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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

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STATE OF IOWA,	)	
Plaintiff-Appellee,	)	Filed March 9, 1988
vs.	)	
LAURA BROOKS,	)	7-610 87-697
Defendant-Appellant.	)	

Appeal from the Iowa District Court for Woodbury County (No. 42279), Richard J. Vipond, Judge.

Defendant appeals her conviction of child stealing in violation of Iowa Code section 710.5. **AFFIRMED.**

Charles L. Harrington, Appellate Defender, and Linda Del Gallo, Assistant Appellate Defender, for defendant.

Thomas J. Miller, Attorney General; Bruce Kempkes, Assistant Attorney general; and R. Allen Corzine, Assistant County Attorney, for plaintiff-appellee.

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

DONIELSON, J.

Defendant appeals from her conviction for child stealing in violation of Iowa Code section 710.5 (1985), contending that there was insufficient evidence to establish that she committed the crime of child stealing and that her post-arrest confession should be suppressed since it was obtained after she had invoked her right to counsel. We affirm.

In August 1986, Grant Wiese advertised a used car for sale. Richard and Laura Brooks responded to the ad on August 28. Laura approached Wiese concerning a trade of their riding lawn mower for the car. Wiese agreed to look at the Brooks' lawn mower. On August 30, Richard and Laura Brooks returned to the Wiese residence. Laura asked Wiese if she could hold his infant son. Wiese agreed. Later, Laura asked Wiese if she could show her husband the baby. Before Wiese responded, Laura began walking down the driveway with the baby to the car where her husband was sitting. Wiese then followed her as Laura's pace seemed to quicken. Then Richard yelled from the car, "Hurry up—he's right behind you." Wiese then caught up and retrieved his child. Laura and Richard then asked Wiese if they could have his son. Wiese refused and, several days later, reported this incident to the police.

Defendant waived a jury trial. The district court found defendant guilty of the crime of child stealing in violation of Iowa Code section 710.5 and sentenced her to serve a term of imprisonment not to exceed ten years. Defendant appeals.

Our scope of review is for the correction of errors at law. Iowa R. App. P. 4. Findings of fact are binding on us if supported by substantial evidence. Iowa R. App. P. 14(f)(1).

I. Defendant contends the district court erred in refusing to suppress defendant's post-arrest confession because it was obtained after she had invoked her right to consult counsel.

After defendant's arrest, interrogation of the defendant by the police commenced at 11:41 a.m., September 4, 1986. A "Warning Statement to a Person in Custody" setting forth the Miranda rights and an attached waiver was signed by defendant and dated September 4, 1986, with the time noted at 11:41 a.m. The record reveals that defendant requested to speak to an attorney, specifically, Mr. Forker, Richard Brooks' attorney. The police contacted Mr. Forker and he declined representation of defendant. Defendant was notified of this situation and asked if she desired another attorney. She stated she did not and proceeded with the interrogation. During the interview, defendant stated she intended to steal the Wiese baby.

We agree with the district court that defendant voluntarily, knowingly, and intelligently waived her right to counsel in writing and that later on during the course of the interrogation, after being informed Mr. Forker would not represent her, she again knowingly waived her rights and proceeded to voluntarily proceed with the interview. We find the district court did not err in refusing to suppress defendant's post-arrest confession.

II. Defendant contends that there was insufficient evidence to convict her of child stealing. Defendant argues that the State failed to prove she fraudulently took the child with the intent to detain him from his parents.

To convict the defendant, the State must present sufficient evidence so that a rational trier of fact can find, beyond a reasonable doubt, that the defendant committed each and every element of the offense. Jackson v. Virginia, 443 U.S. 307, 316, 99 S. Ct. 2781, 2787, 61 L. Ed. 2d 560, 571 (1979). In applying that standard, this court considers the evidence in the light most favorable

to the State, but it considers all the evidence presented at trial, not just the evidence which supports the verdict. State v. Robinson, 288 N.W.2d 337, 340 (Iowa 1980). The evidence presented "must raise a fair inference of guilt and do more than create speculation, suspicion, or conjecture." State v. Hamilton, 309 N.W.2d 471, 479 (Iowa 1981).

Defendant contends that the statements made when she held the baby and began walking to her car can logically be construed in an innocent fashion and only create speculation concerning the intent of the Brookses. She argues her admissions to the police should be discounted given her emotional state during the interview and her below-average intellect.

We reject defendant's arguments. Defendant's actions with the child, along with the contemporaneous statements made, create more than a suspicion concerning defendant's intent. In addition, we have the defendant's confession which we find to have been voluntarily, intelligently, and knowingly made. We find the trial court did not err in overruling defendant's motion for judgment of acquittal.

We affirm the conviction.

AFFIRMED.