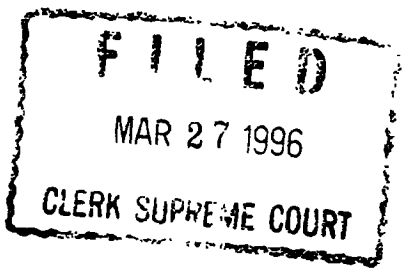
IN THE COURT OF APPEALS OF IOWA

No. 6-101 / 95-0779




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**STATE OF IOWA,**

Appellee.

**vs.**

**RODNEY HENDERSON,**

Appellant.

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Appeal from the Iowa District Court for Scott County, James E. Kelley, Judge.

Rodney Henderson appeals the judgment and sentence entered upon his conviction of going armed with intent. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Kevin Cmelik, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Roxann M. Ryan, Assistant Attorney General, and William E. Davis, County Attorney, for appellee.

Considered by Sackett, P.J., and Cady and Streit, JJ.

**STREIT, J.**

On July 14, 1994, three men were walking through Herington Park in Davenport when they heard gun shots. One of the men observed a black male shooting at the group from behind a telephone pole. He could not identify the shooter.

Officers Scott Sievert and Mark Hanssen were in their unmarked police car near Herington Park on the same evening. The officers heard the gun shots and observed a brief cloud of smoke in the location where the gun shots were fired. They saw two black males running in an alley next to the park; one of the men was wearing a white shirt and dark pants. The officers saw a white van coming out of the same alley. There were four black males inside the van. The van sped up when officers activated their car's lights. Eventually the van stopped and three males exited the van and ran. The appellant, Rodney Henderson, was apprehended. Henderson was wearing a white or light-colored top and black pants.

Arthur Chatellier was also in Herington Park on the night of the incident. He heard sirens from the police car. He traveled in the direction of the sirens and saw a van being followed by an unmarked police car. He noticed the front-seat passenger in the van hanging out the door with a gun in hand. Officer Hanssen identified Henderson as the passenger who exited from the front passenger seat of the van.

Following a jury trial, Henderson was found guilty of going armed with intent. Henderson appeals claiming the district court erred in denying his motion for judgment

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of acquittal. He argues the evidence is insufficient to establish he did any shooting or had possession of a weapon.

Our scope of review is on assigned error only. Iowa R. App. P. 4 The standard of review in challenging the sufficiency of the evidence is well established. *State v. Lampman*, 342 N.W.2d 77, 81 (Iowa App. 1982). We will uphold a verdict where there is substantial evidence in the record tending to support the charge. *State v. Aldape*, 307 N.W.2d 32, 39 (Iowa 1981). Substantial evidence means evidence which would convince a rational fact finder the defendant is guilty beyond a reasonable doubt. *State v. LeGear*, 346 N.W.2d 21, 23 (Iowa 1984); *State v. Hall*, 371 N.W.2d 187, 188 (Iowa App. 1985).

When reviewing a challenge to the sufficiency of the evidence, we view the evidence in the light most favorable to the State, including legitimate inferences and presumptions that fairly and reasonably may be deduced from the evidence in the record. *State v. Bass*, 349 N.W.2d 498, 500 (Iowa 1984); *Hall*, 371 N.W.2d at 188. Direct and circumstantial evidence are equally probative so long as the evidence raises "a fair inference of guilt and [does] more than create speculation, suspicion, or conjecture." *State v. Hamilton*, 309 N.W.2d 471, 479 (Iowa 1981). It is necessary to consider all the evidence in the record, and not just the evidence supporting the verdict, to determine whether there is substantial evidence to support the charge. *Bass*, 349 N.W.2d at 500; *Hall*, 371 N.W.2d at 188.

In order to convict Henderson of going armed with intent, the State was required to prove the defendant (1) went armed (2) with a dangerous weapon and (3) with the intent to use it against another person. *State v. Hill*, 363 N.W.2d 599, 601 (Iowa App. 1984). We determine there is sufficient evidence to support Henderson's conviction of going armed with intent. Shortly after the gun shots, police saw two men running near an alley. One man wore a white shirt and dark pants, similar to the clothing Henderson was later found wearing. Shortly after seeing the men running, a white van with four men in it came out of the alley. When police followed the van, it sped away. During the chase, a witness saw the man in the front passenger seat hanging out the door, holding a gun which was pointed at the police car. Officers later identified the front seat passenger as Henderson. From the above evidence, the jury could rationally conclude the defendant was guilty of going armed with intent. As such, we affirm Henderson's conviction.

**AFFIRMED.**