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IN THE
COURT OF APPEALS OF INDIANA

BRADLEY BAKER,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A04-0910-CR-611
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Grant W. Hawkins, Judge
The Honorable Christina Klineman, Commissioner
Cause No. 49G05-0903-FC-028659

June 21, 2010

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Bradley Baker ("Baker") was convicted in Marion Superior Court of two counts of Class C felony failure to register as a sex offender. Baker appeals and argues that the evidence presented was insufficient to support his convictions. We affirm.

Facts and Procedural History

Baker was convicted in 2001 of Class B felony child molesting and sentenced to ten years with four years suspended. After his release, Baker was convicted in 2008 of Class D felony failure to register as a sex offender and sentenced to 180 days. When he was released from this sentence, Baker registered with the Indianapolis Metropolitan Police Department ("IMDP") as a sex offender, and first listed the Wheeler Mission as his current address. However, Baker was informed that he could not live at the Wheeler Mission, which is near a daycare facility. Baker then crossed out the Wheeler Mission as his address and wrote down the address of his great-uncle's house on Martin Luther King Jr. Street in Indianapolis.

On February 13, 2009, the police checked on Baker's compliance with the sex offender registry by visiting the address of Baker's great-uncle, Joe Rhyne ("Rhyne"). Rhyne's granddaughter, Brittany Bridgeforth ("Bridgeforth"), who had lived with her grandfather for six years, informed the police that Baker did not live at that address. The police later received an anonymous tip that Baker could be found at a house on North Carrolton Street in Indianapolis. On February 27, 2009, the police found Baker at that address and arrested him.

On March 3, 2009, the State charged Baker with three counts of Class D felony failure to register as a sex offender. The State also filed an amended information,

alleging that Baker's offenses were Class C felonies because he had a prior conviction for failure to register. Prior to trial, the State dismissed the third count of the information. A bench trial was held on September 17, 2009, at the conclusion of which the trial court found Baker guilty of two counts of Class C felony failure to register as a sex offender. The trial court sentenced Baker to concurrent sentences of four years on each count. Baker now appeals. Additional facts will be provided as necessary.

Discussion and Decision

Upon a challenge to the sufficiency of evidence to support a conviction, we neither reweigh the evidence or judge the credibility of the witnesses; instead, we respect the exclusive province of the trier of fact to weigh any conflicting evidence. McHenry v. State, 820 N.E.2d 124, 126 (Ind. 2005). We consider only the probative evidence and reasonable inferences supporting the verdict, and we will affirm if the probative evidence and reasonable inferences drawn from the evidence could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt. Id.

The main statute governing Baker's offenses is Indiana Code section 11-8-8-17 (2006), which provides in relevant part:

> (a) A sex or violent offender who knowingly or intentionally:
> (1) fails to register when required to register under this chapter;
> (2) fails to register in every location where the sex or violent offender is required to register under this chapter;
> (3) makes a material misstatement or omission while registering as a sex or violent offender under this chapter;
> (4) fails to register in person as required under this chapter; or
> (5) does not reside at the sex or violent offender's registered address or location;
>
> commits a Class D felony.

(b) The offense described in subsection (a) is a Class C felony if the sex or violent offender has a prior unrelated conviction for an offense:
(1) under this section . . . .

Here, the State first alleged in the charging information that Baker "made a material misstatement or omission while registering as a sex offender and/or failing to reside at the address which he ha[d] registered as his address of residence." Appellant's App. p. 21. Given our standard of review, we must conclude that the State presented sufficient evidence to convict Baker as charged.

Baker registered his address as his great-uncle's house on Martin Luther King Jr. Street. However, Baker's great uncle, Rhyne, testified that although Baker was always welcome at his home, he "didn't see [Baker] so [he] just considered he didn't live there." Tr. p. 33. Rhyne explained that he did not see [Baker] spend the night at his house at all in 2009, and only saw him there "a couple of nights" in 2008. Rhyne further testified that Baker did not have a room at his house and, when he stayed there in 2008, he slept on the couch.[1] Bridgeforth testified that she had lived with her grandfather for six years and that Baker had never lived there during that time. From this evidence, the trial court, acting as the trier of fact, could reasonably conclude that Baker knowingly failed to reside at the address he had registered as his address. See Ind. Code § 11-8-8-17(a)(5).

With regard to Baker's other conviction, the State alleged that Baker "fail[ed] to register his address within seventy-two hours after changing his address." Appellant's App. pp. 21-22. Indiana Code section 11-8-8-11(a) (2008) provides that "[i]f a sex . . .

[1] Baker testified that Rhyne did not see him at his house because Rhyne typically stayed upstairs. However, this is evidence which does not favor the conviction, and we therefore may not consider it on appeal.

offender who is required to register under this chapter changes: (1) principal residence address," the sex offender "shall report in person to the local law enforcement authority having jurisdiction over the sex . . . offender not more than seventy-two (72) hours after the address change." And as noted above, Indiana Code section 11-8-8-17(a)(1) provides that a sex offender who "knowingly or intentionally fails to register when required to register under this chapter . . . commits a Class D felony."[2]

The evidence supporting the conviction established that Baker listed his address as his great-uncle's house when he first filled out the sex offender registration. The State acknowledges that Baker may have intended to live with his great-uncle at the time he listed this address on his registration. Indeed, Rhyne testified that Baker stayed at his house "a couple of nights" in 2008. However, the evidence supporting the conviction established that Baker did not reside with his great-uncle in 2009. Therefore, his principal address necessarily must have changed from his great-uncle's house. However, Baker did not report that change within seventy-two hours as required by statute. Under these facts and circumstances, the trial court could reasonably conclude that Baker knowingly failed to register within seventy-two hours as required. Baker's arguments to the contrary amount to little more than a request that we reweigh the evidence, which we will not do.[3]

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[2] Here, Baker's conviction was elevated to a Class C felony because he had a prior conviction for failing to register as a sex offender.

[3] Baker claims that the evidence cannot be sufficient to support his evidence because the trial court stated that it believed that Baker had "testified honestly and truthfully." Tr. p. 72. Since Baker testified that he lived at his great-uncle's house, Baker argues that the trial court had to believe his testimony and erred in finding him guilty. However, when the trial court's statement is viewed in context, it is apparent that the court was explaining that, although Baker may have considered his great-uncle's house his "base of

Affirmed.

RILEY, J., and BRADFORD, J., concur.

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operation and . . . the main place you live," it was not his primary residence. Id. Indeed, the trial court also stated, "I believe Mr. Rhyne would know if you were staying there more often than not." Id. Moreover, despite the trial court's statement regarding Baker's "truthfulness," the court did find Baker guilty, and the evidence favoring the conviction supports the convictions. If the trial court fully believed Baker's testimony, it could not have found him guilty. See Donaldson v. State, 904 N.E.2d 294, 300 (Ind. Ct. App. 2009) (appellate courts presume that trial courts know and follow applicable law).