IN THE COURT OF APPEALS OF IOWA

No. 1-107 / 90-684

FILED
MAY 29 1991
CLERK SUPREME COURT

398

STATE OF IOWA,

Appellee,

vs.

WALTER JOHN DAWSON,

Appellant.

Appeal from the Iowa District Court for Johnson County, L. Vern Robinson, Judge.

Dawson appeals his conviction, following a jury trial, for second-degree burglary. He challenges the sufficiency of the evidence to warrant the submission to the jury of a theory of joint criminal conduct. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Shari Barron, Assistant State Appellate Defender, for appellant.

Bonnie J. Campbell, Attorney General; Mark Joel Zbieroski, Assistant Attorney General; J. Patrick White, County Attorney; and Rod Reynolds, Assistant County Attorney, for appellee.

Heard by Donielson, P.J., and Schlegel and Sackett, JJ.

DONIELSON, P.J.

Scott Hamilton and Walter Dawson were accused of breaking into several cars and stealing items from the cars. The two were arrested simultaneously and were accused of participating in the crimes together.

Dawson was charged with second-degree burglary and was tried to a jury. The theories of guilt submitted to the jury included a theory of aiding and abetting and a theory of joint criminal conduct.

The jury found Dawson guilty of second-degree burglary. Dawson has appealed the resulting conviction.

Dawson contends the evidence was not sufficient to permit the submission to the jury of a theory of joint criminal conduct. He contends the evidence did not establish the elements of that theory of guilt.

Our review is on assigned error only. Iowa R. App. P. 4; State v. Irvin, 334 N.W.2d 312, 314 (Iowa App. 1983).

We find it unnecessary to address defendant's assignment of error because he does not challenge the sufficiency of the evidence to prove the elements of second-degree burglary itself, or to permit the submission of a theory of aiding and abetting. We find no prejudice to defendant in our affirming his conviction on the basis of aiding and abetting rather than joint criminal conduct. Cf. id. at 315 (where defendant was tried to the court on charge of burglary and was found guilty on theory of joint criminal conduct, supreme court affirmed conviction on

theory of aiding and abetting, finding no prejudice to defendant).

We affirm defendant's conviction for second-degree burglary.

AFFIRMED.