

IN THE COURT OF APPEALS OF IOWA

CLERK SUPREME COURT

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STATE OF IOWA,

)

Plaintiff-Appellee,

)

Filed December 30, 1981

vs.

)

ANTWONE WOODS,

)

1-361

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Defendant-Appellant.

)

Appeal from Scott District Court - Max R. Werling, Judge.

Defendant appeals from a jury conviction for robbery in the first degree in violation of section 711.2, The Code 1979, asserting that trial court erred in denying his motion for judgment of acquittal based on the State's failure to present sufficient evidence to sustain a conviction. AFFIRMED.

Francis C. Hoyt, Jr., State Appellate Defender's Office, for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa, and Richard L. Cleland, Assistant Attorney General, for plaintiff-appellee.

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

PER CURIAM

Defendant, Antwone Woods, appeals from a jury conviction for robbery in the first degree in violation of section 711.2, The Code 1979, asserting that trial court erred in denying his motion for judgment of acquittal based on the State's failure to present sufficient evidence to sustain a conviction. We affirm.

On April 25, 1980, defendant was charged by county attorney's information with robbery in the first degree in violation of section 711.2, The Code. Defendant entered a plea of not guilty and the case proceeded to a trial before a jury on July 23, 1980. At trial, only the victim and an investigating police officer were called to testify on behalf of the State. Defendant was not called to testify on his own behalf. The evidence revealed that Ralph Fisher, a taxi cab driver, picked up three men in Rock Island, Illinois, at approximately 3:00 a.m. on March 23, 1980. Two of the men sat in the back seat of the cab and the defendant sat in the front. Subsequently, the man sitting directly behind Mr. Fisher put a gun against Mr. Fisher's head and told Fisher to stop the cab. Thereafter, \$35 was taken from Fisher. Fisher testified that he could not remember who took the money, but stated that, after the theft, he was beaten by the three men and put into the trunk of his cab. In addition to Fisher's testimony, a written statement made by the defendant concerning this incident was introduced at trial. The statement indicated that after the victim got out of the car he handed defendant a small bag of money. Defendant further stated: "We got out of the cab and locked the driver in the trunk of the cab[, and] we all then ran back to Harrison Street through the alleys. I got only about \$8.00 from this robbery."

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

II. Sufficiency of the Evidence. Defendant asserts that the evidence was insufficient to convict him of robbery either on a theory of being a perpetrator or an aider and abettor. We disagree.

When sufficiency of the evidence is challenged, we view the evidence in a light most favorable to the State, taking into consideration all evidence in the record. State v. Kern, 307 N.W.2d 22, 28 (Iowa 1981); State v. Robinson, 288 N.W.2d 337, 340 (Iowa 1980). On factual issues, the credibility of the witnesses and the weight to be given to their testimony is for the jury. State v. Cott, 283 N.W.2d 324, 329 (Iowa 1979).

The principles guiding our analysis of an aiding and abetting offense was succinctly stated in State v. Barnes, 204 N.W.2d 827 (Iowa 1972), as follows:

One cannot be convicted of a crime upon a theory of aiding and abetting unless there is sufficient evidence to show he assented to or lent countenance and approval to the criminal act either by act of participation in it or by some manner encouraging it prior to or at the time of its commission. State v. Kittelson, 164 N.W.2d 157, 161-165 (Iowa 1969). Knowledge is essential; however, neither knowledge nor presence at the scene of a crime is sufficient to prove aiding and abetting. State v. Daves, 259 Iowa 584, 586, 591, 144 N.W.2d 879, 881, 884 (1966).

Id. at 828.

Applying these principles to the evidence in this case, we conclude that the evidence was sufficient. In this regard, the victim testified that three men entered his cab together, one initiated the robbery by placing a gun at his head, but all three participated in his beating and placement in the trunk of his cab; all of these acts were done in furtherance of the crime. Further, defendant stated that he received a small bag of money from the driver, participated in the beating of the victim, left the scene with the others, and received about \$8.00 from the robbery. We believe a jury could determine from this evidence that the defendant lent countenance to the crime by active participation in it. We thus affirm trial court's judgment.

AFFIRMED.