

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Wednesday the 12th day of January, 2022.

Latoya Nicole Carter,

Appellant,

against

Record No. 201145

Court of Appeals No. 1559-19-3

Commonwealth of Virginia,

Appellee.

Upon an appeal from a judgment rendered by the Court of Appeals of Virginia.

For reasons stated in writing and filed with the record, the Court is of the opinion that there is no reversible error in the judgment from which the appeal was filed. Accordingly, the judgment is affirmed. The appellant shall pay to the appellee two hundred and fifty dollars in damages.

It is ordered that the Circuit Court of the City of Lynchburg allow counsel for the appellant a fee of \$2,500 for services rendered the appellant on this appeal, in addition to counsel's costs and necessary direct out-of-pocket expenses.

The Commonwealth shall recover of the appellant the amount paid court-appointed counsel to represent her in this proceeding, counsel's costs and necessary direct out-of-pocket expenses, and the costs in this Court and in the courts below.

This order shall be certified to the Court of Appeals of Virginia and to the Circuit Court of the City of Lynchburg.

Costs due the Commonwealth
by appellant in the Supreme
Court of Virginia:

Attorney's fee	\$2,500.00 plus costs and expenses
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A Copy,

Teste:

Wm. L. H. L. H. L.

Clerk

PRESENT: All the Justices

LATOYA NICOLE CARTER

v. Record No. 201145

COMMONWEALTH OF VIRGINIA

OPINION BY
JUSTICE STEPHEN R. McCULLOUGH
December 22, 2021

FROM THE COURT OF APPEALS OF VIRGINIA

LaToya Carter was convicted of battering a police officer, a felony, under Code § 18.2-57(C). She contends that she should not have been convicted because she lawfully used force to expel a trespassing officer. For the reasons detailed below, we affirm her conviction.

BACKGROUND

On January 24, 2018, after 10:00 p.m., Officer S.C. Reed of the Lynchburg Police Department was dispatched to Carter's home. As the footage from Officer Reed's body camera attests, when he arrived, the situation was loud and chaotic. He found several individuals screaming at each other in front of Carter's home. Officer Reed was alone and he did not know the reason for the emergency call or "what the situation was at that point."

Carter was standing in the doorway of the residence, yelling at Deshawn Penicks, who was standing on the front porch. Penicks told Officer Reed he lived at the residence and was trying to retrieve his belongings from inside. Carter yelled that Penicks had put his hands on her and needed to go. Carter kept screaming, making it difficult for Officer Reed to hear Penicks. Officer Reed told Carter, "ma'am stop talking," in response to which she yelled, "I ain't ma'am nothing." Officer Reed told Carter he was "only going to speak to one person at a time." Another person on the porch began arguing with Carter and was restrained by a third party. Carter continued to scream that Penicks "showed off in front of [her] son" and "is not coming in

here.” Body Cam Footage 1:55-2:09. Officer Reed said, “I’m standing right in front of you.”

At that point, the body camera footage reflects, Officer Reed was standing at the threshold, with his body in the frame of the door. The body camera footage shows that Carter tried to slam the door after she said “I don’t give a f**k where you standing at. Take his a*s to jail with his abusive a*s.” Body Cam Footage at 2:14-17. Officer Reed placed his foot in the way of the closing door. He said, “Ma’am, you’re not going to slam the door on me.” *Id.* at 2:16-18.

Carter tried to shut the door several more times, striking Officer Reed’s foot each time.

Officer Reed then forced his way into the residence. Carter “bowed up and got into [his] face,” and started screaming at him. He grabbed Carter’s right arm and told her to place her hands behind her back. He placed her in handcuffs during what he later referred to as an “investigative detention.” Carter resisted and repeatedly yelled “get the f**k off of me,” as she swung her left arm at Officer Reed and “elbowed” him three times.

Carter was charged with assault and battery on a police officer, a felony, under Code § 18.2-57(C). At her bench trial, she argued in closing argument that she had used force to expel a trespasser and, therefore, her use of force was lawful. The circuit court disagreed and convicted her. Carter also filed a motion to set aside the verdict, again arguing that she used force to expel a trespasser and, therefore, she could not be convicted of assault and battery. The circuit court denied the motion. The Court of Appeals, by unpublished opinion, affirmed the judgment, holding there was sufficient evidence to support the conviction. This appeal followed.

