FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,
Plaintiff-Appellee,
vs.
NYLEETA ELAINE HUFFAKER,
Defendant-Appellant.

Filed May 30, 1980

0-131
63984

Appeal from Black Hawk District Court - Roger F. Peterson, Judge.

Defendant appeals conviction for arson in the first degree, a violation of section 712.2, The Code 1979, contending trial court erroneously admitted into evidence certain testimony and opinions by State's expert witness. AFFIRMED.

Alfredo G. Parrish and Linda Del Gallo of Parrish & Del Gallo, Des Moines, for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa, and John P. Messina, Assistant Attorney General, for plaintiff-appellee.

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

Defendant, Nyleeta Elaine Huffaker, appeals conviction for arson in the first degree, a violation of section 712.2, The Code 1979. On appeal, she contends trial court erroneously admitted into evidence certain opinion testimony by State's expert witness. We affirm the trial court.

Our review is limited to correction of errors at law. Iowa R. App. P. 4.

I.

On February 27, 1979, defendant was charged by information with first degree arson in connection with a fire on January 12, 1979, in her cell at the Black Hawk County Jail. After trial, a jury returned a verdict of guilty as charged. The trial court sentenced defendant to imprisonment for a period not to exceed twenty-five years.

During trial, the State called Carl Svenson, a state fire marshall, to testify as an expert witness. Prior to trial, Svenson had examined remnants of a blanket and newspapers gathered after the fire from defendant's cell and which had been admitted into evidence. State asked Svenson whether in his opinion the burned blanket or the newspapers were on top of the other in defendant's cell at the time of the fire. Defendant objected on the grounds proper foundation had not been laid for such testimony, it invaded the province of the jury, and was prejudicial, irrelevant, immaterial, and of no probative value. Trial court overruled the objection and allowed defendant to have a standing objection to the entire line of questioning. Svenson testified that in his opinion the newspapers were stacked with the blanket covering them. He also gave his opinion as to how long it would take these materials to ignite if a lighted cigarette was held to or placed on them.

II.

Defendant asserts the trial court erred in admitting this testimony into evidence. Although State challenges the sufficiency of defendant's objection to Svenson's testimony, we find the objection read as a whole was minimally sufficient to alert the trial court to any possible error and gave it an opportunity to remedy the defect. State v. Clay, 213 N.W.2d 473, 476-77 (Iowa 1977). On the merits of defendant's claim, we hold the trial court did not err in admitting the opinion testimony into evidence.

Opinion testimony is admissible if it will aid the jury in the discharge of its duties and is based on some special training or knowledge. State v. Burrell, 255 N.W.2d 665, 673 (Iowa 1977), quoted in State v. Gartin, 271 N.W.2d 902, 912 (Iowa 1978); State v. Peterson, 219 N.W.2d 665, 673 (Iowa 1974). The determination whether a witness has sufficient personal experience to render an opinion is within the discretion of the trial court. Gartin, 271 N.W.2d at 912; Burrell, 255 N.W.2d at 123; State v. Walker, 236 N.W.2d 292, 296 (Iowa 1976). Generally, a trial court does not abuse its discretion in admitting opinion testimony if the witness is qualified to advance an opinion in the area in question and there is sufficient factual evidence for the opinion. State v. Galloway, 275 N.W.2d 736, 742 (Iowa 1979) (Reynoldson, C.J., specially concurring); State v. Paulsen, 265 N.W.2d 581, 589 (Iowa 1978).

Our review of the record indicates Svenson was qualified by his training and experience to render an opinion on the issues put to him by the State. A factual basis for Svenson's opinion also existed since he examined the remnants of the blanket and newspaper prior to his testimony. Svenson's testimony was material and relevant as it concerned the positioning of a blanket and newspaper in defendant's cell and their respective combustion times when exposed to a lighted cigarette. The State was offering other evidence to show by circumstantial evidence the defendant was a smoker, had access to matches and cigarettes, was permitted to smoke in her cell, and was alone when the fire started.

This opinion testimony would aid the jury in deciding whether it was more likely than not that defendant started the fire. The time element was relevant to defendant's presence in her cell at the time the fire was started. From positioning of the newspapers and blanket, the jury could infer defendant's specific intent to commit this crime. Svenson's testimony was also sufficiently removed from the general familiarity of the jurors to be of some help to their deliberations. See Galloway, 275 N.W.2d at 741-42 (Reynoldson, C.J., specially concurring); State v. Hines, 223 N.W.2d 190, 192-93 (Iowa 1974). See also Grismore v. Consolidated Products Co., 232 Iowa 328, 342, 5 N.W.2d 646, 654 (1942). We hold the trial court did not abuse its discretion in admitting into evidence Svenson's testimony.

Trial court is affirmed.

AFFIRMED.