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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-0522**

State of Minnesota,
Respondent,

vs.

John Antonio Whitelaw,
Appellant.

**Filed February 4, 2013
Affirmed
Bjorkman, Judge**

Dakota County District Court
File No. 19HA-CR-11-2786

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

James C. Backstrom, Dakota County Attorney, Nicole Nee, Assistant County Attorney,
Hastings, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Rochelle R. Winn, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Cleary, Presiding Judge; Peterson, Judge; and
Bjorkman, Judge.

UNPUBLISHED OPINION

BJORKMAN, Judge

Appellant challenges his conviction of failure to register as a predatory offender, arguing that the evidence is not sufficient to prove he knowingly violated the predatory-offender registration statute. We affirm.

FACTS

In 2004, appellant John Whitelaw was convicted of fourth-degree criminal sexual conduct. On that basis, he is required to register as a predatory offender. From May 2011 through August 2011, Whitelaw registered as homeless in Minneapolis and did not provide a primary or secondary address.

On August 18, 2011, police officers executed a search warrant at P.H.'s residence in South St. Paul to investigate an alleged theft. During the execution of the warrant, police officers found Whitelaw sleeping in P.H.'s bedroom. Because Whitelaw was disruptive, the officers placed him in the back of their squad car. While Whitelaw was detained, the officers checked his criminal background and learned that he is a predatory offender registered as homeless in Minneapolis. P.H. told the officers that Whitelaw had spent the night at her home but was living with his sister in Inver Grove Heights. In P.H.'s residence, the officers found Ramsey County court documents belonging to Whitelaw.

Respondent State of Minnesota charged Whitelaw with failing to report a change of address under the predatory-offender registration statute. During a bench trial, P.H. testified that Whitelaw was her boyfriend and began staying at her home two to three

nights a week shortly after they met in January 2011. In April, Whitelaw began staying at her residence five to six times a week; and by the summer, he stayed there almost every night. Whitelaw kept clothing, bikes, books, toiletries, and several other items in her residence. P.H. admitted that she had lied when she told investigators that Whitelaw lived with his sister. P.H.'s son, D.H., also testified that Whitelaw stayed overnight at P.H.'s residence five to six times a week. D.H. stated that Whitelaw was away from the residence two to three times a week.

Whitelaw testified that he is homeless and stays at a shelter four to five nights a week. He stated that he occasionally stayed overnight at P.H.'s residence but never more than three nights a week. Whitelaw acknowledged that he must register as a predatory offender, that the registration process has been explained to him, and that he "knew the drill." He testified that he understood a primary address is a place where someone stays for four or more days a week and a secondary address is "somewhere that [he] could be found other than [his] primary address and only if [he was] there a majority of the time."

The district court found that the testimony of P.H. and D.H. was credible, rejected Whitelaw's testimony about how often he stayed at P.H.'s residence, and determined that Whitelaw resided with P.H. during the spring and summer of 2011. The district court convicted Whitelaw of failure to register as a predatory offender and sentenced him to 15 months' imprisonment. This appeal follows.

D E C I S I O N

When reviewing a sufficiency-of-the-evidence challenge, we carefully analyze the record to determine whether the fact-finder could reasonably find the defendant guilty of

the offense charged based on the facts in the record and the legitimate inferences that can be drawn from them. *State v. Buckingham*, 772 N.W.2d 64, 71 (Minn. 2009). In doing so, we view the evidence in the light most favorable to the conviction and presume the fact-finder believed the state's witnesses and disbelieved any contrary evidence. *State v. Chambers*, 589 N.W.2d 466, 477 (Minn. 1999). We defer to the fact-finder's credibility determinations. *Buckingham*, 772 N.W.2d at 71. The same standard of review applies to bench trials and jury trials. *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011).

Whitelaw argues that his conviction must be reversed because there is no evidence that he knowingly violated the predatory-offender registration statute. The statute requires persons convicted of certain criminal-sexual-conduct offenses to register with law enforcement authorities, Minn. Stat. § 243.166, subd. 1b(a)(1)(iii) (2010), and provide, among other information, their primary and secondary addresses, Minn. Stat. § 243.166, subd. 4a(a) (2010). The person must notify law enforcement at least five days before acquiring a new primary address, Minn. Stat. § 243.166, subd. 3(b) (2010), and within five days of acquiring a new secondary address, Minn. Stat. § 243.166, subd. 4a(b) (2010). A primary address is defined as the mailing address of the person's dwelling. Minn. Stat. § 243.166, subd. 1a(g) (2010). Dwelling means the building where the person lives under a formal or informal agreement. *Id.*, subd. 1a(c) (2010). A secondary address is the mailing address of any place where the person regularly or occasionally stays overnight when not at his or her primary address. *Id.*, subd. 1a(i) (2010). To knowingly violate the registration statute, the person must be aware that the statute prohibits his or her conduct. *See State v. Gunderson*, 812 N.W.2d 156, 161 (Minn. App.

2012) (interpreting the adverb “knowingly” in the harassment-restraining-order statute as requiring that the defendant was aware that his conduct was prohibited).

Whitelaw’s sole argument is that the evidence is not sufficient to prove that he knew he was violating the registration requirements. We disagree. Whitelaw acknowledged that he was informed of the registration requirements and understood that he needed to report any changes regarding his primary address. Whitelaw believed that a primary address is any place where a person stays for more than four days a week. His defense at trial was that he did not stay with P.H. more than three days a week. Because this court does not second guess the fact-finder’s credibility determinations, we defer to the district court’s finding that Whitelaw stayed at P.H.’s residence more than five days a week. *See Buckingham*, 772 N.W.2d at 71. By staying at P.H.’s residence more than five days a week, Whitelaw knew that he was required to report P.H.’s residence as his primary address. On this record, we conclude that sufficient evidence supports the determination that Whitelaw’s violation of the registration statute was knowing.

Affirmed.