

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

UNPUBLISHED
October 21, 2014

v

STEPHANIE WHITE,

No. 318654
Saginaw Circuit Court
LC No. 12-037836-FH

Defendant-Appellant.

Before: METER, P.J., and WHITBECK and RIORDAN, JJ.

PER CURIAM.

Defendant, Stephanie White, appeals as of right her conviction, following a jury trial, of resisting or obstructing a police officer.¹ The trial court sentenced Stephanie White to serve 18 months' probation. Because the police officer lawfully entered the home to arrest Stephen White, Stephanie White's son, we affirm.

I. FACTS

Bridgeport Township Police Officer Brent Green testified that, on September 5, 2012, he arrived at 2855 Germain Drive. According to Officer Green, Stephen White had five outstanding arrest warrants, one of which identified 2855 Germain Drive as Stephen White's address. Officer Green testified that he had previously been to 2855 at least one other time when Stephen White was there, and that Stephanie White had called "a couple times when Stephen was acting up and we talked." Officer Green testified that he accessed and reviewed the outstanding arrest warrants and Stephen White's physical description in the Law Enforcement Information Network (LEIN) before arriving at the home.

Officer Green testified that he parked one house away from 2855 Germain Drive and approached the home's back door. According to Officer Green, the storm door was open but the screen door was closed. Through the screen door, he saw three people—a man working on the sink, Stephen White, and Stephanie White's thirteen-year-old son. Stephen White started to open the back door, then said "hold up" and moved quickly toward the front of the home.

¹ MCL 750.81d(1).

Officer Green stopped the door from closing and entered the home. He called for Stephen White to stop and asked the thirteen-year-old where Stephen White had gone.

Jareth Glyn testified that he had been working on the kitchen sink for about 45 minutes when Officer Green arrived. According to Glyn, the last time he saw Stephen White was shortly before Officer Green arrived. Glyn testified that Officer Green knocked on the door and the thirteen-year-old went to the door.

The thirteen-year-old testified that when he saw Officer Green approaching, he called upstairs to Stephanie White, who told him to open the door. According to the thirteen-year-old, Officer Green came inside and said that he was chasing Stephen White. At trial, the thirteen-year-old testified that Stephen White had left about 30 minutes before. However, he also testified that he told police officers the truth during an interview four days after the incident, when he stated that Stephen White went to the back door, said “hold up,” and then walked quickly out the front door.

Stephanie White testified that she came downstairs, saw Officer Green in her dining room, and asked him what he was doing there. According to Stephanie White, she did not prevent Officer Green from going to the front door and she was behind Officer Green. She did not prevent Officer Green from searching the home. However, she did repeatedly state that Officer Green could not search her house without a warrant, and she put her hand out as “body language . . . like pointing towards that way.” She said that she did not attempt to physically block Officer Green.

According to Officer Green, he told Stephanie White that Stephen White had several outstanding arrest warrants. Officer Green attempted to continue through the house to look for Stephen White, but Stephanie White “kind of put her arm up and kind of turned in front of me so that I couldn’t progress.” Stephanie White told Officer Green that he needed a search warrant to be in her home, and Officer Green informed her that he did not need a warrant because he had seen Stephen White. Stephanie White told Officer Green that Stephen White was not in the home and that he should leave. Officer Green told Stephanie White that he would leave after he confirmed that Stephen White was not there.

According to Officer Green, Stephanie White continued to “get in front of [him]” and yell that he needed a search warrant. Officer Green told Stephanie White that if she did not sit down, he would handcuff her for his safety. Stephanie White continued to loudly demand a search warrant and, because he was concerned for his safety and because “she was becoming irate,” he attempted to handcuff Stephanie White. Stephanie White resisted by pulling one of her wrists away, and Officer Green had to pin her against the wall to handcuff her.

The prosecutor charged Stephanie White with resisting or obstructing a police officer. The jury found Stephanie White guilty.

II. SUFFICIENCY OF THE EVIDENCE

A. STANDARD OF REVIEW

A claim that the evidence was insufficient to convict a defendant invokes that defendant's constitutional right to due process of law.² Thus, this Court reviews de novo a defendant's challenge to the sufficiency of the evidence supporting his or her conviction.³ We review the evidence in a light most favorable to the prosecutor to determine whether a rational trier of fact could find that the prosecutor proved crime's elements beyond a reasonable doubt.⁴

B. LEGAL STANDARDS

MCL 750.81d(1) provides in part that a person who "... obstructs, opposes, or endangers a person who the individual knows or has reason to know is performing his or her duties is guilty of a felony" The elements of resisting or obstructing are that

(1) the defendant assaulted, battered, wounded, resisted, obstructed, opposed, or endangered a police officer, and (2) the defendant knew or had reason to know that the person that the defendant assaulted, battered, wounded, resisted, obstructed, opposed, or endangered was a police officer performing his or her duties.^[5]

MCL 750.81d(1) does not abrogate a defendant's common-law right to resist an unlawful arrest.⁶ The lawfulness of the officer's arrest is an element that the prosecutor must prove at trial.⁷ Thus, though the lawfulness of an officer's arrest is normally a question of law for the judge, it is a question of fact for the jury in a resisting and obstructing case.⁸

Before making an arrest, an officer generally obtains an arrest warrant from a magistrate on a showing of probable cause.⁹ A validly issued arrest warrant gives the officer authority to enter the suspect's residence in order to arrest the suspect, if the officer has reason to believe that

² *People v Wolfe*, 440 Mich 508, 514; 489 NW2d 748 (1992); *In re Winship*, 397 US 358, 364; 90 S Ct 1068; 25 L Ed 2d 368 (1970).

