

FIFTH DIVISION
FEBRUARY 26, 2016

No. 1-14-0377

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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. 13 CR 6557
)	
KEVIN DICKENS,)	Honorable
)	Evelyn B. Clay,
Defendant-Appellant.)	Judge Presiding.

JUSTICE GORDON delivered the judgment of the court.
Presiding Justice Reyes and Justice Lampkin concurred in the judgment.

O R D E R

¶ 1 *Held:* Judgment entered on defendant's conviction for failure to register under the Sex Offender Registration Act affirmed over his claim that the evidence was insufficient to prove that he established a fixed residence or temporary domicile in Chicago requiring his registration within three days and that the State failed to prove the *corpus delicti* of the offense.

¶ 2 Following a bench trial, defendant Kevin Dickens was convicted of violating the Sex Offender Registration Act (the Act) (730 ILCS 150/3(a) (West 2010)), then sentenced, as a Class X offender (730 ILCS 5/5-4.5-25 (West 2012)), to six years' imprisonment. On appeal, he contends that the State's evidence was insufficient to prove him guilty of that offense beyond a reasonable doubt, and that the State failed to prove the *corpus delicti* of the charged offense.

¶ 3 Defendant was charged with violating section 3 of the Act in that he, having been previously convicted of aggravated criminal sexual assault, knowingly failed to register, in person, as a sex offender with the Chicago police department within three days of establishing a residence or temporary domicile in the city of Chicago. 730 ILCS 150/3(a)(1) (West 2010). At trial, Shawn Pardieck testified that he is a corrections counselor for the Illinois Department of Corrections (IDOC) who prepares prisoners for their release, which includes discussing sex offender registration with relevant prisoners.

¶ 4 On August 24, 2012, Pardieck advised defendant of his obligations under the Act, including the necessity of registering within three days of his release from prison. He also reviewed with defendant each section of an admonishment form, which detailed defendant's obligations under the Act, and asked defendant if he had any questions. Defendant initialed each paragraph and signed the admonishment form indicating his understanding of each paragraph. Defendant told Pardieck that he intended to return to 6517 South Normal Avenue in Chicago after his release.

¶ 5 On cross-examination, Pardieck stated that defendant told him that he had seen the sex offender registration admonishment form previously and was familiar with it. He further stated

that defendant would have been released from prison that day even if he had not signed the form, and acknowledged that defendant was not told specifically where in Chicago he would have to register or the fees required to do so.

¶ 6 Chicago police officer Mark Simpson testified that on March 9, 2013, he was working as a patrol officer in the area of 1020 West Addison Street with his partner, Officer Alex Giannos, when he observed defendant panhandling near a CTA bus stop. He conducted a field interview with defendant, and collected defendant's state identification card. When he checked defendant's information on the computer in his squad car, he learned that there was a warrant for defendant's arrest for failing to register as a sex offender, and took him into custody. Defendant told him that he was living at 1458 South Canal Street in Chicago, which Officer Simpson knew was the Pacific Garden Mission, a homeless shelter.

¶ 7 On cross-examination, Officer Simpson stated that he did not recall when defendant's state ID card was issued, and believed that the address on the card was "1459 [sic] South Canal Street." Officer Simpson further stated that he did not recall the date that the warrant for defendant's arrest for failing to register was issued.

¶ 8 Chicago police detective James Gonzalez testified that he was assigned to investigate defendant's case on March 9, 2013, and in conducting that investigation he spoke with defendant after he waived his *Miranda* rights. Detective Gonzalez showed defendant a sex offender registration card and a Chicago police department sex offender registration card and defendant acknowledged his signature on both documents. Defendant told the detective that he was out of registration because he lacked the funds to pay the registration fee.

¶ 9 Detective Gonzalez further testified that he spoke with defendant again on March 11, 2013, and showed him the IDOC inmate notification of sex offender registration requirement form and defendant acknowledged his signature on that form. Detective Gonzalez was then asked if, during the course of his investigation, he discovered when defendant had last registered under the Act. Over defendant's foundation objection, Detective Gonzalez testified that he memorialized those findings in his detective supplementary report, but would need to consult the report to refresh his recollection. The detective was again asked if he learned during the course of his investigation when defendant had last registered, and the court again overruled defendant's objection for lack of foundation based on the source of the detective's knowledge. Detective Gonzalez testified that he believed that defendant was out of registration for three months prior to the time he was arrested, but that the facts were memorialized in his detective supplementary report, which he would need to consult to refresh his recollection. After examining that report on the witness stand, Detective Gonzalez testified that defendant's last registration with the Chicago police department was in July 2005. Finally, Detective Gonzalez testified that when he spoke with defendant on March 11, 2013, defendant acknowledged that he had not registered as of that date.

