Cite as 2010 Ark. App. 690

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CACR09-1323

DAVID JUNIOR SWEET
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered OCTOBER 20, 2010

APPEAL FROM THE CRAWFORD COUNTY CIRCUIT COURT
[CR-2008-283 I]

HONORABLE GARY RAY COTTRELL, JUDGE

AFFIRMED

RITA W. GRUBER, Judge

Appellant David Sweet was convicted by a jury of failing to register as a sex offender, for which he was sentenced to three years' imprisonment. He contends on appeal that the trial court erred in permitting the State to introduce evidence of the specific convictions that required him to register. We reject appellant's arguments, hold the trial court did not abuse its discretion in admitting the challenged evidence, and affirm appellant's conviction.

Appellant was convicted of violating Ark. Code Ann. § 12-12-904(a)(1)(A), which provides that a person who fails to register or report a change of address as required under the sex-offender-registration subchapter is guilty of a Class C felony. The testimony and evidence at trial showed that appellant was convicted in 1987 in the state of Georgia of three sex offenses. He was sentenced to twenty years' imprisonment for those offenses, was released from prison in May 2007, and moved to Arkansas. While appellant initially completed sex-

offender-registration paperwork with the Alma Police Department and then filed a change-of-address form in November 2007—reporting his address as 330 West Cherry, Apt. 4, Alma, Arkansas—he moved out in March 2008 without reporting any change of address to law enforcement.

Officer Jeff Pointer of the Alma Police Department, whose duties included overseeing sex-offender registration for the City of Alma, testified that sex offenders are required to verify their address every six months and are required to register a change of address ten days prior to moving. *See* Ark. Code Ann. § 12-12-906(c), (g) (Repl. 2009). He testified that, when he discovered in June 2008 that appellant had not verified his address as required, he began investigating. He learned that appellant moved out of the apartment on West Cherry in March 2008.

The issue in this case concerns the introduction into evidence of a document provided by the Clerk of the Superior Court of Fulton County Georgia concerning appellant's 1987 convictions. To better understand this issue, we review some of the pretrial hearings. In a pretrial hearing held on August 10, 2009, defense counsel asked the court not to allow into evidence "the particulars and the facts" involved in the Georgia case. The State replied that it planned to introduce the report from the Arkansas Crime Information Center (ACIC) that appellant had been convicted of child molestation in Georgia. Defense counsel objected to an ACIC report being introduced and demanded a certified copy of the judgment from Georgia, which, at that time, the State did not possess.

The State later obtained a certified copy of the Georgia judgment, which consisted of seven pages. During a pretrial hearing on the morning of trial, September 8, 2009, appellant objected to its introduction because of its "graphic nature." Defense counsel argued that the actual charges should not be presented but that the "State should be able to say that, yes, he is convicted of a felony that requires him to register." It is unclear exactly how defense counsel expected the State to show this. The court clarified with defense counsel that appellant was pleading not guilty to the charge and requiring the State to prove each element of its case—including that he was convicted of a previous sex offense for which he was required to register—beyond a reasonable doubt. Defense counsel said, "That's correct." The complete document from Georgia included a final disposition, which stated that appellant was convicted of enticing a child for indecent purposes; child molestation; and aggravated child molestation. The final disposition also included the date and the sentences imposed. Other pages included additional details and descriptions of the crimes. At the pretrial hearing, after lengthy argument and discussion—and in accordance with defense counsel's request—the court ordered that pages three, four, and five of the Georgia document be removed but allowed the final disposition to be introduced.

We now turn to the trial. The State's first witness at trial was Officer Pointer. When the State attempted to introduce the Georgia conviction, as redacted in the pretrial hearing, defense counsel objected to its introduction into evidence because it was "not a certified copy and a final judgment." The clerk's certification was on one of the pages removed by

the court at defense counsel's request in the pretrial hearing. The court then allowed the State to admit the redacted Georgia judgment as Exhibit 1 and the remaining three pages (including the certification) as Exhibit 1A. Exhibit 1A was allowed only for proof of certification and was not given to the jury. Defense counsel made no other objections to this evidence. But when the State rested, defense counsel made a motion for a directed verdict contending that the evidence was insufficient because the State did not introduce a copy of the certified judgment for the jury to view and thus the State failed to prove that appellant had been convicted of a prior sex offense requiring him to register. The court rejected defense counsel's argument and determined, in light of Exhibit 1A, that the judgment was certified.

The decision to admit or exclude evidence is within the sound discretion of the trial court, and we will not reverse the trial court's decision regarding the admission of evidence absent a manifest abuse of discretion. *Strickland v. State*, 2010 Ark. App. 599, ___ S.W.3d ___. Appellant argues that the trial court's admission into evidence of the final disposition—which indicated that appellant was convicted of enticing a child for indecent purposes, child molestation, and aggravated child molestation—was an abuse of discretion. Specifically, appellant argues that the details of his Georgia sex offenses had no probative value and were unfairly prejudicial. In his brief, appellant claims that his counsel's "offer" to the trial court to let the jury know appellant had a conviction requiring him to register was "tantamount to an offer to stipulate or admit to the convictions obligating appellant to register as a sex

offender."

First, appellant did not make this argument at trial. The only objection appellant made at trial to the State's introduction of the final disposition was that the disposition was "not a certified copy and a final judgment." Parties cannot change the grounds for an objection on appeal, but are bound by the scope and nature of their objections as presented at trial. *Frye v. State*, 2009 Ark. 110, at 4, 313 S.W.3d 10, 15.

Moreover, we find appellant's argument to us disingenuous. Not only did his counsel fail to "stipulate or admit to the convictions" obligating him to register, he specifically told the judge in a pretrial hearing that he was requiring the State to prove each and every element of the offense, including that he had been convicted of a prior sex offense that required him to register. Further, at trial, he made a motion for directed verdict challenging precisely this element, arguing that there was not a certified copy of the prior convictions for the jury to view. We hold the trial court did not abuse its discretion in allowing the State to admit the final disposition of the Georgia conviction.

Affirmed.

HART and ROBBINS, JJ., agree.