

**FILED**

MAR 22 1979

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## IN THE COURT OF APPEALS OF IOWA

CLERK SUPREME COURT

STATE OF IOWA,

Plaintiff-Appellee,

vs.

SHEDRICK (NMN) BROWN, JR.,

Defendant-Appellant.

Filed March 22, 1979

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Appeal from Black Hawk District Court - William G. Klotzbach, L. D. Lybbert,  
and Carroll E. Engelkes, Judges.

Defendant appeals his conviction for receiving stolen property in violation of  
section 712.1, The Code 1977. Affirmed.

Dean Olson, Jr. & Wirt P. Hoxie, of Waterloo, for appellant.

Thomas J. Miller, Attorney General of Iowa, Lona Hansen, Assistant Attorney  
General, and David Correll, Black Hawk County Attorney, for appellee.

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

DONIELSON, J.

Defendant Shedrick Brown, Jr. appeals his jury conviction of receiving stolen property in violation of section 712.1, The Code 1977. The following facts were brought out by testimony at trial. In the course of investigating a break-in at a Waterloo gas station on July 1, 1977, police officers found a large quantity of beer and cigarettes in a wooded area behind the station. As the goods were identified as part of those taken from the station, a police officer hid in some bushes nearby and waited for someone to retrieve the goods. About an hour later, defendant approached the area in a car driven by a friend. To reach the path where the goods were hidden, the car had to leave the paved road, maneuver around a barricade at the end of a street, cross a rough running track used by a nearby junior high school and approach the wooded area. The two men stopped the car at the path on which the goods were concealed, opened the trunk of the car, and began walking towards the goods. As defendant stooped down with his arms extended in a grasping manner, the police officer ordered him to "hit the ground" and subsequently arrested him.

Defendant testified that he had been asked to pick up "some packages" for a friend, who offered to pay him \$100 for his help. He said this friend, who defendant admitted would do "most anything for a living," gave him directions to the site. Defendant disclaimed any involvement in the break-in, and stated that he did not know the goods were stolen until he saw them. The driver of the car testified that defendant indicated the packages he was to pick up were stolen.

In his first issue on appeal, defendant asserts trial court erred in overruling his motion for directed verdict made at the close of the state's evidence and again at the close of all evidence. This motion asserted the legal insufficiency of the evidence adduced to justify submission of the case to the jury. Section 712.1 provides in pertinent part: "If any person buy, receive, or aid in concealing any . . . property the stealing of which is larceny, . . . knowing the same to have been so obtained, he shall, . . . be imprisoned in the penitentiary not more than five years . . ." Section 712.1 defines one crime, receiving stolen goods, which may be committed by any one of three means—buying stolen property, receiving stolen property, or by aiding in concealing stolen property. State v. Bakker, 262 N.W.2d 538, 542 (Iowa 1978); State v. Sheffey, 234

N.W.2d 92, 95 (Iowa 1975). To establish concealment, the state need not show actual hiding or secreting of the property. Proof showing defendant's acts rendering more difficult the owner's discovery or identification of his or her property is sufficient. State v. Dykers, 239 N.W.2d 855, 859 (Iowa 1976); State v. Upton, 167 N.W.2d 625, 629 (Iowa 1969).

Defendant's explanation of his knowledge of the stolen nature of the property and contention that he had not "received" the property were questions to be resolved by the jury. See State v. Dykers, 239 N.W.2d at 859; State v. Sheffey, 234 N.W.2d at 96; State v. Houston, 211 N.W.2d 598 (Iowa 1973). Here, there was evidence to support a jury finding defendant knew the property was stolen and was attempting to remove it from a hiding place near the gas station. The jury could infer from the evidence that once the stolen property was removed from its hiding place, it would be difficult, if not impossible, to identify or recover. Viewed in a light most favorable to the verdict, the evidence was adequate to prove defendant aided in concealing stolen property in violation of section 712.1. We hold the trial court did not err when it overruled defendant's motion for directed verdict, and submitted the case to the jury.

Defendant also contends that the trial court erred when it instructed the jury on the meaning of the word "receive" in an unclear, incorrect and confusing manner. To preserve error concerning instructions for appeal, trial counsel must make a specific objection to the final form of jury instructions, request specific instructions and express specific exception in the event they are refused. State v. Sallis, 262 N.W.2d 240, 248 (Iowa 1978); State v. Overmann, 220 N.W.2d 914, 918 (Iowa 1974). At trial, defendant objected only to that portion of Instruction #5 defining "possession," and indicated that he approved of all other instructions given. A defendant cannot raise an objection to a jury instruction on appeal when he has expressly approved it at trial. State v. Upton, 167 N.W.2d at 630. The judgment of the trial court is affirmed.

AFFIRMED.