

**FILED**  
**IN THE CIRCUIT COURT FOR THE SECOND JUDICIAL CIRCUIT**  
**OF THE STATE OF FLORIDA IN AND FOR LEON COUNTY**

13 OCT 30 PM 4:55

**STATE OF FLORIDA**

**CASE NO: 2011 CF 3412 A1**

v.

2-03  
BOB INZER  
CLERK, CIRCUIT COURT  
LEON COUNTY, FLORIDA

ORW

**Phillip Kessler**  
**DEFENDANT.**

**SPN: 221350**

CL

NY

**DEMAND FOR STATEMENT OF PARTICULARS**

COMES NOW the Defendant, Phillip Kessler, by and through the undersigned attorney and moves this Court to order the State to provide the Defendant with a Statement of Particulars pursuant to Florida Rule of Criminal Procedure 3.140 and in support states:

1. That on November 1, 2011 Mr. Kessler was arrested for allegedly using a computer to seduce a child.
2. On January 31<sup>st</sup>, 2012, Mr. Kessler issued a Demand for a Statement of Particulars to the State. The Defense has not received a statement of particulars from the prosecution.
3. The Office of the State Attorney filed a four-count information against Mr. Kessler charging him with unlawful use of computer services pursuant to Florida Statute 847.0135(3)(a).
4. The information fails to inform Mr. Kessler of the particulars of the offenses sufficiently to enable the Defendant to prepare a defense.
5. Specifically, the information in this case vaguely alleges that the defendant enticed a person he believed to be a child to commit "any illegal act described in Chapter 794, Chapter 800, or Chapter 827, Florid Statutes, or to otherwise engage in any unlawful sexual conduct..." Each of the three chapters specifically listed in the information

contain multiple criminal offenses, while the ultra-vague "or to otherwise engage in any unlawful sexual conduct" could be used to accuse the defendant of literally any sex offense contained in the Florida Statutes. Because the defendant did not travel, and because many of the offenses laid out in the mentioned chapters of the statutes would require the presence of the defendant in order of the offense to be carried out, the defendant needs to know exactly what offense or offenses the State is alleging he enticed the person who he believed to be a child to commit. Without a statement of which offenses the defendant allegedly enticed the undercover officer to engage in, he cannot form a proper defense.

6. The information also fails to apprise the defendant of exactly which specific statements of the defendant were aimed at enticing the undercover officer to engage in the particular sexual offense or offenses. There were more than 90 communications between the defendant and the undercover investigator. Without a specific statement identifying the precise words of the defendant the State believes were intended to entice the undercover officer to engage in a particular sexual act, the defendant cannot form a proper defense.
7. Finally, in order to properly prepare a defense, the defendant needs the State to specifically allege which statements of the defendant were intended to entice the undercover officer to commit exactly which crimes. In other words, the state must tie specific statements of the defendant to specific criminal offenses in order for the defendant to be able to properly prepare a defense.

**WHEREFORE** the Defendant moves this Honorable Court to order the State to