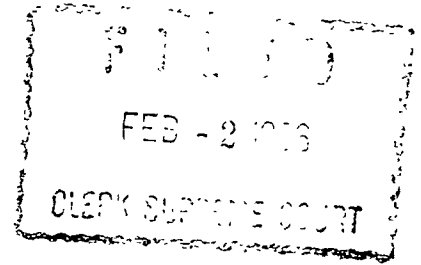


IN THE COURT OF APPEALS OF IOWA

No 5-723 / 95-0247



001247

STATE OF IOWA,

Appellee,

vs.

LLOYD ENOS URICH,

Appellant

Appeal from the Iowa District Court for Hamilton County, Dale E. Ruigh, Judge.

Defendant appeals judgment and sentences, following jury trial, entered upon his convictions of attempted murder and two counts of willful injury, in violation of Iowa Code sections 707.11 and 708.4 (1993) **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Sharon R. Stevens, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Robert P. Ewald, Assistant Attorney General, Patrick Chambers, County Attorney, and Timothy Palmer, Assistant County Attorney, for appellee.

Heard by Sackett, P. J., Huitink, J., and Perkins, S. J. *

*Senior judge from the Fifth Judicial District serving on this court by order of the Iowa Supreme Court.

PERKINS, S.J.

The defendant, Lloyd Urch, argues the State failed to prove beyond a reasonable doubt he committed attempted murder and willful injury. Attempted murder and willful injury are specific intent crimes. *See* Iowa Code §§ 707.11, 708.4 (1993). The defendant contends his intoxication at the time of the crimes prevented him from forming the specific intent necessary to commit attempted murder and willful injury. We affirm.

When reviewing criminal convictions for sufficiency of the evidence, we review the evidence in a light most favorable to the State. *State v. McGrew*, 515 N.W.2d 36, 37 (Iowa 1994). A conviction is reversed only if there is no substantial evidence in the record supporting the verdict or the verdict is clearly against the weight of the evidence. *Id.* at 37-38. Substantial evidence is evidence that could convince a rational trier of fact the defendant is guilty of the crime charged beyond a reasonable doubt. *Id.* at 38. A fair inference of guilt with respect to each element of the crime charged is sufficient to uphold a verdict. *Id.* We consider all of the evidence, not merely that supportive of the conviction, in determining the sufficiency of the evidence to support a guilty verdict. *State v. Robinson*, 288 N.W.2d 337, 340 (Iowa 1980).

Pursuant to Iowa R. Crim. P. 10(11)(c) the defendant had filed a written notice of his intention to rely upon the defense of intoxication. A defendant's intoxication is evidence to be considered on the issue of intent. *State v. Caldwell*, 385 N.W.2d 553, 557 (Iowa 1986); *State v. Collins*, 305 N.W.2d 434, 437 (Iowa 1981). A defendant's intoxication may negate criminal intent if such intent is an element of the crime charged. *Caldwell*, 385 N.W.2d at 557.

A review of the record reveals the defendant was an alcoholic and had consumed a substantial amount of alcohol on the night of May 31, 1994. At approximately 9:15 p.m. he shot two of his neighbors following a dispute about the location of the neighbors' parked car. The defendant returned to his home after the shootings and a standoff with the police then took place. After the defendant was arrested, his blood was drawn at approximately 2:15 a.m. At that time he had a blood alcohol level of .125. Expert testimony was offered which indicated the defendant's blood alcohol level at the time of the shootings could have been between .20 and .40.

~~Despite~~ his high blood alcohol level, there was sufficient evidence from which the jury could conclude the defendant had the ability to form the specific intent to commit attempted murder and willful injury. There was evidence the defendant acted purposefully. He specifically threatened to kill his victims and directed his wife to

get him a gun. When no gun was provided for him the defendant obtained one himself. Other than one incident of stumbling, witnesses said the defendant was mobile and able to retrieve a gun and walk to the neighbors' home to commit the crimes. Witnesses said the defendant was able to communicate with them immediately prior to the shootings.

Following his arrest the defendant was able to walk out of his home on his own and appeared to comprehend what was occurring. He made several statements which undermine his present claim of alcoholic blackout. He told a special agent of the Iowa Division of Criminal Investigation he knew what he had done, and he told another law enforcement officer the victims had antagonized him by pushing him too far and picking on his wife. Finally, he told the police officer who was swabbing his hands for gunpowder residue that he had shot the victims with his right hand as he was unable to use his left hand. These statements are evidence of his ability to remember what had occurred and support a finding that the defendant acted purposefully and with a specific intent in shooting the victims..

Despite conflicting expert opinions, there was substantial evidence in the record from which the jury could find the defendant had the specific intent necessary to support his convictions for attempted murder and willful injury. We affirm.

AFFIRMED.