



256

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,	)	
Appellee,	)	November 10, 1977
vs.	)	
MICHAEL DEAN CURTIS,	)	<u>324</u>
Appellant.	)	60388

Appeal from Davis District Court - Michael Enich, Judge.

Defendant appeals his conviction of malicious injury to a building in violation of § 714.1, The Code 1973, asserting that there was insufficient evidence to identify him as the perpetrator. - Affirmed.

Richard C. Turner, Attorney General of Iowa, and Edward Anstey, Appanoose County Attorney, for Appellee.

Gene W. Glenn, of Ottumwa, for Appellant.

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

PER CURIAM

The sole issue presented by this appeal is whether the State presented evidence that the defendant Michael Dean Curtis was in his former wife Helen Curtis's house at the time of the alleged malicious injury to a building. We affirm.

In reviewing an appeal of a criminal conviction alleging insufficiency of evidence the record must be examined in the light most favorable to the verdict. If there is any substantial evidence reasonably tending to support the verdict, we must affirm. *State v. Overstreet*, 243 N.W.2d 880, 884 (Iowa 1976).

Viewing the evidence in this light we find that Mr. Curtis was present at a restaurant where his former wife was also present with her male friend and Linda Hilty. Shortly after the three arrived at Mrs. Curtis's home, Mr. Curtis forcibly entered the home and damaged the property. The identification of the defendant was made by a combination of two statements both from the testimony of Linda Hilty, Mrs. Curtis's friend. First, Ms. Hilty testified Mrs. Curtis said when she answered the door, "It's Mike, call the police." Secondly, Ms. Hilty testified "... I did hear Mr. Curtis say—." Ms. Hilty said she heard Mr. Curtis's voice during the time of the fight in the bathroom between Mrs. Curtis's boyfriend and Mr. Curtis. The property was damaged at this time.

This evidence is sufficient to support the jury verdict.

Affirmed.