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IN THE SUPREME COURT OF IOWA
Supreme Court No. 25-0555
Linn County No. FECR151994

STATE OF IOWA,
Plaintiff–Appellee,

vs.

WALTER LEON CONKRIGHT,
Defendant–Appellant.

APPEAL FROM THE IOWA DISTRICT COURT
FOR LINN COUNTY
THE HONORABLE IAN K. THORNHILL, JUDGE

BRIEF FOR APPELLEE

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STATEMENT OF THE ISSUE PRESENTED FOR REVIEW

I. The trial court correctly determined that Iowa Code section 710.10(2) prohibits enticing or attempting to entice a person reasonably believed to be under the age of sixteen with a sexual purpose, regardless of the identity of the person being enticed.

ROUTING STATEMENT

This case does not meet the criteria for Iowa Supreme Court retention under Iowa Rule of Appellate Procedure 6.1101(2) (a)-(f). As the defendant suggests, transfer to the Court of Appeals is appropriate. Iowa R. App. P. 6.1101(3).

NATURE OF THE CASE

Walter Conkright entered a conditional guilty plea to one count of enticing a minor under the age of sixteen with a sexual purpose, in violation of Iowa Code section 710.10(2). *See* D0014, Trial Info. at 1 (12/16/2023); D0038, Waiver of Rights and Plea of Guilty at 1–6 (01/09/2025). The charge stemmed from allegations that Conkright arranged to meet a person he believed to be a thirteen-year-old girl at a hotel room to have sex after unknowingly communicating with Bikers Against Predators, a nonprofit group who "takes action" against online predators. D0013, Minutes of Testimony at 1–2 (12/06/2023).

Conkright received a suspended sentence of incarceration not to exceed five years, and he was placed on supervised probation for four years. D0046, Judgment and Sentence at 1–3 (05/24/2025). His plea was conditioned on his ability to appeal the trial court's ruling on a motion to

adjudicate law points, in which he argued that the statute did not reach conduct involving a private citizen or a "vigilante" justice group posing as a minor. *See* D0038 at 5. The defendant now appeals.

STATEMENT OF THE FACTS

According to the minutes of testimony, Bikers Against Predators is a nonprofit organization that uses dating apps to connect with child predators online. D0013 at 1. A member will pretend to be a minor and allow the other person to lead the conversation and suggest personal contact. D0013 at 1. In October 2023, someone using the name "Ned McBeth" sent a message to a member of the organization who was posing as a thirteen-year-old girl named "Emma." D0013 at 1. Ned McBeth was later identified as the defendant, Walter Conkright. D0013 at 1.

Conkright asked "Emma" to come to his hotel room to "fuck"; after acknowledging that the age of consent was sixteen and it would be risky and illegal to meet, Conkright added that he was nonetheless "down for it." D0013 at 1. He asked "Emma" if she was on birth control pills and if she had "been fucked before." D0013 at 1. He provided an address, and Bikers Against Predators members met with him that evening and recorded the meeting. D0013 at 1. They contacted the Cedar Rapids Police Department

via 911. D0013 at 2. When confronted by police, Conkright was nervous and quivering; he told officers that it was he who was trying to thwart predators who take advantage of children. D0013 at 2.

As noted, Conkright pleaded guilty to one count of enticing a minor under the age of sixteen with a sexual purpose. D0038 at 1–6.

JURISDICTIONAL STATEMENT

The State does not contest the court's jurisdiction to decide Conkright's appeal. Iowa Code § 814.6(3); *State v. Scullark*, 23 N.W.3d 49, 53 (Iowa 2025); *State v. McClain*, 20 N.W.3d 488, 494-95 (Iowa 2025) (explaining that legislation enacted in 2023 permits a defendant to plead guilty but preserve a specific issue for appeal and "withdraw the guilty plea if the ruling is reversed, avoiding the time and expense of a trial for both sides if the challenged ruling is affirmed.").

