FILED
JAN 26 1983
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

Filed January 26, 1983

STATE OF IOWA,)

Plaintiff-Appellee,)

vs.)

BRIAN D. HOLST,) 2-466/68624

Defendant-Appellant.)

Appeal from Boone District Court, George G. Fagg, Judge.

Defendant appeals from his conviction for robbery in the second degree in violation of Iowa Code section 711.3. AFFIRMED.

Mark S. Pennington, Des Moines, for defendant-appellant.

Thomas J. Miller, Attorney General, Roxann M. Ryan, Assistant Attorney General, and Sarah J. Coats, Student Legal Intern, for plaintiff-appellee.

Considered en banc.

PER CURIAM

Defendant appeals from his conviction for robbery in the second degree in violation of Iowa Code section 711.3. He asserts that the trial court allowed the admission into evidence of improper rebuttal testimony and that the evidence was insufficient to support the jury's verdict. We affirm defendant's conviction.

I. The rebuttal testimony of witness Kern was properly admitted if it tended to explain, repel, controvert or disprove evidence introduced by defendant. State v. Nelson, 261 Iowa 204, 153 N.W.2d 711 (1967). Although the testimony might also have been offered as part of the State's case in chief, we find that Kern's testimony tended to contradict other eyewitness testimony introduced by defendant and was therefore not inadmissible on rebuttal. State v. Kile, 313 N.W.2d 558, 563 (Iowa 1981). The trial court did not abuse its discretion by allowing Kern to testify as a rebuttal witness.

II. In determining whether the evidence was sufficient to support a finding that defendant committed an assault upon the victim in order to assist or further commission of a theft, we review all of the evidence in a light most favorable to the State, accepting all legitimate inferences which may fairly and reasonably be deducted therefrom. State v. Schrier, 300 N.W.2d 305, 306 (Iowa 1981). Although the evidence as to what occurred was conflicting, we find sufficient evidence to convince a rational trier of fact beyond a reasonable doubt that defendant was guilty of robbery as defined by Iowa Code section 711.1(1). See State v. Robinson, 288 N.W.2d 337 (Iowa 1980).

AFFIRMED.