FILED
DEC 30 1981
CLERK SUPREME COURT



IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA, )
Plaintiff-Appellee, )
vs. ) Filed December 30, 1981
JERRY YAROLEM, JR., ) 1-395 / 65573
Defendant-Appellant. )

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Appeal from Jackson District Court, Lowell D. Phelps, Judge.

Defendant appeals from his conviction for theft in the fourth degree in violation of sections 714.1(4) and 714.2(4), The Code 1981, asserting the evidence was insufficient to establish the value of the stolen goods exceeded fifty dollars and claiming the testimony of an alleged accomplice should have been corroborated. AFFIRMED.

James J. Machowski of Goodenow, Wright & Machowski, Maquoketa, for defendant-appellant.

Thomas J. Miller, Attorney General, and Richard L. Cleland, Assistant Attorney General, for plaintiff-appellee.

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

**PER CURIAM**

Defendant appeals from his conviction for theft in the fourth degree in violation of sections 714.1(4) and 714.2(4), The Code 1981, asserting the evidence was insufficient to establish the value of the stolen goods exceeded fifty dollars and claiming the testimony of an alleged accomplice should have been corroborated. We affirm defendant's conviction.

Defendant, Jerry Yarolem, Jr., was charged by trial information with theft in the third degree in violation of sections 714.1(4), .2(3), The Code 1981, accusing defendant of exercising control over stolen property having reasonable cause to believe the property was stolen. The case was tried to the court and defendant was adjudged guilty of theft in the fourth degree.

The relevant facts are as follows. Defendant and his brother offered to sell some tools to Bruce Tracy. After discussing the price, Tracy wrote a check to defendant for $45 as consideration for all of the tools. Defendant then delivered the tools to Tracy.

Our review is on errors assigned. Iowa R. App. P. 4.

Defendant initially contends there was insufficient evidence to conclude the value of the tools sold to Tracy exceeded fifty dollars, which is required to prove theft in the fourth degree. § 714.2(4), The Code 1981. We see no merit in defendant's contention. The record is full of testimony from which the trial court could conclude, beyond any reasonable doubt, the value of the stolen property exceeded fifty dollars. See State v. Robinson, 288 N.W.2d 337, 338, 340 (Iowa 1980). The record contains testimony of three witnesses regarding the value of the tools sold by defendant. Each witness testified the value of the tools exceeded fifty dollars. Section 714.5, The Code 1981, defines value as the property's "normal market or exchange value within the community. . . ." We are of the opinion the trial court did not abuse its discretion in admitting testimony regarding the replacement value of the stolen tools. See State v. Savage, 288 N.W.2d 502, 504 (Iowa 1980); State v. Boyken, 217 N.W.2d, 218, 220 (Iowa 1974); State v. Long, 256 Iowa 1304, 1310, 130 N.W.2d 663, 665-66 (Iowa 1964). We note, in deciding whether there was sufficient evidence to support a conviction, we view the evidence in the record in a light most favorable to the State. State v. Robinson, 288 N.W.2d at 338. The opinion evidence of the three witnesses constituted sufficient evidence to substantiate the trial court's finding the property sold by defendant had a value in excess of fifty dollars.

Defendant also contends the trial court committed error in considering testimony of Bruce Tracy. Defendant's theory is Tracy was an accomplice, whose testimony, in order to sustain a conviction, must be corroborated by other evidence linking the defendant to the commission of the crime. See State v. Harrington, 284 N.W.2d 244, 248 (Iowa 1979). The trial court held Tracy was not an accomplice as he could not be charged with the specific offense for which defendant was on trial. See State v. Jennings, 195 N.W.2d 351, 356 (Iowa 1972). While Tracy might have been charged with theft, in the nature of exercising control over property reasonably thought to have been stolen, see section 714.1(4), The Code 1981, his control over the property is separate and distinct from defendant's control over the property. The record is clear the defendant's control over the stolen tools was prior to and continued up to, Tracy's control over the tools. See State v. Houston, 211 N.W.2d 598, 600-01 (Iowa 1973). In State v. Jennings, 195 N.W.2d 351, 356-57 (Iowa 1972), the court defined an accomplice as one "who willfully unites in, or is in some way concerned in the commission of a crime." We do not believe Tracy could be charged with, or convicted of, the control of stolen property attributable to defendant. Tracy's culpability would be attributed solely to his own action of receiving stolen property. Consequently, there was no unity between Tracy's acts and the defendant's acts. Thus, Tracy was not an accomplice whose testimony must have been corroborated. We are of the opinion the trial court correctly ruled on this issue. Defendant's conviction is affirmed.

AFFIRMED.