IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

PATRICK HANSEN,
Appellant.

No. 2 CA-CR 2019-0214
Filed May 28, 2020

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.19(e).

Appeal from the Superior Court in Pinal County
No. S1100CR201802739
The Honorable Stephen F. McCarville, Judge

AFFIRMED

COUNSEL

Mark Brnovich, Arizona Attorney General
Michael T. O'Toole, Chief Counsel
By Heather A. Mosher, Assistant Attorney General, Tucson
Counsel for Appellee

Harriette P. Levitt, Tucson
Counsel for Appellant

MEMORANDUM DECISION

Presiding Judge Staring authored the decision of the Court, in which Chief Judge Vásquez and Judge Brearcliffe concurred.

S T A R I N G, Presiding Judge:

¶1 Patrick Hansen appeals from his conviction and sentence for criminal contempt of court, arguing insufficiency of evidence. We disagree and affirm.

Factual and Procedural Background

¶2 In determining whether sufficient evidence exists to support a conviction, we view the facts in the light most favorable to upholding the jury's verdict. *State v. McGill*, 213 Ariz. 147, ¶ 17 (2006).

¶3 In 2018, Hansen was involved in a dependency action concerning his children. At an initial hearing in March, multiple people in the courtroom "were either recording or had their cell phones out" and the juvenile court directed everyone to put their phones in a pile in the courtroom to prevent anyone from recording the proceedings. The court directed Hansen to turn off any recording devices he had in his possession and explained that Rule 122, Ariz. R. Sup. Ct., prohibited recording juvenile court matters and that "the only information that [it was] concerned about is information that actually names the children and parties." The court also gave the following admonition:

> We'll start us out with my standard admonishment and this applies to every single person in the courtroom, which is that these hearings are presumptively open to the public unless there is good cause shown or established that they should be closed. But just because they are open to the public does not mean that any information that's confidential about the children, placement, caregivers, or those involved in the case, all of that information is confidential. If it is disclosed outside these proceedings, such as posting on the Internet or on Facebook, that this Court could ultimately

> hold a contempt hearing and issue the appropriate sanctions in that regard.

The court further admonished Hansen not to post any audio recordings or photographs of his visits with his children on the internet or social media.

¶4 At a placement hearing in May, the juvenile court again admonished everyone in the courtroom, explaining: "[I]f there is any identifying information about the parties, placement, the children, parents, caregivers, that identifying information is confidential and shall not be disclosed outside these proceedings. And if done so, I would hold [a] contempt hearing and, if necessary, issue sanctions."

¶5 On August 8, the juvenile court denied an emergency custody motion Hansen had filed. Three days later, Hansen sent an email to his county supervisor alleging "fraud, corruption and misconduct" as well as "case fixing and criminal conspiracy," and attached documents from the case, including Department of Child Safety (DCS) documents that contained identifying information about the children, parties, placement, caregivers, case workers, and others involved in the case.

¶6 On August 17, at a hearing on Hansen's motion for new trial and change in physical custody, the state alleged Hansen had violated the juvenile court's order prohibiting the disclosure of identifying information when he emailed the DCS documents to his county supervisor, other government officials, and a local newspaper. Hansen did not deny sending the documents, but asserted he did not understand what the "concern is with that," and also said: "We have the right to freedom of expression." And, when the court explained Hansen had violated its order, he asked: "[W]hat is the problem?" The court then appointed a special prosecutor "to investigate and determine" whether to charge Hansen with contempt. The court again directed Hansen "not to disclose any identifying information about those involved in this case, including placement, caregivers, guardians, the children, the parents, those involved in the case and that in doing so, [he] could be held in contempt and sanctions could be issued."

¶7 On November 7, the juvenile court held a "prehearing conference regarding the potential contempt citation," during which the state explained it was going to dismiss the dependency action and it was "not the State's desire" to criminally prosecute Hansen for violating the court's order. Rather, the state sought to intervene "to try and force Mr. Hansen to actually comply with the court's orders," and suggested the matter be resolved by issuing a sanction requiring Hansen to perform

community service. Hansen, however, refused. Subsequently, the state charged Hansen with one count of criminal contempt.

¶8 After a two-day trial, the jury convicted Hansen as charged, and the trial court sentenced him to thirty hours of community service. This appeal followed. We have jurisdiction pursuant to article VI, § 9 of the Arizona Constitution and A.R.S. §§ 12-120.21(A)(1), 12-863(D), 13-4031, and 13-4033(A)(1).

