

COURT OF APPEALS OF GEORGIA

Calandra v. The State

A25A1504 (Ga. Ct. App. Jan. 5, 2026) · No. A25A1504 · Decided January 5, 2026

SUMMARY

The Georgia Court of Appeals affirmed Donald J. Calandra’s convictions for enticing a child for indecent purposes and criminal attempt to commit child molestation. The court held that the evidence was sufficient to establish asportation, intent, and a substantial step toward child molestation, rejected Calandra’s rule-of-lenity argument, and upheld the admission of prior-acts evidence under Georgia evidence law.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                              |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Court of Appeals of Georgia                                                                                                                                                                                                                                                                                                                                  |
| WRITING FOR THE COURT | Dillard, Presiding Judge; Mercier, Judge; C. Andrew Fuller, Senior Judge                                                                                                                                                                                                                                                                                     |
| JURISDICTION          | Court of Appeals of Georgia                                                                                                                                                                                                                                                                                                                                  |
| DECIDED               | January 5, 2026                                                                                                                                                                                                                                                                                                                                              |
| DOCKET                | A25A1504                                                                                                                                                                                                                                                                                                                                                     |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                     |
| PROCEDURAL POSTURE    | Following a jury trial and convictions for enticing a child for indecent purposes and criminal attempt to commit felony child molestation, Calandra appealed the sufficiency of the evidence, admission of prior-acts evidence, and sentencing implications of the rule of lenity.                                                                           |
| STANDARD OF REVIEW    | The evidence is viewed in the light most favorable to the verdict, and the appellate court determines whether a rational trier of fact could have found the essential elements beyond a reasonable doubt without weighing the evidence or determining witness credibility. The admission of other-crimes evidence is reviewed for clear abuse of discretion. |
| PRECEDENTIAL VALUE    | Published opinion                                                                                                                                                                                                                                                                                                                                            |
| PARTIES               | Donald J. Calandra v. The State                                                                                                                                                                                                                                                                                                                              |

TOPICS

criminal procedure

evidence

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rule of lenity

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## PRACTICE AREAS

criminal law

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## QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Calandra's conviction for enticing a child for indecent purposes, including the statutory asportation and intent elements.
2. Whether the evidence was sufficient to support Calandra's conviction for criminal attempt to commit felony child molestation, including the substantial-step and immoral-or-indecent-act elements.
3. Whether the rule of lenity required resentencing for attempted sexual battery rather than attempted child molestation.
4. Whether the trial court abused its discretion by admitting evidence of Calandra's prior criminal acts under OCGA §§ 24-4-404(b) and 24-4-414.

## HOLDINGS

1. The evidence was sufficient to support the conviction because Calandra's request that the child return to the bathroom sink constituted sufficient asportation, and the surrounding conduct supported an inference that Calandra intended to commit an indecent act.
2. The evidence was sufficient to support the conviction for attempted child molestation because grabbing the child and asking him for a kiss could constitute a substantial step toward an immoral or indecent act, and whether the act was immoral or indecent was a jury question informed by the intent behind the act.
3. The rule of lenity did not require resentencing because the statutes defining child molestation and sexual battery do not conflict or create an ambiguity as to which penal provision applies.
4. The trial court did not abuse its discretion by admitting the evidence of Calandra's prior acts involving Mangan under Rule 404(b) because the evidence was relevant to intent, sufficiently similar in its relevant features, not substantially outweighed by unfair prejudice, and supported by sufficient proof.

## KEY QUOTATIONS

*“we do not “weigh the evidence or determine witness credibility, but only determine whether a rational trier of fact could have found the defendant guilty of the charged offenses beyond a reasonable doubt.”” (6)*

*“any asportation—no matter how slight—is “sufficient to show the taking element of enticing a child for indecent purposes.”” (7)*

*“the evidence must be relevant to an issue other than defendant’s character; (2) the probative value must not be substantially outweighed by its undue prejudice; [and] (3) the government must offer sufficient proof so that the jury could find that defendant committed the act.” (15)*

## FACTUAL BACKGROUND

A nine-year-old boy encountered Calandra, a department-store maintenance employee, in a men's restroom. After asking whether the child would wash his hands, Calandra asked for a hug, grabbed the child by the shoulder, and asked for a kiss; the child fled and identified Calandra. The State also introduced evidence of two prior incidents involving young males, including a 1992 felonious-assault incident in which Calandra lured a six-year-old child to a basement and became physically aggressive. The jury convicted Calandra of enticing a child for indecent purposes and attempted child molestation.

