IN THE COURT OF APPEALS OF IOWA

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CLERK SUPREME COURT

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STATE OF IOWA,)

Plaintiff-Appellee,) Filed May 26, 1981

vs.)

ANGELO GEORGE JONES, JR.,) 1-40
63324

Defendant-Appellant.)

Appeal from Polk District Court - Ray A. Fenton, Judge.

Defendant appeals from his conviction of robbery in the first degree in violation of sections 711.1 and 711.2, Supplement to the Code 1977, asserting that trial court erred in overruling his motions for directed verdict and new trial due to insufficient evidence to support his conviction where there was an irreconcilable conflict in the testimony from the State's witnesses and that there was insufficient evidence to establish the existence of a guilty principal so as to sustain his conviction as an aider and abetter. AFFIRMED.

Robert A. Wright, Des Moines, Iowa, for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa; Lona Hansen, Assistant Attorney General; and James Smith, Assistant Polk County Attorney; for plaintiff-appellee.

Submitted to Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Defendant, Angelo George Jones, Jr., appeals from his conviction of robbery in the first degree in violation of sections 711.1 and 711.2, Supplement to the Code 1977. He asserts that trial court erred in overruling his motions for directed verdict and new trial due to insufficient evidence to support his conviction where there was an irreconcilable conflict in the testimony from the State's witnesses. He also contends that there was insufficient evidence to establish the existence of a guilty principal so as to sustain his conviction as an aider and abetter. We affirm.

Defendant was charged by an amended indictment alleging that he "did commit, or aid and abet in the commission of robbery in the first degree." The charge arose out of the robbery of a gas station on May 28, 1978. The station attendant testified that he observed two men walking to the station from the side, that one came inside the station while the other stayed outside, that the one who entered the station wore a cap but no coat, and that the man pulled a gun from his belt or pants. The attendant told police officers following the robbery that the men they showed him after the robbery were not the robbers and that he could not identify anyone who committed the robbery.

A resident in the neighborhood of the gas station testified that he observed three men get out of a car in front of his home. Two ran through the sideyard to the gas station and the third got back into the car. He testified that he observed the third man drive the car to the gas station and return to a position in front of his house. He observed that the two men who ran to the station were wearing jackets, but no stocking caps, and that at least one of the men was carrying an object that looked like a gun. Without losing sight of the automobile, he later saw two men come from the direction of the gas station and get into the car in front of his house. The car then went approximately a block and stopped. He stated that he observed the car until the police came and arrested the occupants and that no one else entered or left the car during this time. The resident could not testify that the two men he saw go to the station were the same men he saw return from the direction of the station. Neither the attendant nor the resident could give a detailed physical description of the men they saw.

Upon arrival of the police, they found three men in the car and items taken in the robbery. Appellant was on the driver's side of the front seat. Inside the car, police noticed two shotguns wrapped in separate jackets, a coin changer attached to a leather belt, and a gasoline service attendant's jacket. The station attendant identified the belt as his and said the coin changer, as far as he could tell,

was the one taken in the robbery. He identified the jacket that had been taken in the robbery and said the shotgun looked like the gun used during the robbery. The car, a light blue or gray Cadillac with a vinyl top, a heart-shaped back window, and a CB antenna on the trunk, matched the description given by the resident.

Trial court overruled defendant's motion for judgment of acquittal made at the close of the State's case and renewed at the close of all the evidence. The jury returned a guilty verdict. Following trial court's denial of defendant's motion for new trial, defendant filed this appeal.

I. Scope of Review. Since this is a proceeding at law, our review is for correction of errors only. Iowa R. App. P. 4.

II. Sufficiency of the Evidence. In reviewing the propriety of trial court's denial of a motion for judgment of acquittal, we consider all the evidence in the light most favorable to the State. State v. Holderness, 293 N.W.2d 226, 230 (Iowa 1980); State v. Robinson, 288 N.W.2d 337, 340 (Iowa 1980). If there is substantial evidence in the record, the jury's verdict is conclusive. Id. at 338. "Substantial evidence . . . means such evidence as could convince a rational trier of fact that defendant is guilty beyond a reasonable doubt." Id. at 339.

Applying these principles to this case, we find defendant's claim is without merit. "To aid or abet means to assent to an act or to lend countenance or approval either by active participation in it or by some manner encouraging it." State v. Galvan, 297 N.W.2d 344, 348 (Iowa 1980); State v. Jones, 271 N.W.2d 761, 763 (Iowa 1978); State v. Watson, 242 N.W.2d 702, 706 (Iowa 1976). Despite some conflicts in the State's evidence, such conflicts do not preclude a finding that defendant aided and abetted in the robbery. The fact that a robbery occurred is undisputed. Although there is some purported conflict as to the route the two men used to get to and from the station, when this evidence is taken in the light most favorable to the State, it connects appellant with the robbery as an aider and abetter. The resident who testified observed the car at all times material to the case. The resident did not see any persons other than the three men get in or out of the car from the time it first pulled in front of his house. Once the police investigated, they found defendant and the items taken in the robbery in the stopped car. While the evidence is in conflict, such conflicts are for the fact-finder's consideration when judging the weight of the evidence and the credibility of the witnesses. Robinson, 288 N.W.2d at 341. We conclude that trial court properly submitted the case to the jury.

III. Existence of a Guilty Principal. Defendant argues that his conviction as an aider and abetter cannot stand because the existence of a guilty principal has not been established. This assertion is contrary to the law of Iowa regarding aiding and abetting. In Iowa, anyone involved in the commission of a public offense is charged as a principal, whether he or she directly committed the offense or aided or abetted in its commission. § 703.1, Supplement to the Code 1977; State v. Brant, 295 N.W.2d 434, 436 (Iowa 1980); State v. Sanders, 280 N.W.2d 375, 377 (Iowa 1979). Defendant's guilt does not depend upon another person's guilt. Id. Based upon these principles, we conclude that a rational fact-finder could have found from this evidence that defendant aided and abetted in the robbery, most probably as the driver of the car transporting the robbers.

Having found no error, we affirm trial court's judgment.

AFFIRMED.