

No. 1-13-1225

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 12 CR 12142
)	
TRACEY HILL,)	Honorable
)	James B. Linn,
Defendant-Appellant.)	Judge Presiding.

JUSTICE LAMPKIN delivered the judgment of the court.
Presiding Justice Hoffman and Justice Hall concurred in the judgment.

O R D E R

¶ 1 *Held:* We reverse defendant's conviction for violating the Sex Offender Registration Act where the State presented no evidence that his initial 10-year registration requirement was extended.

¶ 2 Following a bench trial, defendant Tracey Hill was convicted of violating the Sex Offender Registration Act (Act) (730 ILCS 150/1 *et seq.* (West 2010)), and sentenced to two years' probation. On appeal, defendant contends that the State presented insufficient evidence to convict him beyond a reasonable doubt where it failed to introduce any evidence that he was required to register as a sex offender in 2011 and 2012. We reverse.

¶ 3 In 1994, defendant was convicted of aggravated criminal sexual abuse in case number 93 CR 12724, sentenced to 4 years' probation, and required to register as a sex offender for 10 years. Subsequently, defendant was charged with one count of violating the Act for failing to report as a sex offender from February 5, 2011, through June 13, 2012, having been previously convicted of aggravated criminal sexual abuse in 1994.

¶ 4 At trial, the State entered into evidence a certified copy of defendant's 1994 conviction for aggravated criminal sexual abuse.

¶ 5 Detective Susan Ruck testified that she learned defendant last registered as a sex offender on February 4, 2011. According to Ruck, in order for defendant to be in compliance with the Act, he had to re-register by February 4, 2012, which he never did. Ruck met with defendant on June 13, 2012, after he had been arrested, and defendant told her that he did not re-register because he thought he was no longer required to do so. Ruck never found the registration letter from the State of Illinois notifying defendant of his requirements to register for an additional 10 years.

¶ 6 Officer Eddie Chapman testified that he registered sex offenders, and identified the registration form defendant reviewed and signed on February 4, 2010. By placing his initials and signature on the form, defendant acknowledged he understood the form in its entirety. The form defendant signed indicated that he was to re-register by February 4, 2011. Chapman did not know defendant's term of registration.

¶ 7 After the State rested, defense counsel made a motion for a directed finding, arguing that the State failed to present the certified letter from the Illinois State Police showing defendant was required to register in 2011 and 2012. Without that letter, defendant maintained the State could not show defendant breached his duty to register as a sex offender. The court denied the motion.

¶ 8 Defendant testified that he was previously convicted of aggravated criminal sexual abuse and was required to register as a sex offender for 10 years. Defendant registered as a sex offender in 2010, and the registration form he filled out at that time instructed him to re-register on or before February 4, 2011. Defendant attempted to register as a sex offender twice in 2011, but was told that his registration period had ended. Defendant never registered as a sex offender in 2011 or 2012, nor did he receive a notice from the Illinois State Police indicating that he was required to register.

¶ 9 Following closing argument, the trial court found defendant guilty of violating the Act. The court specifically stated that defendant was told to register in 2011, and held defendant's explanation for his failure to register was not credible. Defendant filed a motion for a new trial, arguing the State did not prove him guilty beyond a reasonable doubt where it did not provide evidence that the Illinois State Police extended his registration period. The court denied his motion, and this appeal followed.

¶ 10 On appeal, defendant contends, and the State correctly concedes, that the evidence was insufficient to prove him guilty beyond a reasonable doubt. In particular, the State failed to prove that defendant violated the Act in 2011 and 2012 where it presented no evidence that his 10-year registration requirement, which would have expired in 2004, was extended.

¶ 11 When presented with a challenge to the sufficiency of the evidence, this court must determine whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011). The credibility of the witnesses, the weight to be given their testimony, and the resolution of any conflicts in the evidence are within the province of the trier of fact, and a reviewing court will not substitute its judgment for that of the

trier of fact on these matters. *People v. Brooks*, 187 Ill. 2d 91, 132 (1999). Reversal is justified only where the evidence is "so unsatisfactory, improbable or implausible" that it raises a reasonable doubt as to the defendant's guilt. *People v. Slim*, 127 Ill. 2d 302, 307 (1989).

¶ 12 We note that when defendant was convicted of aggravated criminal sexual abuse in 1994, he was required to register under the Child Sex Offender Registration Act (730 ILCS 150/1 *et seq.* (West 1994)). The current Sex Offender Registration Act required a person registered under the former act to register under the Sex Offender Registration Act prior to January 31, 1996. 730 ILCS 150/3(c)(1),(2) (West 2010).

¶ 13 As relevant to the case at bar, a sex offender must register annually in person (730 ILCS 150/3(a), 150/6 (West 2010)), and must do so for 10 years after his conviction if not confined to a penal institution (730 ILCS 150/7 (West 2010)). Additionally,

"The registration period for any sex offender who fails to comply with any provision of the Act shall extend the period of registration by 10 years beginning from the first date of registration after the violation. If the registration period is extended, the Department of State Police shall send a registered letter to the law enforcement agency where the sex offender resides within 3 days after the extension of the registration period. The sex offender shall report to that law enforcement agency and sign for that letter. One copy of that letter shall be kept on file with the law enforcement agency of the jurisdiction where the sex offender resides and one copy shall be returned to the Department of State Police." 730 ILCS 150/7 (West 2010).

¶ 14 Here, we agree with the parties that no evidence established that defendant's 10-year registration term had been extended, and thus the State failed to prove beyond a reasonable doubt

that he violated the Act by not registering in 2011 and 2012. Defendant's initial 10-year registration term expired in 2004 as he was convicted of aggravated criminal sexual abuse in 1994. The evidence at trial revealed that defendant had continued to register as a sex offender as late as February 4, 2010, and the registration form he signed on that date indicated he was required to register again on February 4, 2011. However, neither Officer Chapman nor Detective Ruck was able to provide information regarding whether defendant's 10-year registration term had been extended, no notice indicating that defendant was subject to an extended 10-year registration term was presented at trial, and defendant testified that he never received notice from the Illinois State Police extending his registration period. See *People v. Harris*, 333 Ill. App. 3d 741, 754 (2002) (reversing the defendant's conviction of failing to register as a sex offender, in part, because the State failed to provide evidence of his original date of registration). It is also significant to note that Ruck testified defendant last registered on February 4, 2011, which would appear to mean that he would not have had to register again until February 4, 2012. Ruck's testimony was thus in conflict with the charging document indicating that defendant failed to register "on or about February 5, 2011 and continuing on through June 13, 2012."

¶ 15 For the foregoing reasons, we reverse the judgment of the circuit court.

¶ 16 Reversed.