¶ 10 The State then introduced into evidence certified copies of defendant's 1994 conviction for aggravated criminal sexual assault, his 2004 guilty plea to a violation of the Act, his 2008 conviction for failing to report annually under the Act, and his 2010 conviction for failing to register annually under the Act. The parties then stipulated that, if called, Sherry L. Jones, an official court reporter, would testify that she reported the pretrial proceedings that took place in

this case on April 17, 2013, including the following statement of defendant: "I'm pleading not innocent. I'm pleading guilty because I didn't register. I didn't register. I'm pleading guilty."

¶ 11 Defendant testified that he recalled signing the admonishment forms when he was released from prison, but believed that signing the forms was mandatory for his release. He further testified that he was aware of the requirement that he had to pay a fee to register under the Act in Chicago because he attempted to register in 2005, but did not have the money to do so, and was told not to "worry about it." He also testified that he did not register in 2007 because he did not have the required funds, that he believed he did not commit the underlying offense, and that he was unable to find a place to live. On cross-examination, defendant acknowledged that he had not registered under the Act since 2005, and stated that he was staying at the Pacific Garden Mission on 14th and Canal Streets on March 13, 2013.

¶ 12 Following closing argument, the court found defendant guilty of failing to register under the Act. The court stated that defendant admitted he was not registered, and his failure to register was checked by Detective Gonzalez, who corroborated defendant's statement. At the subsequent sentencing hearing, the court considered the relevant factors in aggravation and mitigation, and defendant's statement in allocution, then sentenced him to six years' imprisonment.

¶ 13 On appeal, defendant contests the sufficiency of the evidence to sustain his conviction. He contends that the State failed to prove beyond a reasonable doubt that he established a fixed residence or temporary domicile in Chicago requiring him to register under the Act within three days of doing so. He further contends that the State failed to prove the *corpus delicti* of the

charged offense because the only evidence of his failure to register and his residency in Chicago came from his own statements.

¶ 14 We first address defendant's *corpus delicti* claim. To sustain a conviction, the State must prove that a crime occurred, the *corpus delicti*, and that it was committed by the person charged. *People v. Lara*, 2012 IL 112370, ¶ 17; *People v. Harris*, 333 Ill. App. 3d 741, 744 (2002).

Where, as here, defendant's confession or admission is part of the *corpus delicti*, the State must provide corroborating evidence independent of defendant's confession or admission. *Lara*, 2012 IL 112370, ¶ 17; *Harris*, 333 Ill. App. 3d at 744.

¶ 15 In *Lara*, 2012 IL 112370, ¶ 18, the supreme court stated that to avoid running afoul of the *corpus delicti* rule, the independent evidence need only tend to show the commission of a crime, and does not have to be so strong that it alone proves the commission of the charged offense beyond a reasonable doubt. The supreme court further stated that corroboration is sufficient to satisfy the *corpus delicti* rule if the evidence, or reasonable inferences based on it, tend to support the commission of a crime that is at least closely related to the charged offense. *Lara*, 2012 IL 112370, ¶ 45. The independent evidence need not precisely align with the details of the confession on each element of the charged offense, or to any particular element of it. *Lara*, 2012 IL 112370, ¶ 51.

¶ 16 In this case, defendant admitted that he had not complied with the registration requirements and was out of registration because he lacked the funds to pay. When Detective Gonzalez was asked if he had discovered in his investigation of this matter when defendant had last registered, he testified that defendant had been out of registration for three months prior to

the time he was arrested, and, after using his detective supplementary report to refresh his recollection, testified that defendant's last registration with the Chicago police department was in July 2005. The trial court found that the detective's testimony corroborated defendant's statement.

¶ 17 Defendant disagrees, arguing that this was insufficient because nothing in the record shows the source of Detective Gonzalez's knowledge of defendant's last registration date, and that this information could only have come from him. In so arguing, defendant cites *Harris* where the defendant was convicted of failing to report a change of address within 10 days under the Act. *Harris*, 333 Ill. App. 3d at 745. The defendant in that case admitted that he moved from his previously registered address to a new address, and that he had been living at the unregistered address for "over a month," and to corroborate the defendant's statement, the State presented a police detective's conversation with "a person" who said that the defendant had been residing at the new address "for some time." *Harris*, 333 Ill. App. 3d at 748, 752. On appeal, this court reversed the judgment of the circuit court, finding that the detective's testimony was insufficient to corroborate the confession because it was vague on the issue of how long the defendant had resided there and because it was inadmissible for lack of foundation. *Harris*, 333 Ill. App. 3d at 748-51.

¶ 18 Here, Detective Gonzalez testified that he presented defendant with a sex offender registration card, a Chicago police department sex offender registration card, and an IDOC inmate notification of sex offender registration requirement form, and defendant acknowledged his signature on each document. Over the defense objection for lack of foundation, which was

overruled by the court, Detective Gonzalez testified that defendant had been out of registration for three months prior to the date of his arrest, and that, during the course of his investigation, he learned that defendant had last registered with the Chicago police department in July 2005, as indicated in his supplementary report. The State argues that we can infer from the detective's testimony that "he conducted or caused to be conducted a search of the business records of the Chicago Police Department," and thereby independently determined defendant's most recent registration date, which was sufficient to corroborate defendant's statement under the *corpus delicti* rule.

