

No. 1-14-2576

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,) Appeal from the
) Circuit Court of
 Plaintiff-Appellee,) Cook County
)
 v.) No. 13 CR 8691
)
 KENNETH BAKER,) Honorable
) Stanley J. Sacks,
 Defendant-Appellant.) Judge Presiding.

JUSTICE BURKE delivered the judgment of the court.
Presiding Justice Ellis and Justice McBride concurred in the judgment.

ORDER

¶ 1 Held: Defendant’s conviction for violation of the Sex Offender Registration Act is affirmed as none of the State’s evidence was so improbable, unsatisfactory, or inconclusive that it created a reasonable doubt of defendant’s guilt, and a rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt.

¶ 2 Following a bench trial, defendant Kenneth Baker was convicted of failing to annually report to an appropriate law enforcement agency, in violation of the Sex Offender Registration

Act (SORA) (730 ILCS 150/6 (West 2010)). The trial court sentenced him to 7 years' imprisonment. Defendant appeals his conviction, arguing that the State failed to prove beyond a reasonable doubt that he had a fixed address and was required to report annually. For the reasons set forth herein, we affirm the judgment of the trial court.

¶ 3 On April 18, 2013, Chicago police officers arrested defendant at a motel located at 5535 N. Lincoln Avenue pursuant to an investigative alert. Defendant was charged with one count of failure to annually report pursuant to SORA and one count of failure to report change of address pursuant to SORA. 730 ILCS 150/6 (West 2010). Before trial, the State dropped the change of address count. Defendant waived his right to a jury trial and the case proceeded to bench trial.

¶ 4 At trial, Officer Patricia Cipun testified that she was assigned to the criminal registration unit on February 19, 2010. On that day, Cipun met with defendant, who needed to register as a sex offender. Defendant filled out a sex offender registration form, which stated that he must annually renew his registration with the criminal registration office. Defendant listed his address as 1536 West Keeler Avenue.

¶ 5 Because this address was within 500 feet of a school and a daycare, Cipun gave defendant a zone violation notice. Cipun explained that defendant had 30 days to move from his current address and report his new address to the criminal registration office. Defendant signed the zone violation notice.

¶ 6 Officer Cipun explained that officers of the criminal registration office can examine their own physical records, the LEADS system, or the Illinois state police website to ascertain the last date a person registered with the office. Cipun determined that defendant had not registered between the dates of February 19, 2010, and April 18, 2013.

¶ 7 On cross examination, Officer Cipun acknowledged that a sex offender registration log entry indicated that a person named Kenneth Baker came to the criminal registration office on March 18, 2010, though she had no recollection of speaking with defendant on that date. The log entry indicated that he had been turned away for lack of a proof of address. Cipun explained that being turned away for proof of address does not constitute a successful registration with the Chicago police department.

¶ 8 Officer Edward Leighton testified that he had been assigned to conduct sex offender residency checks on April 25, 2011. On that day, Leighton was ordered to check if defendant was residing at his listed address of 1536 West Keeler Avenue. When he arrived at that address, Leighton observed evidence of fire and smoke damage to the building, and noticed that the windows and doors were boarded up. He was unable to enter the building, and did not believe that anyone was living there. He did not come into contact with defendant at that address.

¶ 9 Officer Elizabeth Miller testified that she had been assigned to the area four detective division in April 2011. Some time near the end of April, Miller investigated defendant and learned that he was not in compliance with SORA registration requirements. Defendant's computer generated sex offender registration card indicated that the last time he had registered with the criminal registration office was in February 2010. After reviewing Officer Leighton's report stating that defendant was not residing at 1536 West Keeler Avenue, Miller initiated an investigative alert, which indicated probable cause to arrest defendant.

¶ 10 Officer Walenty Byk testified that, on April 18, 2013, he was assigned to a fugitive apprehension unit and tasked with locating defendant pursuant to an investigative alert. Byk located defendant at a motel at 5535 North Lincoln Avenue. After verifying defendant's identity, Byk placed him into custody.

