STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0799

State of Minnesota,
Respondent,

vs.

Kevin Herman Larson,
Appellant.

Filed May 27, 2025
Affirmed
Johnson, Judge

Rice County District Court
File No. 66-CR-22-3111

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

Brian M. Mortenson, Rice County Attorney, Sean R. McCarthy, Assistant County Attorney, Faribault, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jessica Merz Godes, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

NONPRECEDENTIAL OPINION

JOHNSON, Judge

A Rice County jury found Kevin Herman Larson guilty of failure to register as a predatory offender. We conclude that the evidence is sufficient to support the jury's verdict

and that a plainly erroneous jury instruction did not affect Larson's substantial rights. Therefore, we affirm.

FACTS

In 1993, Larson was convicted of second-degree criminal sexual conduct, in violation of Minn. Stat. § 609.343, subd. 1(a) (1990). Because of that conviction, Larson is required to register as a predatory offender. *See* Minn. Stat. § 243.166, subd. 1b(a)(1)(iii) (2022). But he consistently has refused to do so. Since 2004, he has been convicted of failure to register on eight prior occasions.[1]

This appeal concerns Larson's ninth conviction of failure to register. A jury found that he did not do so upon his release from the Faribault correctional facility on December 27, 2022. Approximately three months earlier, on September 12, 2022, a case worker at the prison, Ann Braulik, met with Larson to discuss his anticipated release and his obligation to register as a predatory offender with the Bureau of Criminal Apprehension

[1] *See State v. Larson (Larson IX)*, No. A21-0220, 2021 WL 6010122 (Minn. App. Dec. 20, 2021), *aff'd in part, rev'd in part*, 980 N.W.2d 592 (Minn. 2022); *State v. Larson (Larson VIII)*, No. A18-1179, 2019 WL 3000749 (Minn. App. July 1, 2019), *rev. denied* (Minn. Sept. 25, 2019); *State v. Larson (Larson VII)*, No. A17-1274, 2018 WL 4288994 (Minn. App. Sept. 10, 2018), *rev. denied* (Minn. Nov. 27, 2018); *State v. Larson (Larson VI)*, No. A15-1085, 2016 WL 4596403 (Minn. App. Sept. 6, 2016), *rev. denied* (Minn. Nov. 23, 2016); *State v. Larson (Larson V)*, No. A13-0485, 2014 WL 502915 (Minn. App. Feb. 10, 2014) (reversing conviction on charge of failing to register a new primary address because the state failed to prove that appellant had a new primary address); *State v. Larson (Larson IV)*, No. A10-1562, 2011 WL 2672239 (Minn. App. July 11, 2011), *rev. denied* (Minn. Sept. 20, 2011); *State v. Larson (Larson III)*, No. A07-2145, 2008 WL 5396820 (Minn. App. Dec. 30, 2008), *rev. denied* (Minn. Mar. 17, 2009); *State v. Larson (Larson II)*, No. A06-0623, 2007 WL 2993608 (Minn. App. Oct. 16, 2007), *rev. denied* (Minn. Dec. 19, 2007); *State v. Larson (Larson I)*, No. A05-0040, 2006 WL 618857 (Minn. App. Mar. 14, 2006), *rev. denied* (Minn. May 16, 2006).

(BCA). According to Braulik, Larson stated that he was innocent of the underlying crime and, thus, was not required to register. Later, on December 8, 2022, Special Agent Lucas Munkelwitz of the BCA met with Larson to discuss his refusal to register. Larson did not respond during the meeting. Braulik met with Larson for a second time on December 21, 2022, to remind him of his obligation to register. Braulik brought to the meeting a copy of the BCA predatory-offender registration form, which Larson could have completed and submitted to fulfill his registration requirement, but Larson refused to do so, stating, "I will never sign that piece of sh-t paper." On December 27, 2022, the day of his release, Special Agent Munkelwitz met with Larson for a second time to remind him of his obligation to register and to inform him that if he did not register, he would be arrested. Larson refused to talk to Special Agent Munkelwitz. Special Agent Munkelwitz arrested him immediately after their meeting, upon his release from the prison.

The next day, the state charged Larson with failure to register as a predatory offender, in violation of Minn. Stat. § 243.166 (2022), without reference to any particular subdivision of the statute. The case was tried to a jury on October 31, 2023, and November 1, 2023. The state called three witnesses—Braulik, Special Agent Munkelwitz, and a department of corrections investigator—each of whom testified to the interactions with Larson that are described above. The state also introduced several exhibits, including copies of Larson's prior convictions of failure to register and a copy of the BCA registration form like the one that Braulik had provided to Larson. Larson did not testify and did not present any other evidence. The jury found Larson guilty, and the district court sentenced him to 39 months of imprisonment. Larson appeals.