ANALYSIS

“In accordance with familiar principles of appellate review, the facts will be stated in the light most favorable to the Commonwealth, the prevailing party at trial.” *Scott v.*

Commonwealth, 292 Va. 380, 381 (2016) (citing *Baldwin v. Commonwealth*, 274 Va. 276, 278 (2007)).

Carter contends that she is not guilty of battering the officer because she was lawfully using force to expel a trespasser. The trespass statute, Code § 18.2-119, provides in relevant part:

If any person without authority of law goes upon or remains upon the lands, buildings or premises of another, or any portion or area thereof, after having been forbidden to do so, either orally or in writing, by the owner, lessee, custodian . . . or other person lawfully in charge thereof . . . he shall be guilty of a Class 1 misdemeanor.

Additional background principles from the common law shape our understanding of the law of trespass. As Professor LaFave explains, “[t]he intrusive act required for the crime of criminal trespass is an entering of or remaining within or upon the specified premises in circumstances where such action is in fact contrary to law.” Wayne R. LaFave, 3 *Substantive Criminal Law*, § 21.2(a) (3d ed. 2020).

Once a landowner (or tenant) orders the trespasser to leave the property, if the trespasser disregards this order, the landowner (or tenant) is then permitted to use reasonable force to expel the trespasser. *See Montgomery v. Commonwealth*, 99 Va. 833 (1901). *See also Pike v. Commonwealth*, 24 Va. App. 373, 375 (1997). A person who has been ordered to leave must do so within a reasonable amount of time under the circumstances. LaFave, 3 *Substantive Criminal Law*, § 21.2(a) (“[I]t should not be assumed that the requisite remaining occurs immediately following that event [i.e., the giving of some verbal or non-verbal command to leave]; it is merely necessary for the defendant [trespasser] to leave “within a reasonable time in the circumstances.”). The law thus requires two preconditions that must be satisfied before a person in lawful possession of the premises can employ reasonable force to expel a trespasser: a

command to leave must be issued and the trespasser then must be given a reasonable amount of time, considering the circumstances, to comply with this command and leave.

Carter relies on these principles to contend that her conduct was tantamount to an order to leave and, when Officer Reed did not leave, she could properly resort to force. She further argues that the officer was trespassing and, therefore, he was not lawfully engaged in the performance of his duties. *See* Code § 18.2-57(C) (prohibiting an assault and battery against a law enforcement officer who is “engaged in the performance of his public duties”). The circuit court, sitting as factfinder, rejected Carter’s argument that she was privileged to use force to expel a trespasser. Under the applicable standard of review, viewing the evidence in the light most favorable to the prevailing party, we affirm. The evidence does not establish that Carter issued a command to leave before she resorted to violence and, additionally, she did not allow the officer any time to leave before using force.

At the outset, we note that the officer was lawfully present on Carter’s porch. Whenever an officer reasonably believes a person has violated the law, it is the officer’s duty to investigate and, if appropriate, arrest the responsible individuals. *Davis v. Commonwealth*, 44 Va. App. 562, 568 (2004) (applying Code § 18.2-57(C)); *see also* Code § 15.2-1704(A) (stating police are “responsible for the prevention and detection of crime, the apprehension of criminals, the safeguard of life and property, the preservation of peace and the enforcement of state and local laws, regulations, and ordinances”). Officer Reed was dispatched to Carter’s home, heard screaming when he arrived, and he was uncertain whether any acts of violence had occurred or would occur inside the apartment; therefore, he investigated. That investigation took him to the porch of Carter’s residence. Carter was standing inside the residence, with the door open.

Officer Reed's initial presence at the threshold of Carter's home for investigative purposes was plainly lawful. *See, e.g., Kentucky v. King*, 563 U.S. 452, 469 (2011).

