

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROYCE THOMAS SLATER,

Defendant-Appellant.

UNPUBLISHED

February 4, 2000

No. 211322

Kent Circuit Court

LC No. 97-008453-FH

Before: O'Connell, P.J., and Meter and T. G. Hicks*, JJ.

MEMORANDUM.

Defendant appeals by right his jury-trial conviction for resisting and obstructing a police officer, MCL 750.479; MSA 28.747. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The charge against defendant was based on his resistance to an arrest for violating a personal protection order in a visitation dispute with his ex-wife. The order prohibited defendant from entering the premises of his ex-wife's house. Defendant maintained that the parties had an established practice that allowed him to enter the ex-wife's driveway to pick up and drop off the children for visitation.

On appeal, defendant argues that the trial court invaded the province of the jury and effectively issued a directed verdict of guilty by instructing the jury on the definition of premises. We disagree.

A trial court is obligated to instruct a jury on matters of law. MCL 768.29; MSA 28.1052. However, a trial court may not instruct that an essential factual element of a criminal offense exists as a matter of law. *People v Allensworth*, 401 Mich 67, 70-71; 257 NW2d 81 (1977); *People v Tice*, 220 Mich App 47, 53-54; 558 NW2d 245 (1996). The court did not invade the province of the jury in this matter. It fulfilled its obligation to instruct the jury as to the definition of premises. Defendant does not contend that the definition given was incorrect as a matter of law. The jury was then allowed to make its factual determination regarding whether defendant violated the terms of the personal protection order. The instructions given did not

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

compel a finding on an element of the crime. We find no error in the instructions given.

Affirmed.

/s/ Peter D. O'Connell

/s/ Patrick M. Meter

/s/ Timothy G. Hicks