SUMMARY
January 26, 2022

2023COA7

No. 20CA0174, *People v. Randolph* — Crimes — Soliciting for Child Prostitution; Criminal Law — Mens Rea — Knowingly

A division of the court of appeals holds that the mens rea for the offense of soliciting for child prostitution under section 18-7-402(1)(a) and (b) is knowingly. In doing so, the division disagrees with a recent decision by a different division, *People v. Ross*, 2019 COA 79, *aff'd on other grounds*, 2021 CO 9, which had held that the phrase "for the purpose of" is the equivalent of intentionally. While an earlier division of the court of appeals, *People v. Emerterio*, 819 P.2d 516 (Colo. App. 1991), *rev'd on other grounds sub nom. People v. San Emerterio*, 839 P.2d 1161 (Colo. 1992), also held that the requisite mental state is knowingly, that decision did not analyze the meaning of "for the purpose of." Thus,

this decision is the first to reject the contention that "for the purpose of" is a specific intent element.

COLORADO COURT OF APPEALS **2023COA7**

Court of Appeals No. 20CA0174
Arapahoe County District Court No. 17CR3156
Honorable Ryan J. Stuart, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Deshawn Lynn Randolph,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division VI
Opinion by JUDGE TOW
Navarro and Schutz, JJ., concur

Announced January 26, 2023

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¶ 1 Defendant, Deshawn Lynn Randolph, appeals the judgment of conviction entered on jury verdicts finding him guilty of two counts of soliciting for child prostitution. We affirm.

I. Background

¶ 2 Officer Craig Tangeman, working in the child exploitation and human trafficking task force in the sheriff's office, created a profile of a girl named "Nicole" on a social networking platform called Tagged. The officer knew that Tagged is "commonly used to recruit girls into a life of prostitution." Officer Tangeman also testified that the website was readily accessible to juveniles.

¶ 3 Randolph messaged Nicole (who was actually Officer Tangeman) on Tagged. Nicole explained that she was looking for work. Randolph responded, "I got something for you. What kind of work can you do?" They then switched to text messaging.

¶ 4 Randolph texted Nicole, "You down to get naked?" He asserted, "I'm not no pimp. . . I'm not a sex offender. . . I'm just someone who knows how to get money." (Ellipses in original.) Nicole responded, "I assumed I [sic] wanted me to trap wit u for sex but eat [sic] u thinking." Randolph said, "I got money lined up for you right now." He again asked Nicole if she could get naked and

explained that an unidentified man wanted to pay her $100 to perform sex acts with her. Nicole then told Randolph that she would not turn eighteen until nine days later.

¶ 5 After finding out her age, Randolph texted Nicole, "We money partners" and continued to ask her on multiple days if she could get naked. He also told her that he was going to meet with the unidentified man at the end of Randolph's work day, that she would get paid $100 for performing sex acts with the man, and that he would bring the man to Nicole's apartment complex that evening for the "date."[1]

¶ 6 The police planned to arrest Randolph when he arrived at the address Nicole gave him as her apartment address. Although Randolph repeatedly assured Nicole that he was on the way, he did not arrive, and the police called off the arrest operation. On multiple occasions over the next few days, Randolph told Nicole that he was on the way to her apartment complex, and the police attempted two more times to arrest him but were unsuccessful.

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[1] Significantly, Nicole informed Randolph that she would turn eighteen on October 12. Despite that knowledge, Randolph told Nicole on October 4 that he had a date set up for her that evening.

Approximately one month later, the police arrested Randolph at his job.

¶ 7 Randolph was charged with two counts of soliciting for child prostitution under section 18-7-402, C.R.S. 2022: one count of soliciting another for the purpose of child prostitution under subsection (1)(a) of the statute, and one count of arranging or offering to arrange a meeting for the purpose of child prostitution under subsection (1)(b) of the statute. He was also charged with attempt to commit pimping.[2]

¶ 8 Prior to and during trial, the parties disagreed about what mental state applied for the two soliciting charges. Randolph argued that it was "intentionally" or "with intent," whereas the prosecution argued that it was "knowingly."[3] In a thorough and well-reasoned order, the district court concluded that the proper mental state was "knowingly" and instructed the jury accordingly. The jury convicted Randolph of both soliciting charges. However, it

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[2] The prosecutor dropped two additional charges before trial.

