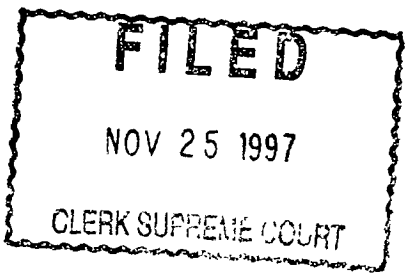
IN THE COURT OF APPEALS OF IOWA

000391

No. 7-610 / 96-2260



STATE OF IOWA,
Appellee,

vs.

GWEN LEE KEOUGH,
Appellant.

Appeal from the Iowa District Court for Worth County, Jon Stuart Scoles, Judge.

Defendant appeals the judgment and sentence entered upon her conviction of fourth-degree theft in violation of Iowa Code sections 714.1(4) and 714.1(2) (1995).

AFFIRMED.

Linda Del Gallo, State Appellate Defender, and Kevin Cmelik, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Thomas S. Tauber, Assistant Attorney General, and Douglas A. Krull, County Attorney, for appellee.

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

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STREIT, J.

Defendant appeals the judgment and sentence entered upon her conviction of fourth-degree theft in violation of Iowa Code sections 714.1(4) and 714.1(2) (1995). She argues the district court erred in finding there was sufficient evidence upon which a jury could find she exercised control over stolen property. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court rule 9.

On April 1, 1995, Worth County Sheriff Charles Stoffregen executed a search warrant on a rural residence in Fertile Township. As a result of the search, the State charged defendant Gwen Keough with second-degree theft.

At Keough's trial, Stoffregen testified it was common knowledge Gwen and David Keough lived at the rural residence; however, Gwen was not present when the search warrant was executed. Women's clothing and personal items were found throughout the bedroom, kitchen, and living room. Mail addressed to Gwen was found in the house and a sales tax receipt made out to Gwen was found in a quonset building near the house.

Several witnesses testified certain items of property found at the Keough residence belonged to them, such as a combination TV/VCR and a horse statue. Gwen's relatives testified much of the property belonged to the family or to Gwen and David.

Several of Gwen's witnesses testified Gwen moved out of the residence she shared with David in December 1994 and lived with her grandmother or brother.

Gwen testified she separated from David in December 1994 and had not lived at the rural residence for six months at the time the warrant was executed. She testified she had removed all her possessions, but admitted the TV/VCR and horse statue belonged to her. She speculated the women's clothes and personal property belonged to a woman who was living on the property with her husband.

The district court denied Gwen's motions for judgment of acquittal and for a directed verdict. The jury found her guilty of fourth-degree theft.

Gwen appeals. She argues the evidence was insufficient to show she was living at the rural residence and, therefore, exercised control over stolen property.

A jury's guilty verdict is binding upon us unless we conclude the record lacks substantial evidence to support such a finding. *State v. Bush*, 518 N.W.2d 778, 779 (Iowa 1994). 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. *State v. Taft*, 506 N.W.2d 757, 762 (Iowa 1993). Substantial evidence does not, however, denote some elevated quantity of proof. *State v. Anderson*, 517 N.W.2d 208, 211 (Iowa 1994). Rather, the relevant question in our review of the case "is whether, after viewing all the evidence in the light most favorable to the prosecution, any rational trier of facts could have found the essential elements of the crime beyond a reasonable doubt." *Id.* A jury is free to accept the evidence it finds most credible, and is not required to accept the defendant's version of the facts. *State v. Pletka*, 310 N.W.2d 525, 527 (Iowa 1981).

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 record. *State v. Bass*, 349 N.W.2d 498, 500 (Iowa 1984). Circumstantial evidence is just as probative as direct evidence. *State v. Parrish*, 502 N.W.2d 1, 3 (Iowa 1993); *State v. Garr*, 461 N.W.2d 171, 173 (Iowa 1990). We consider all the evidence at trial, not just the evidence that supports the verdict. *State v. Liggins*, 524 N.W.2d 181, 186 (Iowa 1994). A verdict is binding unless the finding is clearly against the weight of the evidence. *State v. Schrier*, 300 N.W.2d 305, 306 (Iowa 1981).

We find substantial evidence in the record to support the jury's verdict. We affirm the district court.

AFFIRMED.