

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

No. 29046-8-III

Respondent,

)

)

) **Division Three**

v.

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)

JARROD J. YOCKEY,

) **UNPUBLISHED OPINION**

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Appellant.

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Kulik, C.J. — Jarrod Yockey appeals the trial court’s acceptance of his guilty plea for failure to register as a sex offender. He contends that there was insufficient evidence to support his guilty plea because the State failed to show that he had changed residences because he was not evicted from his prior residence. But Mr. Yockey admitted that he had moved and failed to report his new address because he did not want to be arrested. This is sufficient evidence to support his guilty plea. Accordingly, we affirm the conviction.

FACTS

In 1992, Mr. Yockey was convicted of third degree child rape which required him

to register as a sex offender. Subsequent failure to register offenses extended his requirement to register.

Mr. Yockey was charged by information with failure to register as a sex offender during the period between February 27, 2009 and March 18, 2009. The State alleged Mr. Yockey had knowingly failed to register within 24 hours of release from confinement, within 72 hours after changing addresses within Spokane County, within 48 hours after ceasing to have a fixed address and/or failing to report in person thereafter on a weekly basis.

Prior to the plea hearing, the prosecutor submitted a summary of facts based on proposed testimony by several witnesses.

Mr. Yockey registered an address of 1316 W. Dean, in Spokane County on February 19, 2008. On February 27, 2009, Mr. Yockey was released from incarceration after serving time for a probation violation. The Spokane County Sheriff's Office requested that Mr. Yockey update his address but did not receive a response. The landlord of the apartment on Dean spoke with a detective from the sheriff's office and informed the detective that Mr. Yockey was not currently living at the Dean address. The landlord estimated Mr. Yockey last resided in that apartment around August 2008. On March 18, 2009, Mr. Yockey was arrested.

Approximately five weeks after being released from incarceration, Mr. Yockey met with two community corrections officers. Mr. Yockey told the corrections officers that since his release from incarceration, he had been living in and paying rent for a room in a house on Knox. He also said he could not return to his Dean apartment because he could be located and arrested there.

At the plea hearing, Mr. Yockey stated that he understood the charge and consequences of pleading guilty and that he entered into the plea voluntarily. The State's factual basis for the plea relied on the summary of facts, including Mr. Yockey's statements to the corrections officers. The defense did not dispute the facts presented at the hearing. The plea stated that the court could review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis. The court found there was sufficient evidence to accept the plea and that the plea was made knowingly, intelligently, and voluntarily. Mr. Yockey appeals acceptance of the plea.

ANALYSIS

On a challenge to the sufficiency of the evidence, the reviewing court must "view the evidence in the light most favorable to the State and determine whether any rational trier of fact could have found the elements of the charged crime beyond a reasonable doubt." *State v. Brown*, 162 Wn.2d 422, 428, 173 P.3d 245 (2007). "[A]ll reasonable

inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant.” *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). “A claim of insufficiency admits the truth of the State’s evidence and all inferences that reasonably can be drawn therefrom.” *Id.*

CrR 4.2(d) provides that “[t]he court shall not enter a judgment upon a plea of guilty unless it is satisfied that there is a factual basis for the plea.” In determining whether a factual basis exists for a plea, the trial court need not be convinced beyond a reasonable doubt that the defendant is guilty. *State v. Saas*, 118 Wn.2d 37, 43, 820 P.2d 505 (1991). “Rather, a factual basis exists if there is sufficient evidence for a jury to conclude that the defendant is guilty.” *Id.* At a plea hearing, the court may consider any reliable source of information in the record in determining whether a factual basis exists. *State v. Osborne*, 102 Wn.2d 87, 95, 684 P.2d 683 (1984). One such reliable source is the prosecutor’s factual statement. *Id.*

Under RCW 9A.44.130(1)(a), an adult who has been convicted of a sex offense shall register with the county sheriff for the county of the person’s residence. The statute sets forth various deadlines requiring registration within a certain time period after changing residences. Former RCW 9A.44.130(5)(a) (2006) (requiring registration within 72 hours of changing residences in the same county). A person who knowingly

fails to comply with the registration requirement is guilty of a felony. Former RCW 9A.44.130(11)(a). The failure to register is not an alternate means crime, so the State need not show that the defendant failed to meet every alleged deadline. *See State v. Peterson*, 168 Wn.2d 763, 770-71, 230 P.3d 588 (2010). An arrest on charges of failure to register constitutes actual notice of the duty to register. RCW 9A.44.130(4)(c).

To prove that Mr. Yockey knowingly failed to register within 72 hours, the State had to show that Mr. Yockey (1) had previously been convicted of a sex offense that required registration, (2) changed his residence on or after February 27, 2009, and, (3) knowingly failed to provide written notice of the change of his address within 72 hours of moving. *See State v. Castillo*, 144 Wn. App. 584, 588, 183 P.3d 355 (2008).

Mr. Yockey's initial rape conviction and subsequent failure to register convictions required him to register his address with the county sheriff through at least 2016. During the period between February 27, 2009, and March 18, 2009, Mr. Yockey had a duty to register if he changed residences.

Mr. Yockey changed residences on or after February 27, 2009, which required him to register his new residence. A residence "is the place where a person lives as either a temporary or permanent dwelling, a place to which one intends to return, as distinguished from a place of temporary sojourn or transient visit." *State v. Pickett*, 95 Wn. App. 475,

478, 975 P.2d 584 (1999).

After being released from incarceration on February 27, 2009, Mr. Yockey had been renting and living in a room at a house on Knox. This was an address different than his last known registered address on Dean. Mr. Yockey stated he had no intention of returning to the Dean address due to the possibility of being found there. Viewing this evidence in a light most favorable to the State, a rational trier of fact could have found beyond a reasonable doubt that the address on Knox constituted a new residence because Mr. Yockey was paying rent, living there, and did not intend to return to his last known registered address.

Mr. Yockey cites *State v. Drake*, 149 Wn. App. 88, 201 P.3d 1093, *review denied*, 166 Wn.2d 1026 (2009), arguing that because there is no evidence that he was evicted from his apartment on Dean, there is insufficient evidence to prove that he had changed residences. Residential status is not an element of the crime, so it is immaterial whether Mr. Yockey had a legal right to reside at the Dean apartment. *See Peterson*, 168 Wn.2d at 774. The State needed only to show that Mr. Yockey had changed residences without registering his new address. *See id.* at 770.

Finally, Mr. Yockey knowingly failed to register his new residence. His prior arrest for failure to register constituted actual notice of his duty to register, and he was

aware of this duty as indicated by his prior registration. Despite requests from the sheriff's office, Mr. Yockey did not register with the sheriff's office between February 27, 2009, and March 18, 2009—dates beyond any applicable reporting deadline.

There is sufficient evidence for a rational trier of fact to have found beyond a reasonable doubt that Mr. Yockey had changed residences and knowingly failed to register his new address.

we affirm the trial court.

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

Kulik, C.J.

WE CONCUR:

Sweeney, J.

Siddoway, J.