FILED
SEP 30 1987
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

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STATE OF IOWA,	)	
Plaintiff-Appellee,	)	Filed September 30, 1987
vs.	)	
LEO RAYMOND ROLFE,	)	7-210 86-1030
Defendant-Appellant.	)	

Appeal from the Iowa District Court for Tama County (No. CR 2152), L. Vern Robinson, Judge.

The defendant appeals from his conviction of four counts of second-degree burglary, contending that testimony concerning another, uncharged burglary should have been excluded both on relevancy grounds and as inadmissible "other crimes" evidence. **AFFIRMED.**

Charles L. Harrington, Appellate Defender, and Raymond E. Rogers, Assistant Appellate Defender, for defendant-appellant.

Thomas J. Miller, Attorney General; Pamela Greenman Dahl, Assistant Attorney General; and Richard Vander May, Assistant County Attorney, for plaintiff-appellee.

Considered by Oxberger, C.J., and Snell and Hayden, JJ.

PER CURIAM 278

On February 12, 1986, the appellant, Leo Raymond Rolfe, was charged by trial information with four counts of second-degree burglary, see Iowa Code §§ 713.1, 713.5 (1985), and with being a habitual offender. See Iowa Code § 902.8 (1985). Trial commenced on June 9, 1986, and, one day later, the jury returned a verdict finding Rolfe guilty as charged. Although Rolfe's motion for new trial was unsuccessful, the State decided not to pursue Rolfe's status as a habitual offender. Rolfe was sentenced to four indeterminate sentences not to exceed ten years each. The sentences on counts one and two are to run consecutively with those on counts three and four. This appeal followed. Our review is limited to the correction of errors at law. Iowa R. App. P. 4.

Rolfe maintains the district court violated Iowa Rules of Evidence 402 and 404(b) by allowing certain testimony into evidence. The former rule prohibits the admission of irrelevant evidence; the latter rule prohibits evidence of prior crimes offered "to prove the character of a person in order to show that he acted in conformity therewith." The testimony with which we are concerned was elicited by the State during its direct examination of police officer Felix Castillo. The directly-pertinent portions of that testimony are as follows:

> Q. Okay. Officer — or Chief Castillo, I want to go back with you to the autumn of 1985. Did you, or did your department, have occasion to investigate a break-in at the Farm Service Company in Toledo? A. On August 26, we had a break-in at Farm Service on West Street. Officer John Sotyn, Toledo Police Department, made the initial report of the break-in. Taken at that time was a 600 pound 200 amp welder, Miller type was the brand name on it.
>
> Q. Okay. Were there other break-ins at the Farm Service during the autumn of 1985? A. On October 2, 1985, there was a break-in also at Farm Service, where air compressor, sanders, sanding paper, was taken from the — one of the storage buildings at Farm Service.
>
> Q. Was oil and other type property also taken from Farm Service in the break-in? A. On October 3rd, Twin City Ford was broke into, the storage building there.
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> Q. Okay, but — A. Oil taken.

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> Q. Okay, but — A. Oil taken.

Q. But speaking just of Farm Service, on any of the — were there other break-ins at Farm Service during the autumn of 1985, other than the two you have described?

BY MR. COLLINS: Your Honor, I am going to object. It's irrelevant to the charges that we have pending before the Court.

THE COURT: No. He may answer that question. Go ahead, sir.

A. Okay. First, there was gas theft and a battery theft at Farm Service.

Initially, the State maintains Rolfe's contention under rule 404(b) is not preserved for appeal as his trial objection was limited to the testimony's lack of relevance. In determining the sufficiency of an objection to preserve error, the test is whether the objection taken alerted the trial court to the error which is urged on appeal. Goetzman v. Wichern, 327 N.W.2d 742, 745 (Iowa 1982); State v. Nimmo, 247 N.W.2d 228, 230-31 (Iowa 1976); see State v. Lewis, 242 N.W.2d 711, 716 (Iowa 1976). The purpose underlying this requirement is that the trial judge be afforded an opportunity to catch exactly what is in counsel's mind and thereby determine whether the objection possesses merit. Goetzman, 327 N.W.2d at 745.

We think defense counsel's objection sufficiently presented the trial court with the "prior crimes" argument he now makes on appeal. While counsel did not expressly mention rule 404(b) or that he was objecting to the testimony on grounds which underlie that rule, we think it obvious that this was the thrust of the objection. The purpose of rule 404(b) is to exclude evidence which has no legitimate relevance to the crime at issue. State v. Cott, 283 N.W.2d 324, 326 (Iowa 1979). The exceptions to that rule are based upon the relevancy of evidence to a material issue in the case at trial. Id. When, in the course of testimony dealing with prior criminal activity with which Rolfe was not charged, his counsel objected to the testimony as "irrelevant to the charges that we have pending before the Court," we think he sufficiently alerted the district court to his current claim under rule 404(b).

That claim, however, is without merit. We have consistently held that the admissibility of evidence rests largely in a trial court's discretion, which discretion is limited by the requirement that the evidence be relevant. E.g., State v. Johnson, 224 N.W.2d 617, 620 (Iowa 1974). The general rule urged upon us by Rolfe states that "one crime cannot be proved by proof of another." Cott, 283 N.W.2d at 326. Rolfe maintains this rule is particularly persuasive in the case at bar where there is no clear proof that he was involved in the earlier crimes. Such proof is a prerequisite to the admission of prior crimes evidence. E.g., State v. Spargo, 364 N.W.2d 203, 209 (Iowa 1985).

We think Rolfe misconstrues the purpose and effect of the State's challenged inquiries. Our reading of the testimony persuades us that the State was not attempting to connect Rolfe, directly or by implication, with the prior crimes. Rather, we think the State's goal was to demonstrate that certain items—cans of motor oil—that had allegedly been sold by Rolfe to another State's witness were taken in the burglary with which Rolfe was charged, that occurring October 2. The State was attempting to make this demonstration indirectly by showing that these items had not been taken during the earlier burglaries. As such, the testimony satisfied the relevancy requirement, see Iowa R. Evid. 402, and the district court did not err in allowing it into evidence.

AFFIRMED.