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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,	)	
Plaintiff-Appellee,	)	Filed January 28, 1987
vs.	)	181
PATRICK J. McDOWELL,	)	6-502 86-603
Defendant-Appellant.	)	

Appeal from the Iowa District Court for Wapello County (No. 5250-0286) - Max H. Ruschmeyer, Judge.

The defendant appeals from his conviction, following a jury trial, of third-degree theft, contending that the trial court erred in refusing to instruct the jury as to the meaning of "intent to deprive." **AFFIRMED.**

Charles L. Harrington, Appellate Defender, and Linda Del Gallo, Assistant Appellate Defender, for defendant-appellant.

Thomas J. Miller, Attorney General; Pamela Greenman Dahl, Assistant Attorney General; and E. Richard Meadows, Jr. and Timothy James Agan, Assistant Wapello County Attorneys, for plaintiff-appellee.

Considered by Oxberger, C.J., and Snell and Hayden, JJ.

PER CURIAM

On February 24, 1986, the appellant, Patrick J. McDowell, was charged by trial information with theft in the third degree. Trial commenced on March 27, 1986, and a guilty verdict was returned by the jury the following day. On April 14, 1986, McDowell was sentenced to an indeterminate term not to exceed two years. This appeal followed. Our review is on assigned error only. Iowa R. App. P. 4.

McDowell contends that the district court erred in refusing to submit his requested definitional instruction on the element of "intent to deprive." "Intent to deprive" is an element of the crime charged. Iowa Code § 714.1(1) (1985); II Iowa Uniform Jury Instructions (Criminal) No. 1402 (1978). In reviewing challenges to jury instructions, we consider the instructions as a whole. State v. Johnson, 243 N.W.2d 598, 604 (Iowa 1976). Although in a criminal trial the court must instruct the jury by defining the crime, State v. Hoffer, 383 N.W.2d 543, 548 (Iowa 1986), words in an instruction need not be defined if they are of ordinary usage and are generally understood. Id. Technical terms or words of art that have a technical legal meaning apart from their ordinary meaning, however, should be defined. Id.

In the case at bar, the jury was instructed on the elements of the crime charged and received a definitional instruction on the term "intent." In addition, the jury received an instruction stating that the concealment of unpurchased goods is material evidence of an intent to deprive. Viewing the instructions as a whole, we think the term "deprive" was used in a general context and is not a technical legal term that requires a definition. Certainly, the refusal to give the requested instruction did not constitute prejudicial error requiring reversal. State v. Seiler, 342 N.W.2d 264, 268 (Iowa 1983).

AFFIRMED.