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**STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1654**

State of Minnesota,
Respondent,

vs.

Han Nicholas Vorwerk,
Appellant.

**Filed July 31, 2017
Affirmed
Smith, John, Judge***

Yellow Medicine County District Court
File No. 87-CR-15-143

Lori Swanson, Attorney General, Michael T. Everson, Assistant Attorney General,
St. Paul, Minnesota; and

Keith R. Helgeson, Yellow Medicine County Attorney, Granite Falls, Minnesota (for
respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Benjamin J. Butler, Assistant
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Considered and decided by Kirk, Presiding Judge; Worke, Judge; and Smith, John,
Judge.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

SMITH, JOHN, Judge

We affirm appellant Han Nicholas Vorwerk's failure-to-register conviction because the district court's legal conclusions are sufficient to satisfy the predatory-offender-registration statute's mandate that registrants give immediate notice of changes to their primary address, and because sufficient evidence supports the district court's finding that the violation was knowing.

FACTS

Han Vorwerk's criminal history requires him to register as a predatory offender in accordance with Minn. Stat. § 243.166 (2014). As of January 5, 2015, Vorwerk's registered primary address was an apartment on East Mill Street in Owatonna.

On January 6, Vorwerk entered a residential treatment program at Project Turnabout. On January 8, he updated his primary address to Project Turnabout's address in Granite Falls. He completed the program and was discharged on February 5.

On March 3, Granite Falls Police Chief Brian Struffert completed a predatory-offender check on the offenders residing in Granite Falls. Vorwerk's registered primary address remained at Project Turnabout, so Chief Struffert contacted the program. He learned that Vorwerk had been discharged on February 5.

On March 20, the state charged Vorwerk with one count of knowingly violating predatory-offender-registration requirements in violation of Minn. Stat. § 243.166, subdivision 5(a), and issued a warrant for his arrest.

On April 6, Vorwerk registered a new primary address at his girlfriend's apartment on East Pearl Street in Owatonna. His registration indicated that he stopped residing at Project Turnabout and began residing at the Pearl Street apartment on February 5.

Police eventually arrested Vorwerk. Vorwerk claimed that an officer told him he did not have to re-register if he returned to his Mill Street apartment after staying at Project Turnabout. The officer denied Vorwerk's claim. Vorwerk also told police that he returned to the Mill Street apartment for approximately three weeks after leaving Project Turnabout, then moved in with his girlfriend at the Pearl Street apartment around March 1.

Vorwerk proceeded to a stipulated-facts bench trial. The stipulated evidence included police reports, Vorwerk's registration paperwork, and recorded police interviews. The state introduced eight annual "Duty to Register" forms bearing Vorwerk's initials, indicating he had reviewed the forms, most recently when he updated his address in April 2015. One initialed provision reads, "I understand that I must register all changes to my primary address, including moving to another state, at least **five days prior to moving**. I understand that if I do not have five days advance notice of a change to my primary address, I must report the change **immediately**." A subsequent initialed provision reads, "I understand that if I do not comply with my registration requirements as outlined above, I can be charged with a felony."

The district court found that the state proved beyond a reasonable doubt that "Vorwerk knowingly violated the requirement to register a new address." It also stated in its accompanying memorandum that the state had "proven the element of knowingly failing

to register his address change.” The district court convicted Vorwerk and sentenced him to 36 months in prison.¹

Vorwerk appeals.

DECISION

Vorwerk challenges his conviction on two grounds: (1) the district court’s conclusion of law that the state proved Vorwerk violated a particular registration requirement is insufficient, and (2) even if the state proved a violation, it did not prove the violation was knowing.

I

Vorwerk claims that the district court’s conclusion that the state proved he violated “the requirement to register a new address” is insufficient to support his conviction. We frame this “sufficiency of the legal conclusion” claim as a purely legal question. We review questions of law de novo. *State v. Dorn*, 887 N.W.2d 826, 830 (Minn. 2016).

The state raises the threshold issues of waiver and forfeiture, urging us to dismiss Vorwerk’s claims because he failed to raise them at the district court, and because he fails on appeal to adequately brief the issue under a plain-error analysis. We generally do not consider matters not argued to and considered by the district court. *Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996). And issues inadequately briefed are generally not considered on appeal. *State v. Butcher*, 563 N.W.2d 776, 780 (Minn. App. 1997), review denied (Minn. Aug. 5, 1977). But after a stipulated-facts bench trial, “the defendant may

¹ The district court later modified Vorwerk’s prison term to 30 months on his motion to correct his sentence.

appeal from the judgment of conviction and raise issues on appeal as from any trial to the court.” Minn. R. Crim. P. 26.01, subd. 3(e). We frame the issue as a legal question warranting de novo review, and so we decline the state’s invitation to deem Vorwerk’s argument forfeited. And Vorwerk’s briefing is only inadequate if we frame the issue as requiring plain-error review, which we do not. We therefore reject the state’s argument to dismiss Vorwerk’s claim as inadequately briefed.

The state charged Vorwerk with violating Minn. Stat. § 243.166, subd. 5(a), which states, “A person required to register under this section who knowingly violates *any* of its provisions . . . is guilty of a felony.” (Emphasis added.) In order to convict an offender of failing to register, the state is required to prove that: (1) the defendant is required to register as a predatory offender, (2) the defendant knowingly violated a registration requirement, (3) the time period within which the defendant is required to register has not lapsed, and (4) the failure to register occurred within the time period in the complaint and in the appropriate county. Minn. Stat. § 243.166, subds. 1b, 3–6.

