

IN THE COURT OF APPEALS OF IOWA

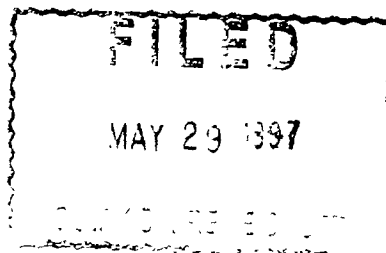
No. 7-144 / 96-0595

000461

STATE OF IOWA,
Plaintiff-Appellee,

vs.

DARREN LAMONT WARREN,
Defendant-Appellant.



Appeal from the Iowa District Court for Scott County, Patrick J. Madden,
Judge.

Defendant appeals from his convictions for first-degree robbery in violation of Iowa Code sections 711.1 and 711.2 (1995) and possession of a firearm by a felon in violation of section 724.26.

Linda Del Gallo, State Appellate Defender, and Sarah E. Hennesy and Shellie L. Knipfer, Assistant State Appellate Defenders, for appellant.

Thomas J. Miller, Attorney General, Karen Doland, Assistant Attorney General, William E. Davis, County Attorney, and Kelly G. Raines, Assistant County Attorney, for appellee.

Considered by Habhab, C.J., and Sackett and Cady, JJ.

PER CURIAM.

Defendant appeals his convictions for robbery in the first degree and possessing a firearm as a felon. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court Rule 9.

Defendant challenges the sufficiency of the evidence supporting his convictions, which arose out of the robbery of a convenience store in Davenport, Iowa. Our review for sufficiency of evidence is on assigned error, *State v. Phams*, 342 N.W.2d 792, 795 (Iowa 1983), not de novo. *State v. Allen*, 348 N.W.2d 243, 247 (Iowa 1984).

We are bound by the jury verdict unless it does not have substantial evidence for support. *Allen*, 348 N.W.2d at 247. We must consider all the evidence, whether favorable to Defendant or to the verdict. *Id.* We must view this evidence, however, in the light most favorable to the State “without regard to contradiction or inconsistencies and assisted by all reasonable inferences.” *Fryer v. State*, 325 N.W.2d 400, 405 (Iowa 1982) (quoting *State v. Robinson*, 288 N.W.2d 337, 338 (Iowa 1980)). Evidence is substantial if it could convince a rational trier of fact that the defendant is guilty of the crimes charged beyond a reasonable doubt. *State v. Arnold*, 543 N.W.2d 600, 602 (Iowa 1996).

We find substantial evidence supports the convictions. The State’s prime witness, the clerk at the convenience store, looked through six books of photographs and did not identify any of the photographs as being of the man who robbed the store.

Defendant's photograph was not in those books. When shown five photos, however, she identified Defendant. She identified Defendant out of a five-person lineup, and again identified him at her deposition and at trial. Although she admitted part of her identification relied on the presence of an earring in a pierced ear, of which Defendant does not have, she still maintained that Defendant was the robber. She testified at trial that she saw Defendant face to face in a well lit area, and her general description of the robber and the getaway car matched Defendant and his car. Although Defendant highlighted differences regarding grooming, complexion, and jewelry, the State presented theories and evidence to explain these differences. It was for the jury, and not this court on review, to resolve the conflicts and discrepancies in the evidence. *State v. Miles*, 490 N.W.2d 798, 799-800 (Iowa 1992).

AFFIRMED.