

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 93237

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

CORWIN WILLIS

DEFENDANT-APPELLANT

JUDGMENT:
AFFIRMED

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-519136

BEFORE: Gallagher, A.J., Stewart, J., and Dyke, J.

RELEASED: April 22, 2010

**JOURNALIZED:
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N.B. This entry is an announcement of the court's decision. See App.R. 22(B) and 26(A); Loc.App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(C) unless a motion for reconsideration with supporting brief per App.R. 26(A), or a motion for consideration en banc with supporting brief per Loc.App.R. 25.1(B)(2), is filed within ten days of the announcement of the court's

decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(C). See, also, S.Ct. Prac.R. 2.2(A)(1).

SEAN C. GALLAGHER, A.J.:

{¶ 1} Appellant, Corwin Willis, appeals his conviction for failure to verify address. For the reasons stated herein, we affirm.

{¶ 2} Willis was indicted on December 23, 2008, for failure to provide notice of change of address in violation of R.C. 2950.05(E)(1), and failure to verify address in violation of R.C. 2950.06(F). He entered a plea of not guilty to the charges, and the case proceeded to a bench trial on February 27, 2009.

{¶ 3} Both parties stipulated to Willis's underlying conviction in the Lorain County Court of Common Pleas on March 25, 1994. The conviction resulted in Willis being classified as a tier III sexual offender, requiring that he register his address every 90 days for life.

{¶ 4} Willis's initial registration took place in Lorain County on November 3, 2004. He then moved to Cuyahoga County, where he began registering in December 2004.

{¶ 5} Susan DeChant, a detective in the sex offender's unit of the Cuyahoga County Sheriff's Office, testified that each time an offender comes in to register, the individual is given a "duties to register letter" that includes the address at which he registered, the next date that he has to come in to register, and an

explanation of registration requirements under Ohio law. She indicated that Willis consistently registered, although “not in a timely fashion.”

{¶ 6} In July 2008, Willis went to register at the sheriff’s office. He was given the “duties to register letter” that included his registered address of 2100 Lakeside Ave., Cleveland, Ohio, along with a return date of October 13, 2008. Willis signed the letter and initialed his return date. Melissa Harris, a registration deputy for the Cuyahoga County Sheriff’s Office, testified that she handled Willis’s registration in July 2008, reviewed the entire document with Willis, and witnessed him sign and initial the document.

{¶ 7} Willis failed to verify his address by October 13, 2008. On October 31, 2008, DeChant issued a warning letter, giving Willis until November 6, 2008, to register. The warning letter was sent to Willis’s registered address, which was a homeless shelter. The warning letter was returned by the post office as “unable to deliver.” Thereafter, DeChant contacted the homeless shelter and was informed that Willis had not been at the shelter since October 25, 2008. Willis eventually went to the sheriff’s office on November 25, 2008, and registered his address as 2100 Lakeside Avenue.

{¶ 8} Christopher Royall, an employee of the homeless shelter, testified that according to his records, Willis was not in the shelter between the dates of October 4, 2008 to October 24, 2008, and from October 28, 2008 to November 25, 2008.

{¶ 9} Willis testified that he completed his registration on July 17, 2008, that he signed and initialed the registration document that indicated his next registration date of October 13, 2008, and that he was aware he was required to verify his address every 90 days. He testified that he did not register until after Thanksgiving.

{¶ 10} Willis also testified that he has lived at 2100 Lakeside Avenue for more than four years. He produced documentation, including his driver's license, that listed said address.

{¶ 11} The trial court found Willis not guilty of failure to provide notice of change of address, but guilty of failure to verify address. The court sentenced Willis to a two-year prison term. Willis timely filed this appeal.

{¶ 12} Willis raises three assignments of error for our review. His first assignment of error provides as follows: "I. Appellant's conviction for verification of current address is against the manifest weight of the evidence."

{¶ 13} In reviewing a claim challenging the manifest weight of the evidence, the question to be answered is whether "there is substantial evidence upon which a jury could reasonably conclude that all the elements have been proved beyond a reasonable doubt. In conducting this review, we must examine the entire record, weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine whether the jury clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial

ordered.” (Internal citations and quotations omitted.) *State v. Leonard*, 104 Ohio St.3d 54, 68, 2004-Ohio-6235, 818 N.E.2d 229.

{¶ 14} In this case, Willis was designated a tier III sex offender. A tier III sex offender is required to register with the local sheriff every 90 days. R.C. 2950.06(B)(3). Willis was aware of this requirement and had registered numerous times. On July 17, 2008, Willis registered in person and was advised of his duty to register on or ten days prior to October 13, 2008. After he failed to register by that date, the sheriff’s office sent a written warning to his current address pursuant to R.C. 2950.06(G), giving him until November 6, 2008, to register. Willis did not register until November 25, 2008, resulting in his prosecution for failure to verify address in violation of R.C. 2950.06(F).

{¶ 15} Willis argues that the warning letter was not sent “on the day following the date required for verification” as stated in R.C. 2950.06(G). This provision requires the sheriff’s office to send a warning letter that gives an offender a new compliance date, which is seven days from the date the warning letter is sent. See *State v. Williams*, 114 Ohio St.3d 103, 107, 2007-Ohio-3268, 868 N.E.2d 969. The statutorily required notification must be sent to an offender’s last known address before a sex offender may be prosecuted for failure to periodically verify a current address under R.C. 2950.06(F). *Id.* In this case, the short delay in sending the notice resulted in additional time being provided for Willis to verify his address and Willis’s rights were not prejudiced by the delay. Further, the sheriff’s

office complied with the mandatory requirement of sending a written warning to the offender.

{¶ 16} Although there was evidence that Willis registered late in the past, that may not be used as a defense to the instant charge. R.C. 2950.06 is a strict liability offense. *State v. Hardy*, Summit App. No. 21015, 2002-Ohio-6457.

{¶ 17} Insofar as Willis argues that there was evidence that he continued to reside at 2100 Lakeside Avenue, we recognize that he was found not guilty of failure to provide notice of change of address in violation of R.C. 2950.05(E)(1).

In this case, the record clearly reflects that Willis failed to verify his current residence address, after proper written warning, and within the required time period. Accordingly, we find that his conviction for failure to verify address in violation of R.C. 2950.06(F) was not against the manifest weight of the evidence. Willis's first assignment of error is overruled.

{¶ 18} Willis's second assignment of error provides as follows: "II. R.C. 2950.031 violates the due process clauses of the United States and Ohio Constitution."

{¶ 19} We decline to exercise our discretion, and find that Willis has waived the issues raised under this assignment of error, which were not raised in the trial court. See *State v. Awan* (1986), 22 Ohio St.3d 120, 489 N.E.2d 277; *State v. Huddleston*, Cuyahoga App. No. 90494, 2008-Ohio-4222; *State v. Peak*, Cuyahoga App. No. 90255, 2008-Ohio-3448.

{¶ 20} Willis's third assignment of error provides as follows: "III. Plain error occurred when notice to appellant was not timely sent as prescribed by R.C. 2950.05(G)(1)."

{¶ 21} We addressed the warning letter requirement under the first assignment of error. Because Willis has not demonstrated his substantial rights were prejudiced, we find no plain error. Willis's third assignment of error is overruled.

Judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution. The defendant's conviction having been affirmed, any bail pending appeal is terminated. Case remanded to the trial court for execution of sentence.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

SEAN C. GALLAGHER, ADMINISTRATIVE JUDGE

MELODY J. STEWART, J., and
ANN DYKE, J., CONCUR