

NORTH DAKOTA SUPREME COURT

State v. McAvoy

2009 ND 130 (N.D. 2009) · No. No. 20090024 · Decided July 9, 2009

SUMMARY

The North Dakota Supreme Court affirmed Roger Patrick McAvoy’s conviction for failing to register as a sex offender under N.D.C.C. § 12.1-32-15(2), while directing that the criminal judgment be amended to reflect that the conviction followed a jury trial rather than a guilty plea. The court held that sufficient evidence supported the conviction under alternative theories concerning McAvoy’s residence, relocation, and registration obligations.

CASE DETAILS

COURT	North Dakota Supreme Court
WRITING FOR THE COURT	Gerald W. VandeWalle, Chief Justice; Carol Ronning Kapsner; Mary Muehlen Maring; Daniel J. Crothers; Dale V. Sandstrom
JURISDICTION	North Dakota
DECIDED	July 9, 2009
DOCKET	No. 20090024
DISPOSITION	affirmed
PROCEDURAL POSTURE	McAvoy appealed a criminal judgment entered after a jury trial and verdict finding him guilty of failure to register as a sex offender.
STANDARD OF REVIEW	The court viewed the evidence and all reasonable inferences in the light most favorable to the verdict, did not reweigh conflicting evidence or assess witness credibility, and would reverse only if no rational fact-finder could have found guilt beyond a reasonable doubt.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion; precedential.
PARTIES	Roger Patrick McAvoy v. State of North Dakota

TOPICS

- criminal procedure
- evidence
- statutory interpretation

PRACTICE AREAS

- criminal law
- criminal procedure
- sex-offender registration

QUESTIONS PRESENTED

1. Whether sufficient evidence supported McAvoy's conviction for failure to register as a sex offender under N.D.C.C. § 12.1-32-15(2).
2. Whether the criminal judgment should be amended because it incorrectly stated that McAvoy was convicted by a guilty plea rather than by a jury trial and verdict.

HOLDINGS

1. The evidence was sufficient for a rational jury to find McAvoy guilty under N.D.C.C. § 12.1-32-15(2). The jury could reasonably find either that he never resided at the registered West Indiana address or that, after being ejected and moving to Sioux County, he was required to register a new address within three days and failed to do so.
2. The conviction was affirmed, but the criminal judgment had to be amended to reflect that McAvoy was convicted after a jury trial and verdict finding him guilty, rather than by a guilty plea.

KEY QUOTATIONS

“This Court will not weigh conflicting evidence or judge the credibility of witnesses; rather, we will only reverse a conviction if no rational fact-finder could have found the defendant guilty beyond a reasonable doubt.” (§8)

“We direct that the criminal judgment be amended to reflect conviction after a jury trial and verdict of guilty.” (§14)

FACTUAL BACKGROUND

McAvoy was required to register as a sex offender after pleading guilty to sexual assault on a child. He registered a Bismarck address as 521 Wind Avenue, which did not exist, and later amended the registration to 521 West Indiana Avenue. Evidence conflicted about whether he resided at that address and whether he was ejected from it on December 22, 2007; he then went to Fort Yates and did not provide law enforcement with an updated address before his January 3 arrest. A jury found him guilty of failing to register.

PROCEDURAL HISTORY

McAvoy was tried before a jury in the District Court of Burleigh County and found guilty under N.D.C.C. § 12.1-32-15(2). The district court denied his Rule 29 motion for judgment of acquittal and sentenced him to five years in the custody of the North Dakota Department of Corrections, with three years suspended. The North Dakota Supreme Court affirmed the conviction but directed that the judgment be amended to state that the conviction followed a jury trial and verdict rather than a guilty plea.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

Amend the criminal judgment to reflect that McAvoy was convicted after a jury trial and verdict finding him guilty of failure to register as a sex offender.

CASES CITED

- State v. McAvoy, 2008 ND 204, ¶ 1, 757 N.W.2d 394
- State v. Igou, 2005 ND 16, ¶ 4, 691 N.W.2d 213
- State v. Wilson, 2004 ND 51, ¶ 6, 676 N.W.2d 98
- State v. Burr, 1999 ND 143, ¶ 13, 598 N.W.2d 147