STATE OF MINNESOTA
IN COURT OF APPEALS
A10-2037

State of Minnesota,
Respondent,

vs.

Clinin James Griffin,
Appellant.

Filed September 26, 2011
Reversed
Hudson, Judge

Dakota County District Court
File No. 19HA-CR-09-3461

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

James C. Backstrom, Dakota County Attorney, Jessica A. Bierwerth, Assistant County Attorney, Hastings, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Leslie J. Rosenberg, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Wright, Presiding Judge; Hudson, Judge; and Stauber, Judge.

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

HUDSON, Judge

Appellant argues that the evidence is insufficient to support his conviction of failing to register as a predatory offender. Because the predatory-offender registration

statute allows a person subject to registration to notify either law-enforcement authorities or that person's corrections agent of a change in primary address, and because the circumstantial evidence is insufficient to prove beyond a reasonable doubt that appellant did not notify his corrections agent of his current primary address, we reverse.

FACTS

In 1994, appellant Clinin James Griffin was adjudicated as a juvenile of kidnapping, an offense that requires registration as a predatory offender. On October 27, 2008, Burnsville police officers performed a compliance check to verify that appellant was living at the address he had provided to the Bureau of Criminal Apprehension (BCA). Appellant was not present at the listed address, which was an apartment. The next day, a woman who had moved into the apartment in September 2008 told a detective that the apartment had been vacant when she moved in, and she did not know who appellant was. The officer also spoke to the apartment manager, who stated that the apartment had been vacated at the end of August 2008, that the previous tenant had moved with no forwarding address, and that appellant's name was not on the lease. The manager did not recognize a photo of appellant.

A review of BCA records indicated that appellant had not notified the Burnsville Police Department of his change of primary residence at least five days before his move to a new address under Minn. Stat. § 243.166, subd. 3(b) (2008). BCA records show that in January 2009, appellant filed change-of-address forms, listing a change of address to an address in Maple Grove, but the records did not indicate his address immediately prior to that time.

Because appellant had two prior convictions of failure to register, the state charged him with felony-level failure to register as a predatory offender. Appellant agreed to submit the matter to the district court for trial on stipulated facts pursuant to Minn. R. Crim. P. 26.01, subd. 3. The district court issued its findings of fact and order, finding appellant guilty of the charged offense, and the district court imposed a 26-month sentence. This appeal follows.

D E C I S I O N

Appellant, who was required to register as a predatory offender, argues that the evidence is insufficient to support the district court's finding that he failed to provide timely notice of his change in primary address, as required by Minn. Stat. § 243.166, subd. 3(b). In a challenge to the sufficiency of the evidence, we review the record in the light most favorable to the verdict and ask "whether the [factfinder] could reasonably find the defendant guilty given the facts in evidence and the legitimate inferences which could be drawn from those facts." *State v. Miles*, 585 N.W.2d 368, 372 (Minn. 1998); *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). The same standard of review on the sufficiency of the evidence applies to bench trials, in which the district court is the trier of fact, and to jury trials. *Davis v. State*, 595 N.W.2d 520, 525 (Minn. 1999) (quoting *State v. Hough*, 585 N.W.2d 393, 396 (Minn. 1998)).

Appellant argues that, although the record establishes that the officer did not find appellant at the primary address on file with the BCA, the state did not prove beyond a reasonable doubt that he did not register with his assigned corrections agent, the other method by which the statute permits him to register. The construction of a statute is a

legal determination subject to de novo review. *State v. Carufel*, 783 N.W.2d 539, 542 (Minn. 2010).

The predatory-registration statute requires that "at least five days before [a] person [required to register] starts living at a new primary address, . . . the person shall give written notice of the new primary address to the assigned corrections agent or to the law enforcement authority with which the person currently is registered." Minn. Stat. § 243.166, subd. 3(b). Unless the statutory context requires otherwise, we generally read the word "or" connecting clauses in a statute as disjunctive. *Gassler v. State*, 787 N.W.2d 575, 585 (Minn. 2010). We agree with appellant that the plain language of the registration statute allows a person to register a new primary address by notifying *either* his or her assigned corrections agent *or* the relevant law enforcement authority of that address. Minn. Stat. § 243.166, subd. 3(b); *see also* Minn. Stat. § 243.166, subd. 3(a) (providing that a person who is required to register must inform the corrections agent as soon as the agent is assigned, but that "[i]f the person does not have an assigned corrections agent or is unable to locate [that] agent, the person shall register with the law enforcement authority that has jurisdiction in the area of the person's primary address"). Therefore, in order to convict appellant of failing to register, the state was required to prove beyond a reasonable doubt that appellant did not inform either his corrections agent or law enforcement of the change in his primary address. *See id.*

The stipulated record establishes that appellant did not provide law enforcement with his new primary address and that the BCA did not obtain a record of that address. It also shows that appellant had an assigned corrections agent. But because the state

presented no direct evidence as to whether appellant informed his corrections agent of his primary-address change, the district court's implicit determination that appellant violated the registration statute by failing to notify his agent depends on circumstantial evidence. Circumstantial evidence merits the same weight as direct evidence, but we apply a stricter degree of scrutiny to review of convictions that depend on circumstantial evidence. *State v. Bauer*, 598 N.W.2d 352, 370 (Minn. 1999). In a circumstantial-evidence case, the "evidence must form a complete chain that, in view of the evidence as a whole, leads so directly to the guilt of the defendant as to exclude beyond a reasonable doubt any reasonable inference other than guilt." *State v. Taylor*, 650 N.W.2d 190, 206 (Minn. 2002). On elements proved by circumstantial evidence, there must be "no other . . . rational inferences that are inconsistent with guilt." *State v. Andersen*, 784 N.W.2d 320, 330 (Minn. 2010) (quotation omitted).

The state maintains that the circumstantial evidence is sufficient to establish that appellant did not inform his corrections agent of his change in primary address. The state points out that law enforcement did not locate appellant at his registered primary address and argues that if appellant had updated his address with his agent, the agent would have forwarded that information to the BCA as required by law. *See* Minn. Stat. § 243.166, subd. 3(b) (requiring agent to forward new primary address to BCA within two business days). But we conclude that, on this record, the circumstantial evidence is insufficient to prove beyond a reasonable doubt that appellant did not notify his agent of his change of address. The record contains a duty-to-register form signed by appellant, which informed him that he had an obligation to report any change of address "by completing the

Minnesota Predatory Offender Change of Information Form with [his] corrections agent." The record shows that, in 2007, appellant did submit a change-of-information form to his corrections agent when he changed his primary address. But the state presented no evidence from appellant's probation file or from his corrections agent indicating that he failed to notify the agent of his 2008 change of primary address. Therefore, based on the record, an alternative rational inference may be drawn that, in 2008, appellant also informed his agent of a new change of address but that information failed to reach the BCA. Because this inference is inconsistent with appellant's guilt, the circumstantial evidence does not sufficiently demonstrate that appellant violated the registration requirement by failing to inform his agent of his address change. *See Andersen*, 784 N.W.2d at 330 (requiring that on elements proved by circumstantial evidence, record must not permit additional reasonable inferences inconsistent with defendant's guilt).

Because we reverse appellant's conviction, we do not reach his alternative argument that the state failed to prove beyond a reasonable doubt that he knowingly violated the registration requirement.

Reversed.