IN THE COURT OF APPEALS OF IOWA

FILED
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CLERK SUPREME COURT

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STATE OF IOWA,)
Plaintiff-Appellee,)
vs.)
SIDNEY NEWTON GROSVENOR,) 8-604 / 87-1700
Defendant-Appellant.)

Appeal from the Iowa District Court for Woodbury County (No. 42550CR), Dewie J. Gaul, Judge.

Defendant-appellant appeals his conviction of second-degree theft and third-degree criminal mischief. **AFFIRMED.**

William L. Wegman, State Public Defender, and Raymond E. Rogers, Assistant Public Defender, for defendant-appellant.

Thomas J. Miller, Attorney General; Mark Joel Zbieroski, Assistant Attorney General; and Michael Hobart, Woodbury County Attorney, for plaintiff-appellee.

Considered by Schlegel, P.J., and Sackett and Habhab, JJ.

HABHAB, J. 437

Defendant-appellant Sidney Newton Grosvenor appeals his conviction of second-degree theft and third-degree criminal mischief.

He challenges the sufficiency of the evidence to support the convictions. Our standard of review is well settled. The verdicts will be upheld where there is substantial evidence to support the charge. State v. LeGear, 346 N.W.2d 21, 23 (Iowa 1984). Substantial evidence means such evidence as could convince a rational trier of fact the defendant is guilty of the crime charged beyond a reasonable doubt. Id. The evidence is viewed in the light most favorable to the State, including legitimate inferences and presumptions which may fairly and reasonably be deduced from the record. State v. Bass, 349 N.W.2d 498, 500 (Iowa 1984). We consider all the evidence at trial, not just the evidence that supports the verdict. State v. Robinson, 288 N.W.2d 337, 340 (Iowa 1980).

Having applied the above principles to the present case, we find there is substantial evidence to support defendant's convictions for theft and criminal mischief. The evidence, when viewed in the light most favorable to the State, would allow a jury to conclude that on June 26, 1987, defendant and two other men attempted to steal a boat motor. Two witnesses testified they saw three men trying to steal the motor off the boat. Although it was at night

and no positive identification of defendant could be made, defendant was later discovered asleep in the car that a witness had described to the police as being at the scene. Defendant admitted he knew of the plan to steal the motor and rode with the other two men to the scene. He contended he left right away because he thought the plan was crazy. An identification card belonging to the defendant was found in the area where the men were seen with the motor. The men dropped the motor and fled when the police arrived.

One of defendant's companions was caught and testified defendant did accompany him to the scene. He and the defendant made slips of the tongue while testifying which indicate it was the defendant who drove to the scene of the crime. Juries are often called upon to reconcile conflicting evidence and judge the credibility of witnesses. State v. Aldape, 307 N.W.2d 32, 41 (Iowa 1981). The jury did so in this case and apparently found defendant's version of events less credible than the evidence indicating he participated in the crime.

Defendant was tried on the theory that he had aided and abetted in the crime. We find the record contains substantial evidence from which the jury could reasonably conclude defendant assented to or lent countenance and approval to the criminal act either by active participation in it prior to or at the time of its commission. See State v. Phams, 342 N.W.2d 792, 796 (Iowa 1983).

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