

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JOSEPHINE LINKER HART, JUDGE

DIVISION III

CACR07-721

March 12, 2008

LAQUICHA JACOBS

APPELLANT

APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT
[NO. CR2006-4370]

V.

HONORABLE JOHN W. LANGSTON,
JUDGE

STATE OF ARKANSAS

APPELLEE

AFFIRMED

Appellant, Laquicha Jacobs, appeals from her conviction for residential burglary, arguing that the evidence was insufficient to support the conviction.¹ Specifically, she asserts that the State failed to prove that she entered the residence with the purpose of committing an offense punishable by imprisonment, which, in this case, was alleged to be assault. We affirm.

The State alleged that appellant and her co-defendant, Arnell Smith, committed the crime of residential burglary. Our criminal statutes provide that “[a] person commits residential burglary if he or she enters or remains unlawfully in a residential occupiable

¹She does not appeal from her conviction for first-degree terroristic threatening.

structure of another person with the purpose of committing in the residential occupiable structure any offense punishable by imprisonment.” Ark. Code Ann. § 5-39-201(a)(1) (Repl. 2006). Regarding the burglary count, the State asserted in the information that appellant and Smith entered the residence of Eddie Birden with the purpose of committing an assault. We note that “[a] person commits assault in the third degree if he or she purposely creates apprehension of imminent physical injury in another person.” Ark. Code Ann. § 5-13-207(a) (Repl. 2006).

At the bench trial, the State presented the testimony of the victim, Eddie Birden. Birden testified that on August 22, 2006, at approximately 11:00 p.m., he was at home asleep in bed when he heard someone “bammer” on the door to his residence. When he went to the door, a male and a female were outside. They said to him that if he did not open the door, they were going to “shoot up” his house and shoot him.

When he told them that there was nobody in his house that they were looking for, they kicked the door down and entered the residence. Birden identified them as Smith and appellant. Birden testified that he was afraid because they said that they had guns. He testified that he “just held my hand up in the air and just let them do what they wanted to do.” Birden assumed that they were looking for someone inside his house because he “heard ’em saying that they got the other one. He in the ditch bleeding.” According to Birden, appellant and Smith asked if there was a white male in the house, and he replied that there was no one in the residence but him and his roommate, who was asleep.

Appellant and Smith went room to room through the residence, also bursting into his

roommate's room. They were there for approximately fifteen to twenty minutes and left. Birden testified that he then called the police on his cellular telephone, and Smith told him, "You call the police, we going to get you." Birden concluded that they meant they were going to come back and do him bodily harm. He also testified that he was afraid for his life.

On cross-examination, Birden testified that when they came inside his house, they were threatening him all the time and that was why he kept his hands in the air. He further testified, however, that after they broke down the door, he could not say whether they threatened him because he was afraid for his life. Though he admitted that he never saw a gun, he also testified that he assumed they had guns and that they said they had guns.

The circuit court convicted appellant of residential burglary. Appellant argues that the State failed to produce substantial evidence that appellant and her accomplice entered Birden's residence with the purpose of committing in the residence an offense punishable by imprisonment, specifically assault. Appellant argues that the trier of fact was left to speculate regarding whether appellant and her accomplice entered the residence with the intent to commit assault against the person they were looking for inside the house. She claims that it was equally plausible that they were looking for a friend who had been injured when the three of them had fought with a person who had been left in the ditch bleeding.

In a challenge to the sufficiency of the evidence, we consider whether the conviction is supported by substantial evidence, which is evidence of sufficient certainty and precision to compel a conclusion one way or the other and pass beyond mere suspicion or conjecture. *Diggs v. State*, 93 Ark. App. 332, 219 S.W.3d 654 (2005). We view the evidence in the light

most favorable to the State, considering only evidence that supports the verdict. *Id.* Furthermore, intent or purpose may be inferred from the facts and circumstances shown in evidence. *Id.*

Appellant's argument focuses on the likelihood that appellant and her accomplice may or may not have intended to commit an assault on an unknown third party. We note, however, that the burglary and the third-degree assault statutes focus on whether appellant's purpose in entering the residence was to purposely create apprehension of imminent physical injury in "another person." Here, there was evidence from which the finder of fact could conclude that appellant's purpose in entering the residence was to create apprehension of imminent physical injury in "another person," specifically, Birden. Birden testified that before they entered the residence, they threatened to shoot him and his house. They then kicked the door down, entered the residence, and went through the residence room by room for twenty minutes, causing Birden to be afraid for his life. And when he used his telephone to call the police, appellant's accomplice indicated that they would come back and do him bodily harm if he called the police. We cannot say that this testimony did not provide substantial evidence that appellant's purpose when she entered the residence was to create in another person an apprehension of imminent physical injury.

Affirmed.

ROBBINS and MILLER, JJ., agree.