# CAPTION: STATE V. ROBINSON

**07-07-23**

APPEAL NO.: C-220484

TRIAL NO.: C-21CRB-22547

KEY WORDS: CRIMINAL DAMAGING — EVIDENCE — CONSENT — BURDEN OF PROOF

SUMMARY:

 While the state produced evidence sufficient to show that defendant knowingly damaged the victim’s vehicle, it failed to produce sufficient evidence that defendant acted without consent where (1) the victim rushed to her mother’s house after learning that defendant was going to damage *her son’s* vehicle, not hers; (2) there was no evidence that the victim and defendant had exchanged words or that there was any tension between them as the evidence showed that the tension was between the victim’s son and defendant; (3) there was no evidence that the victim called the police at any time—much less immediately after she discovered the damage to her car—or signed the complaint, which was not offered as evidence; and (4) there was no evidence that the victim filed an insurance claim or received an estimate on the cost of repairs to her vehicle as the estimate on the costs of repairs was offered at the restitution hearing, not at trial.

JUDGMENT: REVERSED AND APPELLANT DISCHARGED

JUDGES: OPINION by BOCK, J.; ZAYAS, P.J., and WINKLER, J., CONCUR.