

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

2022 ND 47

State of North Dakota,

Plaintiff and Appellee

v.

Carrie L. Lusby,

Defendant and Appellant

No. 20210266

Appeal from the District Court of Stark County, Southwest Judicial District,
the Honorable Dann E. Greenwood, Judge.

AFFIRMED.

Per Curiam.

James A. Hope, Assistant State's Attorney, Dickinson, ND, for plaintiff and
appellee; submitted on brief.

Benjamin C. Pulkrabek, Mandan, ND, for defendant and appellant.

State v. Lusby
No. 20210266

Per Curiam.

[¶1] Carrie Lee Lusby appeals from a criminal judgment entered after a jury found her guilty of criminal trespass. Lusby argues the district court erred in failing to instruct the jury on the defense of excuse under N.D.C.C. § 12.1-05-08. Lusby did not object to the jury instructions at trial, so this Court reviews for obvious error under N.D.R.Crim.P. 52(b). To receive an excuse instruction, the circumstances of a defendant’s claimed excuse must be necessary and appropriate for one of the purposes that could establish a justification or excuse under N.D.C.C. ch. 12.1-05. *See State v. Zottnick*, 2011 ND 84, ¶ 11, 796 N.W.2d 666. We conclude Lusby did not show the court erred by not providing an instruction on excuse.

[¶2] Lusby also argues the evidence was insufficient to support her conviction because the State failed to prove she knowingly trespassed. Viewing the evidence in the light most favorable to the verdict, we conclude substantial evidence exists that could allow a jury to draw a reasonable inference in favor of conviction. We summarily affirm the criminal judgment under N.D.R.App.P. 35.1(a)(3) and (7).

[¶3] Jon J. Jensen, C.J.
Gerald W. VandeWalle
Daniel J. Crothers
Lisa Fair McEvers
Jerod E. Tufte