Discussion

¶9 On appeal, Hansen argues there was insufficient evidence to support his conviction for criminal contempt because "the evidence was insufficient to establish that [he] interfered with [the] judicial process." Specifically, he asserts none of the DCS documents he attached to his email were marked "confidential" and "there was no specific order issued which prohibited [him] from disclosing specific confidential information." Hansen, however, concedes he disclosed the names and birthdates of his children involved in the dependency action, but contends "he had parental rights regarding disclosure of their personal information." Hansen further argues a defense of necessity[1] and "even if [he] willfully violated the [juvenile] court's order against disseminating information about his dependency case, nothing he did was intended to, or resulted in, interference with the dependency matter."

¶10 Sufficiency of the evidence is a question of law we review de novo, *State v. Felix*, 237 Ariz. 280, ¶ 30 (App. 2015), and we will reverse "only if no substantial evidence supports the conviction," *State v. Fimbres*, 222 Ariz. 293, ¶ 4 (App. 2009) (quoting *State v. Pena*, 209 Ariz. 503, ¶ 7 (App. 2005)). "Substantial evidence is proof that reasonable persons could accept as sufficient to support a conclusion of a defendant's guilt beyond a reasonable doubt." *State v. Spears*, 184 Ariz. 277, 290 (1996). "If reasonable persons could differ on whether the evidence establishes a fact at issue, that evidence is substantial." *State v. Garfield*, 208 Ariz. 275, ¶ 6 (App. 2004).

[1]Hansen cites no supporting authority, nor does he develop his necessity defense argument. Therefore, he has waived it. *See* Ariz. R. Crim. P. 31.10(a)(7) (appellant's opening brief must contain supporting reasons for contentions with citations of legal authorities); *State v. Bolton*, 182 Ariz. 290, 298 (1995) ("Failure to argue a claim on appeal constitutes waiver of that claim.").

¶11 Under A.R.S. § 12-861, "[a] person who wilfully disobeys a lawful writ, process, order or judgment of a superior court by doing an act or thing therein or thereby forbidden, if the act or thing done also constitutes a criminal offense, shall be proceeded against for contempt." And, "[a] person commits" the criminal offense of "interfering with judicial proceedings if such person knowingly . . . [d]isobeys or resists the lawful order, process or other mandate of a court." A.R.S. § 13-2810(A)(2).

¶12 Viewing the evidence in the light most favorable to sustaining the jury's verdict, *see McGill*, 213 Ariz. 147, ¶ 17, there was sufficient evidence to convict Hansen of criminal contempt. Given the juvenile court's repeated admonitions, he knew the court had ordered that no one disclose identifying information about the children and those involved in the dependency case. Yet, Hansen willfully disobeyed that order when he attached DCS documents containing such information to an email he sent to a variety of government officials and a newspaper.

¶13 Hansen's argument that his conviction should be reversed because none of the documents he disclosed were marked "confidential" and because the juvenile court did not specifically order him not to disclose specific information is unavailing. As noted, the court repeatedly ordered everyone present in the courtroom, which included Hansen, not to disclose identifying information about Hansen's children or the people involved in the dependency case. An order directed specifically at Hansen barring him from disclosing specific information was not necessary for him to have had knowledge of the court's order or to preclude him from disclosing the DCS documents.

¶14 As to Hansen's argument that "he had parental rights regarding disclosure of [his children's] personal information," he cites no supporting authority as to why any such rights would supersede a direct court order under these circumstances. Thus, this argument is waived. *See* Ariz. R. Crim. P. 31.10(a)(7) (appellant's opening brief must contain supporting reasons for contentions with citations of legal authorities); *State v. Bolton*, 182 Ariz. 290, 298 (1995) ("Failure to argue a claim on appeal constitutes waiver of that claim."). Moreover, even assuming Hansen had an overriding "parental right" to disclose his children's names and birthdates, no such right would apply to his disclosure of the names of others involved in the case.

¶15 Lastly, we reject Hansen's contention that although he disclosed identifying information in violation of the juvenile court's orders, "nothing he did was intended to, or resulted in, interference with the

dependency matter." As the state notes, the statutes involved here, §§ 12-861 and 13-2810(A)(2), do not require the intent to interfere or actual interference with the dependency matter. Further, "[a]n adjudication of contempt must be based on specific facts found which show knowledge of the order, ability to comply with it, and contumacious conduct on the part of the accused amounting to wilful violation." *Ellison v. Mummert*, 105 Ariz. 46, 46 (1969); *cf. Van Dyke v. Superior Court*, 24 Ariz. 508, 540 (1922) (in determining whether newspaper articles contemptuously interfered with judicial proceedings, "absence of bad intent may possibly mitigate the punishment, but can never justify" the contemptuous act). Therefore, Hansen's lack of intent to interfere and the lack of any actual interference with the dependency case do not justify his willful violation of the court's order.

Disposition

¶16 For the foregoing reasons, we affirm Hansen's conviction and sentence.