

STATE OF MAINE
KENNEBEC, ss

SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO. AP-05-01

NM-KEN-7/24/06

STATE OF MAINE

v.

DECISION AND ORDER

CATHERINE DIKET

Defendant

After trial, the appellant was adjudicated to have committed the juvenile offense of criminal mischief. T. at 78. For the following reasons, the decision of the District Court judge is affirmed.

The appellant's boyfriend, Tim, signed a week-to-week lease for an apartment at 51 Water Street in Augusta. T. at 5-7. The appellant did not sign the agreement. T. at 6. One or two days before the 12/13/04 incident that was the subject of the juvenile petition, the appellant was asked to leave the premises and not return. T. at 10-12, 20.

The appellant initially stated on the day she moved out that she left no items in the apartment. T. at 13. Carla Lilly, office manager for the apartment, inspected the apartment after the appellant moved out and found no personal items left by her. T. at 13. The appellant then called Ms. Lilly and requested to go into the apartment to get items left there. T. at 13. Ms. Lilly offered to let the appellant make an appointment to get the items but she declined the offer. T. at 13-14.

On 12/13/04, William LeConte, who was visiting the apartment building, observed the defendant kicking a door ten to twelve times for approximately ten minutes while yelling for her boyfriend to open the door. T. at 29-31. Anthony Harrington, the manager of the apartment building, inspected the damage to the door, which had no damage earlier in the day. T. at 38-39. Augusta Police Department

Officer Michael Spahr responded to the apartment building and observed the damaged door. T. at 47. He spoke to the defendant, who admitted she had kicked the door because she had belongings in the apartment and she was expecting the police to arrive and speak to her. T. at 49. At trial, the defendant admitted that she kicked and damaged the door. T. at 58-59. She tried to get into the apartment for five or ten minutes because she wanted to retrieve some belongings. T. at 58. She had tried to arrange with her boyfriend a time to go into the apartment but he "ended up taking off." T. at 58.

The District Court judge concluded that whether the appellant was a tenant was not relevant. T. at 77-79. The judge determined that regardless of her status, she did not have the right to act as she did and, therefore, she could have no reasonable ground to believe she had a right to damage the door as she did. T. at 81. Based on this record, the District Court judge did not err in concluding that the State had proved beyond a reasonable doubt the elements of the offense of criminal mischief.

The entry is

The Decision of the District Court is AFFIRMED.

Date: July 24, 2006



Nancy Mills
Justice, Superior Court

Date Filed 3/21/ County _____ Doc. No. AP05-01

Action JUVENILE APPEAL

State of Maine vs. CASSANDRA M. DIKET

Offense

CRIMINAL MISCHIEF

Attorney

J. MITCHELL FLICK ESQ.
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Date of Entry

3/21/05
4/27/05

CASE RECEIVED FROM AUGUSTA DISTRICT COURT. DOCKET NO. AUGDC JV-05-0004
TRANSCRIPT RECEIVED FOR HEARING DATED 3/10/05

7-18-05

Briefing Schedule Sent to parties

8/1/05

MOTION FOR ENLARGEMENT OF TIME TO FILE BRIEF, FILED BY DEFENSE,
NO OBJECTION BY STATE

8/2/05

MOTION GRANTED BY JUSTICE MILLS

9/15/05

MOTION TO ENLARGE TIME TO FILE BRIEF, FILED BY DEFENSE, NO OBJ. BY STATE
J. MILLS GRANTED EXTENSION FOR THE LAST TIME

9/22/05

APPELLANTS BRIEF FILED.

10/20/05

BRIEF OF THE PLAINTIFF - APPELLEE FILED.

11/07/05

APPELLANT'S REPLY BRIEF FILED. READY FOR ORAL ARGUMENT.

07/28/06

DECISION AND ORDER FILED. THE DECISION OF THE DISTRICT COURT IS AFFIRMED.
S/MILLS, J.

07/31/06

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