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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-427

Filed 17 December 2024

Randolph County, Nos. 22CRS051164; 23CRS000189

STATE OF NORTH CAROLINA

v.

NEAL EUGENE JENKINS

Appeal by Defendant from judgment entered 15 November 2023 by Judge Keith O. Gregory in Randolph County Superior Court. Heard in the Court of Appeals 6 November 2024.

*Attorney General Joshua H. Stein, by Special Deputy Attorney General Lewis W. Lamar, Jr., for the State-Appellee.*

*Tin Fulton Walker & Owen PLLC, by Zachary Ezor, for Defendant-Appellant.*

COLLINS, Judge.

Defendant Neal Eugene Jenkins appeals from judgment entered upon a jury's guilty verdicts of one count of failing to report a new address as a sex offender and one count of having attained habitual felon status. Defendant argues that the trial court erred by denying his motion to dismiss for insufficient evidence that his failure to report his new address was willful. Because the State presented sufficient evidence

that Defendant acted willfully, the trial court did not err by denying Defendant's motion to dismiss. We find no error.

### **I. Background**

Defendant was indicted on 5 December 2022 for one count of failing to report a new address as a sex offender and on 7 August 2023 as a habitual felon. When the case came on for trial, the State's evidence tended to show the following:

Defendant went to the Randolph County Sheriff's Office to register as a sex offender. Detective Sergeant Beck registered Defendant on the Sex Offender Registry at the address 757 Canoy Farm Road in Ramseur. Defendant completed a 15-page duty-to-register form, which outlined the rules a sex offender must follow. Section 8 of the rules stated the following:

When an offender that is required to register changes addresses, they must appear IN-PERSON and provide written notification of this address change to the sheriff in the county where they have most currently registered. This IN-PERSON notification must be made to the county sheriff within three (3) business days of the address change.

Beck testified that she reviewed section 8 with Defendant to ensure he understood the requirements. Specifically, Beck explained to Defendant that he had to complete a "Sex Offender Change of Information Form" to change his address. Defendant initialed section 8. Defendant also initialed section 4 which stated, "It is my responsibility to understand and obey the law and it is my legal duty to register as a sex offender."

A few months later, Beck became aware that Defendant was the suspect in a larceny at 757 Canoy Farm Road in Ramseur. Beck contacted her deputy, who was in route to 757 Canoy Farm Road, and requested that the deputy ask the owner of the home if Defendant still lived there. The owner of the home provided a written statement stating that Defendant had stopped residing at 757 Canoy Farm Road. Beck attempted to contact Defendant by telephone with the number he had for Defendant but was unsuccessful.

Beck did not receive a phone call or a mailed letter from Defendant indicating that Defendant had moved. Beck acknowledged that there was at least one more deputy in the Sheriff's Office with the last name of Beck.

Defendant testified in his own defense as follows: He had left his registered address to live with his girlfriend in Siler City located in Chatham County. He understood he was required to notify the Sheriff's Office, in-person, of his change of address but believed "in-person" meant that he had to fill out the change of address document himself. He had mailed his change-of-address document to the Randolph County Sheriff's Office addressed to "Attention: Detective Beck."

Defendant's motion to dismiss his address-reporting charge was denied. The jury convicted Defendant of failing to report a new address as a sex offender and of attaining habitual felon status. Defendant gave an oral notice of appeal in open court.

## **II. Discussion**

### **A. Motion to Dismiss**

Defendant contends that the trial court erred by denying his motion to dismiss because the evidence presented was insufficient to support the conclusion that he willfully failed to report his new address.

This Court reviews the trial court's denial of a motion to dismiss de novo. *State v. Summey*, 228 N.C. App. 730, 733 (2013). Upon a defendant's motion to dismiss for insufficient evidence, the question for the trial court is "whether there is substantial evidence (1) of each essential element of the offense charged, or of a lesser offense included therein, and (2) of defendant's being the perpetrator of such offense." *State v. Fritsch*, 351 N.C. 373, 378 (2000) (citation omitted).

"Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *State v. Smith*, 300 N.C. 71, 78-79 (1980) (citations omitted). When considering a motion to dismiss, the evidence must be considered in the light most favorable to the State, "giving the State the benefit of every reasonable inference and resolving any contradictions in its favor." *State v. Rose*, 339 N.C. 172, 192-93 (1994) (citation omitted). "When ruling on a motion to dismiss, the trial court should be concerned only about whether the evidence is sufficient for jury consideration, not about the weight of the evidence." *Fritsch*, 351 N.C. at 379 (citation omitted).

"If the evidence presented is circumstantial, the court must consider whether a reasonable inference of defendant's guilt may be drawn from the circumstances." *Id.* Once the trial court determines that a reasonable inference may be drawn, it is

then for the jury to decide whether the facts satisfy the defendant's guilt beyond a reasonable doubt. *Id.* "Circumstantial evidence may withstand a motion to dismiss and support a conviction even when the evidence does not rule out every hypothesis of innocence." *Id.* (quotation marks and citations omitted).

To survive a motion to dismiss a charge of failing to report a new address as a sex offender, the State must present sufficient evidence of the following elements:

(1) that the defendant was a person required to register; (2) the defendant changed [their] address; and (3) that the defendant willfully failed to notify the last registering sheriff of the change of address within the specified time period.

*State v. Crockett*, 368 N.C. 717, 725 (2016) (brackets, ellipses, quotation marks, and citations omitted). A willful violation of a criminal statute is the "wrongful doing of an act without justification or excuse, or the commission of an act purposely and deliberately in violation of law." *State v. Arnold*, 264 N.C. 348, 349 (1965). Willfulness "must ordinarily be proven by circumstances from which [it] must be inferred, . . . and the jury may consider the acts and conduct of defendant and the general circumstances existing at the time of the alleged commission of the offense charged." *Id.*

Here, a reasonable inference that Defendant willfully failed to report his new address may be drawn from the circumstances. Defendant went to the Randolph County Sheriff's Office and was given an Offender Acknowledgement form. Beck reviewed the Offender Acknowledgment form with Defendant to ensure he

understood the rules for changing his address. Defendant read, signed, and initialed the Offender Acknowledgment form. Specifically, Defendant initialed section 8 of the Offender Acknowledgment form, which states that Defendant “must appear IN-PERSON” to change his address, acknowledging that he understood the requirement that he appear in person to change his address. Defendant testified that he knows what it means to “appear” somewhere.

A reasonable inference that Defendant willfully failed to report his new address may be drawn from this evidence. Accordingly, the trial court did not err by denying Defendant’s motion to dismiss.

### **III. Conclusion**

Because the State presented sufficient evidence that Defendant willfully failed to report his new address as a sex offender, the trial court did not err by denying Defendant’s motion to dismiss. Accordingly, we find no error in the judgment entered on the jury’s guilty verdicts of failing to report a new address as a sex offender and having attained habitual felon status.

NO ERROR.

Judges ARROWOOD and HAMPSON concur.

Report per Rule 30(e).