The record, including the body camera footage, does not contain a verbal assertion by Carter that the officer needed to leave the premises – and Carter does not contend otherwise. Although we agree with Carter that a command to leave can be made either verbally or non-verbally, she did not by her gestures or otherwise issue a non-verbal command to leave *before* battering Reed. The video footage shows that Carter attempted to shut the door on an officer, who was standing in the doorway, and he placed his foot to stop the door from closing. Carter did not issue a command, verbal or non-verbal, to leave before she resorted to force. Additionally, once Carter manifested her desire by her conduct that the officer should leave, she was required to give him a reasonable time under the circumstances to leave. She did not do so. In short, the circuit court correctly concluded on the facts before it that Carter's use of force was not justified by the law of trespass.¹

Carter also invokes the Fourth Amendment of the United States Constitution and relies on cases involving suppression motions. Carter argues that because Officer Reed's entry into her home was in violation of the Fourth Amendment, he was not acting in the performance of his duties as a police officer. We find these arguments unpersuasive.

Carter did not file a suppression motion. Therefore, cases dealing with the suppression of evidence are inapposite. And while we certainly agree with Carter that the home is at the core of what the Fourth Amendment protects, *see, e.g., Florida v. Jardines*, 569 U.S. 1, 6 (2013), that

¹ In light of our disposition, we need not address whether the force Carter employed – slamming the door three times on the officer's foot and then repeatedly elbowing him – was reasonable. *See Montgomery*, 98 Va. at 844.

does not end the inquiry. The officer was certainly permitted to knock on Carter's door to investigate a possible domestic disturbance. *King*, 563 U.S. at 469. Rather than giving the officer a warning to leave and allowing him some time to comply with this warning, Carter tried to close the door on him, and he extended his foot to stop the door from closing. She then repeatedly slammed the door on his foot. The United States Supreme Court has upheld an arrest under similar circumstances. In *United States v. Santana*, 427 U.S. 38, 42 (1976), the Court determined that a defendant who was arrested in her doorway "was not merely visible to the public but was exposed to public view, speech, hearing, and touch as if she had been standing completely outside her house." *Id.* Therefore, the defendant was in a "public place" and could be arrested without a warrant. *Id.* Her subsequent retreat into the home did not foreclose the officer from continuing the arrest. The Supreme Court held that "a suspect may not defeat an arrest which has been set in motion in a public place . . . by the expedient of escaping to a private place." *Id.* at 43. So too here, Officer Reed could properly proceed to arrest Carter inside her home after she battered him.²

CONCLUSION

For the foregoing reasons, we will affirm the judgment of the Court of Appeals.

Affirmed.

² This case does not involve a situation like *Payton v. New York*, 445 U.S. 573 (1980), where officers developed probable cause to arrest a suspect for a completed crime and then, days after the commission of the crime, entered his home without a warrant to arrest him. Nor does this case present a situation, as in *Lange v. California*, 141 S. Ct. 2011 (2021), where the officers suspected a *misdemeanor* had been committed outside of the home, the officers followed as the suspect retreated into his home, and the officers then entered the home without a warrant. Here, police had probable cause to believe Carter had committed a felony at the threshold of her home, against the officer who was standing at the threshold and proceeded to make an arrest in the immediate aftermath of the battery.

COURT OF APPEALS OF VIRGINIA

Present: Chief Judge Decker, Judge Humphreys and Senior Judge Annunziata
Argued by teleconference

LATOYA NICOLE CARTER

v. Record No. 1559-19-3

MEMORANDUM OPINION* BY
CHIEF JUDGE MARLA GRAFF DECKER
AUGUST 18, 2020

COMMONWEALTH OF VIRGINIA

FROM THE CIRCUIT COURT OF THE CITY OF LYNCHBURG
F. Patrick Yeatts, Judge

Morgan W. Hollister, Assistant Public Defender, for appellant.

Rachel L. Yates, Assistant Attorney General (Mark R. Herring,
Attorney General, on brief), for appellee.

Latoya Nicole Carter appeals her conviction for assault and battery of a law enforcement officer in violation of Code § 18.2-57(C). On appeal, she contends that the trial court erred when it “ruled that [she] could only raise the issue of the legality of her arrest by a motion to suppress.” We hold that this assignment of error does not challenge an actual ruling of the trial court and, therefore, this issue is barred. The appellant also contends that the evidence was insufficient to support her conviction. She argues that she was legally justified in resisting the officer because he was a trespasser whom she was attempting to expel from her home. We hold that this argument fails because she did not order him from her home before committing an assault and battery. Additionally, based on the circumstances, the appellant was not justified in resisting the officer, who was acting within the scope of his public duties. Accordingly, we affirm the conviction.

