STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1428
A10-1429

State of Minnesota,
Respondent,

vs.

Steveion Contrell Cage,
Appellant.

Filed August 1, 2011
Affirmed
Halbrooks, Judge

Hennepin County District Court
File Nos. 27-CR-08-63970, 27-CR-09-32061

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Thomas A. Weist, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Jodie L. Carlson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Hudson, Presiding Judge; Halbrooks, Judge; and Bjorkman, Judge.

U N P U B L I S H E D O P I N I O N

HALBROOKS, Judge

In this consolidated appeal following a stipulated-facts trial, appellant argues that the district court erred by denying his pretrial motion to dismiss, that his waiver of his right to a jury trial was invalid, and that the evidence was insufficient to support his conviction for failure to register as a predatory offender. We affirm.

FACTS

Appellant Steveion C. Cage was convicted of first-degree criminal sexual conduct in April 1997. As a result of his conviction, appellant was required to register as a predatory offender. In May 2008, appellant verified his then-current address in Brooklyn Center and acknowledged his duty to register any address changes five days prior to moving. Appellant further acknowledged that he was required to report to law enforcement if he was staying in their jurisdiction—even temporarily. In October 2008, officers conducting routine predatory-offender compliance checks observed a sign at appellant's verified address that advertised the home as available for sale. The officers knocked on the door but received no response, and the home appeared to be vacant. The property owner told the officers that no one had lived in the home for the last month and that he had no record of appellant ever living at that address. A complaint was filed, charging appellant with failure to register as a predatory offender, and a warrant was issued for his arrest.

Officer Mark Johnson worked for the Minneapolis Police Department's "community response team," a team he later described as a multi-jurisdictional response

team. While on duty on February 6, 2009, Officer Johnson received a dispatch that a confidential informant had notified police that appellant, who had a warrant for his arrest, was at a mall in Brooklyn Center. Officer Johnson drove from Minneapolis to the mall and located the identified vehicle in the parking lot. When several people returned to the car, including a person who matched appellant's description, Officer Johnson followed them to another strip mall across the street and pulled up behind their vehicle. As appellant began to get out of the vehicle, Brooklyn Center police arrived. When appellant began walking toward the sidewalk, Officer Johnson approached him and ordered him, at gunpoint, to stop.

In the course of conducting a search of appellant incident to arrest, Officer Johnson discovered a bag containing a large amount of crack cocaine in his jacket pocket and $3,051 in cash. Appellant was charged with first-degree controlled-substance crime.

Appellant moved to dismiss the charges, arguing that his arrest was illegal. Appellant contended that the description provided by the informant was legally insufficient to justify a stop. Appellant also questioned "whether or not Minneapolis police have a right to cross over to Brooklyn Center . . . to make an arrest where there does not appear to be any urgency." The district court denied appellant's motion to dismiss.

Appellant waived his right to a jury trial and agreed to a stipulated-facts trial on both charges. During the waiver hearing, the prosecutor remarked that the parties were proceeding pursuant to Minn. R. Crim. P. 26.01, subd. 4. Appellant's counsel stated that the purpose of the stipulated-facts trial was "to preserve the issue of the stop of

[appellant] . . . on the drug case." Appellant indicated that he was agreeing to a stipulated-facts trial because he did not want to give up his right to appeal the pretrial ruling by pleading guilty. The prosecutor advised the district court that if appellant was found guilty, the parties had agreed to sentences of 66 months on the drug case and 24 months for failure to register, to be served consecutively. In its order, the district court found that appellant had waived his right to a jury trial pursuant to Minn. R. Crim. P. 26.01, subd. 3, and found appellant guilty of both offenses. This appeal follows.

D E C I S I O N

I.

Appellant challenges the district court's denial of his motion to dismiss the complaints on the ground that his arrest was invalid because Officer Johnson lacked jurisdictional authority to arrest him in Brooklyn Center.[1] This court accepts the district court's underlying factual determinations unless they are clearly erroneous. *State v. Lemieux*, 726 N.W.2d 783, 787 (Minn. 2007). "Findings of fact are not clearly erroneous if there is reasonable evidence to support them." *State v. Colvin*, 645 N.W.2d 449, 453 (Minn. 2002). We review legal questions de novo. *Yoraway v. Comm'r of Pub. Safety*, 669 N.W.2d 622, 625 (Minn. App. 2003).

Licensed peace officers are authorized to make arrests outside of their jurisdiction "in obedience to the order of a court." Minn. Stat. § 629.40, subd. 3 (2008). In *State v. Dyer*, the supreme court considered the validity of the execution of a search warrant by

[1] Appellant does not challenge the district court's decision with respect to the sufficiency of the informant's description.

an officer acting outside of his jurisdiction. 438 N.W.2d 716, 718-19 (Minn. 1989), *review denied* (Minn. June 9, 1989), *abrogated on other grounds by Richards v. Wisconsin*, 520 U.S. 385, 393-94, 117 S. Ct. 1416, 1421-22 (1997). Noting first that the warrant itself was properly issued by a district court judge in the correct jurisdiction, the supreme court concluded in *Dyer* that the officer's execution of the search warrant outside of his jurisdiction was valid pursuant to section 629.40, subdivision 3. Specifically, the supreme court noted that this statutory provision permits "licensed peace officers [to] make an out-of-jurisdiction arrest when acting pursuant to a valid court order. *Id.* at 719. Because the search warrant itself was valid and the officer was acting in his regular line of duty, the supreme court concluded that the warrant's execution was also valid.