³ *People v Meissner*, 294 Mich App 438, 452; 812 NW2d 37 (2011).

⁴ *Id.*; *People v Reese*, 491 Mich 127, 139; 815 NW2d 85 (2012).

⁵ *People v Corr*, 287 Mich App 499, 503; 788 NW2d 860 (2010).

⁶ *People v Moreno*, 491 Mich 38, 52; 814 NW2d 624 (2012).

⁷ *Id.* at 51-52; *People v Quinn*, ___ Mich App ___, ___; ___ NW2d ___ (2014); slip op at 2-3.

⁸ *Id.*; *People v Dalton*, 155 Mich App 591, 598; 400 NW2d 689 (1986).

⁹ *People v Manning*, 243 Mich App 615, 621; 624 NW2d 746 (2000); *Steagald v United States*, 451 US 204, 213; 101 S Ct 1642; 68 L Ed 2d 38 (1981).

the suspect lives at the address and the suspect is currently there.¹⁰ But an officer may not enter a third party's home in order to arrest a suspect without obtaining a search warrant, regardless of whether the officer reasonably believes that the suspect is in the third party's home.¹¹

C. APPLYING THE STANDARDS

Stephanie White contends that there was insufficient evidence for a rational trier of fact to conclude that Officer Green's entry into the home was lawful. Stephanie White contends that Officer Green's entry was unlawful because her home was third party's residence. We disagree.

When reviewing the sufficiency of the evidence, we will not interfere with the trier of fact's role to determine the weight of the evidence or the credibility of the witnesses.¹² Here, four of the five arrest warrants listed Stephen White's address as another location. And witnesses at trial, including Stephanie White and the thirteen-year-old, testified that Stephen White did not actually live at 2855 Germain Drive.

However, this does not negate that one of the warrants *did* indicate that Stephen White's residence was 2855 Germain Drive. Further, Officer Green testified that he had previously interacted with Stephen White at 2855 Germain Drive. Officer Green also testified that when he arrived at 2855 Germain Drive, he saw Stephen White in the home's kitchen through the open screen door.

Viewing this evidence in the light most favorable to the prosecutor, we conclude that a rational juror could find that Officer Green had reason to believe that Stephen White lived at the residence because a warrant listed 2855 Germain Drive as Stephen White's residence, Officer Green had previously interacted with Stephen White at Germain Drive, and Officer Green saw Stephen White in the home. A rational juror could also find that Officer Green had reason to believe Stephen White was currently in the home because Officer Green saw him through the home's screen door.

Accordingly, viewing the evidence in the light most favorable to the prosecutor, we conclude that sufficient evidence supported Stephanie White's resisting and obstructing conviction.

¹⁰ *Payton v New York*, 445 US 573, 603; 100 S Ct 1371; 63 L Ed 2d 639 (1980).

¹¹ *Steagald*, 451 US at 213; *Garden City v Stark*, 120 Mich App 350, 351-353; 327 NW2d 474 (1982).

¹² *Wolfe*, 440 Mich at 514-515; *People v Kanaan*, 278 Mich App 594, 619; 751 NW2d 57 (2008).

III. JURY INSTRUCTIONS

Stephanie White briefly asserts that the trial court's instruction that Officer Green could rely on LEIN information improperly tainted the jury. We conclude that Stephanie White has waived our review of this issue.

A defendant's waiver intentionally abandons and forfeits appellate review of a claimed deprivation of a right.¹³ A defendant may waive his or her challenge to jury instructions.¹⁴ When the trial court asks the party whether it has any objections to the jury instructions and the party responds negatively, it is an affirmative approval of the trial court's instructions.¹⁵

Here, the trial court twice asked defense counsel whether counsel was satisfied with the jury instructions, and counsel expressed satisfaction with the instructions. Thus, we conclude that counsel waived any challenge to the trial court's jury instructions.

IV. CONCLUSION

We conclude that the prosecutor presented sufficient evidence of the lawfulness of Officer Green's entry into 2855 Germain Drive. We also conclude that Stephanie White has waived any challenge to the jury instructions.

We affirm.

/s/ Patrick M. Meter
/s/ William C. Whitbeck
/s/ Michael J. Riordan

¹³ *People v Carter*, 462 Mich 206, 215; 612 NW2d 144 (2000).

¹⁴ *Id.* at 215.

¹⁵ *People v Lueth*, 253 Mich App 670, 688; 660 NW2d 332 (2002).