IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,

Plaintiff-Appellee,

vs.

DAVID DWAYNE JONES,

Defendant-Appellant.

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Appeal from Johnson District Court. Ansel J. Chapman, Judge.

The defendant appeals from his conviction of burglary in the second degree in violation of sections 713.1 and 713.3, The Code 1979. Defendant claims that evidence introduced which purported to show criminal activity other than that with which he was charged, denied him a fair trial and due process of law. AFFIRMED.

Mark C. Meyer, of Kinnamon, Kinnamon, Russo & Meyer, Cedar Rapids, Ia., for defendant-appellant.

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

Submitted to Oxberger, C. J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

The defendant appeals from his conviction of burglary in the second degree in violation of sections 713.1 and 713.3, The Code 1979. Defendant claims that evidence was introduced which purported to show criminal activity other than that with which he was charged, and this denied him a fair trial and due process of law. We affirm.

Defendant was convicted in a jury trial of second-degree burlgary, having allegedly taken two checkbooks from a dorm room at the University of Iowa. The dorm room residents, James King and John Higby, testified that they found defendant in their room and that they later found that their checkbooks were missing.

Higby testified that the next morning he went to defendant's room, confronted him about the missing checkbooks and, in response to his demand for return of his property, defendant handed him a checkbook belonging to a third person, showed him other items in his possession, and asked whether they might be Higby's property. Defendant filed a motion in limine and objected at trial to this testimony about the third person's checkbook and other allegedly stolen items. The trial court allowed the testimony in, ruling that the testimony was relevant to the question of defendant's intent.

The State seeks to justify the introduction of the disputed testimony on the basis that the conduct shows that defendant was acknowledging his guilt and was trying to rectify the situation. The defendant has not objected to the evidence of his conduct showing Higby the property in the defendant's room. The defendant objects to the identification of the property because it creates an inference of other crimes.

The next morning in defendant's room, when Higby asked defendant for the missing checkbooks, and defendant produced a checkbook which was not his own, under those circumstances his behavior and words suggest he believed he had a checkbook in his possession which might have belonged to Higby or King. Rather than creating the impermissible inference that if defendant had stolen someone else's checkbook, he probably stole Higby's and King's checkbooks, this evidence is probative of defendant's guilt of the present crime.

It is probative as a material occurrence important for the consideration of the trier of fact because such conduct and words could constitute an admission against interest.

McCormick's Handbook of the Law of Evidence § 262 (2d ed. E. Cleary 1972).

The evidence is also important to give the trier of fact the full scope and meaning of the evidence, and to show the events surrounding an offense. State v. Garren, 220 N.W.2d 898, 900 (Iowa 1974).

We affirm the trial court.

AFFIRMED.