

NOT DESIGNATED FOR PUBLICATION

No. 118,805

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,  
*Appellee,*

v.

BRYAN CURTIS BOLDRIDGE,  
*Appellant.*

MEMORANDUM OPINION

Appeal from Atchison District Court; ROBERT J. BEDNAR, judge. Opinion filed February 15, 2019. Affirmed.

*John W. Fresh*, of Farris & Fresh Law Office, of Atchison, for appellant.

*Gerald R. Kuckleman*, county attorney, and *Derek Schmidt*, attorney general, for appellee.

Before GARDNER, P.J., HILL and SCHROEDER, JJ.

PER CURIAM: Bryan Curtis Boldridge is a beneficiary of the Elsworth Boldridge Trust, which owns real property in Atchison County, Kansas. Ethel Campbell is Boldridge's aunt and the trustee of the Elsworth Boldridge Trust. In 2017, Campbell called the sheriff to report Boldridge for trespassing on the trust property after she found him on that property. She relied on a 2012 court order from a civil case which prohibited him from entering the property. After a bench trial, the district court convicted Boldridge of criminal trespass finding that Campbell was still the trustee of the Elsworth Boldridge Trust and that the 2012 court order was still in effect.

On appeal, Boldridge claims that insufficient evidence supports his conviction. He relies on his stated belief Campbell had been removed as trustee, that she no longer had authority to prevent him from entering the property, and that the court order was no longer in effect. He claims these beliefs prevented him from knowing he was not authorized to go on the land, as is required by the criminal trespass statute, K.S.A. 2017 Supp. 21-5808. For the reasons set forth below, we disagree and affirm.

*Factual and procedural background*

Campbell claims to be the sole trustee of the Elsworth Boldridge Trust. Campbell testified that she has been the trustee continuously since October 1993, when her father passed away. Bryan Curtis Boldridge is Campbell's nephew and is one of the beneficiaries of the trust. A court order from 2012 in civil case 12 CV 21 prohibited Boldridge from entering the property. In 2016, Campbell sent Boldridge a letter instructing him not to enter the property and attaching a copy of the 2012 court order.

In September 2017, Campbell saw Boldridge pull into the driveway of the trust property with two others in his truck. Boldridge testified that he went to the property because one of his other aunts had asked him to clean up the property. Campbell approached Boldridge and he told her was going to clean up the property. Campbell warned him that he was not supposed to be on the property but Boldridge insisted that was not true. Campbell left, called the sheriff, and reported Boldridge for trespassing.

Deputy Adam Potts responded to Campbell's call. Campbell showed Potts the 2012 court document prohibiting Boldridge from entering the property. Boldridge, along with others, were cleaning up the property when Potts arrived. Potts told Boldridge that they needed to leave the property due to the court order. But Boldridge disputed the order, telling Potts that more recent court documents said otherwise and that Campbell

was no longer the trustee. When Potts again told Boldridge that he needed to leave the property, Boldridge complied.

Boldridge testified that he and his siblings had voted to remove Campbell as trustee in March or April 2016. He claimed that this was in accordance with the terms of the trust and that they had notified Campbell by mail of her removal. Campbell acknowledged having received a letter saying as much from one of the Boldridge brothers. Boldridge testified that although he was aware of the 2012 court order, he did not think it was effective after Campbell was removed. Boldridge testified that he did not believe another trustee was in place yet but that he, his brother, and his aunt were serving as interim trustees.

The State charged Boldridge with one count of criminal trespass in violation of K.S.A. 2017 Supp. 21-5808(a)(1)(B), a class B misdemeanor. After hearing the testimony at the bench trial, the district court took the matter under advisement. The district court reviewed the evidence and took judicial notice of other files including the civil case involving the trust. It found that Campbell remained the trustee and that the court order prohibiting Boldridge from entering the property without permission or consent of the trustee was still in effect and had not been modified. The district court found Boldridge guilty of criminal trespass and imposed a 30-day suspended jail sentence with one year of unsupervised probation. Boldridge timely appeals.

*Does sufficient evidence support Boldridge's conviction for criminal trespass?*

Boldridge raises only one issue on appeal. He argues that he could not be guilty of criminal trespass because he honestly believed he was authorized to enter the property.

When, as here, the sufficiency of the evidence is challenged in a criminal case, our standard of review is whether, after reviewing the evidence in a light most favorable to

the State, we are convinced that a rational fact-finder could have found the defendant guilty beyond a reasonable doubt. In doing so, we do not reweigh evidence, resolve evidentiary conflicts, or evaluate the credibility of witnesses. *State v. Chandler*, 307 Kan. 657, 668, 414 P.3d 713 (2018).

Boldridge was charged with criminal trespass, defined in K.S.A. 2017 Supp. 21-5808:

"(a) Criminal trespass is entering or remaining upon or in any:

(1) Land . . . by a person who knows such person is not authorized or privileged to do so, and:

(A) Such person enters or remains therein in defiance of an order not to enter or leave such premises or property personally communicated to such person by the owner thereof or other authorized person."

Boldridge does not dispute that he entered the trust property. Instead, he claims that he did not have the required mental state of knowing he was not authorized to enter the land. To the contrary, he testified he believed he was authorized to enter the property and that Campbell had no authority to tell him otherwise because she had been removed as trustee. He claims that he "clearly believed that any prior direction from [Campbell] for him not to enter the property and any prior Court Order admonishing him not to enter the property because [Campbell] was opposed to him doing so, were of no further effect."

Boldridge thus relied on a mistake of fact as a defense—he honestly believed he was authorized to enter the property. The defense of mistake of fact or ignorance is applicable when more than mere general intent (the defendant knew what physical actions he or she was taking) is at issue. *State v. Langston*, No. 115,552, 2017 WL 4558573, at \*10 (Kan. App. 2017) (unpublished opinion). Here, the statute required not only that he enter the property, but that he enter knowing he was not authorized to enter.

Even if we assume that this defense could apply here, the district court found it unpersuasive.

Boldridge erred in believing that he had the right to be on the property despite the court order. Boldridge acknowledged that no further court proceedings had occurred, either to reflect a change in the trustee or to rescind the 2012 court order. Boldridge does not show what section of the trust he believes authorizes a change in trustee by a vote unaccompanied by court order. The district court reviewed the civil case file and determined that there had been no change in trustee or other modifications to the trust, and it took judicial notice of the civil case file which included the order against Boldridge. It did not agree that Boldridge believed that the court order was ineffective without further court action or documentation.

Boldridge next argues that because of "such a dispute in place as to who actually had authority to control the trust property," a rational fact-finder could not have found him guilty beyond a reasonable doubt. But Boldridge fails to take into consideration the 2012 court order, which he admitted he was aware of, or our duty to view the facts in the light most favorable to the State.

This court does not reweigh the evidence or evaluate witness credibility. We instead look only to the evidence to determine whether a rational fact-finder could find that Boldridge trespassed on the Elsworth Boldridge Trust property. Evidence at trial and in the judicially noticed civil case indicated that Campbell was the trustee, that she was authorized to exclude Boldridge from the property, and that the 2012 court order prohibiting Boldridge from entering the property was still in effect. Nothing of record supports Boldridge's bald assertion that he or other beneficiaries could effect a change in the trustee without a court order. Boldridge entered the property in defiance of the court order and of Campbell's orders. The evidence, viewed in a light most favorable to the

State, shows beyond a reasonable doubt that Boldridge committed criminal trespass under K.S.A. 2017 Supp. 21-5808.

Affirmed.