

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, FIRST DEPARTMENT

People v. Sheard

2026 NY Slip Op 02343 (Appellate Division of the Supreme Court of the State of New York First Department 2026) · No. Ind No. 70158/22; Appeal No. 6390; Case No. 2025-04560 · Decided April 16, 2026

SUMMARY

The Appellate Division, First Department reversed a Bronx County Supreme Court order that vacated guilty verdicts for attempted sex trafficking of a child and attempted promoting prostitution in the second degree. The court held that the evidence was legally sufficient and that the defendant's conduct came dangerously close to completing the intended offenses, reinstating the verdicts and remitting for resentencing.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Moulton, J.P.; Scarpulla, J.; Shulman, J.; Rodriguez, J.; Michael, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	April 16, 2026
DOCKET	Ind No. 70158/22; Appeal No. 6390; Case No. 2025-04560
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The People appealed from an order of Supreme Court, Bronx County, that granted reargument but adhered to its prior order vacating the guilty verdicts on attempted sex trafficking of a child and attempted promoting prostitution in the second degree.
STANDARD OF REVIEW	For legal sufficiency, the evidence is viewed in the light most favorable to the prosecution to determine whether any rational trier of fact could have found the essential elements beyond a reasonable doubt. The court also considered whether the verdict was against the weight of the evidence.
PRECEDENTIAL VALUE	published
PARTIES	The People of the State of New York v. David Sheard

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QUESTIONS PRESENTED

1. Whether the evidence was legally sufficient to support convictions for attempted sex trafficking of a child and attempted promoting prostitution in the second degree.
2. Whether the evidence demonstrated that defendant came dangerously close to completing those attempted offenses.
3. Whether the verdicts on those counts were against the weight of the evidence.

HOLDINGS

1. The evidence was legally sufficient to support the jury's verdicts on both attempted offenses, and Supreme Court improperly vacated those guilty verdicts.
2. The evidence established that defendant came dangerously close to committing both attempted sex trafficking of a child and attempted promoting prostitution in the second degree.
3. The jury's verdicts were not against the weight of the evidence.

KEY QUOTATIONS

"Evidence is legally sufficient if, "after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found essential elements of the crime beyond a reasonable doubt"" ([*1])

"To be guilty of an attempt to commit a crime, "a person's conduct" must come "dangerously close to committing the intended crime"" ([*2])

"carr[ied] the project forward within dangerous proximity to the criminal end to be attained" ([*2])

FACTUAL BACKGROUND

Defendant, age 34, operated a sex-worker business using A.J., age 16, as a sex worker. After an undercover police operation rescued A.J., defendant sent communications that included screenshots of sex buyers requesting "Candy" and repeatedly asked A.J. to return. The jury found that defendant's conduct was intended to reinstate his exploitation of A.J. as a child sex worker.

PROCEDURAL HISTORY

A jury convicted defendant of several offenses, including attempted sex trafficking of a child and attempted promoting prostitution in the second degree. Supreme Court orally granted defendant's motion for a trial order of dismissal on those two counts. After granting the People's motion to reargue, Supreme Court adhered to its original dismissal order. The Appellate Division reversed, denied defendant's motion in its entirety, reinstated the verdicts, and remitted for resentencing.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reinstate the verdicts convicting defendant of attempted sex trafficking of a child and attempted promoting prostitution in the second degree, deny defendant's motion in its entirety, and remit the matter for resentencing.

CASES CITED

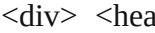
- People v. Schulz, 4 N.Y.3d 521, 529 (2005)
- People v. Danielson, 9 N.Y.3d 342, 348-349 (2007)
- People v. Lendorf-Gonzalez, 36 N.Y.3d 87, 89, 93 (2020)
- People v. Headley, 204 A.D.3d 417, 418 (1st Dep't 2022), lv. denied, 38 N.Y.3d 1071 (2022)

OPINION

PER CURIAM.

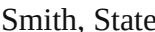
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April 16, 2026

Appellate Division, First Department

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This decision is uncorrected and subject to revision before publication in the Official Reports.

The People of the State of New York, Appellant,

v

David Sheard, Defendant-Respondent.