The same analysis applies in this case. Here, the Hennepin County District Court issued a valid warrant for appellant's arrest on the felony charge of failure to register as a predatory offender. Officer Johnson responded to a call that appellant was in Brooklyn Center and that a warrant for his arrest had been issued. Even though Officer Johnson was outside of Minneapolis at the time that he executed the arrest warrant, because the arrest was pursuant to a court order, we conclude that appellant's arrest was valid. Because Officer Johnson's arrest of appellant was authorized by Minn. Stat. § 629.40, subd. 3, the district court did not err by denying appellant's motion to dismiss.

II.

Appellant asserts that his jury-trial waiver on the charge of failure to register was invalid, contending that the record is not clear as to which stipulated-facts procedure he

agreed to. Whether or not a jury-trial waiver is sufficient under the rules of criminal procedure is a question of law, which this court reviews de novo. *State v. Tlapa*, 642 N.W.2d 72, 74 (Minn. App. 2002), *review denied* (Minn. June 18, 2002).

The Minnesota Rules of Criminal Procedure provide for two methods of waiving one's right to a jury trial. Minn. R. Crim. P. 26.01, subd. 3, permits a defendant to agree to a determination of his guilt based on stipulated facts submitted to the district court. The defendant must waive his trial rights on the record and in writing, and "[i]f the court finds the defendant guilty based on the stipulated facts, the defendant may appeal from the judgment of conviction and raise issues on appeal as from any trial to the court." Minn. R. Crim. P. 26.01, subd. 3.

Minn. R. Crim. P. 26.01, subd. 4, provides a different version of a stipulated-facts trial to be utilized in situations where both parties agree that a ruling on a specific pretrial issue "is dispositive of the case, or that the ruling makes a contested trial unnecessary." The defendant must stipulate to the state's evidence and "acknowledge that appellate review will be of the pretrial issue, but not of the defendant's guilt, or of other issues that could arise at a contested trial." Minn. R. Crim. P. 26.01, subd. 4. If the district court finds the defendant guilty of the offense, appellate review is limited to the pretrial issue that both parties agreed was dispositive. *Id.* Appellant argues that, while he intended to preserve the pretrial issue of the stop on his drug charge, he did not intend to waive his right to appeal the judgment of his conviction on his failure-to-register charge.

The district court issued a separate order on each charge, finding in both that appellant waived his right to a jury trial pursuant to subdivision 3. And as the state points

out in its brief, the waiver hearing reflects that the entire proceeding on both charges was conducted pursuant to subdivision 3. Appellant did not make the requisite on-the-record waivers and acknowledgements necessary to proceed under subdivision 4. Of note, there was no acknowledgement by any party that appellate review would be limited to the issue of the validity of the stop of appellant's vehicle and no agreement by the parties that this issue was dispositive of the case. *See* Minn. R. Crim. P. 26.01, subd. 4(c), (e). Moreover, there was no dispositive pretrial issue related to appellant's charge of failing to register as a predatory offender. While the prosecutor referred in passing to subdivision 4 during the hearing, we conclude that a fair reading of the record demonstrates that all parties and the district court understood that appellant was agreeing to waive his right to a jury trial pursuant to subdivision 3 and that the waiver included both his drug charge and failure-to-register charge. Therefore appellant is not entitled to any relief on this ground.

III.

Appellant challenges his conviction of failure to register as a predatory offender, contending that the district court's findings of fact do not support the "knowledge" element of the offense.[2] On an appeal following a stipulated-facts trial, the reviewing court is not limited to a determination of whether the district court's findings are sufficient to establish the elements of the offense. *State v. Dominguez*, 663 N.W.2d 563, 566 (Minn. App. 2003). Instead, an appellate court is entitled to "examine the entire

[2] Because appellant had a stipulated-facts trial pursuant to rule 26.01, subdivision 3, the sufficiency of evidence to support his conviction of failure to register is properly before this court. *See* Minn. R. Crim. P. 26.01, subd. 3 (stating that the defendant may appeal from the judgment of conviction and is not limited to appellate review of the pretrial issue).

record to determine whether there is sufficient evidence to support the conviction." *Id.* In so doing, we review the record in the light most favorable to the conviction. *Id.*

A person required to register as a predatory offender is guilty of a felony if he or she knowingly violates any of the predatory-offender registration requirements, which includes the requirement to provide authorities with a primary address. Minn. Stat. § 243.166, subds. 4a(a)(1), 5 (2010). To "know" is defined in the criminal code as "believ[ing] the specified fact exists." Minn. Stat. § 609.02, subd. 9(2) (2010). There is no dispute that appellant was required to register as a predatory offender.

The state submitted evidence that when appellant registered his Brooklyn Center address, he also acknowledged that he was required to register a new address within five days of any move. In addition, the record reflects that appellant had notified authorities of a previous change in address, further demonstrating his knowledge of the registration requirement and procedures. Police discovered that appellant's last address on record had been vacant for nearly a month without appellant notifying police of any change. And appellant has been convicted of failing to register in the past. We conclude that the evidence in the record was sufficient to demonstrate that appellant knowingly violated the registration requirements. Appellant's conviction of failure to register is therefore affirmed.

Affirmed.