¶ 11 The State introduced a copy of defendant's Illinois sex offender registration form, and a copy of the defendant's zone violation form, both of which were signed by defendant. It also introduced a certified copy of defendant's 2008 conviction for failure to register.¹

¶ 12 Defendant made a motion for a directed verdict, arguing that because he attempted to register on March 18, 2010, but had been turned away, the State was unable to prove him guilty beyond a reasonable doubt. The trial court denied the motion.

¶ 13 Defendant testified that he was released from the Illinois Department of Corrections on February 17, 2010. Two days later, on February 19, 2010, he went to the criminal registration office to register as a sex offender. He filled out his registration form, indicating that he lived at 1536 South Keeler Street. Officer Cipun informed him that this address was too close to a school, that he would have to find a new place to live, and that he would have to return to the office to report his new address. Defendant did not have any friends or relatives that he could stay with, nor was he able to find a halfway house that would accept him.

¶ 14 Defendant returned to the criminal registration office on March 18, 2010, and told Officer Cipun that he had been unable to find another place of residence. Cipun again informed him that he had to find a new address. Defendant asked Cipun if he could report to the office on a weekly basis. Cipun told him that he could not report on a weekly basis and that he needed to have a place of residence. She did not give defendant any information about how to find housing. On

¹ These exhibits are not included in the record of appeal. Therefore, we rely on trial testimony regarding the substance of these documents. Further, we note that the appellant has the burden of providing a sufficiently complete record on appeal so that the reviewing court is fully informed regarding the issues to be resolved; in the absence of a complete record on appeal, it is presumed that the trial court's judgment conforms to the law and has a sufficient factual basis. *People v. Moore*, Ill. App. 3d 294, 300 (2007).

cross-examination, defendant admitted that he did not register on March 18, 2010, and that he did not return to the office to register at any time during 2010, 2011, 2012, or 2013.

¶ 15 Defendant then introduced a copy of the sex offender registration log from March 18, 2010. In rebuttal, the State introduced certified copies of defendant's convictions for class three failure to register from 2006 and class two failure to register from 2008.²

¶ 16 After argument, the trial court found defendant guilty of failure to annually register in violation of SORA. 730 ILCS 150/6 (West 2012). The trial court noted that, even if defendant was turned away on March 18, 2010, he never returned to the office to re-register. Based on defendant's background, the trial court sentenced him as a class X offender and imposed a sentence of seven year's' imprisonment.

¶ 17 On appeal, defendant argues that the State failed to prove beyond a reasonable doubt that he had a fixed residence and was therefore required to report annually.

¶ 18 The due process clause of the fourteenth amendment protects defendants against conviction in state courts except upon proof beyond a reasonable doubt of every fact necessary to constitute the charged crime. *People v. Brown*, 2013 IL 114196, ¶ 48; *Jackson v. Virginia*, 443 U.S. 307, 315-16 (1979). When a court reviews the sufficiency of evidence, it must ask " 'whether the record evidence could reasonably support a finding of guilt beyond a reasonable doubt.' " *People v. Cunningham*, 212 Ill. 2d 274, 279 (2004) (quoting *Jackson*, 443 U.S. at 318.) A reviewing court must decide whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. *People v. Lloyd*, 2013 IL 113510, ¶ 42. This means that we must draw all reasonable inferences from the record in favor of the prosecution, and that " '[w]e will

² See footnote 1.

not reverse a conviction unless the evidence is so improbable, unsatisfactory, or inconclusive that it creates a reasonable doubt of defendant's guilt.' ” *Id.* (quoting *People v. Collins*, 214 Ill. 2d 206, 217 (2005)).

