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Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A08-0358**

State of Minnesota,  
Respondent,

vs.

Aaron John Thompson, Sr.,  
Appellant.

**Filed April 21, 2009  
Affirmed  
Lansing, Judge**

Clay County District Court  
File No. K8-07-000028

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

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Considered and decided by Lansing, Presiding Judge; Kalitowski, Judge; and Schellhas, Judge.

## **UNPUBLISHED OPINION**

**LANSING, Judge**

Aaron Thompson appeals his felony conviction for violating registration requirements as a predatory offender. Because the evidence is sufficient to support Thompson's conviction for failing to comply with the statutory requirements triggered by absence from his registered address, we affirm.

### **F A C T S**

In January 1994 Aaron Thompson pleaded guilty to charges of kidnapping and terroristic threats. As a result of these convictions, Thompson was required to register as a predatory offender. In August 2006 he submitted a "change of information" form to law enforcement authorities. The form stated that he had moved from Moorhead to Dilworth, Minnesota, and that his current, primary residence and mailing address was 415 First Avenue Southeast in Dilworth. Thompson's girlfriend, CD, owns the home at that address. Thompson did not list previous or current "secondary [or] other addresses." He listed his current employer as Fabricators Unlimited in Fargo, North Dakota.

In late November 2006, Thompson left the registered address after he and CD had an argument. CD reported Thompson's absence to the Dilworth police on December 4, 2006. She said that she had not seen Thompson since the argument and that she would not allow him to return to the residence. Police unsuccessfully attempted to locate Thompson at Fabricators Unlimited and, in early January 2007, filed a criminal complaint charging a violation of registration requirements under Minn. Stat. § 243.166 (2006). When police finally spoke to Thompson in early February, Thompson "reregistered" at

the First Avenue address and told police that he did not want to talk about where he had been.

At a court trial on the violation of the registration requirements, the evidence focused on where Thompson was living between late November 2006 and February 2007. Thompson and CD both testified that they reconciled after the November argument and Thompson moved back to the First Avenue address, but neither could remember the date when that occurred. Thompson testified that it was before Christmas, and CD testified that it was some weeks after she reported his absence on December 4. They both testified that, while Thompson was away, he retained access to the house and kept his possessions there.

According to Thompson, during the November to February time period he was at the First Avenue address every day for “a couple hours [up] to most of the day” to eat, change clothes, or shower. He said that he viewed this time as a cooling-off period and always left the house before CD came home to avoid any escalation of the conflict between them. He said he slept either on the street or in homeless shelters, and, because he considered the First Avenue address his home, he did not think that his circumstances triggered any requirements under the registration statute.

CD’s testimony was equivocal on whether Thompson was living at the First Avenue address between November and February. She agreed that she did not see him between the November argument and the date of their reconciliation, but she was unsure whether he spent any nights at the house. She said that he continued to receive mail at the house, but she did not know whether he ever collected the mail. She also said that

because of the similarity in size between Thompson and her two sons she would not notice if Thompson left laundry at the house. When asked if she saw anything in the house that indicated Thompson spent time there during the day, she said, “Not that I could see, but I don’t know.”

The district court, in written findings, observed that Thompson had complied with his obligation to register both in 1997 and in 2006 when he moved to Dilworth. The findings state that Thompson left the house on November 22 and that CD had not observed signs of him at the house and reported him missing. The district court explicitly found “not credible” Thompson’s testimony that he “continued to reside” at the First Avenue address. Based on these findings, the district court concluded that Thompson was guilty of failure to register and sentenced him to thirty months of imprisonment. Thompson appeals, claiming the evidence was insufficient to support the conviction.

## **D E C I S I O N**

On a challenge to the sufficiency of the evidence to support the district court’s determination, we evaluate whether the evidence, when viewed in a light most favorable to the determination, is sufficient for the district court, as fact-finder, to “reasonably find the defendant guilty given the facts in evidence and the legitimate inferences which could be drawn from those facts.” *State v. Miles*, 585 N.W.2d 368, 372 (Minn. 1998). We defer to the fact-finder’s credibility determinations. *Dale v. State*, 535 N.W.2d 619, 623 (Minn. 1995).

Thompson does not dispute that, from November 2006 to February 2007, he was obligated to follow the registration procedures outlined in the predatory-offender-

registration statute, Minn. Stat. § 243.166. He also does not dispute that he failed to make any report under the registration statute between the change-of-information forms he submitted in August 2006 and February 2007. The only question is whether the evidence is sufficient to show that Thompson’s failure to submit additional information during that time amounts to a knowing violation of the registration requirements.

A person required to register must provide his primary address, other addresses in Minnesota where he regularly or occasionally stays overnight, addresses of property he owns, leases, or rents, and the address of his place of employment. Minn. Stat. § 243.166, subds. 1a(g), 1a(i), 4a(a)(1-4). Beginning in 2003, a person required to register was also required to “give written notice to [the designated authority] that has jurisdiction in the area of [his] primary address that [he] is no longer living or staying at an address, immediately after [he] is no longer living or staying at that address.” *Id.*, subd. 3(b); *see also* 2003 Minn. Laws 1st Spec. Sess. ch. 2, art. 8, § 4 at 1436 (adding specified language to statute).

A registrant who is without a primary address, i.e. homeless, must nonetheless provide information on his location. Minn. Stat. § 243.166 subd. 3a. In 2003 the Minnesota Supreme Court found earlier registration requirements to be of limited applicability to homeless persons. *State v. Iverson*, 664 N.W.2d 346, 350-54 (Minn. 2003). But the legislature in 2005 added subdivision 3a, creating registration requirements specific to the unique challenges that homeless offenders might have in registering their location. *E.g.*, subd. 3a(c) (requiring person to describe, in absence of primary address, “location of where the person is staying with as much specificity as

possible”); *see also* 2005 Minn. Laws ch. 136, art. 3, § 8, at 942-43 (adding subdivision 3a in its entirety). Absent unique circumstances, the legislature now requires a homeless registrant to report to authorities within twenty-four hours of becoming homeless, and weekly thereafter so long as the person has no primary address. Minn. Stat. § 243.166, subds. 3a(a)-(e).

The district court found that Thompson was aware of his duty to register, that he was not staying at his registered address from the end of November 2006 until February 2007, and that he did not notify authorities of his changed living circumstances, as required under subdivision 3(b). The fact that Thompson was aware of his duty to register is supported by Thompson’s prior registration forms, which are signed by him and were received in evidence. The fact that Thompson was not living at his registered address is grounded on the district court’s explicit finding that Thompson’s testimony was not credible, and on the district court’s finding that CD could not testify to any indications of Thompson’s presence at the house. Thompson concedes the last fact, that he had no contact with authorities from late November to his re-registration in February, when he declined to discuss where he had been.

Thompson, apparently relying on assertions that he was homeless during the period in question, argues that the state has not shown that he had acquired a new address to register, other than the First Avenue address. But the current and operative legislation does not permit an exception for these circumstances. If Thompson no longer had his First Avenue address, he triggered requirements under subdivision 3a. If he retained his First Avenue address, he triggered requirements under subdivision 3 by “staying”

somewhere else, and the district court explicitly found that this provision applied. The state does not have to show where Thompson was “living” or even “staying.” It is sufficient under the statute that he was not staying at his primary address and gave no notice. The evidence supports the district court’s determination that Thompson was not staying at his registered address from late November 2006 until February 2007. His failure immediately to report this circumstance violates the statute.

**Affirmed.**