[3] In the interest of brevity, throughout the rest of this opinion, we refer to "intentionally" rather than to "'intentionally' or 'with intent,'" and we refer to "knowingly" rather than to "'knowingly' or 'willfully.'" *See* § 18-1-501(5)-(6), C.R.S. 2022.

hung on the attempted pimping charge, and the court declared a mistrial on that charge. The prosecution ultimately elected not to retry Randolph for attempted pimping, and the court sentenced Randolph on the two convictions to concurrent terms of nine years in the custody of the Department of Corrections.

¶ 9 On appeal, Randolph contends that the district court erred by instructing the jury that the mental state for both types of soliciting for child prostitution was "knowingly," which impermissibly lowered the state's burden of proof. He also contends that the prosecution presented insufficient evidence to support the soliciting for child prostitution convictions. Finally, he contends that the district court abused its discretion by admitting the expert testimony of Officer Tangeman and Investigator Daniel Steele. We address, and reject, each of these contentions.

II. Mental State for Soliciting for Child Prostitution

¶ 10 We disagree with Randolph that the culpable mental state for either type of soliciting for child prostitution of which he was accused is "intentionally." Rather, we agree with the district court and the People that the requisite mens rea is "knowingly."

A. Standard of Review and Principles of Statutory Interpretation

¶ 11 We review de novo whether the district court accurately instructed the jury on the governing law. *Garcia v. People*, 2022 CO 6, ¶ 16.

¶ 12 We also review de novo issues of statutory interpretation. *People v. Ross*, 2021 CO 9, ¶ 22 (*Ross II*). "In construing a statute, our primary goal is to ascertain and give effect to the legislature's intent." *Id.* at ¶ 23. "To do so, our first step is always to look to the language of the statute." *Id.* "We must give each word and phrase its plain and ordinary meaning." *Id.* "We also must consider the language used in the context of the statute as a whole, and we must give effect to the ordinary meaning of the language and read the provisions as a whole, construing each consistently and in harmony with the overall statutory design, if possible." *People v. Connors*, 230 P.3d 1265, 1267 (Colo. App. 2010). "Interpretations that will render words or phrases superfluous should be rejected." *Id.* "Likewise, we must avoid interpretations that produce illogical or absurd results." *Id.*

B. Legal Background

¶ 13 The General Assembly has defined four mental states in the criminal code: intentionally, knowingly, recklessly, and with criminal negligence. § 18-1-501(3),(5),(6),(8), C.R.S. 2022. Offenses with the mental state of "intentionally" are specific intent crimes; offenses with the mental state of "knowingly" are general intent crimes. § 18-1-501(5)-(6). Ordinarily, when the commission of an offense, or some element of an offense, requires a particular mental state, it is designated by use of one of the four mental states. § 18-1-503(1), C.R.S. 2022.[4] But even when "no culpable mental state is expressly designated in a statute defining an offense, a culpable mental state may nevertheless be required for the commission of that offense . . . if the proscribed conduct necessarily involves such a culpable mental state." § 18-1-503(2).

¶ 14 A person acts "intentionally" "when his conscious objective is to cause the specific result proscribed by the statute defining the

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[4] This statutory provision also provides that a criminal statute might include the terms "with intent to defraud" or "knowing it to be false." § 18-1-503(1), C.R.S. 2022. However, these terms do not describe additional mental states but, rather, "a specific kind of intent or knowledge." *Id.*

offense. It is immaterial to the issue of specific intent whether or not the result actually occurred." § 18-1-501(5). A person acts "knowingly" "with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of such nature or that such circumstance exists." § 18-1-501(6). A person acts "knowingly" "with respect to a result of his conduct, when he is aware that his conduct is practically certain to cause the result." *Id.*

¶ 15 Section 18-7-402(1) provides,

> A person commits soliciting for child prostitution if he: (a) Solicits another for the purpose of prostitution of a child or by a child; (b) Arranges or offers to arrange a meeting of persons for the purpose of prostitution of a child or by a child; or (c) Directs another to a place knowing such direction is for the purpose of prostitution of a child or by a child.

