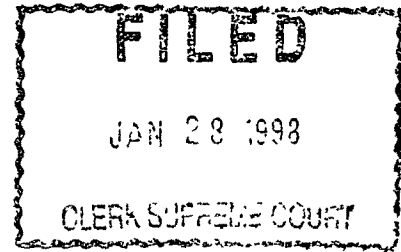


IN THE COURT OF APPEALS OF IOWA

000391

No. 7-631 / 97-0255
Filed January 28, 1998



STATE OF IOWA,
Appellee,

vs.

DELBERT ALAN HASKINS,
Appellant.

Appeal from the Iowa District Court for Polk County, Arthur E. Gamble,
Judge.

The defendant appeals from his conviction for robbery in the first degree.

AFFIRMED.

Linda Del Gallo, State Appellate Defender, and Tricia A. Johnston, Assistant
State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Robert P. Ewald, Assistant Attorney
General, John Sarcone, County Attorney, and Mike Hunter, Assistant County
Attorney, for appellee.

Considered by Streit, P.J., and Vogel and Mahan, JJ.

STREIT, P.J.

This is an appeal by a defendant from his conviction for first-degree robbery, in violation of Iowa Code sections 711.1 and 711.2 (1995). Defendant, who used a knife trying to escape, claims there was insufficient evidence of robbery. We affirm on appeal.

On April 10, 1996, Delbert Haskins went to a Hy-Vee Store in Des Moines and placed two packages of meat in his pants. Haskins was observed by employee Dan Grother. Haskins then ran through the store and out the door. Grother and another employee, Tony Fine, chased Haskins.

Grother and Fine caught up with Haskins in the parking lot of a nearby store and knocked him to the ground. Haskins' glasses were broken and he incurred a scrape on his ear. When Haskins stood up he took a swing at Fine. Grother and Fine wrestled Haskins to the ground again. Haskins then became subdued and he surrendered the meat.

Several Hy-Vee employees accompanied Haskins back into the store. The employees told Haskins he would have to come upstairs to the store offices. As the group neared the stairs, Haskins bolted and charged toward the deli area, saying something like "try following me here" or "follow me now." Haskins attempted to jump through a window, but the window did not break and he fell onto a table. He then pulled out a knife. Hy-Vee employee Brent Wiley held Haskins while other employees attempted to get Haskins to drop the knife. Eventually Haskins dropped

the knife, and he was held until a police officer arrived. Haskins told the officer he had been beaten by Hy-Vee employees.

Haskins was charged with robbery in the first degree. The State alleged Haskins assaulted Hy-Vee employees or threatened them with serious injury in order to further his escape from the scene. The jury found Haskins guilty of first-degree robbery. He now appeals.

I. Haskins claims the district court should have granted his motion for judgment of acquittal. He asserts there was insufficient evidence to support a conviction for robbery in the first degree.

When a criminal defendant challenges the sufficiency of evidence to support a conviction, we review all of the evidence in the record in a light most favorable to the State. *State v. Garr*, 461 N.W.2d 171, 173 (Iowa 1990). We must uphold the conviction if there is substantial evidence in the record to support it. *State v. Frake*, 450 N.W.2d 817, 819 (Iowa 1990). Evidence is substantial when a reasonable mind would accept it as adequate to reach a conclusion. *State v. Robinson*, 288 N.W.2d 337, 339 (Iowa 1980). A jury is not bound to believe a defendant's version of events. *State v. Neuendorf*, 509 N.W.2d 743, 747-748 (Iowa 1993).

Haskins contends the incident in the deli area was separate from the theft of the meat. He states after he was captured in the parking lot he withdrew from physical contact. He testified one of the Hy-Vee employees threatened him as they came near

the stairs. He claims he ran into the deli area and pulled the knife in self-defense because he believed he was going to be beaten by the employees.

We determine there was sufficient evidence to support the jury's conclusion Haskins was not acting in self-defense. At trial, Haskins admitted he should not have pulled out the knife. Haskins started the incident in the deli area by running away, attempting to break through a window, and drawing a knife. The jury could have reasonably found Haskins was not in imminent danger at the time he broke away from the Hy-Vee employees.

Haskins also contends the theft and attempted escape were completed when he was captured in the parking lot. He asserts he did not run into the deli area in a second attempt to escape, but he merely wanted to avoid being beaten.

Under section 711.1, a theft becomes robbery when the defendant commits an assault to assist or further the defendant's escape from the scene of the theft. *State v. Terry*, 544 N.W.2d 449, 452 (Iowa 1996). Whether an assault assisted the defendant's escape or occurred after the escape was complete is a question of fact for the jury. *State v. Jordan*, 409 N.W.2d 184, 185 (Iowa 1987). We find there was sufficient evidence in the present case for the jury to find the assault in the deli area was intended to assist Haskins in escaping.

II. Haskins claims the district court abused its discretion in excluding certain evidence. Haskins sought to introduce evidence that the employees violated Hy-Vee policy by chasing him outside the store. He also sought to introduce

evidence the store had changed its policy regarding where it would detain shoplifters. He believes this evidence was relevant to show the employees acted more as vigilantes than store employees.

A trial court is vested with discretion in questions concerning the admissibility of evidence. *State v. Hubka*, 480 N.W.2d 867, 868 (Iowa 1992). It is immaterial whether the employees may have violated a company policy by pursuing Haskins because the violation does not have anything to do with whether Haskins committed an assault which assisted in his escape. *See Terry*, 544 N.W.2d at 453. We find no abuse of discretion in the district court's decision to exclude this evidence.

We find no abuse of discretion in the court's decision to exclude evidence the store had changed its policy regarding where to detain shoplifters until police officers arrived. The fact the policy was changed does not show Haskins was improperly detained.

We affirm defendant's conviction for first-degree robbery. Costs of this appeal are assessed to defendant.

AFFIRMED.