

IN THE COURT OF APPEALS OF IOWA

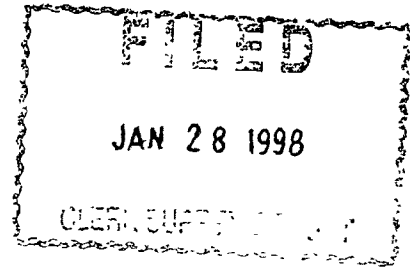
No. 7-692 / 97-308

000345

STATE OF IOWA,
Appellee,

vs.

HEATHER R. BENNETT,
Appellant.



Appeal from the Iowa District Court for Black Hawk County, Jon C. Fister,
Judge.

Defendant appeals her convictions for nine counts of first-degree robbery.

AFFIRMED.

Linda Del Gallo, State Appellate Defender, and John M. Priester and Tricia A.
Johnston, Assistant State Appellate Defenders, for appellant.

Thomas J. Miller, Attorney General, Martha E. Boesen, Assistant Attorney
General, Thomas J. Ferguson, County Attorney, and D. Raymond Walton, Assistant
County Attorney, for appellee.

Considered by Cady, C.J., and Streit and Vogel, JJ.

VOGEL, J.

This is an appeal by Heather Bennett claiming there was insufficient evidence to support her convictions for nine counts of first-degree robbery.

During the first week of October 1996, several convenience stores and businesses in Waterloo were robbed by Roger Lara. He would usually brandish a handgun before he demanded money. The robberies were widely reported.

On October 7, 1996, Heather Bennett went to a hotel room with Lara and her boyfriend, Ricky Daehler. This led police officers to connect Bennett with Lara and the robberies. The handgun and items of clothing worn during the robberies were found at Bennett's residence. Officers also found a telephone book which had the page listing convenience stores torn out. In addition, items of Lara's clothing were found in the trunk of Bennett's car. Bennett admitted she drove Lara to several businesses. Bennett saw reports these businesses had been robbed. She suspected Lara was involved in the robberies because he had a gun and some cash. She also admitted Lara sometimes got into the trunk when he returned to her car.

Bennett was charged with ten counts of robbery in the first degree, in violation of Iowa Code sections 711.1 and 711.2, under a theory she aided and abetted Lara in the robberies. A jury found her guilty of nine counts of first-degree robbery. Bennett now appeals her convictions.

Bennett contends the State produced insufficient evidence to show she aided and abetted Lara in the robberies. The State was required to show Bennett assented to or lent countenance and approval to Lara's criminal acts either by active participation in them or by some manner encouraging them prior to or at the time of their commission. *See State v. Pearson*, 547 N.W.2d 236, 240 (Iowa App. 1996). Proof of aiding and abetting may be either direct or circumstantial. *Id.*

We find substantial evidence in the record to show Bennett aided and abetted in the robberies. Several items linked to the crimes were found at her residence, including the handgun, clothing worn during the robberies, and telephone book with the listing of convenience stores torn out. Furthermore, some of Lara's clothing was found in the trunk of Bennett's car. Bennett admitted she suspected Lara had committed the robberies. The evidence supports Bennett assisted Lara in the commission of these crimes by driving him to and from the crime scenes. The jury chose to not believe Bennett's explanation of innocent conduct. A jury is not bound to believe a defendant's version of events. *State v. Neuendorf*, 509 N.W.2d 743, 747-48 (Iowa 1993).

Bennett also contends that there was insufficient evidence to find her guilty of first-degree robbery in two of the crimes because there was no evidence a dangerous weapon was used. Two of the employees who were robbed did not testify the perpetrator had a gun. One of the clerks testified the robber made motions like he had

a gun under his coat. The second clerk testified she thought the robber had a gun but she could not remember if she had seen a gun. We find this is sufficient evidence to show Lara had a weapon in his possession at the time he robbed these two businesses.

We affirm Bennett's convictions for nine counts of robbery in the first degree. Costs of this appeal are assessed to Bennett.

AFFIRMED.