

CRIMINAL TRESPASS - NOTICE

The statute requires that an owner or occupant provide the defendant with notice. Here, according to the State's theory of the case, the police provided the notice. Therefore, the State needed to establish a link between an owner or occupant of the DMV and the police. The State provided no evidence that an owner or occupant authorized or requested the police to provide Chai with notice that he was never to return.

We decline to extend existing case law to allow for notice to be given by a police officer rather than an owner or occupant under the circumstances of this case.

See, e.g., *People v. Gudgel*, 183 Ill.App.3d 881, 132 Ill.Dec. 651, 540 N.E.2d 391 (1989) (the bar owner called police to help remove a patron); *People v. Thompson*, 56 Ill.App.3d 557, 14 Ill.Dec. 312, 372 N.E.2d 117 (1978) (the school superintendent authorized security to remove protesters). Both *Gudgel* and *Thompson* involved trespass prosecutions based on subsection (a)(3), remaining upon the land of another after receiving notice from the owner or occupant to depart. 720 ILCS 5/21-3(a)(3) (West 2010). In each case, the owner or occupant requested the police to provide the defendant(s) with notice to leave the property.

Gudgel and *Thompson* allow for the inference that, if the owner or occupant called the police, the owner or occupant implicitly requested the police to provide the defendant with notice to depart. As stated in *Gudgel*, "it would be prudent to summon police and have them remove belligerent patrons rather than attempt[] to remove them personally." *Gudgel*, 183 Ill.App.3d at 884, 132 Ill.Dec. 651, 540 N.E.2d 391.

However, in the instant case, owner or occupant's summoning police to remove a troublesome patron did not imply a request to tell that patron that he was never to return. Rather, given that the property at issue is a public facility and that Chai had committed the relatively minor "offense" of losing his temper, it is not natural or reasonable to infer that the owner or occupant, by enlisting the help of the police, instructed the police to tell Chai that he was forever banned from the facility. We cannot allow the jury to have made such an inference absent any evidence.