

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TANIS JEAN KROPP,

Defendant-Appellant.

UNPUBLISHED

September 15, 1998

No. 203573

Luce Circuit Court

LC No. 96-000557 AR

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

MEMORANDUM.

Defendant appeals, by leave granted, the circuit court order affirming the district court's denial of her motion to suppress. We affirm. We decide this appeal without oral argument pursuant to MCR 7.214(E).

Defendant was charged with attempted resisting and obstructing a police officer following an altercation which took place in her home. Officer James Kitzman had arrested defendant's juvenile son, and was taking him home to transfer custody of the boy, who would not divulge his name, back to his parents. Upon arrival at the house, the son opened the car door and ran into the house. The officer pursued the son into the house and apprehended him. Defendant confronted the officer, refused to sign a ticket for her son and was herself arrested when she interfered with the officer.

Defendant moved to suppress evidence related to her seizure, asserting that the officer entered the house to *make* an arrest illegally. The district court denied the motion and the circuit court affirmed that decision.

"[A]bsent exigent circumstances, a police officer is not authorized to enter a private home without consent to make a misdemeanor arrest without a warrant." *People v Rice*, 192 Mich App 240, 245; 481 NW2d 10 (1991); *People v Reinhardt*, 141 Mich App 173, 180; 366 NW2d 245 (1985). The Code of Criminal Procedure contains numerous and very specific provisions dealing with various aspects of arrests. It provides for warrantless arrests when a felony or misdemeanor is

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

committed in an officer's presence, but it only allows for breaking into a building when the offense is a felony, and the officer has announced his purpose and has been refused admittance. *Reinhardt, supra*; MCL 764.21; MSA 28.880.

Here, however, the officer did not enter the house to *make* an arrest; the officer had already arrested the child. MCL 764.23(1); MSA 28.882(1) therefore governs this case; it provides:

If a person lawfully arrested escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and retake him at any time and in any place within the state without a warrant.

Officer Kitzman testified that he had arrested defendant's son when he took him into custody. The son was escaping from the officer's custody when he entered the Kropp residence. By the terms of the statute, Officer Kitzman was authorized to immediately pursue and retake his arrestee at any time or any place without a warrant.

Affirmed.

/s/ William C. Whitbeck

/s/ Gary R. McDonald

/s/ Timothy G. Hicks