DECISION

I. Sufficiency of the Evidence

Larson first argues that the evidence is insufficient to support his conviction. When reviewing the sufficiency of the evidence for a conviction, we undertake "a painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, was sufficient." *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012) (quotation omitted). We seek to "determine whether the facts in the record and the legitimate inferences drawn from them would permit the jury to reasonably conclude that the defendant was guilty beyond a reasonable doubt of the offense of which he was convicted." *State v. Salyers*, 858 N.W.2d 156, 160 (Minn. 2015) (quotation omitted). "We must assume that the jury believed the state's witnesses and disbelieved any evidence to the contrary." *State v. Caldwell*, 803 N.W.2d 373, 384 (Minn. 2011) (quotation omitted). As such, we will not overturn a verdict "if the jury, acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude that the defendant was guilty of the charged offense." *Ortega*, 813 N.W.2d at 100.

The statute on which Larson's conviction is based requires a person who has been convicted of second-degree criminal sexual conduct to register as a predatory offender. Minn. Stat. § 243.166, subd. 1b(a)(1)(iii). When a person is sentenced on such a conviction, the district court shall inform the offender of the registration requirement. *Id.*, subd. 2. If the district court does not do so, the offender's assigned corrections agent shall inform the offender of the registration requirement. *Id.* To convict a person 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 was given notice or reasonably should have known that he had a duty to register; (3) the defendant knowingly violated a registration requirement; and (4) the defendant's failure to act took place in the alleged county. *Id.*, subds. 1b(a), 3-6.

In this case, the district court instructed the jury it should find Larson guilty if he violated section 243.166 in any one of three ways: (1) by not signing predatory-offender registration forms; (2) by not giving written notice of his new primary address to his assigned corrections agent or a law-enforcement authority, as required by subdivision 3(b); and (3) by not registering with the law-enforcement authority that has jurisdiction in the area where he would be staying if he did not have a new primary address, as required by subdivision 3a(b).

Larson contends that the state failed to prove beyond a reasonable doubt that he violated section 243.166 in any of the three ways alleged by the state. We consider the three means of proof in the order in which they were presented in the district court's jury instructions.

A. Predatory Registration Forms

Larson argues that the state did not prove that he violated the registration statute by not signing one or more predatory-offender registration forms. He contends that he "had no obligation under the registration statute to affix his signature on the predatory offender registration form" that was provided to him. The state does not respond to this argument.

We agree with Larson that not signing the registration form that was provided to him, by itself, is not a violation of section 243.166. In *Larson VIII*, we stated that "the statute does not necessarily require him to use the paperwork that was provided to him by the BCA special agents and prison staff." 2019 WL 3000749, at *2. The registration statute requires that an offender's registration include a "signed, written statement" with the following information: (1) the offender's primary address; (2) the offender's secondary address; (3) addresses of all property owned, leased or rented by the offender; (4) addresses of all locations where the offender is employed; (5) addresses of all schools where the offender is enrolled; (6) identification of all motor vehicles owned or regularly driven by the offender; (7) the expiration years of license plate tabs of all motor vehicles owned by the offender; and (8) all telephone numbers of the offender. Minn. Stat. § 243.166, subds. 4(a), 4a. But no particular form or format is required.

Thus, the state's evidence that Larson did not sign the predatory-offender registration form provided to him by Braulik is insufficient as a matter of law to prove a violation of the registration statute.

B. Registration of New Primary Address

Larson also argues that the state did not prove that he failed to give written notice of a new primary address to his assigned corrections agent or a law-enforcement authority, as required by subdivision 3(b). The relevant statutory provision states:

> Except as provided in subdivision 3a, at least five days before the person starts living at a new primary address, including living in another state, the person shall give written notice of the new primary address to the assigned corrections

> agent or to the law enforcement authority with which the person currently is registered.

Id., subd. 3(b).

The duty to register a new primary address has two parts. First, a person who is required to register must "give advance notice of the new primary address to which the person plans to move," at least five days before the person starts living there, "to the assigned corrections agent or to the law-enforcement authority with which the person currently is registered." *State v. Nelson*, 812 N.W.2d 184, 188 (Minn. 2012); *see also* Minn. Stat. § 243.166, subd. 3(b). Second, the person must give written notice that he is "'no longer staying' at the previously registered primary address." *Nelson*, 812 N.W.2d at 188 (citing Minn. Stat. § 243.166, subd. 3(b)). To prove that a person failed to register a new primary address in violation of subdivision 3(b), "the state must prove the existence of a new primary address." *Nelson*, 812 N.W.2d at 188.

