

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2013-000028-001 DT

06/14/2013

THE HON. CRANE MCCLENNEN

CLERK OF THE COURT
J. Eaton
Deputy

STATE OF ARIZONA

WEBSTER CRAIG JONES

v.

PAMELA JEAN BRUMMER (001)

JOHN P TATZ

MESA MUNICIPAL COURT - COURT
ADMINISTRATOR
MESA MUNICIPAL COURT -
PRESIDING JUDGE
REMAND DESK-LCA-CCC

RECORD APPEAL RULING / REMAND

Lower Court Case Number 2010-100650.

Defendant-Appellant Pamela Jean Brummer (Defendant) was convicted in Mesa Municipal Court of four counts of Harassment. Defendant contends the State did not present sufficient evidence in that the State did not specifically identify the individual who was the victim of each count. For the following reasons, this Court affirms the judgments and sentences imposed.

I. FACTUAL BACKGROUND.

On December 16, 2010, the State filed a Complaint charging Defendant with four counts of Disorderly Conduct, and four counts of Harassment. Trial began on June 4, 2012. The State presented the testimony of five 9-1-1 operators, who testified about the number of calls received from Defendant on September 15, 2010, between 6:42 p.m. and 7:46 p.m. (R.T. of Jun. 4, 2012, at 9-10, 14, 21-22, 60-63, 127-29, 142-43, 153-56.) The State offered, and the trial court admitted, Exhibit 2, which was the audiotape of the 9-1-1 calls Defendant made, and the trial court listened to that tape. (*Id.* at 29, 92-121, 175.) The State offered, and the trial court admitted, Exhibit 1, which was the list of 9-1-1 calls Defendant made. (*Id.* at 10, 170.) That list of 9-1-1 calls shows 52 calls between 6:42 p.m. and 7:48 p.m.

After hearing the testimony and the arguments of counsel, the trial court found Defendant guilty of the four counts of harassment and not guilty of the four counts of disorderly conduct. (R.T. of Jun. 6, 2012, at 293, 300.) The trial court later imposed sentence. (R.T. of Jul. 16, 2012, at 14-15.) On July 23, 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).

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II. ISSUE: DID THE STATE PRESENT SUFFICIENT EVIDENCE TO SUPPORT THE GUILTY VERDICTS.

Defendant contends the State did not present sufficient evidence to support the guilty verdicts. The statute in question provides in part as follows:

A. A person commits harassment if, with intent to harass or with knowledge that the person is harassing another person, the person:

1. Anonymously or otherwise contacts, communicates or causes a communication with another person by verbal, electronic, mechanical, telegraphic, telephonic or written means in a manner that harasses.

A.R.S. § 13–2921(A)(1). The evidence presented showed Defendant called the 9-1-1 operators 52 times within a 64 minute period. Those operators testified that Defendant used profanity and abusive language, and her repeated calls interfered with their ability to respond to other 9-1-1 calls. Further, Defendant told the operators she would continue to make calls until a police officer arrived at her house. The evidence thus supported the guilty verdicts.

Defendant contends the statute requires the harassing conduct be directed at a specifically identified person, and thus contends the State presented only evidence of calls directed at the 9-1-1 operators in general. In support of her contention, Defendant cites the following:

E. For the purposes of this section, “harassment” means conduct that is directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys or harasses the person.

A.R.S. § 13–2921(E). The State notes, however, “person” is defined as follows:

30. “Person” means a human being and, as the context requires, an enterprise, a public or private corporation, an unincorporated association, a partnership, a firm, a society, a government, a governmental authority or an individual or entity capable of holding a legal or beneficial interest in property.

A.R.S. § 13–105(30). Thus, a person can commit harassment by directing conduct toward a government, such as the city of Mesa, or toward a governmental authority, such as the Mesa Police Department, or more specifically, the 9-1-1 operators of the Mesa Police Department, which is what Defendant did. To accept Defendant’s argument would mean rewriting the statute to provide as follows:

30. “Person” means a human being and, as the context requires, a specifically identified individual.

Because the Arizona Legislature has given a much broader definition of “person,” this Court must give effect to all the words used by the Arizona Legislature, and must therefore reject Defendant’s argument.

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III. CONCLUSION.

Based on the foregoing, this Court concludes the State presented sufficient evidence to support the guilty verdicts.

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

IT IS FURTHER ORDERED remanding this matter to the Mesa 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

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