

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON,)	No. 65993-6-I
)	
Respondent,)	
)	
v.)	
)	
KIAHNU DORSEY,)	UNPUBLISHED OPINION
(d.o.b. 02/06/94))	
)	
Appellant.)	FILED: July 18, 2011
)	

Ellington, J. — A juvenile court found Kianhu Dorsey guilty of assault in the fourth degree for pushing a door into his mother as he entered his home. He contends the State failed to prove the requisite elements of criminal intent and unlawful, unprivileged touching. Because the State presented sufficient evidence of intent and a minor’s privilege to enter his home does not extend to harmful or offensive touching that occurs as a result, we affirm.

BACKGROUND

In April 2010, Ida Dorsey was recovering from abdominal surgery. Her 16-year-old son, Kiahnu, entered her bedroom and the two began to argue. Ida felt afraid. When Kiahnu left the home, she packed his things and some money into a duffel bag.

Kiahnu returned a couple hours later and knocked on the door. Ida opened the door part way, told him she did not want him to return, and tried to give him the bag.

She had made no arrangements for Kianhu to stay elsewhere. When Kianhu attempted to push the door open, Ida blocked his entry by leaning on the door. Kianhu's continued pushing caused the door to press against Ida's surgical incision. She asked him to stop three times because he was hurting her. Kianhu did not cease pushing the door, and eventually made his way into the home. Ida called the police from the bathroom, where she felt safe. Kianhu was arrested.

The State charged Kianhu with assault in the fourth degree-domestic violence. Following a bench trial, the juvenile court convicted him as charged.

DISCUSSION

Kianhu contends there is insufficient evidence to support his adjudication. The test for sufficiency of the evidence is "whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found guilt beyond a reasonable doubt."¹ By claiming evidentiary insufficiency, the defendant admits the truth of the State's evidence and all reasonable inferences therefrom.²

To prove assault in the fourth degree, the State must establish that under circumstances not amounting to assault in the first, second, or third degree, or custodial assault, a person assaults another.³ Among the definitions of assault in Washington is the unlawful touching of another with criminal intent.⁴ Kianhu contends the State failed to prove both criminal intent and unlawful touching.

¹ State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992).

² Id.

³ RCW 9A.36.041(1).

⁴ State v. Walden, 67 Wn. App. 891, 893-94, 841 P.2d 81 (1992).

Kiahnu argues the evidence indicated that his intent in pushing the door into his mother was only to enter his home, not to assault her. But the intent required for assault is merely the intent to do the physical act constituting assault, not the intent that the contact be a malicious or criminal act.⁵ Because Kianhu continued to push the door into his mother despite her protestations, this element is satisfied.

Kiahnu next contends the State failed to prove that the touching was unlawful. A touching is unlawful if it is neither consented to nor otherwise privileged.⁶ Kianhu argues his “touching of the door was . . . privileged, and was not unlawful” because, as a minor child, he had the privilege to enter his own home.⁷ He cites State v. Howe, a case involving children convicted of burglary for entering the family home after being kicked out.⁸ There, the Supreme Court noted that a parent’s statutory duty to care and provide for her dependent child gives the child a privilege to enter the family home.⁹ Because the privilege to enter a building is a defense to burglary, the court held that a child may be convicted of burglarizing his own home only if the parent has expressly and unequivocally revoked his privilege to enter and has provided alternative means of satisfying the statutory duty of care.¹⁰

But Howe does not pertain to assault and Kianhu provides no authority for the proposition that a minor’s privilege to enter his home extends to a harmful or offensive

⁵ State v. Jarvis, 160 Wn. App. 111, 119, 246 P.3d 1280 (2011).

⁶ State v. Thomas, 98 Wn. App. 422, 424, 989 P.2d 612 (1999).

⁷ Br. of Appellant at 11.

⁸ 116 Wn.2d 466, 805 P.2d 806 (1991).

⁹ Id. at 469.

¹⁰ Id. at 470.