¶ 16 A division of this court has held that the culpable mental state for the crime of soliciting for child prostitution under subsection (1)(a) of the statute is "knowingly." *People v. Emerterio*, 819 P.2d 516, 518-19 (Colo. App. 1991), *rev'd on other grounds sub nom. People v. San Emerterio*, 839 P.2d 1161 (Colo. 1992). The division observed that "[t]he gist of the crime of solicitation is that the

defendant is aware of what he is doing." *Id.* So "knowingly," and not "intentionally," was the proper culpable mental state. *Id.* The division therefore concluded that the court did not err when it "instructed the jury that the requisite mens rea was that of 'knowingly.'" *Id.*

¶ 17 However, in *People v. Ross*, another division of this court disagreed, concluding that "for the purpose of" in both subsections (1)(a) and (1)(b) of the statute is the equivalent of "intentionally" and that soliciting for child prostitution is a specific intent crime. 2019 COA 79, ¶¶ 30, 46 (*Ross I*), *aff'd on other grounds*, 2021 CO 9, ¶ 30.[5] The division in *Ross I* arrived at this equivalency by looking to dictionary definitions for the words "purpose" and "purposely," the Model Penal Code's use of "purposely" as the highest level of criminal culpability, the supreme court's use of "purpose" to mean "intent" in other contexts, and the fact that courts in other jurisdictions view "intentionally" and "purposely" as synonymous. *Id.* at ¶¶ 31-38.

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[5] We note that *Ross I* had not yet been announced when the district court issued its order finding that the mental state for soliciting for child prostitution was "knowingly."

¶ 18 The division in *Ross I* also noted that since *Emerterio* had been decided, the relevant model jury instruction, CJI-Crim. 24:03 (1983), which previously stated that the culpable mental state was "knowingly," had been amended to omit that term. The division also noted that the comment to the model jury instruction now sets forth the view of the Criminal Jury Instructions Committee (Committee) "that section 18-7-402(1)(a) describes a culpable mental state by requiring that the solicitation be for the purpose of child prostitution" and that the model jury instruction "does *not* supplement the statutory language by imputing the [mens rea] of 'knowingly.'" *Id.* at ¶¶ 28-29 (quoting COLJI-Crim. 7-4:01 cmt. 3 (2018)) (emphasis added in *Ross I*).

¶ 19 Finally, the division in *Ross I* distinguished *People v. Vigil*, 127 P.3d 916 (Colo. 2006) — in which the supreme court held that "knowingly" was the mental state for sexual assault on a child under section 18-3-405(1), C.R.S. 2022 — because, unlike the sexual assault on a child statute, the soliciting for child prostitution statute does not contain the words "knowing" or "knowingly." *Id.* at ¶¶ 39-43. Thus, the division in *Ross I* concluded that "for the purpose of" functions as the culpable mental state for soliciting for

child prostitution and that the mental state is not "knowingly." *Id.* at ¶ 43.

¶ 20 On certiorari review, the supreme court did not resolve the division split, instead declining to opine on "the soundness of [*Ross I*'s] conclusion that the phrase 'for the purpose of' in subsections (a) and (b) describes the culpable mental state of with intent." *See Ross II*, ¶ 6 n.2. But the supreme court held that soliciting for child prostitution requires a culpable mental state and that this mental state — regardless of whether it is "intentionally" or "knowingly" — applies to all the elements of the crime, "including that the purpose of the defendant's conduct was the prostitution of or by a child." *Id.* at ¶ 4.

C. Analysis

¶ 21 Although the General Assembly did not explicitly prescribe a particular mental state for the offenses of soliciting for child prostitution and soliciting for child prostitution (arranging), its silence is not to be construed as an indication that no culpable mental state is required. Rather, we infer the mental state from the statute. In doing so, we disagree with the division in *Ross I* and

agree with the division in *Emerterio* that the requisite mental state for the offenses is "knowingly."

¶ 22 We disagree with the *Ross I* division for several reasons. First, the division placed significant weight on the Committee's "view that section 18-7-402(1)(a) describes a culpable mental state by requiring that the solicitation be for the purpose of child prostitution." *Ross I*, ¶ 29 (quoting COLJI-Crim. 7-4:01 cmt. 3 (2018)). While model jury instructions may be used as guidelines, they are not binding. *People v. Ramos*, 2017 COA 100, ¶ 20; *see also Krueger v. Ary*, 209 P.3d 1150, 1154 (Colo. 2009) ("[T]he pattern instructions are not law, not authoritative, and not binding on this court."). Particularly where, as here, the commentary is not supported by any authority, we cannot disregard the fact that the model jury instructions and the accompanying commentary are forged neither in the furnace of the legislative process nor the crucible of the adversarial judicial arena in which opposing sides fully brief the issues for the decisionmakers. We mean no disrespect to the Committee, but it does not have the authority to designate elements of an offense that the General Assembly did not.

