

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

UNPUBLISHED
July 19, 2012

v

ANDREW JOSEPH BRUCE,

Defendant-Appellant.

No. 301034
Jackson Circuit Court
LC No. 97-081139-FC

Before: WILDER, P.J., and TALBOT and SERVITTO, JJ.

PER CURIAM.

Defendant pleaded guilty to second-degree criminal sexual conduct, MCL 750.520c, on October 28, 1997. He now appeals by leave granted a February 26, 2010, order denying his motion seeking permission to return to a home in which he had previously lived. We affirm.

Defendant's appeal requires interpretation of the Sex Offenders Registration Act (SORA), MCL 28.721 *et seq.*, and this Court reviews questions of statutory interpretation de novo. *People v Gardner*, 482 Mich 41, 46; 753 NW2d 78 (2008). "[W]hen statutory language is unambiguous, judicial construction is not required or permitted because the Legislature is presumed to have intended the meaning it plainly expressed." *People v Weeder*, 469 Mich 493, 497; 674 NW2d 372 (2004) (citation omitted).

The SORA prohibits registered sex offenders from residing in student safety zones. MCL 28.735(1). However, this prohibition does not apply to "[a]n individual who was residing within that student safety zone on January 1, 2006." MCL 28.735(3)(c). The SORA does not define "residing," but it defines "residence" as "that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging." MCL 28.722(g).

This Court has previously analyzed these provisions in *People v Zujko*, 282 Mich App 520, 523; 765 NW2d 897 (2008), and found:

The language of MCL 28.735(3)(c) is plain and unambiguous. Stated another way, MCL 28.735(1) and MCL 28.735(3)(c), taken together, mean that a registered sex offender shall not reside in a student safety zone unless the offender resided in that zone as of January 1, 2006.

It is not disputed that the home at issue is within a student safety zone. There is also no dispute that defendant lived in the home before being incarcerated in 1997. Defendant contends that because he lived in the home before January 1, 2006, the exemption included in MCL 28.735(3)(c) should apply, and that he should be permitted to return to that home to reside. We disagree.

On January 1, 2006, defendant was in prison. Thus, the place where defendant resided, because he was habitually sleeping and had a regular place of lodging there, was prison. Defendant was not residing at the home where he lived before his incarceration.

Because the statutory language is not ambiguous, judicial construction is not permitted and the Legislature is presumed to have intended the meaning it plainly expressed. *Weeder*, 469 Mich at 497 (citation omitted). Based on the plain language of MCL 28.753(3)(c), defendant may not now live in the home at issue because he is a registered sex offender, the home is within a student safety zone, and defendant did not reside in this home on January 1, 2006.

Affirmed.

/s/ Kurtis T. Wilder
/s/ Michael J. Talbot
/s/ Deborah A. Servitto