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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 9-596 / 89-243

STATE OF IOWA,

Plaintiff-Appellee,

vs.

RICKIE LYNN STANTON,

Defendant-Appellant.

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Appeal from the Iowa District Court for Ringgold County, Richard D. Morr, Judge.

Defendant appeals a judgment finding him guilty of theft in the first degree. **AFFIRMED.**

Robert A. Rolfe of Phipps & Rolfe, Lamoni, for appellant.

Thomas J. Miller, Attorney General, Amy M. Anderson, Assistant Attorney General, Arlan F. Hughes, Ringgold County Attorney, for appellee.

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

SACKETT, J.

The primary issue in this appeal, following conviction of first-degree theft, is whether there was sufficient evidence to corroborate the testimony of an accomplice. We find there was. We affirm the conviction.

Defendant was charged after Larry Hansen, in the early morning hours of July 7, 1988, was stopped while driving a tractor alleged to have been stolen from one Faubion. Hansen was arrested and subsequently gave a statement identifying defendant as his accomplice. Hansen testified at defendant's trial. On appeal the defendant claims that (1) the trial information and minutes of testimony did not adequately detail the evidence corroborating Hansen's testimony, and (2) there was insufficient evidence to corroborate Hansen's testimony at trial.

I.

Defendant moved to dismiss the information, alleging the only evidence in the minutes of testimony that implicated him came from his accomplice, and the accomplice's testimony was not corroborated. A motion on this ground is merely a challenge to the sufficiency of the evidence. See State v. Graham, 291 N.W.2d 345, 350 (Iowa 1980); State v. Boucher, 237 Iowa 772, 774, 23 N.W.2d 851, 852 (1946). Grounds for dismissal of an information are set forth under Iowa R. Crim. P. 5(4). Defendant's motion was not a ground for challenge under that rule. Graham,

291 N.W.2d at 350. We affirm the trial court on this issue.

II.

Defendant next contends the trial court erred in overruling his motion for directed verdict based on an alleged insufficiency of evidence to corroborate the testimony of defendant's accomplice, Larry Hansen. In reviewing this motion we view the evidence in a light most favorable to the State. All legitimate inferences that may fairly and reasonably be deduced therefrom will be accepted. We consider all the evidence. State v. Schrier, 300 N.W.2d 305, 306 (Iowa 1981).

Under Iowa law, "[a] conviction cannot be had upon the testimony of an accomplice . . . unless corroborated by other evidence which shall tend to connect the defendant with the commission of the offense . . . ." Iowa R. Crim. P. 20(3). The corroboration requirement "serves a two-fold purpose: it tends to connect the accused with the crime charged, and it serves as a counterweight against the dubious credibility of an accomplice, whose motivation to testify is suspect because the person would have a natural self interest in focusing the blame on the defendants." State v. Berney, 378 N.W.2d 915, 918 (Iowa 1985); State v. Ware, 338 N.W.2d 707, 710 (Iowa 1983).

Corroboration need not be strong. State v. Doss, 355 N.W.2d 874, 879 (Iowa 1984). It need not confirm every

material fact testified to by an accomplice nor every element of the crime. Id. Any corroborative evidence tending to connect the defendant to the commission of the crime is sufficient as supporting the credibility of the accomplice. Id. The only requirement of corroborative evidence is that it tends to connect the accused with the commission of the crime and supports the credibility of the accomplice. Berney, 378 N.W.2d at 918.

Hansen testified he and the defendant planned to steal a tractor from the Faubion residence. Before they stole the tractor, they went to Faubion's residence to look at the shed where the tractor was stored. They traveled in defendant's truck. Hansen testified before the theft he and defendant went to Hansen's parent's house for dinner on July 6. Hansen then heard the defendant call a man named "Mike" around 9:30 p.m., and asked him if he would be interested in buying a tractor of "questionable origin." Then Hansen and defendant went to "Bonnie's home"; Hansen sat outside of Bonnie's house most of the time they were there. According to Hansen, they were there until approximately 1:00 a.m.

Hansen and defendant then went in the defendant's truck to Hansen's parent's house at approximately 2:00 a.m. Hansen went into the house and asked his brother, John Hansen, if he would drive a tractor. John Hansen refused to drive the tractor. Hansen said they then drove to the

Faubion residence and parked the truck. They walked to the shed and the defendant opened the large double doors of the shed. Hansen drove the tractor out. Hansen testified he was to take the tractor to King City where either the defendant would have "Mike" there to buy the tractor or more fuel to drive the tractor to another destination. Hansen was stopped by law enforcement officials on his way to King City. Dean Gard, a farm machinery dealer, testified he was approached by the defendant on July 6, and defendant asked him if he knew where he might go with a tractor of undetermined origin. Larry Hansen's mother testified Hansen and the defendant were at her house on July 6, 1988, for supper and left at approximately 9:30 in the defendant's truck. Bonnie Jasper testified the defendant and Hansen came to her house after midnight on July 7, 1988. Jasper testified Hansen went outside and the defendant stayed in the house with her. She further testified the defendant and Hansen left her house in the defendant's truck between 2:00 and 3:00 in the morning.

John Hansen, Larry Hansen's brother, testified he saw the defendant and Larry Hansen when the two men came to his parent's house for dinner. John stated they drove the defendant's truck. John said he was familiar with the defendant's pickup truck and noted the sound of a vehicle could be determined by the exhaust. John said he was awakened by Larry Hansen on July 7 at 2:30 a.m. and Larry

Hansen asked him if he would drive a tractor. John then heard Larry leave and heard a vehicle start up and leave and said it had the same sound he heard earlier from defendant's pickup.

Michael Nelson, a farm machinery dealer in Lathrop, Missouri, testified he received a late-night telephone call from defendant during which defendant indicated he had a tractor he wanted to sell. Mary Stanton, defendant's mother, testified defendant made two phone calls on July 6 to Lathrop, Missouri. Lori Hawk testified she saw a truck like defendant's truck on the same road as Faubion's residence earlier in the day on which she heard about the tractor theft. Bonnie Steinman testified she heard part of a conversation between Hansen and the defendant about a tractor and heard the name "Faubion."

We find sufficient corroborative evidence. See State v. Hollins, 397 N.W.2d 701, 704 (Iowa 1986); State v. Willman, 244 N.W.2d 314, 315 (Iowa 1976). We affirm.

AFFIRMED.