STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1745

State of Minnesota,
Respondent,

vs.

Leone Antwone Watson, Sr.,
Appellant.

Filed July 18, 2011
Affirmed
Klaphake, Judge

Hennepin County District Court
File No. 27-CR-09-61269

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

Michael O. Freeman, Hennepin County Attorney, Linda K. Jenny, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Theodora K. Gaitas, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Klaphake, Judge; and Muehlberg, Judge.*

* Retired judge of the district court, serving as judge of the Minnesota Court of Appeals by appointment pursuant to Minn. Const. art. VI, § 10.

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

KLAPHAKE, Judge

Appellant Leone Antwone Watson, Sr., challenges his conviction of attempted first-degree criminal sexual conduct, arguing that his stipulated-facts trial did not conform to the requirements of Minn. R. Crim. P. 26.01, subd. 3, and therefore it was merely an incomplete and invalid guilty plea.

Because proof of appellant's guilt was established by stipulated facts in a procedurally correct fashion and the district court entered a verdict after finding beyond a reasonable doubt that appellant was guilty of the charged offense, we affirm.

D E C I S I O N

We interpret the rules of criminal procedure de novo, as a question of law. *Ford v. State*, 690 N.W.2d 706, 712 (Minn. 2005). The defendant and the prosecutor may by agreement submit the question of guilt to the district court on stipulated facts. Minn. R. Crim. P. 26.01, subd. 3(a). In order to proceed in this fashion, the defendant must personally waive various rights, including the right to testify at trial, to confront and examine the prosecution's witnesses in court, and to present favorable witnesses. *Id.* Both the stipulated facts and the waiver of rights must be made a part of the record. *Id.*, subd. 3(b).

A stipulated-facts trial under rule 26.01, subd. 3, is not the equivalent of a guilty plea. *State v. Halseth*, 653 N.W.2d 782, 786 n. 2 (Minn. App. 2002); *see State v. Verschelde*, 595 N.W.2d 192, 194-95 (Minn. 1999). A defendant does not plead guilty, but rather stipulates to a body of evidence to be considered by the district court. *State v.*

Eller, 780 N.W.2d 375, 379, 381-82 (Minn. 2010). The district court must give "due regard to the presumption of innocence" and may enter a guilty verdict if the evidence shows beyond a reasonable doubt that the defendant is guilty of the charge. *Id.* at 380. After a stipulated facts trial, a defendant may appeal any matter, including challenging the sufficiency of the evidence, to the same degree as after a trial. *State v. Busse*, 644 N.W.2d 79, 89 (Minn. 2002); Minn. R. Crim. P. 26.01, subd. 3(d).

Here, appellant made the appropriate waiver of rights; the district court made written findings, as required by Minn. R. Crim. P. 26.01, subd. 2(b), and concluded that appellant was guilty beyond a reasonable doubt of the charged offense. Thus, the proceeding conformed to the procedural requirements of Minn. R. Crim. P. 26.01, subd. 3. But appellant urges this court to reverse his conviction because defense counsel twice asked him if he understood that he would be found guilty and appellant in reply twice acknowledged that he would be found guilty. Appellant contends that this converted the proceeding into a defective guilty plea.

Nothing in the rule prohibits a defendant from acknowledging that the state's evidence is persuasive or that a finding of guilt is probable. We look instead to see whether the defendant made a complete waiver of rights and the state sustained its burden of proving the defendant guilty beyond a reasonable doubt. After reviewing this record, we are satisfied that appellant waived his rights to a trial and that the district court could find appellant guilty beyond a reasonable doubt based on the stipulated facts.

Appellant's reliance on *Brookhart v. Janis*, 384 U.S. 1, 86 S. Ct. 1245 (1996), is misplaced. In *Brookhart*, the Supreme Court analyzed a procedure called a "prima facie

trial." 384 U.S. at 6-7, 86 S. Ct. at 1248. Not only did the defendant make an incomplete waiver of his rights, but his counsel agreed that the "[s]tate need make only a prima facie showing of guilt and that he would neither offer evidence on petitioner's behalf nor cross-examine any of the State's witnesses . . . the equivalent of a guilty plea." *Id.* at 7, 86 S. Ct. at 1248. This is not the scenario presented to us by appellant, and therefore *Brookhart* is not controlling.

Affirmed.