Decided and Entered: April 16, 2026

Ind No. 70158/22|Appeal No. 6390|Case No. 2025-04560

Before: Moulton, J.P., Scarpulla, Shulman, Rodriguez, Michael, JJ.

Darcel D. Clark, District Attorney, Bronx (Paul A. Andersen of counsel), for appellant.

Caprice R. Jenerson, Office of The Appellate Defender, New York (Rachel Lindy of counsel), for respondent.

[*1]

Oral decision and order, Supreme Court, Bronx County (Jeanette Rodriguez-Morick, J.), dated July 31, 2024, which granted the People's motion to reargue but adhered to the court's order, dated June 17, 2024, vacating the guilty verdicts on the counts of attempted sex trafficking of a child, and attempted promoting prostitution in the second degree,

unanimously reversed, on the law, defendant's motion denied in its entirety, the verdict convicting defendant on the counts of attempted sex trafficking of a child and attempted promoting prostitution in the second degree reinstated, and the matter remitted for resentencing.

This case stems from the 34-year-old defendant's operation of a sex worker business using 16-year-old A.J., known as "Candy," as a sex worker.

After an undercover police operation's "rescue" of A.J. from the business, defendant engaged in conduct which the jury found intended to reinitiate his exploitation of A.J. as a child sex worker. Evidence presented during the jury trial reflected extensive electronic communications between A.J. and defendant. Defendant's post-rescue communications to A.J. included screenshots of text exchanges with sex buyers requesting "Candy," as well as repeated requests that A.J. come back to him.

The jury convicted defendant of promoting prostitution in the second degree, endangering the welfare of a child, attempted sex trafficking of a child, attempted promoting prostitution in the second degree, and attempted endangering the welfare of a child.

Subsequently, the Supreme Court orally granted defendant's motion for a trial order of dismissal as to the counts of attempted sex trafficking of a child and attempted promoting prostitution in the second degree on the record.

The People then moved to reargue that decision. Supreme Court granted the reargument motion but adhered to its original trial order of dismissal.

The Supreme Court improperly vacated the guilty verdicts on the counts of attempted sex trafficking of a child and attempted promoting prostitution in the second degree.^{FN1} Evidence is legally sufficient if, "after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found essential elements of the crime beyond a reasonable doubt" (*People v Schulz*, 4 NY3d 521, 529 [2005] [internal quotation marks omitted]).

Here, the evidence was legally sufficient to demonstrate that defendant's pre-rescue association with A.J. was for the purpose of making money from her participation in sex work and his post-rescue communications were aimed at restoring the same relationship that previously existed.

Thus, the jury's verdict was not against the weight of the evidence (*see People v Danielson*, 9 NY3d 342, 348-349 [2007]).

Defendant's argument that the evidence did not show that he came dangerously close to committing either attempted sex trafficking of a child or attempted promoting prostitution in the second degree misapprehends the elements of these crimes.

To be guilty of an attempt to commit a crime, "a person's conduct" must come "dangerously close to committing the intended crime" (*People v Lendof-Gonzalez*, 36 NY3d 87, 89 [2020] [internal quotation marks omitted]; *see also People v Headley*, 204 AD3d 417, 418 [1st Dept 2022], *lv denied* 38 NY3d 1071 [2022]).

In this case, the requirement was satisfied because the evidence shows that defendant "carr[ied] the project forward within dangerous proximity to the criminal end to be attained" (*People v Lendorf-Gonzalez*, 36 NY3d at 93 [internal quotation marks and citation omitted]).

We have considered defendant's remaining contentions and find them unavailing.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: April 16, 2026

Footnotes

- Footnote 1: A person commits sex trafficking of a child when he or she is twenty-one years old or older and "intentionally advances or profits from prostitution of another person and such person is a child less than eighteen years old" (Penal Law § 230.34-a[1]).

As relevant here, a person commits second-degree promoting prostitution when "he or she knowingly... [a]dvances or profits from prostitution of a person less than eighteen years old" (Penal Law § 230.30[2]).

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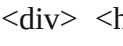
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PER CURIAM.

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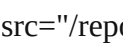
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