* Pursuant to Code § 17.1-413, this opinion is not designated for publication.

I. BACKGROUND¹

On January 24, 2018, Officer S.C. Reed of the City of Lynchburg Police Department responded to a call for service at the appellant's home. When the officer arrived in the area, he parked his police car up the street from the house. As soon as he got out of his car he heard screaming and yelling coming from the appellant's home. The entire incident was captured by the officer's body camera, and the relevant footage was played for the trier of fact and admitted into evidence.

When Officer Reed approached the house, he saw two individuals on the front porch and the appellant standing in the doorway of the residence yelling at them. As he neared the house one of the people on the porch, Deshawn Penicks, told Reed that he had lived at the residence for "more than thirty days" and wanted to get "[his] stuff." At the same time, the appellant said Penicks had "put his hands on [her]" and "need[ed] to go." The officer first approached Penicks, who was "a lot calmer" than the appellant. As the officer attempted to speak with Penicks, the appellant continued to yell at them. Officer Reed instructed the appellant to "stop talking," but she refused. The appellant, who was just inside the house, attempted to shut the door. The officer said that he was going to "talk to one person at a time" and prevented the appellant from closing the door by placing his foot over the threshold. He then told the appellant that they were "not done," indicating that that he was still investigating the matter. The appellant replied, "I don't give a fuck if you're not done or not, bye."

The appellant continued to argue with Penicks and the other people on the porch as Officer Reed approached her. She was still just inside the house with the front door partially

¹ In accordance with familiar principles of appellate review, we recite the facts in the light most favorable to the Commonwealth, as the prevailing party at trial. See Anaman v. Commonwealth, 64 Va. App. 379, 383 (2015).

open. She continued to shout at the officer and again attempted to shut the door on him at least two more times.

Officer Reed pushed through the door and told the appellant not to slam the door on him. The appellant then “got into [Reed’s] face” and screamed at him. Reed attempted to handcuff the appellant, but she resisted and began “fighting against [him].” While the officer tried to get the appellant under control so that he could continue to investigate the incident, she elbowed him three times and hit him in the chest and arm.

At the appellant’s bench trial, the court found that she committed an assault and battery against a law enforcement officer. The court imposed a sentence of two years, suspending one year and six months.

The appellant filed a motion to set aside the verdict, and the court held a hearing on the motion. She argued that the evidence was insufficient to find her guilty of assault and battery of a law enforcement officer. She asserted that once Officer Reed placed his foot inside the doorway, he was trespassing in her home and her act of shutting the door on his foot was “reasonable force to expel a trespasser.” She also maintained that “she was within her legal rights to resist an unlawful detention or arrest.”

The trial court disagreed. It specifically noted that “*if it’s* an unlawful detention, then the proper way of dealing with *that* is a motion to suppress.” (Emphases added). The court concluded that the evidence was sufficient to prove assault and battery because the appellant “slammed the door up against [the officer’s] foot multiple times to keep him from entering.” It noted that “even if [Officer Reed] was illegally detaining her” she still “assault[ed] and batter[ed]” him. Consequently, the court denied the motion to set aside the conviction for assault and battery of a law enforcement officer.

II. ANALYSIS

The appellant raises two assignments of error. She argues that the trial court erred when it ruled that she could only challenge the legality of her arrest through a motion to suppress. She also contends that the evidence was insufficient to prove that she committed an assault and battery of a law enforcement officer.

A. Challenge to the Legality of the Purported Arrest

The appellant's first assignment of error is: "The trial court erred in ruling that [the appellant] could only raise the issue of the legality of her arrest by a motion to suppress." She contends that the trial court committed a procedural error by ruling that she was required to raise this claim in a motion to suppress.