¶ 19 As noted, the supreme court has held that corroboration is sufficient to satisfy the *corpus delicti* rule if the evidence, or reasonable inferences therefrom, tend to support the commission of a crime. *Lara*, 2012 IL 112370, ¶ 45. Here, the reasonable inference to be drawn from Detective Gonzalez's testimony is that he discovered through his investigation in this case that the Chicago police department records showed that defendant had not been registered since his release from prison prior to his current arrest, and had not been registered under the Act since July 2005. This evidence corroborates defendant's admission, and was sufficient to prove the *corpus delicti* in this case. *People v. Salinas*, 347 Ill. App. 3d 867, 881 (2004).

¶ 20 We next address defendant's contention that the State presented insufficient evidence to prove him guilty of the charged offense. He maintains that the State failed to establish at trial whether, and for how long, he had a fixed residence or temporary domicile in Chicago because the State presented no evidence of how long he was living at the Pacific Garden Mission or in Chicago.

¶ 21 Where defendant challenges the sufficiency of the evidence to sustain his conviction, the reviewing court must consider whether, after viewing the evidence in a 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. Cunningham*, 212 Ill. 2d 274, 278 (2004). This standard recognizes the responsibility of the trier of fact to determine the credibility of the witnesses and the weight to be given their testimony, to resolve any conflicts and inconsistencies in the evidence, and to draw reasonable inferences therefrom. *People v. Sutherland*, 223 Ill. 2d 187, 242 (2006). A reviewing court must allow all reasonable inferences from the record in favor of the prosecution, and will not overturn the decision of the trier of fact unless the evidence is so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of defendant's guilt. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011); *People v. Smith*, 185 Ill. 2d 532, 542 (1999).

¶ 22 Here, defendant was charged with violating section 3(a) of the Act, which provides that a sex offender "shall register *** with the chief of police in the municipality in which he or she resides or is temporarily domiciled for a period of time of 3 or more days, unless the municipality is the City of Chicago, in which case he or she shall register at the Chicago Police Department Headquarters." 730 ILCS 150/3(a) (West 2010). Under the Act, a "place of residence or temporary domicile" is defined as "any and all places where the sex offender resides for an aggregate period of time of 3 or more days during any calendar year." 730 ILCS 150/3(a) (West 2010). Thus, an offender who has an arrangement that provides accommodations for that period of time in a calendar year must register that residence within three days of establishing it. *People v. Peterson*, 404 Ill. App. 3d 145, 152 (2010). As a result, a person can be homeless, but still

have a "fixed residence" if he has an occasional, but predictable, place to stay. *Peterson*, 404 Ill. App. 3d at 152.

¶ 23 Here, the record shows that the State established that defendant was a sex offender subject to the Act, had been made aware of his obligations under the Act by Pardieck upon his release from prison, and, admittedly, had failed to register as required. The evidence further showed that on August 24, 2012, defendant indicated that he intended to return to 6517 South Normal Avenue in Chicago after his release, and when he was arrested seven months later in Chicago, he told Officer Simpson that he was living at 1458 South Canal Street in Chicago, which Officer Simpson knew was the Pacific Garden Mission homeless shelter. Officer Simpson examined defendant's state ID card, which he testified displayed a similar, but different address of 1459 South Canal Street in Chicago. From this evidence, the trial court could reasonably find that the State proved defendant guilty of violating the Act by failing to register as required.

¶ 24 Defendant, relying on *Harris*, contends that his place of residence, and the length of time he resided there, is a "critical element" of the offense which the State was required to prove to sustain a conviction under the Act (*Harris*, 333 Ill. App. 3d at 748) and failed to do so in this case. We find *Harris* distinguishable.

¶ 25 In *Harris*, the issue was whether the defendant failed to register within 10 days after changing his address. *Harris*, 333 Ill. App. 3d at 748. Because the State failed to show that the defendant resided at the new address for more than 10 days, it failed to show that this requirement to register had been triggered, and thus failed to prove an element of the charged offense. *Harris*, 333 Ill. App. 3d at 748. In this case, by contrast, the triggering event requiring

No. 1-14-0377

defendant to register under the Act was his release from prison on August 24, 2012, and subsequent establishment of a fixed residence or temporary domicile in Chicago for three or more days. As discussed above, the evidence in this case was such that a reasonable trier of fact could find that defendant was required to register under the Act after his release from prison and that he failed to do so in the seven months between his release and arrest, and that he had thus violated the Act as charged.

¶ 26 Accordingly, we affirm the judgment of the circuit court of Cook County.

¶ 27 Affirmed.