

2017 IL App (1st) 152257-U

No. 1-15-2257

Order filed December 29, 2017

Fourth Division

**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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 14 CR 15930
	)	
JUAN ESCOBARD,	)	Honorable
	)	Thomas J. Byrne,
Defendant-Appellant.	)	Judge, presiding.

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JUSTICE GORDON delivered the judgment of the court.  
Presiding Justice Burke and Justice Ellis concurred in the judgment.

**ORDER**

¶ 1 *Held:* Defendant's conviction for failing to register pursuant to section 3(a)(1) of the Sex Offender Registration Act (730 ILCS 150/3(a)(1) (West 2014)) is affirmed where the evidence, viewed in the light most favorable to the State, could have led any rational trier of fact to determine that defendant established a residence or temporary domicile which required him to register with the Chicago police department.

¶ 2 Following a bench trial, defendant Juan Escobard was convicted of failure to register with the Chicago police department within three days of establishing a residence or temporary

domicile in the city of Chicago in violation of the Sex Offender Registration Act (Act) (730 ILCS 150/3(a)(1) (West 2014)) and sentenced to four years' imprisonment. Defendant appeals, arguing that the State did not prove beyond a reasonable doubt that he established a residence or temporary domicile in Chicago. For the reasons set forth herein, we affirm.

¶ 3 Defendant was charged with one count of violating section 3(a)(1) of the Act (730 ILCS 150/3(a)(1) (West 2014)) in that he, "having previously been convicted of criminal sexual assault under case number 00CR-21919, knowingly failed to register, in person, as a sex offender with the Chicago police department within three days of establishing a residence or temporary domicile in the city of Chicago" between the dates of December 16, 2013, and August 18, 2014. Defendant waived his right to a jury trial and, on May 1, 2015, the case proceeded to a bench trial.

¶ 4 The State admitted into evidence certified copies of defendant's 2001 conviction for criminal sexual assault and 2010 conviction for failure to report a change in address as a sex offender.

¶ 5 Detective Patrick Loftus testified that, on July 9, 2013, defendant came to the Chicago police department criminal registration unit and registered as a sex offender. Loftus identified a copy of defendant's registration form.<sup>1</sup> Defendant signed both pages of the form, which informed him that he was required to return to register on August 8, 2013. Loftus testified that defendant had not returned to the criminal registration unit to register since July 9, 2013. He also testified that the unit offered fee waivers to registrants who were unable to pay their annual registration fee, but that defendant was not given a waiver.

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<sup>1</sup> Though admitted into evidence at trial, the registration form was not included in the record on appeal.

¶ 6 On cross-examination, Loftus testified that defendant was required to register 30 days after July 9, 2013, because the address he provided on his form<sup>2</sup> was located within 500 feet of a playground or school. He further explained that “you’re allowed to register” a bad address “but then you’re notified that you have 30 days to move.” Loftus identified a form which informed defendant that he needed to return in 30 days to register a new address.<sup>3</sup> He testified that the form was signed by defendant and was dated July 8, 2013.

¶ 7 Officer Carmen Tate of the Cook County department of corrections testified that, on December 12, 2013, she met with defendant before his release from the county jail. Upon learning that defendant was a registered sex offender, Tate gave defendant a “three-day notification” form, which informed him of his duty to register by December 15, 2013.<sup>4</sup> On the form, defendant listed his address as the same address defendant provided to Loftus on July 9, 2013. Defendant and Tate signed both pages of the form.

¶ 8 Officer Peter Del Nodal testified that, on August 18, 2014, he was on routine patrol in the area of 4801 West Armitage, and observed defendant, whom he identified in open court, drinking an alcoholic beverage on a public way. When Del Nodal approached defendant and asked for his name, defendant provided the name Jose Diaz and a birth date of May 11, 1982. After checking this information, Del Nodal asked defendant if he had had any previous arrests. Defendant answered yes and provided Del Nodal with the same address testified to by Loftus and Tate. After checking this address, Del Nodal learned defendant’s actual name and that he had failed to register as a sex offender. Defendant attempted to flee, and Del Nodal’s partner

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<sup>2</sup> To protect defendant’s privacy, we do not publish the exact address given by defendant.

<sup>3</sup> This form was admitted into evidence at trial, but is not included in the record on appeal.

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performed an “emergency take down” of defendant. After a struggle, Del Nodal eventually placed defendant into custody.

¶ 9 On cross-examination, Del Nodal acknowledged that he asked defendant for his address and if he had been previously arrested. Del Nodal stated that defendant then gave him the address. On redirect examination, Del Nodal clarified that he asked defendant for a current address of “where he was living” when defendant gave the address. On re-cross, Del Nodal acknowledged that his police report of the incident reflected that defendant, upon questioning, stated that his name was Jose Diaz and his address had a slightly different street number. In response to questioning by the court, Del Nodal stated that he “ran the address on I-Clear and [defendant’s] picture popped up under [a slightly different address].”<sup>5</sup>

¶ 10 Detective Gina Rodriguez testified that, on August 18, 2014, she interviewed defendant, who had been arrested for a violation of the Sex Offender Registration Act. Defendant told her that “he knew he had to register, but that he did not register because he did not have the hundred dollars to register.”

¶ 11 After argument, the trial court found defendant guilty as charged, noting that “there’s nothing to suggest that he doesn’t have a residence, or even a temporary domicile.” After a hearing, the court sentenced defendant to four years’ imprisonment.

¶ 12 Defendant appeals his conviction, arguing that the State failed to prove beyond a reasonable doubt that he established a residence or temporary domicile within the city of Chicago.