Here, the defendant's written guilty plea provided that he was "reserv[ing] the right to appeal the ruling concerning his adjudication of law points…" D0038 at 5. The court accepted the guilty plea and noted its conditional nature in the judgment and sentence. D0046 at 1. This court has jurisdiction.

ARGUMENT

I. The trial court correctly determined that Iowa Code section 710.10(2) prohibits enticing or attempting to entice a person reasonably believed to be under the age of sixteen with a sexual purpose, regardless of the identity of the person being enticed.

Preservation of Error.

Error was preserved by Conkright's unsuccessful motion to adjudicate law points challenging the reach of the statute, as well as his conditional guilty plea. *See* D0023, Motion for Adjudication of Law Points at 1–4 (06/06/2024); D0038 at 5.

Standard of Review.

"This court reviews a trial court's ruling on a motion to adjudicate law points for correction of legal error"; that decision "turns on the correctness of its interpretation of the relevant statutes, which are reviewable for correction of errors at law as well." *State v. Muhlenbruch*, 728 N.W.2d 212, 214 (Iowa 2007).

Merits.

The enticing a minor statute provides:

> 1. A person commits a class "C" felony when, without authority and with the intent to commit sexual abuse or sexual exploitation upon a minor under the age of thirteen, the person entices or attempts to entice a person reasonably believed to be under the age of thirteen including a law

> enforcement officer or agent posing as a minor under the age of thirteen.
>
> 2. A person commits a class "D" felony when, without authority and with the intent to commit an illegal sex act upon or sexual exploitation of a minor under the age of sixteen, *the person entices or attempts to entice a person reasonably believed to be under the age of sixteen including a law enforcement officer or agent posing as a minor under the age of sixteen.*
>
> * * *
>
> 5. A person shall not be convicted of a violation of this section unless the person commits an overt act evidencing a purpose to entice.

Iowa Code § 710.10 (emphasis added).

Here, Conkright contends that his conduct was not prohibited by section 710.10(2). He argues that the language "including a law enforcement officer or agent posing as a minor under the age of sixteen" limits the statute's reach to law enforcement officers – and excludes others, such as private citizens or those acting on behalf of nonprofit activist groups. After a hearing on his motion to adjudicate law points, the trial court rightly concluded that a violation of section 710.10(2) is not limited to communications with a minor or an officer posing as a minor. *See* D0031, Order on Motion for Adjudication of Law Points at 1 (07/08/2024) ("[T]he Court finds the amendment to Iowa Code Section 710.10(2), which added the language 'including a law enforcement officer or agent posing as a

minor under the age of sixteen, did not narrow the scope of the statute to redefine the meaning of 'a person reasonably believed to be under the age of sixteen' to only law enforcement officers or their agents.").

Statutory construction is necessary only when a statute is ambiguous, and a statute "is not ambiguous unless 'reasonable minds could differ or be uncertain as to the meaning of the statute.' " *State v. McCullah*, 787 N.W.2d 90, 94 (Iowa 2010) (quoting *Carolan v. Hill*, 553 N.W.2d 882, 887 (Iowa 1996)); *see also State v. McCollaugh*, 5 N.W.3d 620, 623 (Iowa 2024). When the appellate court construes statutory text, its "consider[s] the overall structure and context of the statute, not just specific words or phrases in a vacuum." *State v. Cooley*, 21 N.W.3d 137, 142 (Iowa 2025) (quoting *State v. Lopez*, 907 N.W.2d 112, 120 (Iowa 2018)). Legislative intent is ascertained not only from the language used but also from "the statute's 'subject matter, the object sought to be accomplished, the purpose to be served, underlying policies, remedies provided, and the consequences of the various interpretations.' " *Cox v. State,* 686 N.W.2d 209, 213 (Iowa 2004) (quoting *State v. Albrecht,* 657 N.W.2d 474, 479 (Iowa 2003)). Iowa's appellate courts strive for "a reasonable interpretation that best achieves the statute's purpose and avoids absurd results." *State v. Gonzalez*, 718 N.W.2d 304, 308 (Iowa 2006). In construing legislative

intent, the court looks to "the words chosen by the legislature, not what it should or might have said." *State v. Mathias*, 936 N.W.2d 222, 227 (Iowa 2019) (citations and quotations omitted).

