FILED
MAY 20 1977
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,)
Appellee,) Filed May 20, 1977
v.)
EDWARD RAYMOND LEVY,) 130
Appellant.) 59317

Appeal from Polk District Court - Wade Clarke, Judge.

Appeal from conviction of receiving and concealing stolen property in violation of section 712.1, The Code, and resulting sentence. Affirmed.

Raymond Rosenberg, of Des Moines, for appellant.

Richard C. Turner, Attorney General, Jim P. Robbins, Assistant Attorney General, and Dan Johnston, Polk County Attorney, for appellee.

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

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PER CURIAM

Defendant, Edward Raymond Levy, was charged with receiving and concealing a surveyor's transit and tripod, a surveyor's pole, and a Milwaukee grinder stolen from Moorhead Construction Company in Ankeny, Iowa. He appeals the resulting conviction and sentence of five years in the penitentiary. Defendant has assigned nine errors committed by trial court, but because of their interrelatedness, we combine some of them together.

I. Identification.

Defendant asserts trial court erred in admitting into evidence the State's three exhibits since there was not sufficient evidence to identify them as having been stolen from Moorhead. However, defendant's present assignment of error is based on grounds urged only during a motion for directed verdict rather than when the exhibits were admitted into evidence. Consequently, the assigned error is not preserved. State v. Montgomery, 243 N.W.2d 596, 597 (Iowa 1976).

Defendant, however, has preserved error whether trial court erred in overruling his motion for directed verdict for want of sufficient identification of the stolen property by Eugene Neu, superintendent of Moorhead Construction Company. Our standard of review is summarized in State v. Davis, 229 N.W.2d 249 (Iowa 1975). Mr. Neu identified the State's exhibits as belonging to Moorhead based upon a peculiar characteristic of each item. The weight of this evidence is for a jury, not an appellate court. State v. Davis, supra. Trial court did not err in overruling defendant's motion for a directed verdict on this ground.

II. Value of the stolen items.

Defendant complains that Neu was not qualified to give an opinion concerning the value of the stolen items and that trial court utilized the wrong measure to determine their value. Again

defendant's assignments of error are predicated upon both his objections at trial and his motion for directed verdict.

An examination of the record reveals defense counsel did not challenge Neu's competency to place a value on exhibits A and B at trial on the grounds now being asserted, and, consequently, error is not preserved. State v. Smith, 228 N.W.2d 111, 112 (Iowa 1975). Defense counsel did object along these grounds with reference to exhibit C, the Milwaukee grinder. However, an examination of the foundation laid as to Neu's qualifications demonstrated a sufficient basis to establish Neu had knowledge in fact of the value of Milwaukee grinders. *See* State v. Boyken, 217 N.W.2d 218, 220 (Iowa 1974).

Defendant's contention that trial court utilized an improper measure of value in that Neu was allowed to express opinions on the properties' actual value without first establishing they had no market value has a legal basis. *See* State v. Boyken, supra. However, an examination of defendant's objection with regard to Neu's opinion of the actual value of the transit and pole reveals that they were not specific enough to alert trial court to the exact complaint. *See* State v. Harmon, 238 N.W.2d 139, 143-144 (Iowa 1976); State v. Droste, 232 N.W.2d 483, 487-488 (Iowa 1975); State v. Hummel, 228 N.W.2d 77, 82 (Iowa 1975).

With regard to the Milwaukee grinder, counsel has presented us several pages of transcript containing the prosecutor's questions and the resulting barrage of objections without pointing to any particular question and answer as constituting error. The combined objections alerted trial court to everything in general and nothing in particular. We are convinced the objections did not preserve the error now being specified. *See* State v. Sheridan, 247 N.W.2d 232, 235-236 (Iowa 1976).

Defendant further contends trial court erred in overruling his motion for directed verdict since there was not competent evidence of the property's value. Neu testified the cost of replacement of the surveyor's transit was $600. Neu testified that the grinder would be worth $50-100 if it worked. Neu dubiously calculated the value of the surveyor's pole by estimating the amount of its physical damage - 50% - and subtracting that from the cost of a new pole. Although we are less than impressed with the State's evidence on value, it did have some probative value, and, therefore, trial court properly overruled defendant's motion for a directed verdict.

III. Trial court's failure to instruct on value.

Finally, defendant contends trial court erred in not sua sponte instructing the jury on the proper manner to determine value. *See* State v. Harris, 222 N.W.2d 462, 467 (Iowa 1969). Although the preferable method is for trial court to include such an instruction, the failure here was not reversible error. The State's evidence demonstrated that the value of the items was over $20. Instruction seven told the jury that they must "find the value of the K & E transit, a fiberglass surveyor's pole, a transit tripod and a Milwaukee brand grinder in their condition at the time and place they were received by the defendant" was over $20. Trial court did instruct on all necessary elements of the charge. Trial court did not err in failing to sua sponte instruct on value. Trial court's judgment and sentence hereby are affirmed.