FILED
JAN 27 1988
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

203

STATE OF IOWA,

Plaintiff-Appellee,

vs.

DARYL D. ADCOCK,

Defendant-Appellant.

Filed January 27, 1988

STATE OF IOWA,

Plaintiff-Appellee,

vs.

RODNEY L. ADCOCK,

Defendant-Appellant.

7-489
87-173

Appeal from the Iowa District Court for Muscatine County (1699-986 & 1700-986), Jack L. Burns, Judge.

Defendants appeal their convictions of burglary in the second degree. **AFFIRMED.**

Charles Harrington, Chief Appellate Defender, and Linda Del Gallo, Assistant Appellate Defender, for defendants-appellants.

Thomas J. Miller, Attorney General of Iowa, and Julie Ann Halligan, Assistant Attorney General, for plaintiff-appellee.

Considered by Oxberger, C.J., and Hayden and Sackett, JJ. Schlegel, J., takes no part.

HAYDEN, J.

Defendants, Daryl and Rodney Adcock, appeal their convictions of burglary in the second degree. They assert in this consolidated appeal the evidence at trial was insufficient to establish they entered the apartment of Brett and Kimberly Busch with the intent to commit an assault. They contend they did not enter the apartment at all or that any entry was inadvertent.

As we stated in State v. Wheeler, 403 N.W.2d 58, 60 (Iowa App. 1987), the legal principles applicable to cases of this nature are as follows:

> Our scope of review is on assigned error only. Iowa R. App. P. 4. The standard of review in challenging the sufficiency of the evidence is well established. State v. Lampman, 342 N.W.2d 77, 81 (Iowa App. 1982). We will uphold a verdict where there is substantial evidence in the record tending to support the charge. State v. Aldape, 307 N.W.2d 32, 39 (Iowa 1981).
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> When reviewing a challenge to the sufficiency of the evidence, we view the evidence in the light most favorable to the state, including legitimate inferences and presumptions which may fairly and reasonably be deduced from the evidence in the record. State v. Hall, 371 N.W.2d 187, 188 (Iowa App. 1985); State v. Bass, 349 N.W.2d 498, 500 (Iowa 1984). Direct and circumstantial evidence are equally probative so long as the evidence raises "a fair inference of guilt and [does] more than create speculation, suspicion, or conjecture." State v. Hamilton, 309 N.W.2d 471, 479 (Iowa 1981). It is necessary to consider all the evidence in the record and not just the evidence supporting the verdict to determine whether there is substantial evidence to support the charge. Hall, 371 N.W.2d at 188; Bass, 349 N.W.2d at 500. Substantial evidence means evidence which would convince a rational factfinder that the defendant is guilty beyond a reasonable doubt. Hall, 371 N.W.2d at 188; State v. LeGear, 346 N.W.2d 21, 23 (Iowa 1984).

Id.

In this case, the Busches testified the Adcocks came to their second-floor apartment on September 23, 1986. Kimberly Busch hollered at Brett that someone was outside their door saying, "If he opens the door, I'm going to kill him." Brett went to the door and listened. When it was quiet, he unlatched the lock on the door, and the door was immediately pushed open by the Adcocks, who then began hitting Brett. The fracas then proceeded further into the bedroom,

the room into which the apartment door opened, at which time the Adcocks were joined by Brenda Phillips and Shelly Kopf. The Busches were pushed onto their bed, located just inside the door. Brett was hit over the head with a whiskey bottle by Phillips and then stabbed with the broken bottle neck behind his ear and down the side of his neck. Kimberly's arm was also cut by broken glass.

The Adcocks assert their entry, if any, into the Busch apartment was the inadvertent result of the altercation and was not with the intent to commit an assault. We disagree. The record is replete with evidence the Adcocks pushed their way into the apartment and once therein, in the course of the altercation, pushed the Busches over to the bed where they were pinnned. We find this is evidence of unlawful entry which would convince a rational factfinder the Adcocks were guilty beyond a reasonable doubt. We conclude, therefore, there was substantial evidence to support the Adcocks' convictions.

AFFIRMED.