¶ 23 We also disagree with the *Ross I* division's (and Randolph's) resort to dictionary definitions. Unlike common words and phrases, for which dictionaries may be useful, "[w]ords and phrases that have acquired a technical or particular meaning . . . by legislative definition . . . shall be construed accordingly." § 2-4-101, C.R.S. 2022. The General Assembly has explicitly identified and defined the four possible mental states. It is not for us to supplement that list.

¶ 24 Similarly, the *Ross I* division looked to the Model Penal Code, noting that the highest level of criminal culpability it identifies is "purposely." *Ross I*, ¶ 32. But the General Assembly did not adopt this term or its definition — which, contrary to the *Ross I* division's characterization, is not "comparable to Colorado's definition of 'intentionally.'" *See id.* at ¶ 34. Under the Model Penal Code,

> A person acts purposely with respect to a material element of an offense when: (i) if the element involves the nature of his conduct or a result thereof, it is his conscious object to engage in conduct of that nature or to cause such a result; and (ii) if the element involves the attendant circumstances, he is aware of the existence of such circumstances or he believes or hopes that they exist.

Model Penal Code § 2.02(2)(a) (Am. L. Inst., Official Draft and Revised Comments 1985). In other words, the Model Penal Code defines "purposely" in terms of both the result of the offense and the attendant circumstances.

¶ 25 Recall, however, that the General Assembly elected to define "intentionally" only in terms of the result: a person acts intentionally when their "conscious objective is to cause the specific result proscribed by the statute." § 18-1-501(5). No aspect of the statutory definition of "intentionally" addresses the attendant circumstances. And throughout the criminal code, when the General Assembly uses the mental state "intentionally," it is followed by a verb — i.e., an action. The criminal act is intentionally *doing* something or intentionally *accomplishing a result*.

¶ 26 But, as the People point out, arranging a meeting "for the purpose of child prostitution" is not a result. The meeting itself is the result, but the *purpose* of that meeting is an attendant circumstance.

¶ 27 And this is the fatal flaw in treating "for the purpose of" as the equivalent of "intentionally": it effectively grafts the second half of

the Model Penal Code's definition of "purposefully" onto the "for the purpose of" language enacted by the General Assembly. But, again, "intentionally" is only defined as to result. § 18-1-501(5). And as the supreme court has observed, whether the result — child prostitution — actually occurs is irrelevant: "The focus of the crime of soliciting for child prostitution is the solicitation" and "the purpose behind such conduct." *Ross II*, ¶ 32 (citing *Emerterio*, 819 P.2d at 518).

¶ 28 Furthermore, treating "for the purpose of" as the functional equivalent of "intentionally" creates illogical results when the statute is read as a whole. Under subsection (1)(c) of the statute, a person commits the offense by "[d]irect[ing] another to a place *knowing* such direction is *for the purpose of* prostitution of a child or by a child." § 18-7-402(1)(c) (emphasis added). If the *Ross I* division's interpretation were correct, this section would require proof that the defendant knew that his intent was for child prostitution to occur. This is an illogical conflation of two mental states.

¶ 29 Thus, at least in subsection (1)(c), "for the purpose of" cannot mean "intentionally." Yet, "[i]n construing a statute, courts do 'not

lightly assume that [the legislature] silently attaches different meanings to the same term in the same . . . statute.'" *U.S. Forest Serv. v. Cowpasture River Pres. Ass'n*, 590 U.S. ___, 140 S. Ct. 1837, 1845 (2020) (quoting *Azar v. Allina Health Servs.*, 587 U.S. ___, ___, 139 S. Ct. 1804, 1812 (2019)). It naturally follows, then, that the phrase "for the purpose of" does not mean "intentionally" in the other subsections of the same statute either.

