

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT KNOXVILLE

DECEMBER 1994 SESSION

FILED

October 15, 1996

Cecil Crowson, Jr.
Appellate Court Clerk

STATE OF TENNESSEE,
Appellee

vs.

BARBARA FULLER,
Appellant

No. 03C01-9404-CR-00131

HAMILTON COUNTY

Hon. Douglas A. Meyer, Judge

(Assault)

FOR THE APPELLANT:

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FOR THE APPELLEE:

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OPINION FILED: _____

AFFIRMED

Robert E. Burch
Special Judge

OPINION

Appellant was charged with two counts of assault and one count of disorderly conduct. At a trial by jury, she was convicted of the first count of assault and acquitted of the second count of assault and of the disorderly conduct charge. She appeals of right to this Court, citing a single issue for review, to wit: the denial of her pre-trial motion to suppress.

FACTS

Officer Darrell Turner was called to the Park Village Apartments by the resident manager. The manager stated that appellant had threatened her over the telephone. Officer Turner then went to appellant's apartment to speak with her and to caution her about such activity. He had no plans to arrest appellant at that time.

As the officer arrived at appellant's apartment, a lady came to the door. Officer Turner asked her if she was appellant. The lady responded that she would summon her. After a delay, appellant appeared at the door, shouting and cursing the officer. The officer leaned against the door frame, with his hand directly on the frame itself. Appellant stood in the doorway as she continued to loudly and repeatedly demand that the officer leave. Officer Turner attempted to inform appellant that he simply wished to caution her about making threatening telephone calls. Because of appellant's demeanor, he was unsuccessful in this endeavor. Appellant suddenly slammed the door, striking Officer

Turner's thumb. The contact of the door with the officer's thumb prevented the door from closing. The officer then entered appellant's apartment and immediately effected an arrest of appellant for assault and disorderly conduct.

Appellant filed a pre-trial motion to suppress a testimony concerning matters which occurred after Officer Turner entered appellant's apartment to effect her arrest. She states that *Payton v. New York* 445 U.S. 573, 100 S.Ct. 1371 (1980) prohibits a warrantless entry into the dwelling of a defendant without exigent circumstances. She also submits that the entry violated T.C.A. §40-7-107 (the "knock and announce rule").

Since appellant was only convicted on assault, we shall confine our discussion to evidence of that crime.

Appellant misses the entire point of the case. The crime had already been committed when the officer entered appellant's apartment. Any evidence of what occurred therein does not bear upon the elements of the crime and would be, at best, of general relevance. Any error, therefore, in the admission thereof would be harmless. *Chapman v. California* 386 U.S. 18, 87 S.Ct.824, 17 L.Ed.2d 705 (1967).

We are aware that appellant insists that the facts occurred very differently, however, a verdict of guilt, approved by the trial judge, accredits the testimony of the State's witnesses and resolves all conflicts in testimony in favor of the State. *State v. Townsend* 525 S.W.2d 842 (Tenn. 1975).

We find no error in the ruling of the trial court. The judgment is affirmed.

Robert E. Burch,
Special Judge

CONCUR:

Gary R. Wade, Judge

Joseph M. Tipton, Judge