

STATEMENT OF THE CASE

Latonya Plummer appeals her conviction for criminal trespass, as a Class A misdemeanor, following a bench trial. She presents two issues for our review, which we consolidate and restate as whether the State presented sufficient evidence to support her conviction.

We affirm.

FACTS AND PROCEDURAL HISTORY

On March 30, 2009, Plummer was working as a receptionist at Midtown Community Mental Health Center (“Midtown”) in Indianapolis when a supervisor informed her that her employment was terminated effective immediately. The supervisor told Plummer to “collect her belongings and leave[.]” Transcript at 31. Thereafter, Marion County Sheriff’s Deputy Barry Palencer, who was providing security for Midtown and Wishard Hospital at the time, received a radio dispatch requesting his assistance in dealing with “a terminated employee [at Midtown] who was refusing to leave.” Id. at 11.

When Deputy Palencer and two other officers arrived at Midtown, they found Plummer sitting on the floor near her desk “tearing up papers.” Id. at 12. Plummer told the officers that she had to “destroy [the] paper[s] for confidentiality reasons.” Id. Deputy Palencer then advised Plummer that she needed to stop what she was doing and leave the premises. Plummer refused to leave, and the officers repeated their commands that she leave. Finally, the officers informed Plummer that she would be arrested for trespassing if she did not leave the premises immediately. Plummer again refused to

leave and stated that she was “obligat[ed]” to tear up the papers. Id. at 14. Plummer told the officers to arrest her.

Deputy Palencer attempted to place handcuffs on Plummer’s wrists, but after he had one wrist cuffed, Plummer began to “flail and swing around in an attempt to keep [him] from getting her other arm.” Id. at 15. After all three officers were unable to place Plummer in handcuffs, one of the officers used a taser to subdue Plummer.

The State charged Plummer with resisting law enforcement and criminal trespass. The trial court found Plummer guilty as charged following a bench trial and entered judgment and sentence accordingly.¹ This appeal ensued.

DISCUSSION AND DECISION

When the sufficiency of the evidence to support a conviction is challenged, we neither reweigh the evidence nor judge the credibility of the witnesses, and we affirm if there is substantial evidence of probative value supporting each element of the crime from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. Wright v. State, 828 N.E.2d 904, 905-06 (Ind. 2005). It is the job of the fact-finder to determine whether the evidence in a particular case sufficiently proves each element of an offense, and we consider conflicting evidence most favorably to the trial court’s ruling. Id. at 906.

Indiana Code Section 35-43-2-2 provides in relevant part that a person who, not having a contractual interest in the property, knowingly or intentionally refuses to leave the real property of another person after having been asked to leave by the other person or

¹ Plummer does not appeal her conviction for resisting law enforcement.

that person's agent commits criminal trespass. Here, Plummer first contends that the evidence is insufficient to show that an agent of Midtown had asked her to leave because, she maintains, Deputy Palencer was engaged in "official police duties" and was not acting as an agent of Midtown when he told her to leave the premises. Brief of Appellant at 10. But Plummer's arguments on this point ignore the evidence that Plummer's supervisor at Midtown had told her to leave the premises and that Plummer's refusal to leave resulted in Deputy Palencer's dispatch to the office. In particular, the evidence shows that after Plummer was fired, her supervisor told her to "collect her belongings and leave[.]" Transcript at 31. Plummer testified that she told a coworker that she had been terminated and "ha[d] to get out of [the office.]" Id. at 19. Thus, the evidence is sufficient on this challenged element of the offense.

Plummer next contends that she had a reasonable belief that she was authorized to remain on the premises and that because she had not finished packing up her personal belongings when Deputy Palencer arrested her, the evidence does not support the mens rea element of criminal trespass. The belief that one has a right to be on the property of another will defeat the mens rea requirement of the criminal trespass statute if it has a fair and reasonable foundation. Taylor v. State, 836 N.E.2d 1024, 1028 (Ind. Ct. App. 2005), trans. denied. It is for the trier of fact to determine whether the defendant believed that she had a right to be on the property of another and whether that belief had a fair and reasonable foundation. Id.

By her own testimony, Plummer "was down on the floor" going through papers and "tearing them up" for "maybe twenty minutes" after she was told to leave and before

someone called security. Id. at 21. In other words, during the time that Plummer could have been packing her personal belongings and could have indicated her intention to leave the premises, she chose to stay and shred papers.² And when Deputy Palencer told her that she had to leave immediately upon his arrival, Plummer responded that she had an “obligation” to tear up the papers before she left. Id. at 14. It was only after Plummer refused to stop what she was doing that the officers arrested her. Plummer’s contention on this issue amounts to a request that we reweigh the evidence, which we will not do. The evidence is sufficient to support Plummer’s conviction for criminal trespass.

Affirmed.

ROBB, C.J., and CRONE, J., concur.

² Plummer testified that the papers contained “confidential information” and she “didn’t want to leave that information just laying out like that[.]” Transcript at 21. But there is no evidence that anyone authorized Plummer to stay and destroy the documents after her employment was terminated.