IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Appellant, v. TRENITY YUL SWEETIN, Respondent.	No. 39026-4-II UNPUBLISHED OPINION

Worswick, J. — The State appeals the trial court's decision to grant Trenity Sweetin's motion to dismiss based on its ruling that a portion of former RCW 9A.44.130(6)(b) (2006), which grants county sheriffs the authority to require a transient sex offender to list his or her locations over the previous week when reporting, is not a "requirement" under former RCW 9A.144.130(11)(a) and is unconstitutional. In *State v. Flowers*, 154 Wn. App. 462, 225 P.3d 476 (2010), we considered and rejected the same argument. We affirm the trial court's ruling on the basis that the relevant portion of former RCW 9A.44.130(6)(b) is not a "requirement" under former RCW 9A.44.130(1)(a).

FACTS

Sweetin is a convicted sex offender. Because of his conviction, the State requires him to register as a sex offender under former RCW 9A.44.130. At all times relevant to this matter, he registered in Cowlitz County as an offender who lacked a fixed residence.

Under former RCW 9A.44.130(6)(b),[1] sex offenders who lack a fixed residence (transient sex offenders) must report weekly to the sheriff of their county of residence. The statute also permits the county sheriff to require transient sex offenders to list the locations where they stayed each day during the previous week. Before July 15, 2008, the Cowlitz County Sheriff adopted a policy requiring all transient sex offenders to list their locations during the previous week. Other county sheriffs did not require any transient sex offenders to list their locations over the previous week.

Between July 7 and July 22, 2008, Sweetin reported to the Cowlitz County Sheriff's Office and indicated that his address was at a particular campsite. On July 22, he admitted to the Sheriff's Office that he had stayed at locations other than this campsite during this period.

On July 25, the State charged Sweetin with failure to register as a sex offender under former RCW 9A.44.130(11)(a) for failing to "accurately report the locations where he stayed the week prior to reporting to the Cowlitz County Sheriff."[2] Clerk's Papers at 4.

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[1] Former RCW 9A.44.130(6)(b) provides:

> A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff's office may require the person to list the locations where the person has stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

[2] Former RCW 9A.44.130(11)(a) provides:

> A person who knowingly fails to comply with any of the requirements of this section is guilty of a class C felony if the crime for which the individual was convicted was a felony sex offense as defined in subsection (10)(a) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony sex offense as defined in subsection (10)(a) of this section.

Sweetin filed a *Knapstad* motion to dismiss the charge. *State v. Knapstad*, 107 Wn.2d 346, 729 P.2d 48 (1986). The trial court granted his motion on several grounds, including the determination that former RCW 9A.44.130(6)(b) itself does not require transient sex offenders to list their daily locations. The State appeals.

ANALYSIS

Statutory Reporting Requirements

The State contends that former RCW 9A.44.130(6)(b) requires transient sex offenders to accurately report their locations during the previous week. Sweetin counters that, because the statute only authorizes the county sheriff to require such reporting, the reporting is not a statutory requirement and cannot be a crime under former RCW 9A.44.130(11)(a).

We review questions of statutory interpretation de novo. *State v. Jacobs*, 154 Wn.2d 596, 600, 115 P.3d 281 (2005). When interpreting a statute, we seek to ascertain the legislature's intent. *Jacobs*, 154 Wn.2d at 600. Where plain on its face, we give effect to that meaning as expressing the legislature's intent. *Jacobs*, 154 Wn.2d at 600.

We previously decided this issue in *Flowers*, 154 Wn. App. 462. In *Flowers*, we held that, because former RCW 9A.44.130(6)(b) does not mandate that transient sex offenders list their locations during the previous week, "it is not a 'requirement' for which noncompliance is a crime under RCW 9A.44.130(11)(a)." *Flowers*, 154 Wn. App. at 466.

Presented with an identical issue and substantively identical facts, we affirm the trial court's dismissal of Sweetin's failure to register charge.

Affirmed.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

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Worswick, J.

We concur:

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Penoyar, C.J.

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Schindler, J.