

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2012-000346-001 DT

05/13/2013

THE HON. CRANE MCCLENNEN

CLERK OF THE COURT  
J. Eaton  
Deputy

STATE OF ARIZONA

KENNETH M FLINT

v.

ANN H RIBITZKI (001)

ANN H RIBITZKI  
10105 E VIA LINDA #103-309  
SCOTTSDALE AZ 85258

REMAND DESK-LCA-CCC  
SCOTTSDALE MUNICIPAL COURT

RECORD APPEAL RULING / REMAND

**Lower Court Case Number M-0751-CR-2011-027127.**

Defendant-Appellant Ann H. Ribitzki (Defendant) was convicted in Scottsdale Municipal Court of trespass. Defendant contends the State did not present sufficient evidence to show she knowingly entered the house unlawfully. For the following reasons, this Court affirms the judgment and sentence imposed.

I. FACTUAL BACKGROUND.

On October 10, 2011, Defendant was cited for trespassing, A.R.S. § 13-1504(A)(1). Trial began on January 4, 2012. The trial court found Defendant voluntarily waived her presence, and so held the trial in Defendant's absence. (R.T. of Jan. 4, 2012, at 5-6.)

Jeff Adkins testified he was the owner of the house located at 11041 North Hayden Road. (R.T. of Jan. 4, 2012, at 7-8.) On October 9, 2011, he had left the house to play golf, and when he returned, he discovered someone had entered the house and left some papers for him. (*Id.* at 8-9, 11.) They included a letter from Defendant stating she was a one-half owner of the house and expected Mr. Adkins to pay rent to her. (*Id.* at 9.) Mr. Adkins said he had changed all the locks except for the back door, and the person must have used a key to the back door to get in the house. (*Id.* at 9-10, 12.) He said he never gave Defendant permission to enter his house. (*Id.* at 10.)

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2012-000346-001 DT

05/13/2013

Police Aide Scott Curtis testified he contacted Defendant, and she said she found the back door unlocked, so she entered and left paperwork on the table. (R.T. of Jan. 4, 2012, at 15–16.) She had some paperwork from 2008 showing she had a 50 percent ownership of the house. (*Id.* at 16–17.) She asked Curtis to apologize to the victim for being in his house. (*Id.* at 17.)

Officer Joseph Petrocco testified he met with Defendant. (R.T. of Jan. 4, 2012, at 19.) She said she owned the house “back years ago” and that she went by the house and saw someone was living there. (*Id.* at 21.) She said she went into the house to leave the paperwork even though she knew someone was living there. (*Id.* at 21–22.) She said she knew she was not supposed to be in the house. (*Id.* at 22.) As a result, Officer Petrocco cited Defendant for trespassing. (*Id.* at 23.)

Based on the testimony presented, the trial court found Defendant guilty. (R.T. of Jan. 4, 2012, at 24.) Defendant later appeared for sentencing, and the trial court imposed sentence. (R.T. of Feb. 23, 2012, at 4, 9.) On March 6, 2012, Defendant filed a timely notice of appeal. This Court has jurisdiction pursuant to ARIZONA CONSTITUTION Art. 6, § 16, and A.R.S. § 12–124(A).

II. ISSUE: DID THE STATE PRESENT SUFFICIENT EVIDENCE TO SHOW DEFENDANT  
KNOWINGLY ENTERED THE HOUSE UNLAWFULLY.

Defendant contends the State did not present sufficient evidence to show she knowingly entered the house unlawfully. The applicable statute provides as follows:

A. A person commits criminal trespass in the first degree by knowingly: 1. Entering or remaining unlawfully in or on a residential structure. . . .

A.R.S. § 13–1504(A)(1). In addressing the issue of the sufficiency of the evidence, the Arizona Supreme Court has said the following:

We review a sufficiency of the evidence claim by determining “whether substantial evidence supports the jury’s finding, viewing the facts in the light most favorable to sustaining the jury verdict.” Substantial evidence is proof that “reasonable persons could accept as adequate . . . to support a conclusion of defendant’s guilt beyond a reasonable doubt.” We resolve any conflicting evidence “in favor of sustaining the verdict.” “Criminal intent, being a state of mind, is shown by circumstantial evidence. Defendant’s conduct and comments are evidence of his state of mind.”

*State v. Bearup*, 221 Ariz. 163, 211 P.3d 684, ¶ 16 (2009) (citations omitted). When considering whether a verdict is contrary to the evidence, this court does not consider whether it would reach the same conclusion as the trier-of-fact, but whether there is a complete absence of probative facts to support its conclusion. *State v. Mauro*, 159 Ariz. 186, 206, 766 P.2d 59, 79 (1988).

In the present case, Officer Petrocco testified that Defendant said she knew she was not supposed to be in the house. (R.T. of Jan. 4, 2012, at 22.) Police Aide Curtis testified Defendant asked him to apologize to the victim for being in his house. (*Id.* at 17.) This Court concludes this was sufficient evidence for the trial court to find Defendant knew she was not supposed to be in the house and thus entered it unlawfully.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2012-000346-001 DT

05/13/2013

III. CONCLUSION.

Based on the foregoing, this Court concludes the State presented sufficient evidence to show Defendant knowingly entered the house unlawfully.

**IT IS THEREFORE ORDERED** affirming the judgment and sentence of the Scottsdale Municipal Court.

**IT IS FURTHER ORDERED** remanding this matter to the Scottsdale Municipal Court for all further appropriate proceedings.

**IT IS FURTHER ORDERED** signing this minute entry as a formal Order of the Court.

/s/ Crane McClennen

THE HON. CRANE MCCLENNEN  
JUDGE OF THE SUPERIOR COURT

051020131610•