IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Respondent, v. PETER T. BOYER, Appellant.	No. 39646-7-II UNPUBLISHED OPINION

Quinn-Brintnall, J. — A jury found Peter Boyer guilty of failing to register as a sex offender. On appeal, Boyer argues that the State failed to present sufficient evidence that he was required to register as a sex offender. Concluding that sufficient evidence supports the jury's verdict, we affirm.[1]

We review a claim of insufficient evidence for whether, when viewing the evidence in the light most favorable to the State, "'any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.'" *State v. Yarbrough*, 151 Wn. App. 66, 96, 210 P.3d 1029 (2009) (quoting *State v. Rempel*, 114 Wn.2d 77, 82, 785 P.2d 1134 (1990)). A sufficiency challenge admits the truth of the State's evidence and all reasonable inferences

[1] A commissioner of this court initially considered Boyer's appeal as a motion on the merits under RAP 18.14 and then transferred it to a panel of judges.

therefrom. *State v. Theroff*, 25 Wn. App. 590, 593, 608 P.2d 1254, *aff'd*, 95 Wn.2d 385, 622 P.2d 1240 (1980). "In determining the sufficiency of the evidence, circumstantial evidence is not to be considered any less reliable than direct evidence." *State v. Delmarter*, 94 Wn.2d 634, 638, 618 P.2d 99 (1980).

Any Washington resident who "has been found to have committed or has been convicted of any sex offense" has a statutory duty to register with the sheriff of his county of residence. Former RCW 9A.44.130(1)(a) (2006). The State presented evidence that the Department of Corrections (DOC) released Boyer from confinement in Grays Harbor County on March 13, 2009, and that when it did so, it informed him of his registration requirement. On April 9, 2009, DOC found Boyer residing in Grays Harbor County. The Grays Harbor County Sheriff's Office had no record of Boyer having registered as a sex offender between March 13 and April 9. Boyer stipulated that he "was convicted on January 24, 1997 of a sex offense in *State of Washington v. Peter T. Boyer*, Grays Harbor County Superior Court Juvenile Division cause no. 96-8-346-6." Ex. 6.

Boyer does not dispute any of these facts. What he disputes is whether he had committed a sex offense such that he had a duty to register. The offense referred to in his stipulation was a juvenile adjudication for first degree child molestation.[2] For purposes of the registration requirement, "sex offense" is defined as

> (i) [a]ny offense defined as a sex offense by RCW 9.94A.030;
> (ii) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);

[2] The State contends that because Boyer stipulated to have committed "a sex offense," he waived any challenge to whether his juvenile adjudication required him to register. But we are not bound by stipulations to "legal conclusions," such as whether a juvenile adjudication constitutes a "sex offense." *State v. Drum*, 168 Wn.2d 23, 33, 225 P.3d 237 (2010).

> (iii) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);
> (iv) Any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a sex offense under this subsection; and
> (v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection.

Former RCW 9A.44.130(10)(a). The only one of these definitions potentially applicable to Boyer is (i), "[a]ny offense defined as a sex offense by RCW 9.94A.030." Former RCW 9A.44.130(1)(a)(i).

Former RCW 9.94A.030(46) (2008) defines "sex offense" as

> (a)(i) [a] felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130(12);
> (ii) A violation of RCW 9A.64.020;
> (iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080; or
> (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;
> (b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;
> (c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or
> (d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

The definition applicable to Boyer is (a)(i), "[a] felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130(12)." Former RCW 9.94A.030(46)(a)(i).

Boyer argues that because he was a juvenile, his adjudication of first degree child molestation is not a felony that is a violation of ch. 9A.44 RCW because juvenile adjudications are not felony convictions. *State v. Chavez*, 163 Wn.2d 262, 272, 180 P.3d 1250 (2008); *State v. Schaaf*, 109 Wn.2d 1, 8, 743 P.2d 240 (1987) (juveniles do not have the right to jury trials in

juvenile court adjudications). Therefore, he argues that he has not committed a "sex offense" within the meaning of former RCW 9.94A.030 and had no duty to register under former RCW 9A.44.130(1)(a) and (10)(a).

We considered and rejected this argument in *State v. Acheson*, 75 Wn. App. 151, 153-55, 877 P.2d 217 (1994). Boyer suggests that we abandon *Acheson* in light of the 1995 amendment to the definition of "sex offense" contained in former RCW 9.94A.030. Before 1995, subsection (b) of that definition provided that "sex offense" included "[a] felony with a finding of sexual motivation under RCW 9.94A.127."[3] Former RCW 9.94A.030(29)(b) (1993). In 1995, Division One held that this definition did not apply to juveniles who committed offenses with sexual motivation because it referenced the adult sexual motivation statute, former RCW 9.94A.127 (1990), but did not reference the juvenile sexual motivation statute, former RCW 13.40.135 (1990). *State v. S.M.H.*, 76 Wn. App. 550, 559, 887 P.2d 903 (1995). Later that year, the legislature corrected this oversight and amended subsection (31)(b) of the definition of "sex offense" to add the reference to the juvenile sexual motivation statute. Laws of 1995, ch. 268, § 2.

Boyer argues that we should draw a similar conclusion as did the court in *S.M.H.*, particularly because when the legislature amended the definition of "sex offense" to add the reference to the juvenile sexual motivation statute in subsection (31)(b), it did not modify the reference to "felony" to add "or juvenile adjudication" in former RCW 9.94A.030(46)(a)(i). *In re Det. of Martin*, 163 Wn.2d 501, 512, 182 P.3d 951 (2008) (courts cannot "correct" omissions in statutes unless the omission renders the statute completely ineffectual).

[3] Former RCW 9.94A.127 (1999) was later recodified at RCW 9.94A.835. Laws of 2001, ch. 10, § 6.

We decline to abandon *Acheson*. The Juvenile Justice Act of 1977, ch. 13.40 RCW, defines "sex offense" as "an offense defined as a sex offense in RCW 9.94A.030." Former RCW 13.40.020(25) (2004). *See Acheson*, 75 Wn. App. at 154. Under Boyer's argument, because the reference to the word "felony" in the definition of "sex offense" under former RCW 9.94A.030(46)(a)(i) makes it inapplicable to juveniles, no juvenile could be adjudicated guilty of a crime defined in ch. 9A.44 RCW. Such is contrary to the statute's clear legislative intent. Accordingly, we reaffirm the decision in *Acheson* that persons adjudicated guilty of sex offenses defined in ch. 9A.44 RCW, except for former RCW 9A.44.130(12), are required to register under former RCW 9A.44.130(1)(a). The State presented sufficient evidence that Boyer had committed a sex offense that required him to register under former RCW 9A.44.130(1)(a).

Taking the evidence in the light most favorable to the State, any rational trier of fact could have found beyond a reasonable doubt that Boyer was required to register as a sex offender and failed to do so. Sufficient evidence supports the jury's verdict finding Boyer guilty of failing to register as a sex offender. We affirm.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

QUINN-BRINTNALL, J.

We concur:

ARMSTRONG, P.J.

HUNT, J.