¶ 30 Finally, in the absence of a clear reason to infer a more stringent mental state, a mental state of "knowingly" has generally been inferred to apply to otherwise silent statutes. *See, e.g.*, *Gorman v. People*, 19 P.3d 662, 666 (Colo. 2000) ("Construing other statutes, we have held that the mens rea of knowingly applies to the act enunciated in the statute defining the offense when the statute does not specify a culpable mental state."); *People v. Moore*, 674 P.2d 354, 358 (Colo. 1984) (concluding that "knowingly" is implied in counterfeit controlled substances statute); *People v. Lawrence*, 55 P.3d 155, 163 (Colo. App. 2001) (implying mental state of "knowingly" in part based on absence of any tie to specific intent, recklessness, or negligence), *abrogated on other grounds by Crawford v. Washington*, 541 U.S. 36 (2004).

¶ 31 Thus, we conclude that the mental state for the crimes of soliciting for child prostitution and soliciting for child prostitution (arranging) is "knowingly." The district court did not err by instructing the jury accordingly.[6]

III. Sufficiency of the Evidence

¶ 32 We next disagree with Randolph's contention that the prosecution presented insufficient evidence to support the soliciting for child prostitution convictions.

A. Standard of Review

¶ 33 "[W]e review the record de novo to determine whether the evidence before the jury was sufficient both in quantity and quality to sustain the convictions." *Dempsey v. People*, 117 P.3d 800, 807 (Colo. 2005). We view the evidence as a whole and in the light most favorable to the prosecution to determine whether the evidence was "sufficient to support the conclusion by a reasonable mind that the defendant was guilty beyond a reasonable doubt." *People v. Griego*,

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[6] Relatedly, the district court did not err by declining to instruct the jury that the definition of "for the purpose of" was "conduct performed with an anticipated result that is intended or desired" because that definition does not comport with a knowing mental state.

2018 CO 5, ¶ 24. In doing so, we give the prosecution "the benefit of every reasonable inference which might be fairly drawn from the evidence." *People v. Perez*, 2016 CO 12, ¶ 25 (quoting *People v. Gonzales*, 666 P.2d 123, 128 (Colo. 1983)). It is the role of the jury to weigh the credibility of witnesses and to resolve conflicting testimony. *People v. Poe*, 2012 COA 166, ¶ 14. We may not substitute our judgment for that of the jury or reweigh conflicting evidence or the credibility of witnesses. *Id.*

B. Analysis

¶ 34 Randolph contends that there was insufficient evidence to show that he solicited Nicole for the purpose of child prostitution. Rather, Randolph contends that the evidence showed, at best, that he wanted to have sex with Nicole and, at worst, that he solicited her for adult prostitution. We disagree.

¶ 35 The following evidence was presented at trial:

- Nicole told Randolph that she was seventeen and that she would turn eighteen on October 12.
- After learning this information, Randolph continued to arrange a "date" for her on October 4 with an

unidentified man whom he was meeting at his "last stop" at work.

- Randolph explained to Nicole that the date involved performing sex acts with this man and that she would get paid $100.
- Randolph also asked Nicole multiple times if she could "get naked" and told her that they were "money partners" and that "he was dead serious."
- Randolph also repeatedly asked to have sex with Nicole.

¶ 36 All of these exchanges occurred before the date Nicole had told Randolph would be her eighteenth birthday. Thus, there is evidence in the record from which a reasonable jury could find that Randolph solicited Nicole for the purpose of child prostitution and arranged or offered to arrange a meeting for the purpose of child prostitution.

¶ 37 Further, it is immaterial if Randolph never actually went to Nicole's apartment complex until after the day he had been told she would turn eighteen. As noted, in *Ross II*, the supreme court held that criminal results have nothing to do with the prohibited soliciting: "[T]he ultimate sexual act . . . may or may not occur and,

if it occurs, may or may not involve a child." *Ross II*, ¶ 32. Instead, "[t]he crime is completed the moment the defendant solicits another." *Id.*

¶ 38 Accordingly, the prosecution presented sufficient evidence to establish the elements of both counts of soliciting for child prostitution.

