STATE OF MINNESOTA
IN COURT OF APPEALS
A12-1941

State of Minnesota,
Respondent,

vs.

Will Arnold Sandstrom,
Appellant.

Filed September 9, 2013
Affirmed
Rodenberg, Judge

St. Louis County District Court
File No. 69HI-CR-11-666

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

Mark S. Rubin, St. Louis County Attorney, Brian D. Simonson, Assistant County Attorney, Hibbing, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Jennifer L. Lauermann, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Worke, Presiding Judge; Rodenberg, Judge; and Smith, Judge.

U N P U B L I S H E D O P I N I O N

RODENBERG, Judge

Appellant challenges his conviction for misdemeanor trespass in violation of Minn. Stat. § 609.605, subd. 1(b)(3) (2010), arguing that the evidence presented at trial is insufficient to support the jury verdict. We affirm.

FACTS

Appellant Will Arnold Sandstrom and his neighbors, Avery Sipola and his family, have a long history of disputes over the boundary lines of their adjoining properties. Appellant and Avery Sipola reached an agreement to conclude litigation over the property and boundary disputes. The 2009 settlement agreement set forth the legal descriptions of the parties' properties, defined the common boundary in dispute, allowed either to pay for and install a fence adjoining the common boundary, and prohibited the parties from "harassing each other, from trespassing on the property of the other, and from damaging the fencing or other personal property of the other party." The 2009 settlement agreement also prohibited the parties from "directly or indirectly, assert[ing] any boundary or ownership claim against the property of the other." The 2009 settlement agreement was approved and adopted by the St. Louis County district court in an Order and Decree Approving Settlement and Determining Judicial Landmarks, which was signed on September 22, 2009.

On June 3, 2011, appellant went to the Hibbing Sheriff's Office[1] and advised Deputy Andrew Feiro that he was planning to use "Sandstrom Road" on the Sipola property to access his own property. Deputy Feiro was aware of the parties' property disputes and warned appellant that, because the road was a private driveway belonging to Sipola, appellant would be cited for trespass if he used it. Appellant maintained that he would use the road and that he wanted the trespass citation.

Sometime in July 2011, appellant went to the sheriff's office in Virginia, Minnesota, where he spoke with Sgt. John Skelton. Appellant advised Sgt. Skelton that he possessed records evidencing his ownership of the right to use Sandstrom Road, which records he claimed to have left in his vehicle. Sgt. Skelton, who was not aware of the history of property disputes involving appellant and Sipola, directed appellant to the Hibbing Sheriff's Office, which had jurisdiction over the land identified by appellant. Sgt. Skelton reminded appellant that he was not appellant's attorney, nor could he give appellant legal advice but told him that "if he did in fact have paperwork showing that the property was owned by himself it should not be an issue."

When Sipola returned home on July 19, 2011, he discovered appellant sitting in a car parked on the gravel driveway, which was not open to the public, was maintained by Sipola, and was situated near the Sipola home. The driveway, which was posted with several "no trespassing" signs, was included in the land awarded to Sipola under the 2009 settlement agreement. Sipola approached appellant and informed appellant that he had

[1] The matters referred to herein occurred in St. Louis County. The St. Louis County sheriff has multiple offices to which we refer by the city in which the office is located.

no business on the Sipola property and that appellant was not to be there. When Sipola asked appellant to leave, appellant refused to do so. Sipola gave appellant another chance to leave before calling the sheriff. Appellant again refused to leave and claimed that he was "adverse possessing" Sipola's driveway. Sipola called 9-1-1. While Sipola was on the phone, appellant became "irate and started screaming and yelling" that the road belonged to him. The 9-1-1 operator asked Sipola if he was in danger and advised him to sit in his car with the doors locked and the windows shut. Sipola returned to his car and stayed on the phone with the 9-1-1 operator while appellant started "digging around in the back seat" of his vehicle. While still on the phone with the 9-1-1 operator, Sipola then turned his vehicle in such a way as to prevent appellant from leaving. At trial, Sipola testified that he blocked the driveway to ensure that appellant would remain on the property until law enforcement arrived. When Deputy Feiro arrived on the scene, Sipola moved his vehicle.

Deputy Feiro asked appellant whether he recalled their June 2011 conversation about appellant's intended use of the Sipola driveway, and appellant indicated that he did. Appellant told Deputy Feiro that his attorney had advised him to use Sandstrom Road and displayed several hand-written documents, which Deputy Feiro photographed. Deputy Feiro cited appellant for trespassing. Appellant indicated his intent to return to the Sipola property at a later time. Deputy Feiro warned appellant that, "if he returned he would be arrested or cited for trespassing again," but appellant insisted that he would return.

A jury trial was held on September 19, 2012. Appellant testified that, following his attorney's advice to "use . . . or lose" Sandstrom Road, he decided to use the road to

get to his property. The attorney did not testify at trial. Appellant also testified that he made his decision to use Sandstrom Road after reviewing Leiding Township board meeting minutes from 1933, 1937, and 1940, which established that Sandstrom Road was being used and maintained by the township during that time. Appellant admitted the driveway that he had used on July 19 "runs across" the Sipola property according to the 2009 settlement agreement, but he maintained that he "didn't sign away the Sandstrom Road." As a rebuttal witness, the state called the attorney who represented Sipola in the 2009 settlement agreement. The attorney testified that the 2009 settlement agreement was meant to resolve all boundary and property disputes between the parties, that it was very specific as to the land involved, and that the driveway in dispute was part of the Sipola land as identified by the 2009 settlement agreement. Sipola's attorney also testified that the 2009 settlement agreement made no provision for easements or use of the driveway.

