

ENTRAPMENT

Trial Judge Did Not Err in Not Instructing on Entrapment Defense in Trial of Soliciting Child By Computer Under G.S. 14-202.3

State v. Morse, ___ N.C. App. ___, 671 S.E.2d 538 (6 January 2009).

The defendant was convicted under G.S. 14-202.3 of soliciting a child by computer with intent to commit an unlawful sex act. The “child” was a law enforcement officer pretending to be a 14 year old in an adults-only Yahoo chat room. The court ruled that the trial judge did not err in not instructing on the entrapment defense. The defendant failed to meet his burden of production to justify a jury instruction. The court reviewed the evidence and concluded that officers merely provided the defendant with the opportunity to commit the offense and, when presented with that opportunity, the defendant pursued it with little hesitation.

Motor Vehicles–impaired driving–entrapment

State v. Redmon 164 NCA 658 (2004)

The failure to give a requested instruction on entrapment resulted in the reversal of a driving while impaired conviction where a defendant was found sleeping in a truck, there was evidence that he had been drinking but not driving and did not intend to drive, defendant had a conversation with an officer in which he may have been told to move along, and the officer arrested defendant as he drove away.

Criminal Law--entrapment--failure to instruct plain error

State v. Foster 162 NCA 665 (2004)

The trial court committed plain error in a trafficking in cocaine by possession and possession with intent to manufacture, sell, or deliver cocaine case by failing to instruct the jury on the defense of entrapment, because: (1) based on defendant's version of the controlled sale by the police, it was possible that defendant was tricked by law enforcement into buying a larger amount of cocaine than he intended; and (2) there was a reasonable possibility that given an entrapment instruction the jury, considering defendant's previous "user" purchase, the determination of the police to target someone for at least an ounce of cocaine, the immediate arrest following defendant's acceptance of the squeezed-up package, and the fact that the informant was never called to testify, would have come out in defendant's favor and only found him guilty of the lesser-included offense of simple possession. But see 359 NC 179 (2004) upheld but NO precedential value.

Criminal Law—entrapment—delaying stop

State v. Carmon 156 NCA 235 (2003)

Officers did not entrap defendant into trafficking in cocaine by transportation by delaying the stop until defendant's girlfriend began to drive him away from the scene. Defendant carried the cocaine around a parking lot, entered his girlfriend's car, and began to leave; there is no evidence that officers induced defendant to commit an offense he was in the process of committing.

Criminal Law--entrapment--selling drugs as favor without profit

State v. Thompson, 141 N.C. App. 698 (2001)

The trial court in a cocaine prosecution did not err by refusing to instruct on entrapment where defendant failed to introduce sufficient evidence of persuasion by either the informant or an officer to suggest that the criminal design originated with the law enforcement agents and not with defendant. Selling drugs as a favor and taking no profit does not entitle a defendant to an instruction on entrapment.

Criminal Law § 31 (NCI4th Rev.) - sale of marijuana - entrapment - jury question

State v. Davis, 126 N.C. App. 415 (1997)

In a prosecution of a high school student for selling marijuana to an undercover officer, the trial court did not err in submitting the issue of entrapment to the jury where the State presented ample evidence from which the jury could infer defendant's predisposition to sell marijuana, and where defendant's conflicting testimony may have been sufficient to raise the issue of inducement but fell short of compelling a conclusion of entrapment as a matter of law.