IV. Expert Testimony

¶ 39 We next turn to Randolph's contention that the district court reversibly erred by admitting the expert testimony of Officer Tangeman and Investigator Steele. Specifically, he contends that (1) both experts testified to an improper pimping profile; (2) the district court erred by failing to make specific findings pursuant to *Shreck*;[7] (3) Investigator Steele's testimony was cumulative of Officer Tangeman's; and (4) Officer Tangeman testified to the ultimate issue, usurping the jury's role as factfinder. Even assuming,

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[7] In *People v. Shreck*, 22 P.3d 68, 70 (Colo. 2001), the supreme court held that a determination of whether to admit expert testimony requires a trial court to make findings on "(1) the reliability of the scientific principles, (2) the qualifications of the witness, and (3) the usefulness of the testimony to the jury."

without deciding, that Randolph preserved his contentions and that the district court erred, any error was harmless.

A. Standard of Review

¶ 40 We review a district court's decision to admit expert testimony for an abuse of discretion. *Gonzales v. Windlan*, 2014 COA 176, ¶ 20. A court "abuses its discretion only if its ruling is manifestly arbitrary, unreasonable, or unfair." *Id.* "This deference reflects the superior opportunity of the trial judge to gauge both the competence of the expert and the extent to which his opinion would be helpful to the jury." *People v. Ramirez*, 155 P.3d 371, 380 (Colo. 2007).

¶ 41 "[W]e review nonconstitutional trial errors that were preserved by objection for harmless error." *Hagos v. People*, 2012 CO 63, ¶ 12. "[W]e reverse if the error 'substantially influenced the verdict or affected the fairness of the trial proceedings.'" *Id.* (quoting *Tevlin v. People*, 715 P.2d 338, 342 (Colo. 1986)).

B. Additional Background

¶ 42 Investigator Steele was offered as an expert witness in domestic sex trafficking, pimping, and prostitution-related investigations. At trial, Investigator Steele testified about

terminology and behavior commonly used in sex trafficking, how pimps dress, and that some have day jobs. Officer Tangeman was offered as an expert in human trafficking and commercial sex investigations. At trial, Officer Tangeman testified about the use of the Tagged platform to recruit others for the purpose of sexual exploitation, common terminology and behavior used by sex traffickers, and interpretation of phrases Randolph used when messaging and texting Nicole.

C. Analysis

¶ 43 To the extent Randolph objects to the "pimping profile" testimony by Officer Tangeman and Investigator Steele because (1) it was improper, (2) the district court did not make specific *Shreck* findings; and (3) Investigator Steele's testimony was cumulative of Officer Tangeman's, we conclude that any error is harmless because Randolph was not convicted of pimping. *Cf. Kreiser v. People*, 199 Colo. 20, 24, 604 P.2d 27, 30 (1979) (court's error in excluding evidence was harmless because the defendant was acquitted of the charges related to that evidence). And Officer Tangeman and Investigator Steele's expert testimony — for example, that Tagged is a website where girls get lured into a life of

prostitution — was only relevant to the pimping charge, not the soliciting charges.

¶ 44 To the extent Randolph argues that Officer Tangeman's testimony that Randolph "did not take the out and continued to message with me and solicit me" was expert testimony relevant to the soliciting charges, we disagree. This was not expert opinion testimony. *See Venalonzo v. People*, 2017 CO 9, ¶ 2 ("If . . . the witness provides testimony that could not be offered without specialized experiences, knowledge, or training, then the witness is offering expert testimony."); CRE 702. Rather, it was simply testimony about the fact that Randolph continued to communicate with "Nicole" — i.e., describing Randolph's behavior. *See Venalonzo*, ¶ 2 ("If the witness provides testimony that could be expected to be based on an ordinary person's experiences or knowledge, then the witness is offering lay testimony."); CRE 701.

¶ 45 And while Officer Tangeman used the word "solicit," he did so in a colloquial manner to describe Randolph's behavior. Thus, we also disagree with Randolph's contention that this testimony usurped the jury's role as factfinder. Moreover, lay witness testimony is not objectionable simply because it embraces the

ultimate issue. CRE 704; *see also People v. Acosta*, 2014 COA 82, ¶¶ 32, 50 (noting that lay opinion testimony "concerning various other aspects of [the defendant's] behavior, demeanor, state of mind, motivation, intent, and physical characteristics" has been properly admitted).

¶ 46 Thus, the district court did not reversibly err by admitting the testimony of Officer Tangeman and Investigator Steele.

V. Disposition

¶ 47 The judgment of conviction is affirmed.

JUDGE NAVARRO and JUDGE SCHUTZ concur.