Rule 5A:12(c)(1)(ii) requires that the appellant present "[a]n assignment of error which . . . address[es] the findings, rulings, or failures to rule" of the "trial court . . . from which an appeal is taken." See Coleman v. Commonwealth, 60 Va. App. 618, 621 (2012) (dismissing the appeal because the assignment of error did not challenge a finding or ruling of the trial court); see also Parker v. Carilion Clinic, 296 Va. 319, 332 (2018) (dismissing an assignment of error under Rule 5:17(c)(1)(iii), the corollary to the Court of Appeals rule, for failure of the appellant to address in the assignment of error an actual ruling of the circuit court). It is also well established that this Court is "limited to reviewing the assignments of error presented by the litigant" and cannot "consider issues touched upon by the appellant's argument but not encompassed by h[er] assignment of error." Banks v. Commonwealth, 67 Va. App. 273, 289-90 (2017).

Here, the trial court ruled that "the proper way of dealing with [an *unlawful detention*] is a motion to suppress." (Emphasis added). The court explained that the issue would be barred "even if [the officer] was *illegally detaining* [the appellant]" because the potential problem with

the detention was how the officer “enter[ed]” the appellant’s property and the appellant had not raised that issue in a motion to suppress.² (Emphasis added). Further, the court nevertheless specifically discussed the possible unlawful detention that occurred in the appellant’s case and was silent regarding a possible illegal arrest.³ Significantly, the trial court did not rule that the appellant could raise the legality of her *arrest* only in a motion to suppress.

The actual specific ruling of the court addressed only the appellant’s choice to forego a motion to suppress evidence obtained pursuant to the officer’s alleged improper entry into her home. The court did not rule that the appellant “could only raise the issue of the legality of her *arrest* by a motion to suppress.” Notably, arrests and detentions are very different concepts. See Commonwealth v. Hill, 264 Va. 541, 547 (2002) (“In our present justice system, the different consequences that attend an arrest and an investigative detention are manifest.”). Each is a distinct legal term of art.⁴ While we recognize that the trial court’s ruling in this case may be considered closely related to the purported ruling challenged by the appellant, we cannot reframe her assignment of error to bring the court’s actual ruling within our purview. See Banks, 67

² The court went on to explain that regardless of what side of the door the appellant was on, she had “assault[ed]” the officer when he had “attempt[ed] to *detain* her.” (Emphasis added).

³ When the court explained its decision to find the appellant guilty it focused on the appellant’s efforts to resist a “temporary detention.” However, the trial court also commented that the appellant’s actions were unjustified with regard to a *legal* arrest. It explained that the appellant’s resistance was not justified “even [in] an arrest” because that “arrest [was] for disorderly conduct in the manner in which [the appellant] w[as] conducting [her]self.” The explanation suggests that the court fully understood and considered the appellant’s defense that she was resisting an illegal arrest, and simply rejected it because it found that even if Officer Reed’s actions amounted to an arrest it was supported by probable cause.

⁴ The Supreme Court explained in Hill that a detention is a “brief intrusion on an individual’s liberty” and that “the provocation resulting from an illegal detention is far less significant than the provocation that attends an illegal arrest.” 264 Va. at 548. Therefore, the Court reasoned that a “recognition of a right to resist an unlawful detention would not advance the rationale supporting the common law right to use reasonable force to resist an unlawful arrest, but would only serve to increase the danger of violence inherent in such detentions.” Id.

Va. App. at 289-90 (noting that an appellate court is “limited to reviewing the assignments of error presented by the litigant” and cannot “consider issues touched upon by the appellant’s argument but not encompassed by h[er] assignment of error”). Accordingly, we do not reach the merits of the appellant’s first assignment of error. See Rule 5A:12(c)(1)(ii); Coleman, 60 Va. App. at 621.

B. Sufficiency of the Evidence

The appellant challenges the sufficiency of the evidence supporting her conviction for assault and battery of a law enforcement officer. She suggests three bases in support of her challenge. First, the appellant argues that her physical acts of violence toward the officer were defensible because she was using reasonable force to expel a trespasser. Second, she maintains that because Reed was not acting within the scope of his law enforcement duties at the time, she could not be guilty of assault and battery of a law enforcement officer. Third, she suggests that she was justified in striking the officer because she was resisting an illegal arrest.⁵

When reviewing a challenge to the sufficiency of the evidence, the judgment of the trial court is presumed correct, and it will be set aside only if it “is plainly wrong or without evidence to support it.” Code § 8.01-680; Pijor v. Commonwealth, 294 Va. 502, 512 (2017). Given that presumption, this Court “does not ‘ask itself whether *it* believes that the evidence at the trial established guilt beyond a reasonable doubt.’” Williams v. Commonwealth, 278 Va. 190, 193

