

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JULIA WIGLEY,

Defendant-Appellant.

UNPUBLISHED
December 28, 2001

No. 215223
Wayne Circuit Court
LC No. 98-003001

AFTER REMAND

Before: Sawyer, P.J., and Jansen and Gage, JJ.

PER CURIAM.

In our original opinion, we remanded, while retaining jurisdiction, this matter to the trial court to conduct an evidentiary hearing on defendant's claims of ineffective assistance of counsel. *People v Wigley*, unpublished opinion per curiam (Docket No. 215223, issued 2/6/01). On remand, the trial court conducted the hearing and concluded that defendant was not entitled to relief. We affirm.

The trial court filed a detailed written opinion in this case, reaching the following conclusions:

From the evidence adduced at the April 20, 2001 hearing concerning statements made by Co-Defendants Barbara Allen and Quinton Johnson, this Court finds:

1. Defendant failed to present any evidence of antagonism that Allen developed for her. Any additional testimony regarding Johnson's antagonism would be merely cumulative to that testimony which was admitted during the trial.
2. Defendant failed to present any evidence to show that Johnson felt justified in burning her house without her acquiescence.
3. Defendant failed to offer any evidence that some kind of plan existed between Allen and Johnson to burn down the house.

As a result of the foregoing findings, Defendant fails to support her claim of ineffective assistance of counsel. Further, the evidence adduced at trial against

Defendant was overwhelming. This Court finds that the errors of trial counsel were insignificant, having no effect in the trial's outcome. Defendant's Motion for New Trial is DENIED.

In sum, the trial court found that, with some additional effort, there is some additional evidence that trial counsel could have succeeded in getting admitted. However, the trial court found this additional evidence to be insignificant and would not have changed the outcome.

In order to obtain a new trial on a claim of ineffective assistance of counsel, a defendant must not only show that trial counsel erred, but also that the defendant was prejudiced by the error. *People v Pickens*, 446 Mich 298, 314; 521 NW2d 797 (1994). That is, the defendant must show a reasonable probability that, but for counsel's errors, the result would have been different. *Id.* Further, we review a trial court's findings of fact for clear error. See *People v Fields*, 448 Mich 58, 77; 528 NW2d 176 (1995).

In this case, the trial court found that, even with the additional evidence that defense counsel could have had admitted, defendant still would not have been acquitted. Defendant has not persuaded us that the trial court clearly erred in that finding and we affirm for the reasons stated in the trial court's opinion.

Affirmed.

/s/ David H. Sawyer

/s/ Kathleen Jansen

/s/ Hilda R. Gage