FILED
JAN 2 5 1990
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 9-579 / 88-1547

STATE OF IOWA,

Appellee.

vs.

LARRY BARTON,

Appellant,

313

Appeal from the Iowa District Court for Taylor County, George W. Bergeson, Judge.

Larry Barton appeals from his conviction for the crime of attempted murder. **AFFIRMED.**

Raymond E. Rogers, State Appellate Defender, and Shari Barron, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Julie A. Halligan, Assistant Attorney General, and Ronald Bonnett, Taylor County Attorney, for appellee.

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

OXBERGER, C.J.

Larry Barton (Barton) appeals his conviction following a jury trial for the crime of attempted murder in violation of Iowa Code section 707.11 (1987). He challenges the sufficiency of the evidence to establish that he reasonably expected his actions to cause the victim's death. We affirm.

When reviewing a challenge to the sufficiency of evidence, we view the evidence in the light most favorable to the State, including legitimate inferences and presumptions which may fairly and reasonably be deduced from the evidence in the record. State v. Wheeler, 403 N.W.2d 58, 60 (Iowa App. 1987). Direct and circumstantial evidence are equally probative so long as the evidence raises "a fair inference of guilt and [does] more than create speculation, suspicion, or conjecture." Id. (quoting State v. Hamilton, 309 N.W.2d 471, 479 (Iowa 1981)). It is necessary to consider all the evidence in the record and not just the evidence supporting the verdict to determine whether there is substantial evidence to support the charge. Wheeler, 403 N.W.2d at 60. Substantial evidence means evidence which would convince a rational fact finder that the defendant is guilty beyond a reasonable doubt. Id.

Barton contends the evidence is insufficient to prove he was guilty beyond a reasonable doubt. He asserts the State failed to prove beyond a reasonable doubt that he

reasonably expected his actions would cause death to Robert Conley (Conley). Our review of the record leads to the conclusion that there is substantial evidence in the record to support these elements.

The record shows that Barton and Conley had an argument at work on April 1, 1988. Apparently, Barton blamed Conley for the problems he was having in his relationship with his girlfriend, Tracy Berry. Conley testified that during this argument "[Barton] told me that I better do something to get him and his girlfriend back together or I'd have to get a gun and he said that I didn't know how crazy he really was."

Additionally, Lester Duncan testified that Barton told him that he wanted an apology from Conley and "that if he did not receive the apology that he was going to thump on him" to settle the score. Tracy Berry also testified that Barton told her that he was going to get Conley.

On the evening of April 2, 1988, after finishing work, Conley went to use the restroom. While he was standing at the urinal, he heard someone enter the restroom. As Conley turned to look, Barton punched him in the head. He then hit Conley in the face two more times. Conley put his hands over his face and leaned over. Barton then hit Conley in the face with his knees two times. Conley fell to the floor. Barton then pinned Conley to the floor and poured acid on the right side of Conley's face, neck, chest, and his clothes. Conley testified that as he tried

to run out of the restroom Barton jumped in front of him and "kind of pushed me back a couple times, and then I couldn't stand the pain no longer. So I just kind of threw him aside up against the wall, and about that time he grabbed his eyes and started rubbing them. And that's when I got to the door I got out the door, and he was right behind me. I could feel him grabbing at my jacket --[trying to get a hold of me]."

Emergency medical technician John Stutzman testified that Conley told him that Barton tried to pour acid on his face but only got the right side of his face. Fredrick Solt testified that prior to the fight he saw Barton take the bottle of S-T drain cleaner and walk toward the lounge area. He further testified that after the fight, Barton told him that he had the "jug of acid and he was going to get Conley."

Pat Lanteri, a pharmacist and volunteer for the local ambulance service, testified that the jug contained concentrated sulfuric acid. Victor Murillo, a criminalist for the Iowa Division of Criminal Investigation, testified that the acid was very corrosive and could be life-threatening if taken internally as it would cause severe damage to the internal organs. Geraldine M. Henderson, a registered nurse, also testified that the inhalation of acid is life-threatening.

We believe the evidence illustrating the manner in which the assault took place provides circumstantial evidence in support of the jury's determination on the issue of intent. We conclude this evidence is sufficient to support the inference that Barton intended to kill Conley, and that he expected his actions to result in the death of Conley. See State v. Ochoa, 244 N.W.2d 773, 777 (Iowa 1976) (person intends the natural consequences of his acts). The jury heard all the evidence, and based on this record, we conclude the jury's verdict is supported by substantial evidence.

Barton's conviction is affirmed.

AFFIRMED.