FILED
DEC 30 1981
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,)
Plaintiff-Appellee,)
vs.)
FLOYD VANCE CONNER,)
Defendant-Appellant.)

Filed December 30, 1981

1-358
65408

Appeal from Polk District court, Joel D. Novak, Judge.

Defendant appeals from his conviction of robbery in the first degree in violation of §§ 711.1-.2, The Code 1979. AFFIRMED.

Scott D. Rosenberg, Assistant Appellate Defender, for defendant-appellant.

Thomas J. Miller, Attorney General, and John P. Messina, Assistant Attorney General, for plaintiff-appellee.

Heard by Oxberger, C.J., and Donielson, Snell, Carter, and Johnson, JJ.

PER CURIAM

The defendant appeals from his conviction of robbery in the first degree in violation of §§ 711.1-.2, The Code 1979. We affirm.

On March 15, 1980, two persons robbed Don's Super Valu at gunpoint at approximately 3:30 a.m. Two witnesses who were outside the store during the robbery gave police officers a description of the two men and a vehicle apparently used as the getaway car. Two other witnesses also described the robbers to police.

At about 4:45 a.m. the same morning, Patrol Sergeant Mullins saw a vehicle parked in a convenience store parking lot. A man was putting gas in the car. The sergeant knew of the robbery at Don's and had received a description of the suspects, their vehicle, and the weapons used. He testified that he did not feel he had probable cause to stop the vehicle in connection with the robbery at that time but decided to follow the vehicle. He testified the car was speeding ten miles over the limit, but he did not stop it until it made an illegal right turn. He stopped the vehicle to advise the driver he had made two traffic violations. When the driver could not produce a drivers license or a vehicle registration, the sergeant took him back to his patrol car. After talking with him, the sergeant asked the passenger, the defendant, to step out of the car. A backup police car arrived, and one of the officers found in plain view a shotgun case and a handgun. The officers then got a radio verification of the descriptions of the robbery suspects and vehicle, brought the witnesses to the scene, and subsequently arrested the defendant and the driver for the robbery. The trials were consolidated, a motion to suppress was denied, and the defendants were found guilty of first-degree robbery. The defendant appeals, alleging that the stop of the vehicle was a violation of his fourth amendment rights and therefore his motion to suppress should have been granted, and that there was insufficient evidence to support the guilty verdict.

Since the defendant alleges his constitutional rights were violated, we review the evidence de novo. State v. Aschenbrenner, 289 N.W.2d 618, 619 (Iowa 1980).

The defendant argues that the traffic violations were a pretext for the stop and that Sergeant Mullins really stopped the car to check out his mere suspicions that the occupants had been the perpetrators of the robbery. Therefore, he argues, the stop was illegal and all fruits of the stop and search should be suppressed. We disagree. Sergeant Mullins testified he stopped the vehicle because the driver committed two traffic

violations. Therefore, he had a right to stop the vehicle. State v. Farrell, 242 N.W.2d 327 (Iowa 1976). The fact that the sergeant had suspicions regarding the occupant's involvement in the robbery does not mean that he had to ignore traffic violations committed in his presence. Since the stop was not illegal, the weapons found in plain view were admissible, Farrell at 330, and the witnesses' identifications at the scene were also admissible.

In determining the next allegation of error, that there was insufficient evidence to support the guilty verdict, we must view all the evidence in the light most favorable to the State. If there is substantial support for the verdict in the record, it will be upheld. State v. Robinson, 288 N.W.2d 337 (Iowa 1980). There is sufficient evidence in this case to support the verdict. Several witnesses identified the defendant as one of the perpetrators at the vehicle stop scene. One witness made an in-court identification of the defendant. The vehicle in which the defendant was riding when it was stopped was a very dirty green station wagon with brown side panels. Two of the witnesses testified that a station wagon was parked in back of the grocery store during the robbery. One witness said the station wagon was brown and that the parking lights were on, the engine was running, and the door was slightly open. A shotgun case and handgun were found in plain view in the car when it was stopped. This was sufficient evidence to convince a rational juror that the defendant was guilty beyond a reasonable doubt.

AFFIRMED.