IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,	)	No. 66141-8-1
Respondent,	)	DIVISION ONE
v.	)	
F.M. (DOB: 07/24/93),	)	UNPUBLISHED
Appellant.	)	FILED: September 19, 2011

Cox, J.—F.M. appeals his juvenile adjudication and disposition for second degree criminal trespass. Viewing the evidence in the light most favorable to the State and drawing all reasonable inferences from the evidence in the State's favor, we conclude that there is sufficient evidence to support the adjudication. We affirm.

In 2009, Officer Bennie Radford, a security officer at Garfield High School, issued a trespass admonishment to F.M. He issued the admonishment to F.M. because of his harassment of Garfield students and involvement in gang activity. The admonishment prohibited F.M. from entering or remaining on Garfield property for one year. F.M. was not a student at Garfield, but did use, on a weekly basis, the Garfield Teen Life Center, which is attached to Garfield's facilities.

During school hours (7 a.m. – 4 p.m.) all fields and facilities are considered part of the Garfield campus. Officer Radford described the scope of "school property" to F.M. F.M. had subsequent conversations with Garfield's principal, Ted Howard, regarding F.M.'s compliance with the trespass admonishment.

A Garfield teacher saw F.M. on the steps leading to the high school's weight room between 3:00 and 3:30 p.m. The teacher reported F.M.'s presence to Officer Radford, who contacted the Seattle Police Department. The teacher identified F.M.'s picture from a photo array.

The State charged F.M. with second degree criminal trespass. In a bench trial, the court convicted F.M. as charged.

F.M. appeals.

SUFFICIENCY OF THE EVIDENCE

F.M. argues that the State did not prove beyond a reasonable doubt that he was aware that the weight room stairs were part of the school property. We disagree.

Evidence is sufficient to support a conviction if, after viewing the evidence in a light most favorable to the State, any rational trier of fact could have found beyond a reasonable doubt the essential elements of the crime.[1] We draw all reasonable inferences from the evidence in the prosecution's favor, and interpret the evidence most strongly against the defendant.[2] Circumstantial evidence and

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[1] State v. Green, 94 Wn.2d 216, 221-22, 616 P.2d 628 (1980) (citing Jackson v. Virginia, 443 U.S. 307, 319, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979)).

direct evidence are equally reliable.[3] "We must defer … on issues of conflicting testimony, credibility of witnesses, and persuasiveness of evidence."[4]

To prove second degree criminal trespass, the State must show that F.M. knowingly entered or remained unlawfully in or upon the premises of another.[5] If the premises in question are public, the State must also show that the defendant failed to comply with lawful conditions imposed on his access to the premises.[6]

Even if an area is open to the public, a property owner may place conditions on access to the premises or may exclude particular individuals, so long as such exclusion is not discriminatory.[7] A person acts unlawfully when he exceeds an express limitation on access to the premises.[8]

In State v. Bellerouche,[9] this court considered whether entry of a trespassed individual onto a driveway that was purportedly open to the public constituted criminal trespass. We held that a previously excluded individual was not able to argue in defense that the property was public. "The trespass notices . . . clearly excluded [the defendant] from the [premises]. Whether or not its driveway may be impliedly open to the public for some other purpose, it was

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[2] State v. Joy, 121 Wn.2d 333, 339, 851 P.2d 654 (1993); State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992).

[3] State v. Liden, 138 Wn. App. 110, 117, 156 P.3d 259 (2007).

[4] Id. (internal citation and quotation omitted).

[5] See RCW 9A.52.080(1).

[6] See RCW 9A.52.090; State v. R.H., 86 Wn. App. 807, 812, 939 P.2d 217 (1997).

[7] State v. Bellerouche, 129 Wn. App. 912, 915-16, 120 P.3d 971 (2005); State v. Collins, 110 Wn.2d 253, 258, 751 P.2d 837 (1988); State v. McDaniels, 39 Wn. App. 236, 240, 692 P.2d 894 (1984).

[8] State v. Kutch, 90 Wn. App. 244, 248-49, 951 P.2d 1139 (1998).

[9] 129 Wn. App. 912, 120 P.3d 971 (2005).

not open to [the defendant]."[1]

Here, both Officer Radford and Principal Howard testified that they explained the trespass admonishment and its scope to F.M. Officer Radford testified that the weight room stairs were part of Garfield's premises from which F.M. was excluded. Whether the stairs were a public place for ingress or egress, as part of the Garfield campus they were premises from which F.M. was excluded. F.M. failed to comply "with all lawful conditions imposed on access"[11] and cannot rely on the defense of RCW 9A.52.090(2).

F.M. argues State v. Brooks[12] requires reversal. It does not. In Brooks, the Court of Criminal Appeals of Tennessee dismissed convictions for criminal trespass on school grounds. The court held that the Tennessee statute was "not broad enough to encompass property . . . owned and operated by a governmental entity and . . . open to the public."[13] But here, RCW 9A.52.090(2) specifically requires that an individual comply with limitations placed on his access to public premises. F.M.'s access to Garfield was limited by the trespass admonishment. Brooks is not persuasive.

We affirm the adjudication and disposition.

Cox, J.

WE CONCUR:

[1] Id. at 916.
[11] RCW 9A.52.090(2).
[12] 741 S.W.2d 920 (Tenn. Crim. App. 1987).
[13] Id. at 923.

Ellington, J.   Grosse, J.