

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WILLIAM LOUIS KARTZ,

Defendant-Appellant.

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UNPUBLISHED

January 16, 1998

No. 195619

Midland Circuit Court

LC No. 95-7829 FH

Before: Fitzgerald, P.J., and O’Connell and Whitbeck, JJ.

PER CURIAM.

Defendant appeals as of right from his jury trial conviction of resisting or obstructing arrest, MCL 750.479; MSA 28.747. The conviction stemmed from charges that defendant resisted police officers when they arrested him on an outstanding misdemeanor warrant at his mother’s house. Defendant was sentenced to twenty-four to thirty-six months in prison as a habitual third offender. We affirm.

Defendant’s first argument on appeal is that it was proper for him to resist arrest because the arresting officers did not satisfactorily inform him of the reasons for his appeal. Defendant’s argument is without merit.

An individual may only resist an illegal arrest. *People v Krum*, 374 Mich 356, 361; 132 NW2d 69 (1965). While a police officer is statutorily required to inform an arrestee of the grounds for an arrest, the arrest is not “illegal” simply because the officer does not have the warrant in her possession, or because the officer does not know all of the details surrounding the offense for which the individual is being arrested. MCR 764.18; MSA 28.877 provides:

Where an arrest is made under a warrant, it shall not be necessary for the arresting officer personally to have the warrant in his possession but such officer must, if possible, inform the person arrested that there is a warrant for his arrest and, after the arrest is made, shall show such person said warrant if required, as soon as practicable.

Additionally, MCR 764.19; MSA 28.878 provides that “when arresting a person, without a warrant, the officer making the arrest shall inform the person arrested of his authority and the cause of the arrest.”

In this case, defendant’s mother contacted the Midland County Police Department, requesting that defendant be removed from her house. When officers ran a background check on defendant, they discovered a valid outstanding misdemeanor warrant for defendant’s arrest. Upon entering the residence, the police informed defendant that his mother wanted him out of the house and that they were arresting him based on an outstanding warrant for assault. The arresting officers responded to defendant’s repeated inquiries by telling him that the warrant was for an assault and that a copy of the warrant would be provided to him at the county jail. The record indicates that the officers provided defendant with all the information pertaining to the warrant that was immediately available to them and that defendant was provided with a copy of the warrant upon his arrival at the county jail. Despite being informed of the grounds for the warrant, defendant resisted the uniformed police officers who effectuated the arrest. We find such resistance unjustifiable.

Defendant also contends that the trial court erred in failing to give a jury instruction proposed by defendant. The instruction would have provided that defendant could justifiably resist the arrest if the arresting officers used excessive force in effectuating the arrest. We find this argument to be without merit. A trial court must issue a requested jury instruction that relates to a defense theory unless there was insufficient evidence presented at trial to support the requested instruction. *People v Mills*, 450 Mich 61, 81; 537 NW2d 909 (1995). Our review of the record supports the trial court’s determination that the evidence presented at trial was insufficient to support a finding of excessive force. Excessive force claims are reviewed to see if the officers’ actions were “objectively reasonable” in light of the facts and circumstances confronting them. *People v Hanna*, 223 Mich App 466, 471; 567 NW2d 12 (1997). The testimony in the present case indicated that the arresting officers used the amount of force necessary under the circumstances to ensure defendant’s safe removal from the residence.<sup>1</sup> Accordingly, the trial court properly denied defendant’s requested jury instruction.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Peter D. O’Connell

/s/ William C. Whitbeck

<sup>1</sup> For example, defendant’s mother, who witnessed the event, testified that she did not think that the officers used excessive force.