

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PATRICK MICHAEL CARLSON,

Defendant-Appellant.

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UNPUBLISHED

December 28, 2006

No. 263710

Livingston Circuit Court

LC No. 05-014790-FH

Before: White, P.J., and Zahra and Kelly, JJ.

PER CURIAM.

Defendant appeals by right from his conviction, following a bench trial, of resisting or obstructing a police officer, MCL 750.81d(1), for which the trial court imposed fines and costs. We affirm. We decide this appeal without oral argument in accordance with MCR 7.214(E).

This case arises from the arrest of defendant's wife. Three police officers went to defendant's residence to execute the arrest warrant. The officer in charge testified that he, in full uniform, along with two other officers, met defendant's wife at the garage door, where the officer with the warrant advised her that she was under arrest. When the arresting officer placed her in handcuffs, she kicked the door leading into the house and yelled for her husband. Defendant appeared, the arresting officer informed him that his wife was under arrest, and defendant "grabbed his wife by the arm and says, no, stop," in response to which the arresting officer used a "strike" to knock defendant's hand from his wife's person. The witness summarized, "we had to stop and [the arresting officer] said release her arm. He says, no, and then [the arresting officer] forced his hand off of his wife and then we continued on." The officer continued that defendant yelled obscenities and threatened to sue as the police led his wife to their car.

Defendant argues that this sequence of events did not satisfy the elements of the crime for which he was convicted. We disagree.

When reviewing the sufficiency of evidence in a criminal case, a reviewing court must view the evidence of record in the light most favorable to the prosecution to determine whether a rational trier of fact could find that each element of the crime was proved beyond a reasonable doubt. *People v Herndon*, 246 Mich App 371, 415; 633 NW2d 376 (2001). Review is de novo. *Id.*

Defendant emphasizes that he kept his arm on his wife only momentarily, and did not otherwise physically obstruct the arrest. But MCL 750.81d(1) penalizes “an individual who assaults, batters, wounds, *resists, obstructs, opposes*, or endangers a person who the individual knows or has reason to know is performing his or her duties . . .” (emphases added). There is no time element. By offering physical resistance, causing the police to delay, and by refusing the request to desist, causing the police forcibly to remove defendant’s hand from the arrestee’s arm, defendant did resist and obstruct the officers.

That the officers suffered no physical harm, and only minimal inconvenience, are grounds for mitigating the punishment,<sup>1</sup> but not to defeat the elements of the crime.

Affirmed.

/s/ Helene N. White

/s/ Brian K. Zahra

/s/ Kirsten Frank Kelly

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<sup>1</sup> The benefit of which mitigation defendant in fact obtained, given that the trial court eschewed the recommendation for a term of probation and imposed only fines and costs.