

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMIE LYNN LABRECQUE,

Defendant-Appellant.

UNPUBLISHED

November 21, 1997

No. 196845

Antrim Circuit Court

LC No. 95-002965 FH

Before: Jansen, P.J., and Fitzgerald and Young, JJ.

MEMORANDUM.

Defendant appeals by right her jury conviction of second degree home invasion, MCL 750.110a(3); MSA 28.305(a)(3). Her sole contention on appeal is that the trial court erred in admitting extrajudicial statements of alleged confederates in crime as an adoptive admission under MRE 801(d)(2)(B). We disagree.

It is true that, in a criminal case, the defendant's silence while present when a statement is being made ordinarily cannot be used as an adoptive admission. *People v Greenwood*, 209 Mich App 470, 473; 531 NW2d 771 (1995), and cases there cited. Here, however, defendant was not silent; during the conversation in which her confederates described the fact of the crime and the manner in which it was perpetrated, she contributed supporting statements. Since defendant was not silent, and her statements could reasonably be construed as manifesting her adoption or belief in the truth of the statements of other burglars, the trial court did not abuse its discretion in finding the testimony admissible. *People v Dietrich*, 87 Mich App 116, 130; 274 NW2d 472 (1978), rev'd in part on other gds 412 Mich 904; 315 NW2d 123 (1982).

Affirmed.

/s/ Kathleen Jansen

/s/ E. Thomas Fitzgerald

/s/ Robert P. Young, Jr.