¶ 19 The Sex Offender Registration Act (SORA) was designed to aid law enforcement agencies in monitoring the whereabouts of sexual offenders by allowing “ ‘ready access to crucial information’ ” about their residency and movements. *People v. Molnar*, 222 Ill. 2d 495, 499 (2006) (quoting *People v. Adams*, 144 Ill. 2d 381, 388 (1991)). SORA requires sexual offenders to register with an appropriate law enforcement agency within three days of release from prison. 730 ILCS 150/3(c)(4) (West 2012). SORA also requires sexual offenders to periodically report back to the agency with whom they last registered. 730 ILCS 150/6 (West 2012). Offenders who maintain a fixed address are required to annually report to the law enforcement agency with whom they last registered. 730 ILCS 150/6 (West 2012). Offenders without address are required to report weekly. 730 ILCS 150/6 (West 2012). The act imposes on offenders an affirmative duty to provide “accurate information” to law enforcement agencies and to continually update them regarding their whereabouts, contact information, and online presence. 730 ILCS 150/3(a) (West 2012); 730 ILCS 150/6 (West 2012).

¶ 20 The State charged defendant with a violation of SORA under the theory that defendant “knowingly failed to report, in person, to the law enforcement agency with whom he last registered, to wit: the Chicago police department [criminal registration office], Chicago, Cook County, Illinois, one year from the date of such registration, and every year thereafter.”

¶ 21 In the light most favorable to the state, the evidence presented at trial was sufficient for a rational trier of fact to determine, beyond a reasonable doubt, that defendant failed to annually report as required by SORA. Defendant registered as a sex offender on February 19, 2010, listing

his address as 1536 West Keeler Avenue. Officer Cipun testified that she determined that defendant did not register with the criminal registration office at any time between February 19, 2010, and April 18, 2013. Further, defendant, by his own admission, knew that did not register in 2011, 2012, or 2013. At a minimum, defendant was required to report annually. He failed to do so for three years. This evidence was sufficient for a rational trier of fact to determine beyond a reasonable doubt that defendant was guilty of failure to annually report pursuant to SORA.

¶ 22 Defendant argues that trial court's statement that "[defendant] could come back and register as a homeless person" indicates that it found defendant guilty on the basis that he did not register weekly as a homeless person. This finding, defendant argues, would be inconsistent with a conviction for failing to register annually. However, a closer reading of the trial court's findings indicates that the trial court likely meant to imply that *unless* defendant registered another address or as homeless, which he did not do, defendant was still registered as residing at 1536 West Keeler Avenue. Defendant's initial registration was never changed. Further, the court specifically stated that defendant did not comply with the charged offense: "failure to register with Chicago police department one year from the date of registration, every year thereafter," *i.e.*, annually.

¶ 23 Defendant cites *People v. Robinson*, 2013 IL App (2d) 120087, for the proposition that the State was required to prove that defendant had a fixed residence and was therefore required to report annually. However, *Robison* is factually dissimilar. The defendant in *Robinson* was convicted for failing to report a change of address as required by SORA. *Robinson*, 2013 IL App (2d) 120087, ¶ 1. The Second District Appellate Court reversed the defendant's conviction, stating that in order to convict the defendant of a failure to report a change of address, the State was required to prove that the defendant actually acquired a new, fixed residence. *Id.* at ¶ 23.

¶ 24 Here, defendant was not convicted of failing to report a change of address; he was convicted of failing to annually report to the criminal registration office. Defendant registered as a sex offender on February 19, 2010, listing 1536 West Keeler Avenue as his fixed residence. As SORA imposes upon offenders an affirmative duty to update this registration, unless or until defendant's registration changed, the State is entitled to rely on this information as accurate. Thus, all that the State was required to prove was that defendant registered with a fixed address on February 19, 2010, and that he did not report to the criminal registration office by February 20, 2011. The testimony of Officers Cipun, Leighton, and Miller was sufficient to prove these facts. Defendant's own testimony confirmed them.

¶ 25 We find that the evidence presented at trial, viewed in the light most favorable to the State, was not so improbable, unsatisfactory, or inconclusive that it creates a reasonable doubt of defendant's guilt. Therefore, the trial court could have found the essential elements of failure to annually report in violation of SORA beyond a reasonable doubt.

¶ 26 Affirmed.