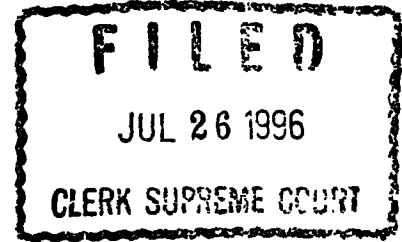


IN THE COURT OF APPEALS OF IOWA

No. 6-378 / 95-813



STATE OF IOWA,

Appellee,

vs.

IRA CRAWFORD III,

Appellant.

Appeal from the Iowa District Court for Black Hawk County, K.D. Briner,
Judge.

Ira Crawford III appeals his conviction for first-degree robbery. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Kevin Cmelik,
Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Susan M. Crawford, Assistant Attorney
General, Thomas J. Ferguson, County Attorney, and D. Raymond Walton, Assistant
County Attorney, for appellee.

Considered by Huitink, P.J., Streit and Vogel, JJ.

PER CURIAM

This is an appeal by a defendant claiming his conviction for first-degree robbery, in violation of Iowa Code sections 711.1(2) and 711.2 (1993), should be overturned because he received ineffective assistance of counsel. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court Rule 9.

On November 28, 1994, four men came into the home of John Phillips in Waterloo. Phillips and two construction workers, Darryl Lewis and Robert Anderson, were present in the house. One of the men, Jason Burns, displayed a gun. Shon Fields and Antwan Jones had knives. Ira Crawford III accompanied the robbers in the house. The men took money, a gun, a camcorder, a leather coat, and some compact disks.

Phillips was able to obtain the license number of the men's car, and police officers picked them up shortly. Crawford was driving the vehicle. The stolen items were recovered from the scene. Phillips identified each of the men. Lewis identified Fields and Crawford based on their clothing. Anderson also identified Crawford based on his clothing.

The four defendants were tried in a consolidated trial. This appeal involves only Crawford, who was convicted of robbery in the first degree. On appeal, he claims he received ineffective assistance of counsel at his trial.

I. Crawford claims he received ineffective assistance because his trial counsel did not object to the improper admission of hearsay evidence. During the trial, a

police officer testified Jones was wearing Phillips' leather coat when he was stopped and some money and Phillips' watch were later recovered from Jones' person. Jones' counsel moved to admit two police property tags which showed the watch had been seized before the leather coat. Crawford's attorney did not object to the admission of the property tags. Crawford now claims the property tags should not have been admitted because they were hearsay. He states the tags were prejudicial because they unduly emphasized the State's case.

We determine defendant has failed to show a reasonable probability that the outcome of the trial court would have been different if the evidence had not been admitted. *See State v. Carberry*, 501 N.W.2d 473, 477 (Iowa 1993). The property tags merely listed the property seized. We conclude the tags did not unduly emphasize the State's case.

II. Crawford also claims he received ineffective assistance because his counsel did not object to the jury instruction on joint criminal conduct. He states joint criminal conduct occurs where a different crime is committed by another participant in furtherance of the charged offense. *State v. Irvin*, 334 N.W.2d 312, 314-315 (Iowa App. 1983). He believes the jury instruction which was given did not require the State to prove the commission of a second criminal act.

Joint criminal conduct is defined by section 703.2. The court gave the uniform instruction on joint criminal conduct in this case. We find the language of the instruction follows that of section 703.2. This instruction was recently approved in

State v. Hohle, 510 N.W.2d 847, 849 (Iowa 1994). We also find the court properly gave the instruction on joint criminal conduct based on the evidence presented in the case. There was evidence of another crime, assault, which was committed in conjunction with the robbery.

We find defendant has failed to show he received ineffective assistance of counsel. We affirm defendant's conviction for robbery in the first degree.

AFFIRMED.