⁵ We note that in her reply brief the appellant argues that her interaction with Officer Reed was a consensual encounter at the time that she first slammed his foot in the door. This argument was not raised in the trial court and therefore we do not consider it on appeal. See Rule 5A:18 (“No ruling of the trial court . . . will be considered as a basis for reversal unless an objection was stated with reasonable certainty at the time of the ruling, except for good cause shown or to enable the Court of Appeals to attain the ends of justice.”); see also Bethea v. Commonwealth, 297 Va. 730, 743 (2019) (“Specificity and timeliness undergird the contemporaneous-objection rule . . . ‘so that the trial judge . . . know[s] the particular point being made in time to do something about it.’” (quoting Dickerson v. Commonwealth, 58 Va. App. 351, 356 (2011))).

(2009) (quoting Jackson v. Virginia, 443 U.S. 307, 318-19 (1979)). “Rather, the relevant question is whether ‘any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’” Id. (quoting Jackson, 443 U.S. at 319).

When this Court considers a challenge to the sufficiency of the evidence, we review “the evidence in the light most favorable to the Commonwealth, ‘as the prevailing party in the trial court.’” Kelley v. Commonwealth, 69 Va. App. 617, 624 (2019) (quoting Hamilton v. Commonwealth, 279 Va. 94, 103 (2010)). Viewing the evidence in this light “requires us to ‘discard the evidence of the accused in conflict with that of the Commonwealth, and regard as true all the credible evidence favorable to the Commonwealth and all fair inferences to be drawn therefrom.’” Commonwealth v. Perkins, 295 Va. 323, 323-24 (2018) (quoting Vasquez v. Commonwealth, 291 Va. 232, 236 (2016)).

Further, the appellate court “presume[s]—even in the absence of specific factual findings—that the trial court resolved all factual ambiguities or inconsistencies in the evidence in favor of the prevailing party and gave that party the benefit of all reasonably debatable inferences from the evidence.” Hill v. Commonwealth, 297 Va. 804, 808 (2019); cf. Bowman v. Commonwealth, 290 Va. 492, 500 n.8 (2015) (noting that when an appellate court is “faced with a record of historical facts that supports conflicting inferences” it “must presume” that the trier of fact resolved those conflicts in favor of the prevailing party, and “must defer to that resolution” (quoting Jackson, 443 U.S. at 326)).

The appellant’s first argument is that she had a common law right to expel Officer Reed from her home because she alleges that he was not engaged in his public duties and thus was trespassing in her home. However, the common law right of a landowner to expel a trespasser is contingent on the landowner ordering the trespasser to leave her property. See Pike v. Commonwealth, 24 Va. App. 373, 375 (1997) (noting the long recognized “right of a landowner

to order a trespasser to leave, and if the trespasser refuses to go, to employ proper force to expel him” (citing Montgomery v. Commonwealth, 99 Va. 833 (1901))).

Regardless of whether Reed acted lawfully when he initially crossed the threshold of appellant’s front door to stop her from closing it, she battered him before telling him to leave.⁶ Consequently, the appellant’s actions could not constitute a legitimate exercise of her common law right to expel a trespasser, and this argument must fail at its inception.⁷

Second, the appellant contends that Officer Reed was not acting within the scope of his law enforcement duties at the time she assaulted him and therefore she could not be guilty of assault and battery of a law enforcement officer. She notes that “[i]n order for [her] to be convicted of assault and battery of [the officer],” the Commonwealth was required to “prove every element of the offense, including that [the officer] was engaged in the performance of his public duties.” See Code § 18.2-57(C); Oulds v. Commonwealth, 260 Va. 210, 214 (2000). We hold that the record shows that the officer was clearly engaged in the performance of his duties at the time of the offense.