## PROCEDURAL HISTORY

The State indicted Calandra on one count of enticing a child for indecent purposes and one count of criminal attempt to commit felony child molestation. The trial court denied Calandra's motion for directed verdict, admitted prior-acts evidence over his objection, and the jury convicted him on both counts. The trial court denied his motion for new trial, and the Court of Appeals affirmed the convictions and denial of the motion for new trial.

## DISPOSITION

affirmed

## CASES CITED

- Libri v. State, 346 Ga. App. 420, 421 (816 SE2d 417) (2018)
- English v. State, 301 Ga. App. 842, 842 (689 SE2d 130) (2010)
- Jones v. State, 318 Ga. App. 26, 29(1) (733 SE2d 72) (2012)
- Jackson v. Virginia, 443 U.S. 307, 319(III)(B) (99 SCt 2781, 61 LE2d 560) (1979)
- Miller v. State, 273 Ga. 831, 832 (546 SE2d 524) (2001)
- Reid v. State, 361 Ga. App. 617, 620-21(1) (865 SE2d 245) (2021)
- Whorton v. State, 318 Ga. App. 885, 887(1)(a) (735 SE2d 7) (2012)
- Poole v. State, 312 Ga. 515, 518-19 (863 SE2d 93) (2021)
- State v. Green, 321 Ga. 204, 213(2)(b) (913 SE2d 621) (2025)
- Bryan v. State, 371 Ga. App. 769, 775-76(1)(b) (903 SE2d 160) (2024)
- Thomas v. State, 324 Ga. App. 26, 27-28 (748 SE2d 509) (2013)
- Gonzalez v. State, 359 Ga. App. 147, 150(1)(b) (857 SE2d 88) (2021)
- Pavlov v. State, 362 Ga. App. 831, 832-33(1)(a) (870 SE2d 449) (2022)
- Slack v. State, 265 Ga. App. 306, 307(1) (593 SE2d 664) (2004)
- United States v. Lanier, 520 U.S. 259, 266(II) (117 SCt 1219, 137 LE2d 432) (1997)
- McNair v. State, 293 Ga. 282, 283 (745 SE2d 646) (2013)
- Gordon v. State, 334 Ga. App. 633, 634 (780 SE2d 376) (2015)
- State v. Nankervis, 295 Ga. 406, 409(2) (761 SE2d 1) (2014)
- Woods v. State, 279 Ga. 28, 31(3) (608 SE2d 631) (2005)
- In the Interest of P. T., 353 Ga. App. 511, 515(1)(b) (838 SE2d 596) (2020)

- Koroma v. State, 350 Ga. App. 530, 532-33(2) (827 SE2d 903) (2019)
- Parfenuk v. State, 338 Ga. App. 95, 100-01(3) (789 SE2d 332) (2016)
- Bradshaw v. State, 296 Ga. 650, 656(3), 658(3) (769 SE2d 892) (2015)
- Morris v. State, 340 Ga. App. 295, 306(4) (797 SE2d 207) (2017)
- Olds v. State, 299 Ga. 65, 69(2) (786 SE2d 633) (2016)
- State v. Jones, 297 Ga. 156, 158(1) (773 SE2d 170) (2015)
- Curry v. State, 330 Ga. App. 610, 615-16(1) (768 SE2d 791) (2015)
- Cross v. State, 354 Ga. App. 355, 363(2)(b) (839 SE2d 265) (2020)
- Jernigan v. State, 357 Ga. App. 415, 420-21(2) (848 SE2d 707) (2020)
- Ramirez-Ortiz v. State, 361 Ga. App. 577, 588-89(4)(b)(ii) (865 SE2d 206) (2021)

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