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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0598**

State of Minnesota,
Respondent,

vs.

Lloyd Edward Pugh,
Appellant.

**Filed April 16, 2018
Affirmed
Reyes, Judge**

Carver County District Court
File No. 10-CR-16-851

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Mark Metz, Carver County Attorney, Kelsey L. Scanlon, Assistant County Attorney,
Chaska, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Julie Loftus Nelson, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Cleary, Chief Judge; Reyes, Judge; and Jesson, Judge.

UNPUBLISHED OPINION

REYES, Judge

On appeal from his conviction of failing to update his predatory-offender
registration, appellant argues that the state did not provide sufficient evidence to show that

he had, in fact, changed his primary address or that he knowingly violated the requirement that he update his registration information pursuant to the statute. We affirm.

FACTS

At around 9:00 p.m. on August 16, 2017, two Chaska Police Department officers were dispatched to investigate a call they had received of a suspicious vehicle parked in the area. The informant had seen a person sitting in the vehicle for over an hour and became concerned because it was getting dark.

The officers identified the man as appellant Lloyd Edward Pugh, a predatory-offender registrant. While the officers asked appellant a few questions, they observed that appellant appeared to be living out of his car based on personal belongings, clothes, and blankets in the car. Appellant admitted to the officers that he had not registered with the Chaska Police Department as a predatory offender staying in that jurisdiction.

The officers asked appellant to go to the police station to update his information. Appellant drove himself to the station, and, upon arrival, met with an officer in the department's "soft interview room." The officer read appellant his *Miranda* rights and recorded their conversation. During the interview, appellant was cooperative with the police officer.

Respondent State of Minnesota charged appellant with one count of failure to register in violation of Minn. Stat. § 243.166, subd. 5a (2016). Appellant's bench trial took place on November 9, 2016. The district court found appellant guilty and sentenced him to a downward-durational departure of 24 months stayed for five years. This appeal follows.

DECISION

Appellant argues that the state failed to produce sufficient evidence that he: (1) was required to update his primary address because his primary address had, in fact, changed and (2) knowingly violated the predatory-offender-registration statute. We disagree.

In considering a claim of insufficient evidence, this court's review is limited to an analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, is sufficient to allow the factfinder to reach the verdict that they did. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). The reviewing court must assume the factfinder "believed the state's witnesses and disbelieved any evidence to the contrary." *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989). This is especially true when resolution of the matter depends mainly on conflicting testimony. *State v. Pieschke*, 295 N.W.2d 580, 584 (Minn. 1980). The reviewing court will not disturb the verdict if the factfinder could reasonably conclude that the defendant was guilty of the charged offense. *Bernhardt v. State*, 684 N.W.2d 465, 476-77 (Minn. 2004).

I. The state produced sufficient evidence that appellant was required to update his primary address information because it had, in fact, changed.

A sufficiency-of-the-evidence claim that questions whether the appellant's conduct meets the statutory definition of an offense presents a question of statutory interpretation that we review de novo. See *State v. Hayes*, 826 N.W.2d 799, 803 (Minn. 2013).

Section 243.166, subdivision 3a, states that a registrant who leaves his or her primary address and does not have a new one shall register within 24 hours with the law-enforcement authority that has jurisdiction in the area where the registrant is staying. A

primary address is “the mailing address of the person’s dwelling[,]” Minn. Stat. § 243.166, subd. 1a(g), and a dwelling is “the building where the person lives under a formal or informal agreement to do so.” *Id.*, subd. 1a(c).

During his August 16, 2017 interview with the officers, appellant said that he was staying in the parking lot of a fast-food restaurant where he works a couple of nights each week and at his friend’s residence in Jordan, Minnesota, which is registered as his secondary address. He admitted that he had not been to his parents’ house, his listed primary residence, since June, and that he had failed to update his registration information. Appellant apologized, said that he did not know that he needed to register if he was homeless, and admitted that he should have contacted his probation officer.

Appellant’s testimony established that he left his primary address. Although appellant’s parents’ home was his mailing address, it was not his dwelling because direct testimony evidence shows that appellant was not actually living at his parents’ home, which is required to be considered a “dwelling” under section 243.166. The state produced sufficient evidence to demonstrate that appellant was required to update his primary address because it had indeed changed, and that he had failed to do so.

II. The state produced sufficient evidence that appellant knowingly violated Minn. Stat. § 243.166.

To support appellant’s conviction, the state was required to show, amongst other things, that appellant knowingly violated the predatory-offender-registration statute. Appellant argues that the state failed to produce sufficient evidence that he knowingly violated the statute. Evidence of past knowledge is insufficient; rather, the state must have

shown appellant's knowledge and the violation occurred at the same time. *State v. Mikulak*, 903 N.W.2d 600, 603 (Minn. 2017).

During trial, appellant's mother testified that appellant began sleeping at a friend's house in June 2016, after she told him that he needed to find another place to live because she was selling her home, appellant's registered primary residence. Appellant's manager at the fast-food restaurant testified that appellant asked for his permission to allow appellant to sleep in his vehicle in the parking lot of the restaurant. During appellant's police interview on August 17, 2016, he admitted that he had not been to his parents' house since June and had failed to update his predatory-offender registration information accordingly. At trial, appellant testified that he called his probation officer in June 2016, and left her a voicemail telling her that he was sleeping in his car in the parking lot of the fast-food restaurant. He also testified that he remembered initialing specific registration requirements when he completed a predatory-offender registration packet on May 5, 2016.

But appellant maintained at trial that he did not know he had to change his address if he was staying in the parking lot of the fast-food restaurant. The district court found that this testimony lacked credibility because it was inconsistent with appellant's other statements. Because we defer to the district court's credibility determinations, *State v. Buckingham*, 772 N.W.2d 64, 71 (Minn. 2009), and we view the evidence in the light most favorable to the conviction, *Webb*, 440 N.W.2d at 430, the record contains sufficient evidence to support the district court's determination that appellant knowingly violated section 243.166.

Affirmed.