

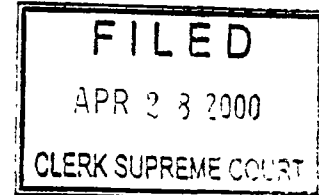
IN THE COURT OF APPEALS OF IOWA

No. 0-083 / 99-71
Filed April 28, 2000

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JESSICA SUE BLOUGH,
Defendant-Appellant.



Appeal from the Iowa District Court for Linn County, Lynne E. Brady,
Judge.

The defendant challenges the sufficiency of the evidence to support her
conviction for neglect of a child. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Robert P. Ranschau,
Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Linda Hines, Assistant Attorney
General, and Denver D. Dillard, County Attorney, for appellee.

Considered by Sackett, C.J., and Huitink and Vaitheswaran, JJ.

VAITHESWARAN, J.

The State charged Jessica Blough with child neglect in violation of Iowa Code section 726.3 (1997), after her two year old daughter Mercedes (Sadie) died. A jury convicted her of the charge, and the district court adjudged her guilty and sentenced her to an indeterminate prison term not to exceed ten years. On appeal, Blough contends the evidence was insufficient to support her conviction. We affirm.

I. Scope of Review

The State concedes Blough preserved error on her sufficiency of the evidence claim by timely moving for a judgment of acquittal, which the district court denied. We will uphold the district court's denial of a motion for judgment of acquittal if there is substantial record evidence to support the defendant's conviction. *State v. McPhillips*, 580 N.W.2d 748, 752 (Iowa 1998). Evidence is substantial if it could convince a rational fact finder of the defendant's guilt beyond a reasonable doubt. *State v. Hopkins*, 576 N.W.2d 374, 377 (Iowa 1998). We consider all the record evidence, not just the evidence supporting guilt, but view the evidence in the light most favorable to the State. *Id.*

II. Sufficiency of Evidence

Under Iowa Code section 726.3, parents commit a class C felony if they "knowingly or recklessly" expose their child "to a hazard or danger against which such person cannot reasonably be expected to protect such person's self." The record discloses on January 2, 1998, Blough and her boyfriend, Sean O'Geary picked up Sadie from her great-grandmother's house, where she had been staying for two days. At approximately 6:00 or 7:00 that Friday evening, Blough

threw up once. O'Geary, Blough, and some friends smoked marijuana and Blough went to bed, leaving O'Geary to attend to Sadie. The following morning, Blough noticed a bruise on Sadie's forehead. O'Geary told Blough that Sadie fell off the couch and hit her head on a coffee table.

Sadie threw up on and off that day. In the night, she began throwing up again. The following morning, O'Geary told Blough that Sadie had been up most of the night, and threw up after she awoke. Sadie woke up twice before noon and asked for a bottle. For the remainder of Sunday, Blough and O'Geary took Sadie with them as they ran errands and visited friends and relatives. O'Geary told Blough that Sadie threw up once while they were waiting in the car for her. She otherwise remained asleep or lethargic.

When they returned home at approximately 8:00 p.m., Blough noticed a bruise on Sadie's upper leg. This was in addition to a bite she had discovered earlier that day on Sadie's ankle. Blough also noticed Sadie had become much paler. Sadie developed a fever, began to tighten up, and began grinding her teeth. Blough called for an ambulance.

At 9:00 p.m. on the evening of January 4, 1998, Sadie arrived at the hospital, where staff pronounced her brain dead and placed her on a ventilator. A physician discovered twenty-four bruises and four adult human bite marks on her body. She also noted Sadie was bleeding behind her eyes, and opined at trial the injuries would not have resulted from a fall or accident but were inflicted by someone.

From this evidence alone, the jury reasonably could have found Blough knowingly or recklessly exposed her daughter to a danger against which the child

could not protect herself. The jury was free to discredit evidence proffered by Blough that she was unaware Sadie was suffering from anything but a mild case of the flu. *See State v. Anderson*, 517 N.W.2d 208, 211 (Iowa 1994). Sadie's grandmother testified Sadie was not sick enough to go to bed when she cared for her in the days between December 31, 1997 and January 2, 1998. The State additionally proffered evidence that Sadie was severely anemic at the time of her death and tested positive for marijuana metabolites in her system. We conclude substantial evidence supports Blough's child neglect conviction and we affirm her judgment and sentence.

AFFIRMED.

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