

IN THE UTAH COURT OF APPEALS

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| State of Utah, |) | MEMORANDUM DECISION | |
| |) | (Not For Official Publication) | |
| Plaintiff and Appellee, |) | | |
| |) | Case No. 20070187-CA | |
| v. |) | | |
| |) | F I L E D | |
| George Larsen, |) | (January 10, 2008) | |
| |) | | |
| Defendant and Appellant. |) | <table border="1"><tr><td>2008 UT App 15</td></tr></table> | 2008 UT App 15 |
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Seventh District, Moab Department, 061700167
The Honorable Lyle R. Anderson

Attorneys: William L. Schultz, Moab, for Appellant
Mark L. Shurtleff and Ryan D. Tenney, Salt Lake City,
for Appellee

Before Judges Thorne, McHugh, and Orme.

PER CURIAM:

George Larsen appeals from his convictions on charges of criminal mischief and criminal trespass. We affirm.

Larsen argues that there was insufficient evidence to support the verdicts. "When reviewing a bench trial for sufficiency of the evidence, we must sustain the trial court's judgment unless it is against the clear weight of the evidence, or if [we] otherwise reach[] a definite and firm conviction that a mistake has been made." State v. Gordon, 2004 UT 2, ¶ 5, 84 P.3d 1167 (citations and internal quotation marks omitted). Here, the trial court's judgment is not against the clear weight of the evidence. On the contrary, the evidence establishes each element of the crimes charged.

"A person commits criminal mischief if the person . . . intentionally damages, defaces, or destroys the property of another." Utah Code Ann. § 76-6-106(2)(c) (2003). The evidence at trial established that Larsen forcibly opened a locked door, causing damage to the door. Although Larsen asserts that there was no showing that he intended to damage the door, the evidence shows that he desired, quite strongly, to open the door, which resulted in the damage. A person acts intentionally "with

respect to the nature of his conduct or to a result of his conduct, when it is his conscious objective or desire to engage in the conduct or cause the result." Id. § 76-2-103(1) (2003). The necessary result of the intentional act of forcing the door open was damage to the door.

A person commits criminal trespass if "he enters or remains unlawfully on property and . . . is reckless as to whether his presence will cause fear for the safety of another." Id. § 76-6-206(2)(a)(iii) (2003). The evidence at trial established that Larsen forced his way into the apartment and remained there until police took him away. Larsen's assertions that Tamela Hudyma let him into the apartment and did not tell him to leave are contrary to the trial testimony that he forced open the door to the apartment and that Hudyma called the police when she saw him at the door.

Larsen argues that he had a possessory interest in the apartment because he was a cohabitant. Therefore, he contends, he could not commit criminal mischief or criminal trespass. His argument is without merit. The testimony at trial established that Larsen did not live at the apartment and did not have a key to it at the time of the incident. He stayed overnight there only a few times and had a few personal items there, though nothing substantial. Additionally, he was the subject of a no contact order prohibiting the apartment occupant, Hudyma, from being with him. The weight of the evidence establishes that it was Hudyma's apartment exclusively.

In sum, there was sufficient evidence to support the trial court's verdict of guilty on the charges of criminal mischief and criminal trespass. Accordingly, the convictions are affirmed.

William A. Thorne Jr.,
Associate Presiding Judge

Carolyn B. McHugh, Judge

Gregory K. Orme, Judge