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NO. COA05-914

NORTH CAROLINA COURT OF APPEALS

Filed: 2 May 2006

STATE OF NORTH CAROLINA

v.

Burke County  
No. 02 CRS 6654

MARK ANTHONY BROWN  
Defendant

Appeal by defendant from a judgment dated 22 March 2005 by Judge Beverly T. Beal in Burke County Superior Court. Heard in the Court of Appeals 27 March 2006.

*Attorney General Roy Cooper, by Special Deputy Attorney General John J. Aldridge, for the State.*

*M. Victoria Jayne for defendant-appellant.*

BRYANT, Judge.

Mark Anthony Brown (defendant) appeals from a judgment dated 22 March 2005 entered consistent with a jury verdict finding him guilty of failing to register as a sex offender. For the reasons stated herein, we find no error.

*Facts*

On 25 August 1997, defendant was convicted of taking indecent liberties with a minor. Defendant was released from prison on 22 February 2002 and registered in Burke County as a sex offender on 25 February 2002. Defendant listed his address on his registration

card as 1234 Powerhouse Road in Morganton, North Carolina. On 22 July 2002, defendant entered into a lease agreement to rent a mobile home at 4193 Chambers Chapel Circle in Morganton. Defendant did not register this address with the Burke County Sheriff's Department. On 16 August 2002, defendant was arrested for failure to register his change of address.

*Procedural History*

On 7 July 2003, defendant was indicted for failure to register as a sex offender. The case was tried before a jury at the 21 March 2005 Criminal Session of Burke County Superior Court, the Honorable Beverly T. Beal presiding. Defendant was convicted of failing to register as a sex offender and sentenced to a term of twenty to twenty-four months imprisonment. Defendant appeals.

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Defendant argues that there was insufficient evidence to sustain the conviction. Defendant claims that there was no statutory violation because there was no evidence that he changed his address for more than ten days. After careful review of the record, briefs and contentions of the parties, we find no error.

To survive a motion to dismiss, the State must present substantial evidence of each essential element of the charged offense. *State v. Cross*, 345 N.C. 713, 716-17, 483 S.E.2d 432, 434 (1997). “Substantial evidence is relevant evidence that a reasonable mind might accept as adequate to support a conclusion.” *Id.* at 717, 483 S.E.2d at 434 (quoting *State v. Olson*, 330 N.C. 557, 564, 411 S.E.2d 592, 595 (1992)).

In order to convict defendant of failure to register as a sex offender, the State must prove that: "'1) the defendant is a sex offender who is required to register; and 2) that defendant failed to notify the last registering sheriff of a change of address.'" *State v. Harrison*, 165 N.C. App. 332, 334, 598 S.E.2d 261, 262 (quoting *State v. Holmes*, 149 N.C. App. 572, 577, 562 S.E.2d 26, 30 (2002)), *disc. rev. denied*, 359 N.C. 72, 604 S.E.2d 922 (2004). In the instant case, defendant was required to register as a sex offender because he was a resident of North Carolina and had a "reportable conviction" for taking indecent liberties with a minor. See N.C. Gen. Stat. § 14-208.6(4) (2005). The State presented evidence that defendant signed a lease to move to a new address on 22 July 2002. Leon Francis, the owner of the rental property, testified that he gave defendant a key to the mobile home on or about 1 August 2002. Louise Massey, who lived at 4225 Chambers Chapel Circle, within "looking distance" of the mobile home, testified that she recalled seeing defendant at the mobile home and saw him moving in. Massey testified that she saw defendant carrying furniture into the trailer. Francis testified that defendant returned the key to him early the following week, and he returned the security deposit to defendant, although he kept the rent.

Defendant argues that he did not stay in the mobile home for ten days and thus was not required to register his change of address. N.C. Gen. Stat. § 14-208.9(a) states that "[i]f a person required to register changes address, the person shall provide

written notice of the new address not later than the tenth day after the change to the sheriff of the county with whom the person had last registered.” N.C. Gen. Stat. § 14-208.9(a) (2005). “Where the language of a statute is clear and unambiguous, there is no room for judicial construction and the courts must construe the statute using its plain meaning.” *State v. Hooper*, 358 N.C. 122, 125, 591 S.E.2d 514, 516 (2004) (quoting *Burgess v. Your House of Raleigh, Inc.*, 326 N.C. 205, 209, 388 S.E.2d 134, 136 (1990)).

N.C. Gen. Stat. § 14-208(9) clearly provides that a sex offender shall register his new address not later than the tenth day after the change. There is no condition precedent in the statute that the defendant maintain the address for a certain period of time before reporting the change. The gravamen of the offense is simply that defendant moved and did not register his new address. The State presented evidence that defendant executed a lease, was given a key to the mobile home and was seen moving into the property. Thus, in the light most favorable to the State, we conclude there was sufficient evidence to sustain the conviction. Accordingly, we find no error.

No error.

Chief Judge MARTIN and Judge GEER concur.

Report per Rule 30(e).