In its responsive brief, the state does not respond to this argument and does not identify any evidence that Larson had a new primary address. Braulik testified that Larson intended to leave the Faribault prison and go "to a homeless shelter." The registration statute expressly excludes homeless shelters from the definition of "primary address." Minn. Stat. § 243.166, subd. 1a(d), (h). Consequently, the state's evidence tends to prove that Larson did *not* have a new primary address.

Thus, the evidence is insufficient to prove that Larson failed to give written notice of a new primary address to his assigned corrections agent or a law-enforcement authority, as required by subdivision 3(b).

C. Registration with Law Enforcement

Larson also argues that the state did not prove that he failed to register with the law-enforcement authority that has jurisdiction in the area where he would be staying, if he did not have a new primary address, as required by subdivision 3a(b). The relevant statutory provision states:

> [A] person with a primary address of a correctional facility who is scheduled to be released from the facility and who does not have a new primary address shall register with the law enforcement authority that has jurisdiction in the area where the person will be staying at least three days before the person is released from the correctional facility.

Id., subd. 3a(b).

For purposes of this nonprecedential opinion, we assume without deciding that, to prove a violation of subdivision 3a(b), the state must prove that the offender "does not have a new primary address." *Cf. State v. Hall*, 931 N.W.2d 737, 741-43 (Minn. 2019) (reviewing caselaw concerning whether absence of fact or condition is element of offense). Larson contends that "there was no direct evidence that [he] did not have a new primary address." But, as stated above, Braulik testified that Larson intended to leave the Faribault prison and go "to a homeless shelter," which, as a matter of law, is not a "primary address." *See id.*, subd. 1a(h), (d). Larson also contends that "the circumstances proved are consistent with a reasonable inference that Larson was leaving the prison and would be living at a new primary address." But Larson does not identify the circumstances proved that might support an inference that he intended to move to a new primary address. Accordingly, the

only reasonable inference is that Larson did not have a primary residence when he was released from the Faribault prison.

Larson argues further that, if he is subject to the requirements of subdivision 3a(b), the state did not prove that he failed to register "with the law enforcement authority that has jurisdiction in the area where [he] will be staying" because he "had no obligation to provide either Braulik or Munkelwitz with information about where he would be staying upon his release." Larson is correct insofar as he asserts that subdivision 3a(b) did not require him to register with Braulik or Special Agent Munkelwitz. He was required to register with the chief of police or the county sheriff with jurisdiction over the area where he would be staying after his release. *Id.*, subd. 1a(f) (defining "law enforcement authority" as "chief of police" or "county sheriff"). In addition, he was required to do so "at least three days before [he was] released from the correctional facility." *Id.*, subd. 3a(b).

The evidence introduced at trial is sufficient to allow a jury to find that Larson did not register with a chief of police or a county sheriff during the three-day period before his release from the Faribault prison. Special Agent Munkelwitz testified that, as of the day of his release, Larson was noncompliant with the registration requirements. The state introduced into evidence a recording of a conversation between Special Agent Munkelwitz and Larson on the day of Larson's release in which Special Agent Munkelwitz told Larson that "at this point . . . you have been noncompliant in violation of the Minnesota predatory offenders law." Special Agent Munkelwitz further testified that Larson had never completed his mandatory predatory offender registration at any point over the last 20 years. A reasonable juror could infer that, if Larson had registered before he was released from

prison, he would have done so with the knowledge or assistance of prison staff and BCA personnel, including the testifying witnesses. In light of this evidence, a reasonable jury could find that Larson did not register with any law enforcement authority before his release from the Faribault prison, as required by subdivision 3a(b).

In sum, the evidence introduced at trial is sufficient to support Larson's conviction of failure to register as a predatory offender.

II. Jury Instructions

Larson also argues that the district court erred by instructing the jury that he was required to sign a registration form that had been provided to him and that his failure to do so is a violation of the registration statute.

A district court must instruct the jury in a way that "fairly and adequately explain[s] the law of the case" and does not "materially misstate[] the applicable law." *State v. Koppi*, 798 N.W.2d 358, 362 (Minn. 2011). A district court must define the crime charged and should explain the elements of the offense. *State v. Ihle*, 640 N.W.2d 910, 916 (Minn. 2002). A district court need not provide "detailed definitions of the elements to the crime . . . if the instructions do not mislead the jury or allow it to speculate over the meaning of the elements." *State v. Davis*, 864 N.W.2d 171, 177 (Minn. 2015) (quotation omitted). An appellate court reviews jury instructions "as a whole to determine whether the instructions accurately state the law in a manner that can be understood by the jury." *State v. Kelley*, 855 N.W.2d 269, 274 (Minn. 2014). A district court has "considerable latitude in selecting language for jury instructions." *State v. Gatson*, 801 N.W.2d 134, 147

(Minn. 2011) (quotation omitted). Accordingly, we review a district court's jury instructions under an abuse-of-discretion standard. *Koppi*, 798 N.W.2d at 361.

