

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1882**

State of Minnesota,
Respondent,

vs.

Debra Ann Edwards,
Appellant.

**Filed November 12, 2024
Reversed
Connolly, Judge**

Sherburne County District Court
File No. 71-CR-22-1461

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Kathleen A. Heaney, Sherburne County Attorney, George R. Kennedy, Assistant County Attorney, Elk River, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Amy Lawler, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Frisch, Presiding Judge; Connolly, Judge; and Cochran, Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant challenges her conviction of misdemeanor trespass—return to property within one year, arguing that the evidence was insufficient for the jury to find her guilty and that the prosecutor committed error in closing argument. We reverse her conviction.

FACTS

The son of appellant Debra Edwards worked, with another person, for J.K. at J.K.'s small business in 2022. When the other person did not show up for work one day, appellant worked with her son and drove, because her son did not have a license. Appellant testified that J.K. said he would pay her for the day's work, but at the end of the day he refused to do so, saying appellant did not work for him.

On May 10, 2022, appellant went to J.K.'s house to demand payment for the work (the May incident). Because appellant had no employment contract and J.K. never acknowledged that she worked for him, he did not think she had a right to payment. Appellant called the police to document how J.K. was treating her. The Activity Detail Report of the incident stated that, over the phone, "[Appellant] said she did not pound on [J.K.'s] front door, she knocked and made a comment about cancelling the police and left. [Appellant] was advised that she was trespassed from [J.K.'s] residence, she stated she understood."¹

On October 8, 2022, appellant again went to J.K.'s house and pounded on the door (the October incident). J.K. told her to leave. Appellant then walked down to the street, and both she and J.K. called the police. Officer J.J., who knew that appellant had been trespassed from J.K.'s house, went to the house, found appellant in her parked car at the end of the driveway, told her she was trespassing, and issued her a citation for misdemeanor

¹ We assume that the report meant to say calling and not cancelling.

trespass—refusing to depart. A second count, misdemeanor trespass—return within a year, was added later.

A jury acquitted appellant of trespass—refusing to depart but convicted her of trespass—return within a year. She was sentenced to 90 days in jail, stayed, administrative probation for one year, and a \$50 fine.

She challenges her conviction, arguing that the evidence was not sufficient for the jury to convict her of trespass—return within one year.²

DECISION

When considering a claim of insufficient evidence, a reviewing court should examine the record to determine whether the evidence, when considered in the light most favorable to the conviction, could reasonably support the verdict. *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016).

“A person is guilty of [misdemeanor trespass] if the person intentionally . . . (8) returns to the property of another within one year after being told to leave the property and not to return” Minn. Stat. § 609.605, subd. 1(b)(8) (2022). Appellant argues that, because “the state did not prove beyond a reasonable doubt that . . . [she] returned [to J.K.’s house] knowing she was not allowed to, her conviction must be reversed”

The transcript of the trial supports this argument. J.K. testified about the two incidents. He was asked if he told appellant “that she was not welcome on [his] property and to leave” and answered “Yes.” He was then asked if there was any question that he

² Appellant also argues that the prosecutor erred in closing argument. Because our decision that the evidence was insufficient makes that argument moot, we do not address it.

“spoke clearly enough that she could understand and knew that?” and replied, “There is no question. I just kept repeating for her to leave.” He did not say anything about what would happen if she returned or how long the prohibition would last.

There was no testimony from any officer who had been present at or had spoken to appellant about the May 10 incident. When Officer J.J. was questioned about the May 10 incident, he described the activity report and said it told him that J.K. had said “he wanted [appellant] trespassed from the residence. A deputy then spoke with her regarding the trespass. And then after [the officer spoke] with her, she stated that she understood the trespass.” Appellant was questioned about J.J.’s testimony.

Q. [Officer J.J.’s] testimony was that you were told and you said you understood. Do you believe that [his] testimony was truthful?

. . . .

His testimony . . . indicated that you were talked to by law enforcement, told you were trespassed, not to return, and you said you understood. Do you agree that’s a true statement?

A. That was just hearsay. He wasn’t there.

Q. I’m sorry, was that a true statement?

A. *I don’t know. I don’t know. I don’t know. I don’t know.*

Q. So you don’t know if that’s a true statement or not?

A. *No. I don’t know.*

(Emphasis added.)

When appellant herself was questioned about the May 10 incident, she was asked if J.K. told her to leave his house that day and answered “Yes. He did.” The questioning continued:

Q. Did [the officers on May 10] tell you [you] were trespassed and not to return?

A. *Um – I don't know, maybe, yeah.*

Q. I'm sorry. "I don't know, maybe, yes," is that what you said?

A.. *If – I'm not sure.*

....

Q. So you should have known [on May 10] that you weren't welcome back there at any time.

A. *I was never welcome there after he owed me money.*

Q. You were never welcomed there after you were trespassed from the property; is that correct?

A. *I guess.*

Q. Okay. And so when you went back there on October 8, you knew that you weren't welcome there; is that correct?

A. *I guess.*

(Emphasis added.)

Thus, appellant equivocated when asked whether Officer J.J.'s statement that she said she understood she was trespassed was true and when asked if the officers on May 10 had told her she was not to return to J.K.'s property. She did not equivocate when asked if she was not welcome there, but not being welcome somewhere does not equate to the crime of trespass.

Moreover, as appellant points out, in *In re Welfare of A.A.D.*, 977 N.W.2d 666, 670 (Minn. App. 2022), we specifically state that an individual "cannot be found to have engaged in criminal trespass unless he was actually informed of his leave-and-don't return obligation. . . . Our rationale follows the self-evident legislative intent to criminalize the intrusions only of those, who, by prior communication, possess actual knowledge rather than constructive knowledge that they are unwelcome."

There is no evidence that anyone told appellant on May 10 that she was forbidden to be at J.K.'s residence for a year. We believe that, although the statute does not require it, the best practice for officers informing individuals of a trespass would be to inform them that it means they are forbidden to be at the place involved for a year. There was no indication that appellant was told on May 10 that she was forbidden to be at J.K.'s residence for a year and would be guilty of trespassing if she returned to it within that time, and her testimony does not indicate that she was aware of this. Consequently, the evidence does not support appellant's conviction of trespass—return within a year.

Reversed.