STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1649

State of Minnesota,
Respondent,

vs.

Donald Crenshaw,
Appellant.

Filed November 25, 2008
Affirmed
Klaphake, Judge

Ramsey County District Court
File No. K4-06-4761

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2134; and

Susan Gaertner, Ramsey County Attorney, Thomas R. Ragatz, Assistant County Attorney, 50 West Kellogg Blvd., Suite 315, St. Paul, MN 55102 (for respondent)

Lawrence Hammerling, Chief Appellate Public Defender, Jessica Benson Merz Godes, Assistant State Public Defender, 540 Fairview Avenue North, Suite 300, St. Paul, MN 55104 (for appellant)

Considered and decided by Klaphake, Presiding Judge; Worke, Judge; and Crippen, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

U N P U B L I S H E D O P I N I O N

KLAPHAKE, Judge

Following a bench trial on stipulated facts, appellant Donald Crenshaw was convicted of failure to register as a predatory offender under Minn. Stat. § 243.166, subds. 3, 3a (2006). He now seeks vacation of his conviction, claiming that (1) his homeless status excused him from the statutory requirement to notify his corrections agent at least five days before he intended to change his primary address, and (2) the state misinformed him about this statutory obligation. Because appellant was not homeless within the meaning of the law and received proper information about his statutory obligation, we affirm.

D E C I S I O N

To the extent that appellant challenges the sufficiency of evidence on whether or not he was homeless, we defer to the district court's determinations of fact. *See State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989) (requiring appellate court to consider evidence in light most favorable to verdict in considering sufficiency of evidence claim); Minn. R. Crim. P. 26.01, subd. 3 (specifying that after stipulated facts trial, defendant may appeal the same issues that are appealable from any court trial).

Appellant first claims that the court erred in convicting him for failing to give his corrections agent five day's advance notice before moving to a new primary address. *See* Minn. Stat. § 243.166, subd. 3(b) ("[A]t least five days before the person starts living at a new primary address, . . . the person shall give written notice of the new primary address

. . . ."). He asserts that *State v. Iverson*, 664 N.W.2d 346 (Minn. 2003) relieves him of this duty because, as a homeless person, he was exempt from the notice requirement.

In *Iverson*, the supreme court ruled that when a person alleges inability to comply with predatory registration requirements because of his or her status as a homeless person, the district court must conduct a factual inquiry to determine the "degree" of an offender's homelessness. *Id.* at 354. If the offender lives in a place where he or she can receive mail and "can provide five days' notice that [the offender] will be going there," the five-day notice provision continues to apply. *Id.* at 353. The court invited the legislature to create registration procedures for offenders who, by this factual inquiry, demonstrate that they do not meet these criteria and, therefore, are "homeless" to the extent that they cannot comply with the existing registration requirements. *Id.* at 354.

We agree with the district court's determination that appellant did not provide facts that could support a finding that he was a homeless person within the meaning set forth under *Iverson*. Appellant was assigned to live at a halfway house as part of his supervised release from prison, and he was prohibited by law from leaving there. Further, after appellant left this halfway house without permission, he lived at two hotels, where he presumably could have received mail. He declined to register in his own name at these hotels because he "knew there was a warrant for his arrest." The court concluded on these facts that appellant was a "person with the wherewithal or contacts to secure housing arrangements on a continuous basis[.]"

The *Iverson* court drew a difference in the degree of homelessness that would preclude an offender from the ability to comply with the statute in this manner.

> [A]n offender who sleeps one night on a park bench, the next under a bridge, the next at a bus stop, and so on, is in a significantly different position from an offender who lives in a shelter for three weeks or on a couch in a friend's apartment for six months.

Id. at 353. Thus, viewing the evidence in the light most favorable to the court's factual determinations, the evidence was sufficient for the court to conclude that appellant was not a homeless person to the extent that he could not comply with Minn. Stat. § 243.166, using the criteria set forth by *Iverson*.

Appellant further argues that he could not be convicted of a failure to comply with the five-day notice requirements of Minn. Stat. § 243.166, subd. 3, because he was homeless and did not receive the proper registration forms or other information that reflected changes in the law following *Iverson* and the enactment of Minn. Stat. § 243.166, subd. 3a (adding an alternative registration procedure for homeless offenders that does not include the five-day advance notice of change of address). He claims that the state's failure to provide him with an updated registration form or updated information about the law violated due process because the state is constitutionally prohibited from misleading individuals about their legal obligations. *Whitten v. State,* 690 N.W.2d 561, 565 (Minn. App. 2005). This argument lacks merit because any defect in registration procedures for homeless persons had no bearing on appellant—appellant was not homeless. Thus, the state had no duty to inform appellant of a law that did not

apply to him. Further, the record shows that appellant received notice of statutory provisions that applied to him at the time of his offense.[1]

Affirmed.

[1] As respondent points out, post-*Iverson* omission of the statutory language containing the five-day notice of move became effective on July 1, 2005. Two of the forms provided to appellant were dated before August 1, 2005, and the last, dated September 29, 2005, did not include the five-day notice provision. Thus, even assuming that appellant was a homeless person, the record, which was solely composed of documents, does not support appellant's claim that he was misinformed about the law regarding his duty to provide proper notice of his intent to change his primary address.