In this case, the district court instructed the jury as follows:

> First, the defendant was a person required to register as a predatory offender. . . .
>
> Second, the defendant was given notice on or before December 27, 2022, that the defendant had a duty to register.
>
> Third, the defendant knowingly violated any of the requirements to register.
>
> . . . .
>
> The requirements to register include:
>
> • signature on predatory offender registration forms.
>
> • At least five days before the person starts living at a new primary address, the person shall give written notice of the new primary address to the assigned corrections agent or to the law enforcement authority with which the person currently is registered. The written notice required by this paragraph must be provided in person. The corrections agent or law enforcement authority shall, within two business days after receipt of this information, forward it to the bureau.
>
> • A person with a primary address of a correctional facility who is scheduled to be released from the facility and who does not have a new primary address shall register with the law enforcement authority that has jurisdiction in the area where the person will be staying at least three days before the person is released from the correctional facility.

Larson concedes that he did not preserve this argument by objecting to the instruction in the district court. In the absence of an objection, this court reviews only for plain error. *See* Minn. R. Crim. P. 31.02; *see also State v. Reek*, 942 N.W.2d 148, 158

(Minn. 2020). Under the plain-error test, an appellant is entitled to relief on an issue to which no objection was made at trial only if (1) there is an error, (2) the error is plain, and (3) the error affects the appellant's substantial rights. *State v. Griller*, 583 N.W.2d 736, 740 (Minn. 1998). If these three requirements are satisfied, the appellant also must satisfy a fourth requirement: that the error "seriously affects the fairness and integrity of the judicial proceedings." *State v. Little*, 851 N.W.2d 878, 884 (Minn. 2014). If an appellate court concludes that any requirement of the plain-error test is satisfied, the appellate court need not consider the other requirements. *State v. Brown*, 815 N.W.2d 609, 620 (Minn. 2012).

A. Plain Error

Larson contends that the district court plainly misstated the law by instructing the jury that he violated the registration statute if he did not put his "signature on predatory offender registration forms," one of which had been provided to him by Braulik. As we said in *Larson VIII*, and as discussed above, *see supra* I.A., the statute does not require that Larson register by using any particular form. 2019 WL 3000749, at *2-3. Thus, the district court plainly erred by instructing the jury that Larson was required to sign registration forms such as the form that was provided to him by Braulik.

B. Substantial Rights

Larson contends that that the district court's plain error affected his substantial rights. An error affects a defendant's substantial rights if "the error was prejudicial and affected the outcome of the case." *State v. Gutierrez*, 667 N.W.2d 426, 434 (Minn. 2003) (quotation omitted). "In the context of jury instructions, . . . an error affects substantial

rights when there is a reasonable likelihood that a more accurate instruction would have changed the outcome in this case." *Id.* at 434-35 (quotation omitted). An appellant bears a "heavy burden" in seeking to satisfy the third requirement of the plain-error test. *State v. Davis*, 820 N.W.2d 525, 535 (Minn. 2012) (quotation omitted).

Larson contends that "it is most likely that the jury relied on the purported 'signature on predatory offender registration forms' requirement as that was the focal point of the state's case." He cites the prosecutor's opening statement, in which the prosecutor stated that Larson was told that he "needed to sign the required predatory offender registration form" and that he refused to do so. Larson also cites testimony of the state's witnesses that Larson did not sign the predatory-offender registration form. And he cites the prosecutor's statement in closing argument that the jury could find Larson guilty based on his failure to comply with any of three requirements, including his refusal to sign the predatory-offender registration form.

At trial, Larson's defense did not focus on whether he signed the form provided to him. In closing argument, Larson's attorney argued that the registration requirements were as "clear as mud" and asserted that Larson did not understand what he was required to do upon his release from prison.

We believe that there is no "reasonable likelihood that a more accurate instruction would have changed the outcome in this case." *Gutierrez*, 667 N.W.2d at 434-35 (quotation omitted). There was overwhelming evidence that Larson failed to register with law enforcement during the three-day period before his release from the Faribault prison, as required by subdivision 3a(b). If the district court had properly instructed the jury, the

jury likely would have returned a verdict of guilty based on Larson's failure to comply with subdivision 3a(b), which was proved with overwhelming evidence. *See supra* part I.C. Thus, the plainly erroneous instruction did not affect Larson's substantial rights.

Before concluding, we note that Larson filed a *pro se* supplemental brief. We have carefully reviewed the *pro se* supplemental brief, and we conclude that it does not contain any grounds for reversal.

Affirmed.