

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT

Strafford County

Strafford Superior Court

State v. Mauricio D. Guerrero

219-2022-CR-00064

ORDER VACATING CONVICTION FOR INVASION OF PRIVACY (CHARGE ID 1992048C)
PURSUANT TO RSA 635:1, IV

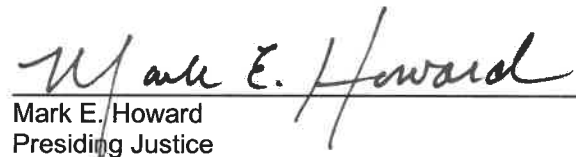
The defendant was convicted after jury trial of two burglary and three criminal trespass offenses, as well as one invasion of privacy offense. This order relates to the invasion of privacy conviction (Charge ID 1992048c).

New Hampshire RSA 635:1 defines the offense of burglary, as it relates to this case, as the unlawful entry or remaining in an occupied structure with a purpose to commit a crime therein. Burglary is a Class A felony if the offense was committed in the dwelling of another at night. The statute goes on to mandate that a person cannot be convicted for both the burglary and the offense it was his purpose to commit unless the additional offense is a Class A felony.

The conviction for burglary alleged in Docket No. 219-2022-CR-68, Charge ID 1948138C, is for the defendant's having entered the victim's dwelling for a fourth time, at night, with the purpose to commit invasion of privacy.¹ The invasion of privacy complaint upon which he was convicted alleged that he recorded images of the victim's private body parts. On the evidence, this occurred during the fourth burglary in the early morning hours of February 9, 2022. Invasion of privacy is a Class A misdemeanor under RSA 644:9. As such, the defendant was convicted at trial of the additional offense alleged in the burglary indictment. The law does not allow the conviction under these circumstances and therefore the invasion of privacy conviction in Charge ID 1992048C is VACATED.

So Ordered.

July 19, 2023
Date


Mark E. Howard
Presiding Justice

¹ While the indictment alleges an alternative offense of theft, there was no evidence at trial that the defendant either committed, attempted to commit, or had the intent to commit theft in the course of the fourth entry into the dwelling.