

IN THE COURT OF APPEALS OF IOWA

000407

No. 7-222 / 96-0876

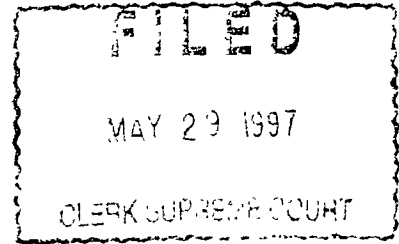
STATE OF IOWA,

Appellee,

vs.

ROBERT EARL CARTER,

Appellant.



Appeal from the Iowa District Court for Woodbury County, Phillip S. Dandos,
Judge.

Defendant appeals from the judgment and sentences entered upon his
convictions for first-degree robbery and first-degree burglary. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Kevin Cmelik, Assistant State
Appellate Defender, and Robert Earl Carter, Anamosa, pro se, for appellant.

Thomas J. Miller, Attorney General, Karen Doland, Assistant Attorney
General, Thomas S. Mullin, County Attorney, and Mark A. Campbell, Assistant
County Attorney, for appellee.

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

HUITINK, P. J.

This is an appeal by a defendant challenging his convictions for robbery in the first degree, in violation of Iowa Code sections 711.1 and 711.2, and burglary in the first degree, in violation of sections 713.1 and 713.3. We affirm.

The record indicates that on November 5, 1995, someone broke into Esther Mullinnex's home in Sioux City. Mullinnex was threatened and injured by this intruder. One of her rings was stolen. On November 6, 1995, Robert Carter pawned the ring at The Pawn Shop in Sioux City. Carter claimed he purchased the ring at a bar. Officer Michael Lefler of the Sioux City Police Department testified he asked Carter, "Are these burglaries going to stop?" and Carter responded, "They have already stopped, haven't they?"

After a bench trial, Carter was convicted of burglary in the first degree, robbery in the first degree, theft in the fourth degree, interference with official acts, assault on a police officer, and burglary in the third degree. Carter only appeals his convictions for first-degree burglary and first-degree robbery.

Carter contends his convictions for first-degree burglary and first-degree robbery lack sufficient evidentiary support. He argues the fact he pawned Mullinnex's ring is insufficient to prove his identification as the person who assaulted Mullinnex and stole her ring. He disputes the inculpatory characterization of his statement to Officer Lefler.

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).

We find substantial evidence in the record supporting Carter's conviction. He had Mullinnex's ring in his possession thirty hours after the burglary. A permissible inference of burglary arises from possession of recently stolen property when surrounding circumstances are considered. *State v. Hall*, 371 N.W.2d 187, 189 (Iowa App. 1985). Carter lived in the area where several burglaries occurred. He made a statement to police officers which may be fairly considered as inculpatory.

Carter has raised several additional issues in his pro se supplemental brief. Carter argues: (1) he should not have been charged with robbery and burglary for the same crime; (2) the court should not have permitted officers to testify to what they thought Carter meant by his statements; (3) the court should have granted his motion for directed verdict; (4) he was improperly cross-examined by the prosecutor; and (5) the court should not have admitted State's Exhibit 1, a picture of a knife found in Mullinnex's bedroom, into evidence. We hold that these issues were not preserved

for our review because they were not raised in the district court. *State v. Holderness*, 301 N.W.2d 733, 738 (Iowa 1981).

Carter also argues Exhibit 3, a picture of Mullinnex's injuries, should not have been admitted. At trial, he objected to the exhibit on the ground it exceeded the scope of the minutes of testimony. The court noted the minutes showed Mullinnex had been assaulted. Defendant also objected to the admission of Exhibit 7, a videotape of his interrogation, on relevancy grounds. The court viewed only that portion of the tape dealing with these offenses. The court stated it would disregard any mention of other crimes. We find no abuse of discretion in the admission of this evidence.

We affirm Carter's convictions for burglary in the first degree and robbery in the first degree. Costs of this appeal are assessed to Carter.

AFFIRMED.