

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KIMBERLY ANN ANDERSON,

Defendant-Appellant.

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UNPUBLISHED

September 15, 1998

No. 199562

Shiawassee Circuit Court

LC No. 96-007584 FH

Before: Whitbeck, P.J., and McDonald and T. G. Hicks\*, JJ.

MEMORANDUM.

Defendant appeals as of right her conviction after a jury trial of resisting and obstructing a police officer, MCL 750.479; MSA 28.747. We affirm.

I

Defendant argues that the trial court abused its discretion in denying a jury request for reproduction of a portion of the transcript. We disagree. MCR 6.414(H) provides:

If, after beginning deliberation, the jury requests a review of certain testimony or evidence, the court must exercise its discretion to ensure fairness and to refuse unreasonable requests, but it may not refuse a reasonable request. The court may order the jury to deliberate further without the requested review, so long as the possibility of having the testimony or evidence reviewed at a later time is not foreclosed.

The reading of testimony to a jury is a matter committed to the trial court's discretion. *People v Howe*, 392 Mich 670, 675; 221 NW2d 350 (1974); *People v Davis*, 216 Mich App 47, 56; 549 NW2d 1 (1996). The trial court did not abuse its discretion in this instance. The trial court advised the jury of the difficulties and delay in preparing a transcript, and asked the jury to try to use its collective memory "to see if [they could] put together" the testimony. The trial court did not foreclose the

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\* Circuit judge, sitting on the Court of Appeals by assignment.

possibility of preparing a transcript if the jury's collective memory again failed, and defendant did not object to the instruction. In a short time, the jury was able to reach a verdict.

## II

Defendant argues that the verdict was not supported by sufficient evidence to show that the police officers were engaged in lawful duties when she assaulted and battered one of them because she claimed the police officers were engaged in an unlawful search of her residence at the time of defendant's actions. We disagree.

In reviewing the sufficiency of the evidence, we view the evidence in a light most favorable to the prosecution and determine whether a rational finder of fact could have found the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992). One of the essential elements of a resisting and obstructing charge is that the police officer must have been carrying out his lawful duties. *People v Simpson*, 207 Mich App 560, 562; 526 NW2d 33 (1994). Viewed in the light most favorable to the prosecution, there was sufficient evidence to establish that the police officers were admitted by third party consent to defendant's home to execute an arrest warrant for one Barry Sweet, and were lawfully performing their duties. The police officers relied on this consent. A reasonable juror could find that the prosecution proved the elements of the crime beyond a reasonable doubt.

Affirmed.

/s/ William C. Whitbeck

/s/ Gary R. McDonald

/s/ Timothy G. Hicks