

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SALINA A. BROWN,

Defendant-Appellant.

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UNPUBLISHED  
September 7, 1999

No. 207964  
Recorder's Court  
LC No. 97-001984

Before: Gribbs, P.J., and Smolenski and Gage, JJ.

MEMORANDUM.

Defendant was convicted, following a bench trial, of assault with a dangerous weapon, MCLA 750.82; MSA 28.277, and carrying a pistol in an automobile, MCLA 750.227; MSA 28.424. She was sentenced to five years' probation. She appeals as of right. We affirm.

The facts material to this case are not in dispute. In closing argument the prosecution argued that defendant presented no alibi for her presence at the time of the assault. In response, defense counsel argued that defendant's mother testified that the defendant's two children were with her at the time. The court then interrupted by stating, "In other words, she didn't even—he [the victim] didn't know who the kids were."

Defendant on appeal argues that the trial court made a critical error in a finding of fact that eliminated the only direct evidence to corroborate either party. We disagree. This was not a finding of fact, but just a comment made by the court during defense counsel's closing argument. It appears that the court was merely attempting to restate or clarify counsel's argument in order to make sure that it understood the argument counsel was making. The court later announced its finding of fact after closing arguments were complete, and ultimately found defendant guilty based

on its determination that the complainant's testimony was "believable and logical." Neither the evidence at trial, nor the prior remark during closing argument reveal any clear error in this determination. *People v Brannon*, 194 Mich App 121, 129; 486 NW2d 83 (1992).

Affirmed.

/s/ Roman S. Gibbs

/s/ Michael R. Smolenski

/s/ Hilda R. Gage