

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,
Respondent,

v.

KENNY CHAN KIM,
Appellant.

No. 38406-0-II

UNPUBLISHED OPINION

Quinn-Brintnall, J. — A Pierce County jury found Kenny Chan Kim guilty of felony violation of a domestic violence protection order.¹ He appeals, challenging the sufficiency of the evidence to prove that (1) he was the individual named in current and prior protection orders and (2) he had knowledge of those orders.² We affirm.

FACTS

Hae Suk Kim and Kenny Chan Kim were together for 17 years, married for seven of those years, and had a son, Randy. On December 5, 2007, the Pierce County Superior Court entered an

¹ Kim was also charged with and, convicted of, fourth degree assault. He does not challenge that conviction.

² A commissioner of this court considered the matter pursuant to RAP 18.14 and referred it to a panel of judges.

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order prohibiting Kenny Chan Kim from having contact with Hae Suk Kim. The order was effective for five years. On June 14, 2007, the court entered a second protection order against Kenny Chan Kim. That order was to expire on June 14, 2008. Kenny Chan Kim signed both orders.

On June 4, 2008, when Hae³ went to Thompson Elementary School to pick up Randy, Kenny was there. Kenny confronted her as she approached her car and they had an argument. Another parent, Florence Wallace, saw the incident. Wallace testified that she saw a man confront Hae and follow her to her car. When Hae tried to make a telephone call, the man grabbed her by the throat and punched her in the face. Hae testified that the argument did not become physical and she denied that it was she who made the 911 call to which Pierce County Sheriff's deputies responded. The defense presented no witnesses and the jury convicted as charged. This appeal followed.

ANALYSIS

Kenny contends that the State did not present sufficient evidence to prove that he was the individual named in the protection orders. Evidence is sufficient to support a conviction if, viewed in the light most favorable to the prosecution, it permits any rational trier of fact to find the essential elements of the crime beyond a reasonable doubt. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). "A claim of insufficiency admits the truth of the State's evidence and all inferences that reasonably can be drawn therefrom." *Salinas*, 119 Wn.2d at 201. Circumstantial and direct evidence are equally reliable. *State v. Delmarter*, 94 Wn.2d 634, 638, 618 P.2d 99 (1980). In determining whether the necessary quantum of proof exists, the reviewing

³ As the victim and the defendant have the same last name, we use first names to avoid confusion.

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court need not be convinced of the defendant's guilt beyond a reasonable doubt, but only that substantial evidence supports the State's case. *State v. McKeown*, 23 Wn. App. 582, 588, 596 P.2d 1100 (1979).

Under RCW 26.50.110, a person commits a felony if he or she knowingly violates a protection order issued under RCW chapters 7.90, 10.99, 26.09, 26.10, 26.26, 26.50, and 74.34 or a valid foreign protection order, and he or she does so either by assaulting the protected individual or by having violated a protection order at least two times previously. There are three essential elements of the crime: (1) willful contact with the protected individual, (2) prohibition of contact by a court order, and (3) the defendant's knowledge of the order's existence. *See State v. Clowes*, 104 Wn. App. 935, 944, 18 P.3d 596 (2001).

Kenny challenges the proof of the second element, asserting that there was nothing more than an "identity of names" to establish that he was the person named in the protection order or the order prohibiting contact. *State v. Huber*, 129 Wn. App. 499, 502, 119 P.3d 388 (2005). It is true that "identity of names alone" does not provide sufficient evidence to uphold a conviction that depends on a link between the identity of an individual named in documents and the identity of the defendant at trial. *Huber*, 129 Wn. App. at 502. The State must present some corroborating evidence, such as booking photographs or fingerprints, eyewitness identification, or distinctive personal information. *See Huber*, 129 Wn. App. at 502; *State v. Brezillac*, 19 Wn. App. 11, 13, 573 P.2d 1343 (1978).

Here, there is substantial distinctive personal information provided in the protection orders and in Hae's testimony. Hae identified Kenny as her ex-husband. She said he was the father of their child Randy and she testified that Randy was eight years old at the time of trial. The June

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14, 2007 order identifies Kenny C. Kim as Hae Suk Kim's spouse or former spouse. It indicates that his birth date is December 5, 1960, lists Randolph S. Kim as a minor involved, and specifies his age as seven. The Dec. 5, 2007 order also specifies the February 2, 1956 birth date for respondent Kim. This evidence is more than enough to support a reasonable inference that the Kenny C. Kim named in the orders was the same Kenny Chan Kim on trial for violating the orders.

There is likewise no merit in the challenge to the proof of the third element, knowledge. The June 14, 2007 order states that the respondent received personal service of the order. Respondent Kenny C. Kim signed both orders and the signatures appear to be the same. Moreover, Kenny stipulated to having previously violated a protection order with the same cause number as the December 5, 2007 order. This evidence is sufficient to establish knowledge.

Affirmed.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

Quinn-Brintnall, J.

We concur:

Houghton, J.

Hunt, J.