

FILED

APR 20 1988

CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,

)

Plaintiff-Appellee,

)

Filed April 20, 1988

vs.

)

STEVEN EUGENE GLEASON,

)

8-69
87-359

Defendant-Appellant.

)

Appeal from the Iowa District Court for Black Hawk (No. D7X006 336),
James C. Bauch, Judge.

Defendant appeals from his conviction, following a jury trial, for the crime
of second-degree theft. **AFFIRMED.**

Charles L. Harrington, Chief Appellate Defender, and John P. Messina,
Assistant Appellate Defender, for defendant-appellant.

Thomas J. Miller, Attorney General; David L. Dorff, Assistant Attorney
General; and Scott Lemke, Assistant Black Hawk County Attorney, for plaintiff-
appellee.

Considered by Oxberger, C.J., and Donielson and Hayden, JJ.

DONIELSON, J.

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Defendant appeals from his conviction, following a jury trial, for the crime of second-degree theft. We affirm.

Police officers executing a search warrant found numerous items of stolen property at the defendant's residence. The items included a garden tractor and mower, a cement saw, a "Porta Brake," and a suitcase full of clothing.

The defendant was charged with theft in the second degree. At his jury trial one of the contested issues was whether the property had sufficient value to elevate the degree of theft to second degree. The State presented evidence that the property in question was worth over \$500 (an element of theft in the second degree), but the defendant presented evidence suggesting that the property was worth much less than the State alleged because the property was used.

The district court gave the jury the following uniform instruction on the subject of the "value of property":

The "value of property" as used in these instructions, is its highest value by any reasonable standard at the time that it is stolen. Reasonable standard includes but is not limited to market value within the community, actual value, or replacement value. (emphasis added)

The defendant unsuccessfully requested the district court to give a further instruction telling the jury that replacement value means the cost of replacement with property of similar age, condition, and make.

The jury found the defendant guilty of theft in the second degree. The defendant has appealed from the resulting conviction. The defendant once again argues the jury should have been instructed that the term "replacement value," as used in the Iowa theft statute, means the cost of replacement with property of similar age, condition, and make.

Our scope of review is for the correction of errors at law. Iowa R. App. P. 4.

Replacement value is one method by which Iowa now measures a property's value for purposes of determining degree of theft. Iowa Code § 714.3 (1985); State v. Scott, 405 N.W.2d 829, 833 (Iowa 1987). The instruction given by the district court is practically identical to Iowa Uniform Jury Instruction (Criminal) No. 1442. Terms used in instructions should be defined when they confuse the jury; when the terms have common usage and are readily understandable, they need not be defined. Henderson v. Scurr, 313 N.W.2d 522, 525 (Iowa 1981).

We do not find the district court erred in refusing defendant's proffered instruction. The term "replacement" is understandable in its present context. Even though defendant offered evidence that the stolen property's value could be less by being purchased cheaper through pawn brokers or thrift shops, the jury was required "to focus on that standard which produces the highest of several possible values." See Scott, 405 N.W.2d at 833 (quoting Iowa Code § 714.3 (1985)). Considering the evidence before it, the jury could properly find the stolen property had a value in excess of \$500.

Accordingly, we affirm the conviction.

AFFIRMED.