The jury found appellant guilty of trespass, and the district court imposed a stayed 90-day sentence, placed appellant on supervised probation for one year with several conditions, and ordered him to pay a $385 fine. This appeal followed.

D E C I S I O N

Appellant argues that the evidence presented at trial is insufficient to sustain the jury's guilty verdict. When reviewing a challenge to the sufficiency of the evidence to support a jury verdict, we look to whether, based on the facts established by the record and any legitimate inferences that can be drawn from them, a jury could reasonably find the defendant guilty of the offense. *State v. Merrill*, 428 N.W.2d 361, 366 (Minn. 1988).

"We view the evidence in the light most favorable to the jury verdict, and assume that the jury believed all of the state's witnesses and disbelieved any evidence to the contrary." *State v. Chambers*, 589 N.W.2d 466, 477 (Minn. 1999). We will not disturb the verdict if the jury, acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, reasonably could conclude that the defendant is guilty of the charged offense. *State v. Alton*, 432 N.W.2d 754, 756 (Minn. 1988).

Under Minnesota law, a person is guilty of misdemeanor trespass if the person intentionally "trespasses on the premises of another and, without claim of right, refuses to depart from the premises on demand of the lawful possessor." Minn. Stat. § 609.605, subd. 1(b)(3) (2010). "[I]n a criminal trespass case the state must present evidence from which it is reasonable to infer that the [trespasser] has no legal claim of right to be on the premises where the trespass is alleged to have occurred." *State v. Brechon*, 352 N.W.2d 745, 750 (Minn. 1984). After the state presents evidence that the trespasser lacks a claim of right to the property, the burden shifts to the trespasser to show evidence of his reasonable belief that he has a property right. *Id.* "Subjective reasons not related to a claimed property right . . . are irrelevant and immaterial to the issue of claim of right." *Id.* A claim of right is a defense only if it is bona fide. *State v. Quinnell*, 277 Minn. 63, 70-71, 151 N.W.2d 598, 604 (1967).

Appellant argues that the state failed to meet its burden of proof that he did not enter Sandstrom Road under a claim of right. Appellant asserts that "prior to driving on Sandstrom Road, while he was on Sandstrom Road, and after receiving the citation [for trespass] on Sandstrom Road, [he] consulted with an attorney and possessed official

documents to support his claim that he still had a right to use old Sandstrom Road." Appellant's argument is unavailing. Appellant signed the 2009 settlement agreement, which was approved and became an order of the St. Louis County district court, establishing the legal description and boundaries of the Sipola property. The driveway that appellant now claims to be Sandstrom Road was specifically included in the parcel described by the 2009 settlement agreement and order as belonging to Sipola. Moreover, the 2009 settlement agreement identifies no right or interest in Sandstrom Road as being awarded to or retained by appellant. Appellant did not appeal from or request judicial review of the terms of the 2009 settlement agreement as prescribed by the order.

Other than appellant's blanket assertions, the trial record includes no evidence supporting appellant's claim that he acted under a claim of right when he entered the Sipola property on July 19. The Leiding Township documents in the record do no more than establish that Sandstrom Road once existed and that it was once maintained by the township. The Leiding Township clerk testified that Sandstrom Road was abandoned by the township in 1981 and that it is currently a private driveway belonging to Sipola. And, based on the evidence presented at trial, the record supports the jury's conclusion that appellant entered the Sipola land without a bona fide claim of right to do so. *Brechon*, 352 N.W.2d at 750.[2]

[2] In arguing that he has a "claim of right" to the driveway and as identified at some length and in some detail in his pro se supplemental brief, appellant also seems to contend that using Sandstrom Road over Sipola's objections is his only recourse if he ever wishes to access his cabin. But if, as he claims, the 2009 settlement agreement was not intended to extinguish his right to use Sandstrom Road (despite the apparent clarity of the document), seeking clarification or reformation of the 2009 order would seem to be appellant's

Appellant also argues that Sipola prevented him from leaving the property by blocking his departure from the driveway. But viewing the evidence in the light most favorable to the verdict, the record establishes that appellant was on Sipola's property, that he refused multiple demands to leave the property before Sipola called 9-1-1, and that Sipola blocked appellant's exit from the property only after appellant refused to leave and did so only to accommodate appellant's being seen by law enforcement in the location where appellant had trespassed. When Deputy Feiro arrived, appellant continued to refuse to leave the property and maintained that he would return later. The jury's verdict is sufficiently supported by the evidence presented at trial.

We have also carefully considered the arguments advanced by appellant in his pro se supplemental brief and his pro se reply brief. Appellant's arguments focus in significant part on matters outside the record, which are not appropriate for our consideration on appeal. *Thiele v. Stich* 425 N.W.2d 580, 582 (Minn. App. 1988). He argues that the jury should have accepted his evidence as true and should have reached a verdict of not guilty. But as discussed above, "we view the evidence in the light most favorable to the jury verdict." *Chambers*, 589 N.W.2d at 477. So viewing the evidence, appellant's pro se arguments on appeal are unavailing.

Affirmed.

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proper recourse. Appellant may also have an avenue for relief under Minn. Stat. § 164.08 (2012) (relating to cartways). But his argument at trial was that he used the driveway under a claim of right, and the record supports the jury's rejection of that contention.