

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0124**

State of Minnesota,
Respondent,

vs.

Larry Michael Johnson,
Appellant.

**Filed January 25, 2021
Affirmed
Bjorkman, Judge**

McLeod County District Court
File No. 43-VB-19-1328

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Marc A. Sebor, Hutchinson City Attorney, Kenneth G. Janssen, Assistant City Attorney,
Gavin, Janssen & Stabenow, Ltd., Glencoe, Minnesota (for respondent)

Larry Johnson, Minneapolis, Minnesota (pro se appellant)

Considered and decided by Bjorkman, Presiding Judge; Johnson, Judge; and Larkin,
Judge.

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant challenges his petty-misdemeanor conviction of driving after suspension of his driver's license, arguing that insufficient evidence supports the conviction. We affirm.

FACTS

On April 25, 2019, the Minnesota Department of Public Safety mailed to appellant Larry Johnson notice that it was suspending his Minnesota driver's license for being a "habitual violator" of traffic laws. The notice indicated the suspension would be effective "as of May 11, 2019." It also informed Johnson that during the suspension, he could not "legally drive in Minnesota," even with a driver's license from another state.

Shortly after 4:00 p.m. on May 11, 2019, a Hutchinson police officer discovered Johnson asleep in the driver's seat of a pick-up truck in a fast-food restaurant parking lot. Johnson provided a valid Arizona driver's license as identification. Johnson stated that he was driving from a "chicken swap" in Annandale and was tired, so he stopped in the parking lot to rest. The officer checked Johnson's driving status and discovered that his Minnesota license was suspended. Johnson told the officer he did not know his license was suspended.

Johnson was charged with driving after suspension. After a bench trial, the district court found him guilty and imposed a petty-misdemeanor fine. Johnson appeals.

DECISION

When reviewing a claim of insufficient evidence, we examine the record to determine "whether the facts in the record and the legitimate inferences drawn from them" permit a finder of fact "to reasonably conclude that the defendant was guilty beyond a reasonable doubt of the offense of which he was convicted." *State v. Stewart*, 923 N.W.2d 668, 673 (Minn. App. 2019) (quotation omitted), *review denied* (Minn. Apr. 16, 2019); *see State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011) (explaining that the same standard

applies to bench trials and jury trials). We view the evidence in the light most favorable to the verdict, assuming the fact-finder believed the state's witnesses and disbelieved any contrary evidence. *State v. Wright*, 679 N.W.2d 186, 189 (Minn. App. 2004), *review denied* (Minn. June 29, 2004).

To convict Johnson, the state was required to prove that (1) he operated a motor vehicle, (2) that operation required a driver's license, (3) his license was suspended at the time, and (4) he was "given notice" of the suspension or "reasonably should [have] know[n]" of it. Minn. Stat. § 171.24, subd. 1 (2018); *see* 10A *Minnesota Practice*, CRIMJIG 29.30 (2018).

Johnson first contends that the evidence does not support his conviction because he did not know his license was suspended. But the state is not required to prove actual knowledge, only that Johnson was given notice or reasonably should have known of the suspension. Minn. Stat. § 171.24, subd. 1. Notice of suspension "is sufficient . . . if mailed by first class mail to the [defendant]'s last known address." *Id.*, subd. 7(a) (2018); *see also State v. Green*, 351 N.W.2d 42, 44 (Minn. App. 1984) (holding that due process does not require actual receipt of the notice). "It is not a defense that [the defendant] failed to file a change of address with the post office, or failed to notify the Department of Public Safety of a change of name or address" Minn. Stat. § 171.24, subd. 7(b) (2018). The state's evidence that the department of public safety mailed the suspension notice to Johnson's last known address is sufficient to establish the notice element of the offense.

Johnson also argues that the state did not prove that he operated the vehicle because he was asleep and, thus, "not in physical control of the vehicle" when the officer

approached him. And he notes he was “on private property,” apparently challenging the evidence that he was required to have a driver’s license. Both challenges are unavailing. As the officer testified and his body-camera recording showed, Johnson admitted driving from Annandale to the parking lot in Hutchinson. That evidence of driving conduct amply establishes that Johnson operated a motor vehicle on public streets or highways, where a driver’s license is required. Minn. Stat. § 171.02, subd. 1(a) (2018); *see also State v. Coady*, 412 N.W.2d 39, 41 (Minn. App. 1987) (“The offense of driving after revocation requires only that the defendant be shown to have driven an automobile, on a public highway, while his license was under revocation.”), *review denied* (Minn. Nov. 6, 1987). Accordingly, Johnson’s challenge to the sufficiency of the evidence fails.

Affirmed.