In this case, the language of the statute is not ambiguous. The legislature amended the enticement statute by adding the nonexclusive term "including…" If it had wanted to limit the purported minor's identity to police officers or their agents, it could have easily drafted the statute that way. For example, the Maryland enticement statute provides that a person may not "knowingly solicit a minor, or a law enforcement posing as a minor, to engage in activities that would be unlawful…" *See Choudry v. State*, 153 A.3d 895, 897 (Md. Spec. App. 2017) (quoting Md. Code Ann., CR § 3–324). Under that statute's plain language, the solicitation must involve an actual minor or a law enforcement officer posing as one. *Id.* Other state statutes specifically provide that it is not an affirmative defense to an enticement prosecution "that the other person is an officer masquerading as a minor" (*State v. Craig*, 498 S.W.3d 459, 463-64 (Mo. App. 2016)) or "that a law enforcement officer or an undercover operative who is working with a law enforcement agency was involved…" *State v. Ansari*, 2004 UT App. 326, 100 P.3d 231, 235 (2004).

In contrast, the language of Iowa Code section 710.10 contains no such specificity. It uses the word "including" before providing an example. "[T]he word *include* does not ordinarily introduce an exhaustive list, while *comprise*… ordinarily does." Antonin S. Scalia & Brian A. Garner, *Reading Law: Interpretation of Legal Texts*, at 119 (2012) (emphasis in original). The Iowa statute is broadly written to criminalize any attempt to entice someone who the defendant "reasonably believes" to be a minor for a sexual purpose. *See* Iowa Code § 710.10(2) (2023). The breadth of this language is consistent with the statute's aim to protect children and discourage sexually predatory behavior against minors at the solicitation stage, before a completed sex act is committed.

In *Luttenegger v. Conseco Financial Servicing Corp.*, the Iowa Supreme Court held that the word "including" in a statute was not ambiguous and was not exhaustive. *Luttenegger v. Conseco Financial Servicing Corp.*, 671 N.W.2d 425, 432–33 (Iowa 2003). The court analyzed this language:

> Except as otherwise provided… "finance charge" means the sum of all charges payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or as a condition of the extension of credit, *including any of the following types of charges which are applicable: [similar to the four types of charges as are found in the (Uniform Consumer Credit Code)].*

* * *

> Our first reason for concluding that the [Iowa Uniform Consumer Credit Code] does not prohibit particular fees relates to statutory interpretation. The district court found an ambiguity in the word "including" in the definition of "finance charge" found in section 537.1301(19)(a). According to the district court, "including" could mean either that the following list was exclusive, that is, "finance charge" includes only the fees described in the following list. Or the word could mean that the following list was nonexclusive, that is, "finance charge" includes but is not limited to the examples provided in the list.
>
> Unlike the district court, we find no such ambiguity but conclude the language… is clear.

Id. at 433 (emphasis added). The court went on to note that the word was not limiting, and to construe "including" as introducing an exclusive list would conflict with the word "all" in the introductory phrase. *Id.* Therefore, the list following the word "including" in the statute was not restrictive and did not purport to encompass all possibilities. *Id.*

The same is true in this case. Conkright's proposed reading would conflict with the general phrase that precedes it — "a person reasonably believed to be under the age of sixteen." Because "including" is a non-exhaustive term by its plain meaning, a law enforcement officer is but one example of a person who could fall into the category of someone "reasonably believed to be under the age of sixteen." A sixteen-year-old or seventeen-year-old minor misrepresenting his or her age could also fit

within this wide description, as could a member of a nonprofit activist organization. In fact, the broad scope of the phrase "reasonably believed to be a minor" is demonstrated by the fact that lawmakers removed an earlier reference to an actual minor *entirely* in amending the statute to refer to "a person reasonably believed to be a minor." *Compare* Iowa Code § 710.10(2) (2009) *with* Iowa Code § 710.10(2) (2011). When the legislature subsequently added the language "including a law enforcement officer or agent posing as a minor" in 2023, it was merely eliminating any doubt that police officers conducting a "sting" operation could be included in the "reasonably believed to be a minor" category under the right circumstances. *See generally Johnson v. Iowa Department of Transportation*, 958 N.W.2d 180, 186 (Iowa 2021) (acknowledging the principle of legislative "belt-and-suspenders caution"). The statute is inclusive but not all-encompassing, as the trial court correctly concluded.

