IN THE COURT OF APPEALS OF IOWA

FILED
JAN 26 1989
CLERK SUPREME COURT

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STATE OF IOWA,	)	
Plaintiff-Appellee,	)	
vs.	)	
JAMIE L. RAZOR,	)	8-598 / 87-1188
Defendant-Appellant.	)	

Appeal from the Iowa District Court for Fremont County (No. C-3147), Glen M. McGee and Paul H. Sulhoff, Judges.

Defendant appeals his conviction by a jury of attempting to elude a pursuing law enforcement vehicle. **AFFIRMED.**

Frank E. Robak, of Robak & Springer, Council Bluffs, for the defendant-appellant.

Thomas J. Miller, Attorney General; Mark Joel Zbieroski, Assistant Attorney General; and Vicki R. Danley, County Attorney, for the plaintiff-appellee.

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

PER CURIAM 350

Defendant appeals his conviction, following a jury trial, for the crime of attempting to elude a pursuing law enforcement vehicle, a violation of Iowa Code section 321.279.

At trial certain references were made during questioning and testimony to other possible crimes or bad acts by defendant. The testimony suggested earlier on the night of his arrest defendant had taken items from the home of his estranged wife, also she was afraid of him and had called police to request his removal, and a deputy sheriff had driven past the house several times to guard against violence. There were also suggestions defendant's daughter feared him, and references to his criminal record and prior contacts with law enforcement officers.

The record of this trial discloses all except one of the objections defendant discusses on appeal were sustained by the trial court. Defendant recognizes this fact but claims the overall cumulative effect before the jury was so prejudicial that it denied him a fair trial. He also claims the prosecutor represented his estranged wife who was a witness against him at trial. Defendant and his wife were in the process of obtaining a dissolution of marriage during the time in question here. Finally, he claims he was denied effective assistance of counsel. We affirm.

Our scope of review in this appeal is on errors at law. Iowa R. App. P. 4.

I. 351

There was one objection made by defendant's attorney at trial and overruled by the trial court. On redirect examination by the prosecutor, Officer Dankof was asked: "Officer defense counsel asked you whether there was anything illegal about Jamie Razor's presence in the home. Your investigation of going to the home was not merely because of his presence, is that correct?" Officer Dankof's answer was, "That's correct. When I received notification." At this point defendant's attorney objected on the ground "this was not covered in cross-examination, as far as the reasons why he went to the home." (Emphasis added.)

Defendant does not raise the issue or argue on appeal the subject matter of the question was not covered or was not a subject delved into on cross-examination. We deem this issue is waived on appeal. See State v. Bean, 239 N.W.2d 556, 561 (Iowa 1976).

The other testimony defendant objected to regarding other crimes and specific instances of defendant's bad conduct were sustained by the trial court. We do not find anywhere in the record that defendant moved for a mistrial or asked the court to strike any questions or answers from the record. Also, defendant did not request the trial court to admonish the jury to disregard any of the testimony he now complains was prejudicial. Defendant has not preserved this issue for appeal.

II. 352

Defendant claims attorney Vicki Danley, who prosecuted defendant at trial committed prosecutorial misconduct because she allegedly represented defendant's estranged wife in their pending dissolution proceeding. Defendant's wife was a witness for the State and against her husband in this case. We do not agree with defendant that attorney Danley should have withdrawn as prosecuting attorney in this trial merely because she represented a witness against defendant in other litigation. This does not indicate a conflict of interest existed.

III.

The question of defendant's previous counsel's competency is more properly presented on an application for postconviction relief. This is appropriate here where defendant makes numerous complaints concerning the handling of his case. Such a hearing would allow opportunity to more fully develop the record to show all the circumstances, including any not in the present record, concerning strategy and reasons involved in counsel's performance. State v. Steltzer, 288 N.W.2d 557, 560 (Iowa 1980).

We affirm defendant's conviction without adjudicating the issue of defense counsel's competency. Defendant's right to raise that question by postconviction proceedings is reserved.

AFFIRMED.