

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
FULTON COUNTY

State of Ohio

Court of Appeals No. F-09-007

Appellee

Trial Court No. 08CRB00331

v.

Robert F. Hadley

DECISION AND JUDGMENT

Appellant

Decided: September 4, 2009

* * * * *

Scott A. Haselman, Fulton County Prosecuting Attorney,
And Paul H. Kennedy, Assistant Prosecuting Attorney, for appellee.

Barry E. Savage, for appellant.

* * * * *

SINGER, J.

{¶ 1} In this accelerated appeal, appellant, Robert F. Hadley, appeals his conviction for soliciting, a violation of R.C. 2907.24(A) and a misdemeanor of the third degree. Because we conclude that appellant's complaint complies with Crim.R. 3, we affirm.

{¶ 2} Appellant sets forth the following assignments of error:

{¶ 3} "I. The conviction should be reversed because the charging and arrest of the defendant were contrary to the statutory authority to charge and arrest for a misdemeanor.

{¶ 4} "II. The conviction should be reversed because the court denied the defendant-appellant's motion to dismiss the charges."

{¶ 5} Appellant's assignments of error will be addressed together. Appellant contends that the court erred in denying his motion to dismiss the complaint because the officer who signed the complaint did not witness the offense take place.

{¶ 6} The basic rule in Ohio is that in order to be lawful, a warrantless misdemeanor arrest must be committed in the presence of the arresting officer. *State v. Lewis* (1893), 50 Ohio St. 179, syllabus. Here, Deputy Matthew Coger of the Fulton County Sheriff's Department testified that in a motel room, he watched from a television monitor as appellant attempted to solicit sexual services from a woman in another room. As soon as he witnessed it, he entered appellant's room, announced that he was with the Fulton County Sheriff's Office, and he physically arrested appellant. He did not, however, sign appellant's complaint.

{¶ 7} Appellant contends that his arrest is unlawful because the actual complaint was signed by Fulton County Sherriff's Deputy Alessandra Norden, a person who was not even at the hotel when the offense occurred.

{¶ 8} The purpose of a criminal complaint is to inform the accused of the crime for which he is charged. *State v. Villagomez* (1974), 44 Ohio App.2d 209. The complaint forms the essential basis of the court's jurisdiction and the subsequent trial and judgment. Id.

{¶ 9} Crim.R. 3 defines a criminal complaint as follows:

{¶ 10} "[A] written statement of the essential facts constituting the offense charged. It shall also state the numerical designation of the applicable statute or ordinance. It shall be made upon oath before any person authorized by law to administer oaths."

{¶ 11} A complaint is deemed sufficient if it charges an offense in the words of the statute or ordinance upon which it is based. *State v. Riffle*, 4th Dist.No. 00CA041, 2001-Ohio-2415 (citation omitted). In determining the sufficiency of a complaint, the Ohio Supreme Court stated that "[i]t is not necessary that the affidavit be executed by one who observed the commission of the offense. It is sufficient if such person has reasonable grounds to believe that the accused has committed the crime." *Sopko v. Maxwell* (1965), 3 Ohio St.2d 123, 124; *State v. Wilson* (1995), 102 Ohio App.3d 1; *State v. Hawk*, 3d Dist. No. 1-03-54, 2004-Ohio-922.

{¶ 12} The complaint/affidavit in the case at bar specifically set forth the essential facts constituting the charged offenses, and designated the applicable statute for the offense charged against appellant. Deputy Norden attested under oath to the affidavit, signed it in front of a notary, and the affidavit was properly notarized pursuant to Crim.

R. 3. Deputy Norden testified that her signature was notarized after she had viewed the videotape leading to appellant's arrest. Accordingly, we find that Crim. R. 3 was complied with in the case at bar. Appellant's two assignments of error are found not well-taken.

{¶ 13} On consideration whereof, the judgment of the Fulton County Court, Western Division, is affirmed. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24.

JUDGMENT AFFIRMED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J.

JUDGE

Arlene Singer, J.

JUDGE

Thomas J. Osowik, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
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