To the extent that Conkright argues the history of section 710.10 is instructive, the State agrees, but has a different interpretation. The enticement statute has been amended repeatedly. An early version prohibited only the enticement of an actual minor. *See, e.g*, Iowa Code § 710.10(1) (1999) ("A person commits a class "D" felony when, without authority and with the intent to commit an illegal act upon the child, the

person entices away a child."). A later version prohibited a person from enticing or attempting to entice, with the requisite intent, "a minor under the age of sixteen, or… a person reasonably believed to be under the age of sixteen." *See generally State v. Quinn*, 691 N.W.2d 403, 407–08 (Iowa 2005). As noted, the statute was again amended in 2010 to remove any reference to an actual minor, prohibiting only enticing or attempting to entice "a person reasonably believed to be under the age of sixteen." *See* 2010 Iowa Acts, ch. 1129, § 1 (83rd G.A., 2nd Sess.). Finally, the legislature again amended the statute in 2023 and added one phrase: the current version prohibits the enticement or attempted enticement of "a person reasonably believed to be under the age of sixteen *including a law enforcement officer or agent posing as a minor under the age of sixteen*." Iowa Code § 710.10(2) (2023) (emphasis added).

While the statute now explicitly provides that law enforcement officers are included in the "reasonably believed to be a minor" language, the courts were previously interpreting the "attempt" language to reach conduct of officers who were not actually enticed by the defendant's overtures. *See State v. Hansen*, 750 N.W.2d 111, 112–14 (Iowa 2008) (concluding a defendant who communicated with and met an officer posing as a teenage girl was guilty of attempted enticement rather than

enticement, because the statute prohibited "enticing away" a person reasonably believed to be under the age of sixteen, and "[w]e doubt any of the Cedar Falls police officers were 'enticed away' from their offices… because of Hansen's blandishments."); *State v. Pace*, No. 06-2120, 2008 WL 942281, at *2-3 (Iowa Ct. App. Apr. 9, 2008) ("In this case, although Pace attempted to meet with the purported fifteen-year-old to commit an illegal act, [] there is no evidence that a minor, or a person reasonably believed to be a minor, was lured into the vehicle, building, room, or secluded place… Pace's action could only have amounted to the crime of attempted enticement."). In response to *Hansen*, the word "away" was removed from the statute, and "attempting to entice" was added in section 710.10(2). *See State v. Ball*, No. 17-1332, 2018 WL 3471604, at *5–6 (Iowa Ct. App. July 18, 2018) (explaining the legislature's response to *Hansen*). While the legislative history of the enticement statute is complicated, the current language is not. By its plain language, "including" is not an exhaustive term. The 2023 amendment to Iowa Code section 710.10(2) did not purport to restrict the broad phrase that precedes it. Conkright's argument to the contrary should be rejected, and his conviction should be affirmed.

CONCLUSION

The trial court correctly interpreted the statute to cover any person "reasonably believed to be under the age of sixteen," regardless of whether the person is an officer or a private citizen. For the reasons discussed above, the State respectfully requests that the court affirm the defendant's conviction and sentence for one count of enticing a minor under the age of sixteen with a sexual purpose.

REQUEST FOR NONORAL SUBMISSION

The defendant has requested oral argument. The State believes that the issue presented is fully addressed in the briefs and can be decided without further elaboration. If the court grants the defendant argument, however, the State asks to be heard.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(g) and 6.903(1)(i)(1) or (2) because:

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