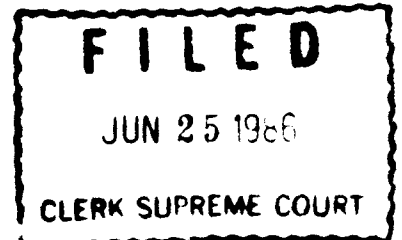


IN THE COURT OF APPEALS OF IOWA



STATE OF IOWA,)

Plaintiff-Appellee,)

vs.)

PAUL EMERY HAWKINS,)

Defendant-Appellant.)

FILED JUNE 25, 1986

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6-144
85-708

Appeal from the Iowa District Court for Johnson County (No. (59) 6) -
L. Vern Robinson, Judge.

Defendant appeals his conviction of the crime of robbery in the second degree, claiming that the trial court erred in overruling his motion to suppress items of clothing that were seized from defendant. **AFFIRMED.**

Charles L. Harrington, Appellate Defender, for defendant-appellant.

Thomas J. Miller, Attorney General; Roxann M. Ryan, Assistant Attorney General; and Linda McGuire, Assistant County Attorney, for plaintiff-appellee.

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

PER CURIAM**183**

Defendant appeals his conviction of the crime of robbery in the second degree, claiming that the trial court erred in overruling his motion to suppress items of clothing that were seized from defendant. He claims that the clothing seized was discovered as a result of an improper search and one which was not within the proper bounds of a search incident to arrest.

Defendant claims that the police officers searched a bedroom and found clothes that fit a description of clothes worn by the robber. The police officers testified that they gave defendant clothes that defendant pointed out on a couch where the arrest took place. The court found, from the conflicting evidence, that the police officer's testimony was true and that defendant "was allowed to dress, and the Defendant chose what clothes he was going to wear."

As to the clothes defendant wore and that were seized from him at the stationhouse, according to the findings of the court there was no search. The court's finding is supported by substantial evidence.

Reviewing the case de novo in light of the totality of the circumstances, as required in considering this constitutional issue, State v. Eubanks, 255 N.W.2d 57 (Iowa 1984), we find that the court was justified in finding that the State carried its burden of proving that the seizure of defendant's clothing was proper. Eubanks, supra.

AFFIRMED.