Vorwerk’s narrow claim is that the district court’s conclusion of law as to the second element is insufficient to support his conviction. Vorwerk contends that, even though a registrant has many obligations, the district court found him guilty of violating a specific one: “the requirement to register a new address.” He argues that “the requirement to register a new address” can only refer to the requirement for registrants to notify authorities of a new primary address at least five days before moving to the new primary address. *See* Minn. Stat. § 243.166, subd. 3(b). The state counters that the evidence shows that Vorwerk also failed to comply with the duty to immediately inform authorities when he no longer

resided at his registered primary address, *see* Minn. Stat. § 243.166, subd. 3(b), and the duty to immediately inform authorities when his primary address was no longer valid, *see id.*, subd. 4a(a)(1), (b).

Vorwerk argues that the state did not charge him with, and the district court did not find him guilty of, violating these other requirements. But he does not pursue further any due-process or insufficient-notice arguments. Generally, the complaint is sufficient to notify Vorwerk that he is charged with violating his registration requirements, including his failure to notify authorities immediately that his primary address is no longer valid. *See State v. Levie*, 695 N.W.2d 619, 628–29 (Minn. App. 2005) (rejecting due-process claim because complaint put defendant on notice that he would have to defend allegation that he attempted to engage minor in sexual performance, and because complaint “made plain what the state basically contended had happened”).

We agree with Vorwerk that the stipulated evidence does not establish that he knew where he would be moving five or more days before he left Project Turnabout. Without evidence that he was aware of his new primary address, the district court could not conclude that he knowingly failed to report a new primary address in accordance with the five-day rule. But Vorwerk appears to overlook the district court’s accompanying memorandum, which states, “The state has proven the element of knowingly failing to register his address change.” An “address change” can reasonably include *both* a failure to register a new address *and* a failure to notify authorities that a primary address is no longer valid.

Furthermore, the district court’s conclusions that Vorwerk “knowingly violated the requirement to register a new address” and “knowingly fail[ed] to register his address

change” necessarily implicate subdivision 3(b)’s mandate that Vorwerk must give written notice “that [he was] *no longer living* . . . at [that] address, *immediately after* [Vorwerk was] no longer *living* . . . at that address.” See Minn. Stat. § 243.166, subd. 3(b) (emphasis added). Vorwerk registered Project Turnabout as his *primary* address, which is statutorily defined as a dwelling, which is in turn defined as the “building where the person lives.” See *id.*, subd. 1a(c), (g). Vorwerk claimed a new primary address as of February 5, 2015, necessitating that Vorwerk: (1) ceased “living” at Project Turnabout on February 5; and (2) began “living” at a new address on February 5. Given these facts, the district court’s finding is, more accurately (and necessarily), that Vorwerk knowingly violated the requirement to register a new *primary* address. But by not registering the actual change in primary address until April 6, Vorwerk failed to comply with subdivision 3(b)’s mandate that he provide notice that he was “no longer living” at Project Turnabout “immediately after” he ceased living there.²

The district court’s conclusions necessarily contemplate more than just the five-day rule. The conclusions also contemplate the immediate requirements for Vorwerk to notify authorities that he was no longer staying at Project Turnabout. Vorwerk failed to comply with those requirements. The conclusions are therefore sufficient to uphold his conviction.

² This reasoning applies equally to subdivision 4a, which similarly requires registrants to provide immediate notice when circumstances invalidate their registered primary address. Minn. Stat. § 243.166, subd. 4a(b). That is, when it ceases to be their primary address.

II

Vorwerk argues that even if the state proved he “technically violated the requirement that he register a new primary address,” the state failed to prove that he did so knowingly. We apply the same standard of review to bench trials and jury trials when evaluating the sufficiency of the evidence. *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011). Under that standard, we “carefully examine the record to determine whether the facts and the legitimate inferences drawn from them would permit the [fact-finder] to reasonably conclude that the defendant was guilty beyond a reasonable doubt of the offense of which he was convicted.” *State v. Fox*, 868 N.W.2d 206, 223 (Minn. 2015). “We view the evidence presented in the light most favorable to the verdict, and assume that the fact-finder disbelieved any evidence that conflicted with the verdict.” *Id.* We will not overturn a verdict if the fact-finder, “upon application of the presumption of innocence and the [s]tate’s burden of proving an offense beyond a reasonable doubt, could reasonably have found the defendant guilty of the charged offense.” *Id.*

In *State v. Watkins*, 840 N.W.2d 21 (Minn. 2013), the Minnesota Supreme Court considered the meaning of the term “knowingly violates” in the context of the domestic-abuse-no-contact-order (DANCO) statute. The supreme court held that a knowing violation “require[s] the defendant to perceive directly that [his conduct] violated the DANCO statute.” *Id.* at 29–30. Here, a knowing violation requires that Vorwerk perceived directly that his conduct violated the offender-registration statute.

The record contains offender-registration forms in which Vorwerk acknowledges his understanding of the five-day rule *and* the general requirement to immediately report a

change to his primary address. He initialed next to the provision that reads, “I understand that I must register all changes to my primary address, including moving to another state, at least **five days prior to moving**. I understand that if I do not have five days['] advance notice of a change to my primary address, I must report the change **immediately**.” The record specifically includes initialed forms from April 2014 and April 2015. This proves that Vorwerk was aware, both before and after he moved out of Project Turnabout, that he must register *all* changes to his primary address, either five days before moving or immediately. Vorwerk also initialed next to the provision that reads, “I understand that if I do not comply with my registration requirements as outlined above, I can be charged with a felony.” The state may not have proved that Vorwerk knew his new primary address five days before leaving Project Turnabout, but it certainly proved that he failed to notify authorities that he was no longer residing at Project Turnabout, and that he knew his primary address when he returned to Owatonna and failed to immediately update his primary address. Knowing that he had to register any changes to his address, and that failing to do so could result in a criminal charge, Vorwerk knew his conduct would violate the statute.

Affirmed.