

IN THE COURT OF APPEALS OF IOWA

FILED

DEC 26 1984

CLERK SUPREME COURT

STATE OF IOWA,

)

Plaintiff-Appellee,

)

vs.

)

NATHANIEL PARKER,

)

Defendant-Appellant.

)

Filed December 26, 1984

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4-417

83-1597

Appeal from the Iowa District Court for Lee County-William S. Cahill,
Judge.

John C. Miller, Judge, on sentencing.

Defendant appeals from the judgment of conviction and sentence wherein he
was found guilty by the court of criminal mischief in the second degree in
violation of Iowa Code 716.1 and 716.4 (1983). AFFIRMED.

Charles L. Harrington, Chief Appellant Defender, for defendant-appellant.

Thomas J. Miller, Attorney General and Lona Hansen, Assistant Attorney
General, for plaintiff-appellee.

Considered by Oxberger, C.J., and Donielson and Sackett, JJ.

SACKETT, J.

Facts

Parker allegedly kicked out the windshield and damaged the hood, roof and side window of a 1976 Plymouth station wagon belonging to one Keith Carter. Parker was charged with criminal mischief in the second degree. Parker waived a jury and was tried to the court who found him guilty as charged and sentenced him to a term not to exceed five years.

Issue

The sole issue raised on appeal deals with the factual controversy concerning the cost of repairing Carter's station wagon.

In order to prove Parker guilty of mischief in the second degree the state was required to establish the elements of the offense, one of which was that the cost of repairing, replacing, or restoring the property so damaged, defaced or destroyed exceeds \$500 but does not exceed \$5,000 Iowa Code 716.1 and 716.4 (1983). The defendant's contention on appeal is that there was not substantial evidence in the record supporting the repair cost; therefore, the state failed to prove this element.

Analysis

The car was repaired by McCredie Motors. No one testified as to the actual cost of the repair. One Robert Szawiel examined the car and prepared a repair estimate. Mr. Szawiel testified that he had worked ten years in the autobody repair field. Szawiel estimated the cost to repair the damage allegedly done by the defendant was \$1,100.43. The estimate was based on using new parts. Szawiel had not checked on the availability of used parts.

Carter testified his car was repaired at McCredie's and that their estimate was higher than Szawiel's. Carter also testified that his car was in good condition prior to the incident, and that defendant damaged the hood, kicked out the front windshield, and put dents on the roof. He testified the car had 59,000 miles on it and had a book value of between \$1,600 and \$1,800.

The defendant argues that on this record there is not substantial evidence to support a finding that the cost of repair exceeded \$500. We disagree. Where classifications of value are an issue in a criminal matter the rules which establish value in civil cases generally apply. See State v. Bayken, 217 N.W.2d 218, 220 (Iowa 1974). When damage to a motor vehicle can be repaired so that, when repaired, it will be in as good a condition as it was before it was damaged, and the cost of repair does not exceed the difference in market value of the vehicle before and after the injury, then the measure of damages is the reasonable cost of repair. Long v. McAllister, 319 N.W.2d 256, 261 (Iowa 1982). The evidence must provide a reasonable basis from which the amount can be inferred or approximated. Northrup v. Miles Homes Inc. of Iowa, 240 N.W.2d 850, 857 (Iowa 1973).

There is substantial evidence in the record to support a finding that repair exceeded \$500.

AFFIRMED.