IN THE COURT OF APPEALS OF IOWA

No. 1-214 / 00-1613
Filed May 9, 2001

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CLERK SUPREME COURT

STATE OF IOWA,
Plaintiff-Appellee,

vs.

PAUL JOHN WASHAM,
Defendant-Appellant.

Appeal from the Iowa District Court for Scott County, Gary D. McKenrick, Judge.

Paul Washam appeals from the judgment and sentence entered upon a jury verdict finding him guilty of third-degree burglary. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and James G. Tomka, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Richard J. Bennett, Assistant Attorney General, William E. Davis, County Attorney, and Robert Cusack, Assistant County Attorney, for appellee.

Considered by Sackett, C.J., and Huitink and Streit, JJ.

STREIT, J.

Paul John Washam was charged with third-degree burglary after police officers found three stolen CD cases in a car in which he was a passenger. The trial court denied his motions for judgment of acquittal in which he asserted there was not sufficient evidence to support a conviction for third-degree burglary, and the jury found him guilty. On appeal Washam claims there was not sufficient evidence to support the conviction for third-degree burglary because there was no eyewitness testimony he was at the scene of the crime and his own testimony establishes he was elsewhere when the crime occurred.

We review Washam's challenge to the sufficiency of the evidence for errors at law. Iowa R. App. P. 4; *State v. Thomas*, 561 N.W.2d 37, 39 (Iowa 1997). We will uphold a jury verdict under a sufficiency of the evidence challenge if it is supported by substantial evidence. *State v. Chang*, 587 N.W.2d 459, 462 (Iowa 1998). If a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt, the evidence is substantial. *Thomas*, 561 N.W.2d at 39. We review the evidence in the light most favorable to the State; this includes all legitimate inferences that may fairly and reasonably be deduced from the evidence. *State v. Casady*, 597 N.W.2d 801, 804 (Iowa 1999).

A reasonable jury could find Washam guilty beyond a reasonable doubt of third-degree burglary. One witness testified he saw two males get out of an old, loud, white, four-door car that looked like a Lincoln and attempt to open the doors to several cars that were parked near an apartment complex. He immediately called 911, reported what he was observing, and described the males' car. A few

minutes later, police officers responding to the witness's report pulled over a car in the apartment complex's neighborhood that matched the description he had given. Washam, two other males, and a female were in the car. The officers also found a case for a Sporty Thievz CD,[1] a case for a MC Eiht CD, and a case for a Ruff Ryders CD in the car. A man from the apartment complex whose car had been burglarized sometime before Washam and his acquaintances were pulled over testified the CD cases for the aforementioned musicians were missing from his car. Given this evidence, a reasonable jury could find Washam guilty of third-degree burglary even though no eyewitnesses where able to give a detailed description of the males at the crime scene and Washam contended he was at a local convenience store when the crime occurred. It is, after all, "the very function of the jury . . . to sort out the evidence and 'place credibility where it belongs.'" *State v. Thornton*, 498 N.W.2d 670, 673 (Iowa 1993) (citations omitted). We affirm Washam's conviction.

AFFIRMED.

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[1] Perhaps Washam and his cohorts wanted to listen to "No Bills Bills Bills" ("Yea, sporty . . . we had to, we had to . . . sporty thievz . . . stealin it") or Sporty Thievz's other classic, "Raw Footage" ("Yo, it's raw footage . . . we're stealin . . . til the law book us"). Sporty Thievz, *Street Cinema* (Def Jam 2000).