Officer Reed was dispatched to the appellant’s home based on a 911 call. When the officer arrived at her home, he encountered a disorderly situation involving the appellant, who was just inside her open door, and other people on her front porch. Reed, who immediately witnessed disorderly behavior, also was confronted with two different versions of what preceded the disturbance as he assessed the situation. He attempted to determine whether a crime had

⁶ Even assuming that the appellant’s statement, “I don’t give a fuck if you’re not done or not, bye,” could be construed as an order to leave her property, that declaration was made *after* the appellant had slammed the officer’s foot in the door the first time. Further, the appellant made the statement after Officer Reed had communicated that she was not free to leave.

⁷ The Commonwealth argues that the appellant’s use of force to expel the officer from her home was “unnecessary, disproportionate, and thus patently unreasonable.” However, since we hold that the appellant’s actions were not a legitimate exercise of her common law right to expel a trespasser, we do not address this argument.

been committed at the appellant's residence and, if so, the nature of the crime. The situation deteriorated during the officer's investigation because of the appellant's unruly and belligerent behavior. Instead of cooperating with the officer, the appellant attempted to shut the door on him and retreat into her home. Reed's effort to prevent the appellant from retreating into her home so that he could investigate the incident was entirely reasonable given the circumstances. See Thomas v. Commonwealth, 16 Va. App. 851, 857 (1993) ("[B]rief, complete deprivations of a suspect's liberty . . . 'do not convert a[n investigative detention] into an arrest so long as the methods of restraint used are reasonable to the circumstances.'" (quoting United States v. Crittendon, 883 F.2d 326, 329 (4th Cir. 1989))), adopted upon reh'g en banc, 18 Va. App. 454, 455 (1994). Based on the facts of this case, we conclude that Officer Reed was acting within the scope of his public duties as he attempted to investigate the basis for the 911 call. See Code § 15.2-1704(A) (providing that the police are "responsible for the prevention and detection of crime, the apprehension of criminals, the safeguard of life and property, the preservation of peace and the enforcement of state and local laws, regulations, and ordinances").

The appellant's third contention is that she had the right to resist an unlawful *arrest*. However, the facts of the case show that the appellant battered Officer Reed by slamming his foot in the door multiple times before he seized her and placed her in handcuffs. Cf. Adams v. Commonwealth, 33 Va. App. 463, 469, 471 (2000) (noting that even a slight touching of another may constitute a battery under the law and holding that the evidence was sufficient to support a conviction of assault and battery of a law enforcement officer where Adams shined a laser pointer at an officer's eye). We hold that the appellant's acts of assault and battery against the officer, meant to facilitate her attempted retreat from him, were efforts to resist an investigative detention, not an arrest. See Hill, 264 Va. at 548. The appellant slammed the door on the

officer's foot, committing a battery while he was attempting to detain her in order to question her about the incident he was dispatched to investigate. See generally Thomas, 16 Va. App. at 857-58 (noting that a detention was not unreasonable where a law enforcement officer "diligently pursued a means of investigation that was likely to confirm or dispel [his] suspicions quickly, during which time it was necessary to detain the defendant" (quoting DePriest v. Commonwealth, 4 Va. App. 577, 587 (1987))). The right to resist an illegal arrest does not extend to an individual who is merely detained. Hill, 264 Va. at 548.⁸ Since the appellant was simply detained rather than arrested, any right to resist an unlawful arrest is irrelevant to our analysis.

In this case, the appellant admits to committing physical acts of violence against Officer Reed but claims that her actions were justified. We hold that her proffered theories of innocence are inapplicable in this case. Accordingly, the trial court did not err in finding that the evidence was sufficient to convict her of assault and battery of a law enforcement officer.

III. CONCLUSION

The appellant's first assignment of error fails to challenge an actual ruling made by the court and we do not consider it. In addition, we conclude that the appellant's second assignment of error challenging the sufficiency of the evidence, fails on the merits. The evidence refutes the appellant's argument that she was justified in her attempt to physically expel the officer from her home as an alleged trespasser. Further, the officer was acting within the scope of his law enforcement duties when the appellant assaulted him. Finally, the appellant was not permitted under the law to physically resist the officer's attempt to detain her as he investigated the

⁸ Even if the detention had been unlawful, which it was not, the appellant had no legal right to resist. See Hill, 264 Va. at 548.

circumstances surrounding the call for service to that location. Accordingly, the evidence was sufficient and we affirm the conviction for assault and battery against a law enforcement officer.

Affirmed.