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<sup>5</sup> The mention of the different street number and the different address both appear to be a misstatement or a stenographic error given Del Nodal’s previous reference to the address at issue and the testimony of Tate and Loftus, who both reference that same address. The differences in the street numbers are transposed numbers—for instance, if the number was 1234, the other number is 1432. The difference in the street name is the use of a similar-sounding name.

¶ 13 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). “Circumstantial evidence is sufficient to sustain a criminal conviction, provided that such evidence satisfies proof beyond a reasonable doubt of the elements of the crime charged.” *People v. Hall*, 194 Ill. 2d 305, 330 (2000). A reviewing court “ ‘is not required to search out all possible explanations consistent with innocence or be satisfied beyond a reasonable doubt as to each link in the chain of circumstances. On the contrary, we must ask, after considering all of the evidence in the light most favorable to the prosecution, whether the \*\*\* evidence [in the record] could reasonably support a finding of guilt beyond a reasonable doubt.’ ” *People v. Grant*, 2014 IL App (1st) 100174-B, ¶ 24 (quoting *People v. Wheeler*, 226 Ill. 2d 92, 116-17 (2007)). In doing so, we must draw all reasonable inferences from the record in favor of the prosecution, and “ ‘[w]e will not reverse a conviction unless the evidence is so improbable, unsatisfactory, or inconclusive that it creates a reasonable doubt of defendant’s guilt.’ ” *People v. Lloyd*, 2013 IL 113510, ¶ 42 (quoting *People v. Collins*, 214 Ill. 2d 206, 217 (2005)).

¶ 14 The Act 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)). Section 3(a)(1) of the Act imposes upon sex offenders and sexual predators the duty to register with the Chicago police department if they reside or are “temporarily domiciled for a period of time of 3 or more days” within the city of Chicago. 730 ILCS 150/3(a) (West

2014). Section 2 of the Act defines a fixed residence as “all places that a sex offender resides for an aggregate period of time of 5 or more days in a calendar year.” 730 ILCS 150/2(I) (West 2014). “ ‘Inherent in each definition is the idea of a specific location.’ ” *People v. Gomez*, 2017 IL App (1st) 142950, ¶ 15 (quoting *People v. Robinson*, 2013 IL App (2d) 120087, ¶ 23). Thus, to establish a violation of section 3(a)(1) of the Act, “the State was required to prove both (1) that the defendant resided or was temporarily domiciled at a specific location within Chicago, and (2) that the defendant failed to register there.” *Gomez*, 2017 IL App (1st) 142950, ¶ 16.

¶ 15 In this court, defendant does not dispute that he failed to register with the city of Chicago. Rather, he solely contends that the State failed to produce any evidence that he established a residence or temporary domicile in Chicago such that he was required to register there under the Act.

¶ 16 As an initial matter, we note that defendant has arguably failed to present this court with a sufficiently complete record with which to review this contention. The record on appeal does not include defendant’s, July 9, 2013, the registration form, which was admitted into evidence at trial and listed defendant’s address as an address in Chicago. The record also does not contain the form that Loftus gave to defendant, which informed defendant that he needed to return in 30 days to register a new address, or the “three-day notification form” given to him by Officer Tate, which lists his address as that same address and notified him of his obligation to register on December 15, 2013. It is well-settled that “an appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error, and in the absence of such a record on appeal, it will be presumed that the order entered by the trial court was in conformity with the law and had a sufficient factual basis. Any doubts which may arise from the

incompleteness of the record will be resolved against the appellant.” *Foutch v. O’Bryant*, 99 Ill. 2d 389, 391–92 (1984); see also *People v. Fair*, 193 Ill. 2d 256, 264 (2000) (applying *Foutch* in the context of a criminal appeal). That said, the record at bar demonstrates no basis upon which to reverse the ruling of the trial court.

¶ 17 Here, after viewing the evidence in the light most favorable to the State, and drawing all reasonable inferences in its favor, we conclude that a rational trier of fact could find that defendant established a residence or temporary domicile at the address provided by defendant between the dates of December 16, 2013, and August 18, 2014. The evidence shows that defendant attempted to register as a sex offender on July 9, 2013, with a certain address. Detective Loftus testified that defendant was required to return on August 8, 2013, because this address was within 500 feet of a school. Officer Tate testified that, on December 12, 2013, defendant was discharged from the Cook County jail and signed a form pursuant to the Act, which informed him of his duty to register by December 15, 2013. On the form, defendant again listed his address as that same address. Officer Del Nodal testified that, when he arrested defendant on August 18, 2014, defendant told the officers that his address was that same address. Moreover, Del Nodal testified that he ran this address on the I-Clear system and confirmed defendant’s identity. This evidence, and the reasonable inferences therefrom, support the conclusion that defendant stayed at that address for at least three days between the dates of December 16, 2013, and August 18, 2014, and had thus established a residence or temporary domicile in Chicago.

¶ 18 In reaching this conclusion, we are not persuaded by defendant’s reliance on *People v. Gomez*, 2017 IL App (1st) 142950, and *People v. Evans*, 365 Ill. App. 3d 374 (2009). Here,

unlike in *Gomez*, defendant informed three different police officers that he lived at the same specific address: twice in the context of registration under the Act, and once in the context of an arrest for an unrelated matter. Further, although the State could have met its burden of proof with testimony of police officers or civilians who had observed defendant at that specific address, as it did in *Evans*, such testimony was not required in this case because defendant twice attempted to register the same address and informed officer Del Nodal that it was his address. Del Nodal confirmed the address in the I-Clear database. As mentioned, we will not reverse a conviction unless the evidence is so improbable, unsatisfactory or inconclusive that it creates a reasonable doubt of defendant's guilt. *Lloyd*, 2013 IL 113510, ¶ 42. This is not one of those cases.

¶ 19 For the reasons set forth herein, we affirm the judgment of the circuit court of Cook County.

¶ 20 Affirmed.