his sentence because it is inappropriate given the nature of the offense and his character. *See* Ind. Appellate Rule 7(B).
- [18] Indiana Appellate Rule 7(B) “permits an appellate court to revise a sentence if, after due consideration of the trial court’s decision, the sentence is found to be inappropriate in light of the nature of the offense and the character of the offender.” *Faith v. State*, 131 N.E.3d 158, 159 (Ind. 2019). “The principal role of [Appellate Rule 7(B)] review should be to attempt to leaven the outliers[.]” *Cardwell v. State*, 895 N.E.2d 1219, 1225 (Ind. 2008). Our determination “turns on our sense of the culpability of the defendant, the severity of the crime, the damage done to others, and myriad other factors that come to light in a given case.” *Id.* at 1224.
- [19] When reviewing the sentence imposed, we examine “the whole picture before us.” *Lane v. State*, 232 N.E.3d 119, 127 (Ind. 2024). We give deference to the trial court’s decision and strive to determine whether the defendant’s sentence is inappropriate, not whether a different sentence would be more appropriate.

*King v. State*, 991 N.E.2d 612, 618 (Ind. Ct. App. 2013). The burden is on the defendant to convince us that his sentence was inappropriate. *Id.*

[20] When considering the nature of the offense, we first look to the advisory sentence. *Norton v. State*, 235 N.E.3d 1285, 1291 (Ind. Ct. App. 2024). Busch was convicted of a Level 4 felony, which carries a sentence between two and twelve years, with an advisory sentence of six years. I.C. § 35-50-2-5.5. Here, the trial court imposed a four-year sentence with two years executed at the DOC and two years suspended to probation. Thus, Busch’s sentence falls well below the advisory.

[21] “The nature of the offense is found in the details and circumstances of the commission of the offense and the defendant’s participation.” *Perry v. State*, 78 N.E.3d 1, 13 (Ind. Ct. App. 2017). We also consider whether the offense was “accompanied by restraint, regard, and lack of brutality.” *Stephenson v. State*, 29 N.E.3d 111, 122 (Ind. 2015).

[22] Busch does not address these considerations regarding the nature of his offense; instead, he rehashes his arguments that he did not have the requisite belief that Chatter was under the age of sixteen when he solicited her and that he was entrapped by police. But the facts accepted by the jury are straightforward: Over text message, Busch initiated a graphic sexual conversation with an individual who told him she was under, but **almost**, sixteen years of age, he offered to exchange money for sexual conduct, and he traveled to her apartment fully intending to follow through on the acts described in their conversation.

Giving due regard to the jury’s assessment of the evidence and the trial court’s relatively lenient sentence, the nature of Busch’s offense does not warrant appellate revision of his sentence.

[23] Turning to Busch’s character, we broadly consider “a defendant’s qualities, including the defendant’s age, criminal history, background, past rehabilitative efforts, and remorse.” *Pritcher v. State*, 208 N.E.3d 656, 668 (Ind. Ct. App. 2023). We ask whether the defendant has shown “substantial virtuous traits or persistent examples of good character.” *Stephenson*, 29 N.E.3d at 122.

[24] Busch’s frequent changes to his story do not reflect well on his character. At trial, Busch testified that sex may have been “on the table” had he not been arrested. Tr. Vol. 2 at 14. Yet in his PSI interview and at sentencing, Busch said he was simply “studying people to see why they do what they do,” and had just planned to talk to Chatter—a claim the trial court found “preposterous.”<sup>5</sup> Appellant’s App. Vol. 2 at 115; Tr. Vol. 2 at 54, 59. And when detectives confronted him with his text messages during his post-arrest interview, Busch “laugh[ed]” and “gigg[le]d.” Tr. Vol. 1 at 232.

[25] Aside from one misdemeanor in 1989, Busch “led a largely law abiding life.” Tr. Vol. 2 at 59. He was a “contributing member of society” and had maintained a job in the waste management industry for over thirty years. *Id.*

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<sup>5</sup> The trial court reminded Busch that it took the jury “less than an hour” to deliberate and reject his version of events. Tr. Vol. 2 at 60. It noted that Busch was not “taking responsibility” and had demonstrated a “lack of candor with the tribunal” regarding his “motivations” when he committed the offense. *Id.* at 61.

The trial court also accepted letters of Busch’s positive character from his family and friends. However, the trial court credited Busch for his redeeming qualities when it sentenced him to less than the advisory sentence and suspended half of his sentence to probation. *See Davidson v. State*, 926 N.E.2d 1023, 1025 (Ind. 2010) (permitting appellate courts to consider “whether a portion of the sentence is ordered suspended or otherwise crafted using any of the variety of sentencing tools available to the trial judge” when conducting Appellate Rule 7(B) reviews). Busch’s reduced sentence is not inappropriate in light of his character.

## **Conclusion**

[26] The State presented sufficient evidence to convict Busch of Level 4 felony child solicitation and to rebut Busch’s entrapment defense. Additionally, the sentence Busch received is not inappropriate given the nature of the offense and his character.

[27] Affirmed.

Bailey, J., and Vaidik, J., concur.

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