

ARKANSAS COURT OF APPEALSDIVISION II
No. CACR12-247

MARQUITA BROWN

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered October 24, 2012

APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT, FIRST
DIVISION
[NO. CR2010-1453]HONORABLE JAMES LEON
JOHNSON, JUDGE

AFFIRMED AS MODIFIED

RAYMOND R. ABRAMSON, Judge

After a bench trial, Marquita Brown was convicted in Pulaski County Circuit Court of second-degree battery and misdemeanor first-degree criminal mischief. She received concurrent sentences of 120 days in the county jail followed by five years' probation on the second-degree battery conviction and one year probation on the criminal mischief conviction. The judgment and disposition order entered by the court, however, erroneously indicated that Brown had been convicted of felony first-degree criminal mischief. On appeal, Brown argues that, because there was insufficient evidence to support a felony criminal-mischief conviction, her conviction should be reversed. We find that there was a clerical error in the judgment and disposition order, reject her argument that her conviction should be reversed, and affirm as modified.

We have reviewed the record, and it is apparent from our review that the judgment

and disposition order entered in this case simply reflects a scrivener's error that must be corrected. At the close of the State's case, the circuit court granted Brown's motion for a directed verdict on the felony criminal-mischief charge because it found that there was insufficient proof of the dollar amount required to convict Brown of a felony.¹ The court, however, allowed the State to amend the information to a misdemeanor charge to conform to the proof. The court subsequently found Brown guilty on both remaining counts—the second-degree battery charge and the misdemeanor criminal-mischief charge. Because Brown was not actually convicted of felony criminal mischief, her substantial-evidence arguments in that regard are misplaced. Rather, the notation on the judgment and disposition order that Brown had been found guilty of felony criminal mischief was simply a clerical error, and clerical errors do not prevent the enforcement of a judgment and commitment order. *Carter v. Norris*, 367 Ark. 360, 240 S.W.3d 124 (2006); *Johnson v. State*, 2010 Ark. App. 606, ___ S.W.3d ___.

Accordingly, we correct the judgment and disposition order to reflect that Brown was convicted of misdemeanor first-degree criminal mischief, not felony first-degree criminal mischief. With this modification, we affirm.

Affirmed as modified.

PITTMAN and MARTIN, JJ., agree.

John William Crow, for appellant.

Dustin McDaniel, Att'y Gen., by: *Pamela A. Rumpz*, Ass't Att'y Gen., for appellee.

¹The amount necessary to be convicted of felony first-degree criminal mischief was \$500 or more. See Ark. Code Ann. § 5-38-203(b)(1) (Repl. 2006). The State conceded that it had not proved damages of over \$500, and the court determined that the testimony reflected damages of only \$116.82—an amount insufficient for a felony conviction, but sufficient for a conviction on a misdemeanor count.