FILED
MAR 30 1995
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No 5-081 / 94-176

STATE OF IOWA,

Appellee,

vs.

MARTEZ DEROY SMITH,

Appellant

Appeal from the Iowa District Court for Black Hawk County, L D Lybbert, Judge

Smith appeals his convictions of terrorism and going armed with a loaded weapon **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Patricia Reynolds Lapointe, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Robert P. Ewald, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and D Raymond Walton, Assistant County Attorney, for appellee.

Considered by Sackett, P.J., and Cady and Huitink, JJ

HUITINK, J.

Martez Deroy Smith appeals his convictions of terrorism and going armed with a loaded weapon in violation of Iowa Code sections 708.6 and 724.4 (Iowa 1993). We affirm.

On April 20, 1993, a shotgun was fired at a residence located in Waterloo. The shot fired from a passing vehicle shattered an upstairs window of the residence.

At the time the shots were fired, several adults and four children were in and around the house. Lorraine Simpson, who resided in the house with her four children testified that following the shooting she and her children were hysterical. Dorothy Simpson, one of those present at the house, testified she saw Martez Smith, a passenger in the vehicle, discharge the shotgun.

Others present at the residence offered conflicting testimony as to the identity of the occupants of the car from which the shotgun was fired. The State's evidence indicated the shooting was the culmination of earlier conflicts between Myron Johnson, the car's owner, and Charles Holmes and Robert Holmes, who were present at the residence at the time of the shooting.

On appeal, Smith challenges the sufficiency of the evidence identifying him as the shooter. He also argues there is insufficient evidence that "persons were placed in reasonable apprehension of serious injury," an essential element of the crime terrorism.

Our standard of review is well settled. A verdict will be upheld where there is substantial evidence to support the charge. State v. LeGear, 346 N.W.2d 21, 23 (Iowa 1984). Substantial evidence means such evidence as could convince a rational trier of fact the defendant is guilty of the crime charged beyond a reasonable doubt. Id. The evidence is viewed in the light most favorable to the State, including legitimate inferences and presumptions which may fairly and reasonably be deduced from the record. State v. Bass, 349 N.W.2d 498, 500 (Iowa 1984). We consider all the evidence at trial, not just the evidence that supports the verdict. State v. Robinson, 288 N.W.2d 337, 340 (Iowa 1980)

We, contrary to Smith's contention, find sufficient evidence to support the jury's conclusion he was the person who fired the shotgun at the house. Dorothy Simpson identified him as the person who fired the shotgun. The jury, as the factfinder, was free to accept her testimony and reject the contradictory testimony of other witnesses.

To convict Smith, the State was required to prove Smith's acts placed one or more persons in reasonable apprehension of serious injury. Iowa Code § 708.6 The victims' apprehension of serious injury must be reasonable under the circumstances. State v. White, 319 N.W.2d 213, 215 (Iowa 1982). The evidence must establish more than a reasonable person would have been frightened under these circumstances. Id. at 216

The record contains evidence showing the actual effect of the shooting on Lorraine Simpson and her children. They were left hysterical and crying amid shouts from others to duck. The jury could infer from this evidence that these responses to the shooting resulted from a reasonable apprehension of serious injury.

Smith's convictions are accordingly affirmed.

AFFIRMED.