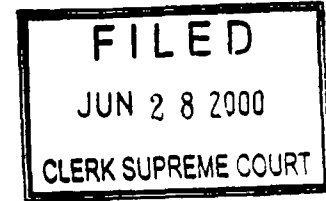


IN THE COURT OF APPEALS OF IOWA

No. 0-161 / 99-715
Filed June 28, 2000



STATE OF IOWA,
Plaintiff-Appellee,

vs.

STEVEN RAMEY, JR.,
Defendant-Appellant.

Appeal from the Iowa District Court for Linn County, L. Vern Robinson,
Judge.

Steven Ramey, Jr. appeals from the judgment and sentence entered upon
a jury verdict finding him guilty of assault causing bodily injury, domestic abuse,
penalty enhanced. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Robert P. Ranschau,
Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Denise A. Timmins, Assistant
Attorney General, Denver D. Dillard, County Attorney, and Jerry Vander Sanden,
Assistant County Attorney, for appellee.

Considered by Mahan, P.J., and Zimmer, J., and Peterson, S.J.*

*Senior Judge assigned by order pursuant to Iowa Code § 602.9206
(1999).

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PETERSON, S.J.

The defendant, Steven Ramey, Jr., appeals his conviction of assault causing ~~bodily injury~~. domestic abuse, penalty enhanced, in violation of Iowa Code sections 708.1 and 708.2(A)(4) (1997). He contends the district court erred in failing to grant his motion for judgment of acquittal based on insufficiency of the evidence to support his conviction. We affirm.

I. Background and Proceedings. On the evening of December 17, 1999, Cody Marquette, age fourteen, was visiting his mother, Shelly Marquette, at her home. Shelly and her companion, Karen Krause, were going to go out that evening and Cody was going to babysit for his brother, Taylor, age six.

In the early morning hours of December 17, Shelly and Karen came home. Cody woke up and came out of the bedroom and sat with Shelly and Karen at the table. Steven Ramey, Jr. came into the residence unannounced. Cody and Shelly told him to leave and Steven and Shelly began arguing. It soon escalated into a fighting situation and Steven struck Shelly in the face with his fist. He then knocked her down and hit her over the head at least four times with a floor lamp.

Cody then went into one of the bedrooms and phoned 911 and handed the phone to Karen because he did not know the address of his mother's residence. Cody went in the bedroom to make a phone call because the other phone had been torn from the wall by Steven.

When Cody came out of the bedroom he said the police had been summoned. At that point, Steven left the premises.

Cedar Rapids police officers Lyon Abodeely and Paul Pracher answered the call. Shelly advised them Steven had come to the residence and when he came in he was extremely upset. He began to hit her in the face with a fist and then grabbed the lamp and hit her over the head with it. He also struck her in her right hand in the thumb area. They observed a cut on the top of her head and the right side of her face was cut and her face was bruised. Her right thumb had a deep cut. They summoned medical personnel and Shelly was taken to the hospital.

The officers described the premises as being in disarray. There were coins on the floor, a plant, dirt, books, and some tables had been knocked over. The lamp Shelly told them Steven had hit her with was lying on the floor. They observed it was bent in a way that looked like she had been hit over the head. The lamp was described as a green halogen lamp of a post type. The top had been broken off and was lying on the floor.

At the trial, Shelly testified she and Karen had been at the Freeway Express, a local bar about two and one-half blocks from her residence. The route they took from the bar to Shelly's home was along some railroad tracks. Shelly said she fell while walking on the tracks and suffered the injuries that were observed by the officers.

When they got back to her residence, Karen tried to clean her injuries but Shelly said she would call Steven to come over and take her to the hospital. When Steven came over she contends he refused to take her to the hospital, and she became angry with him and struck him and started the fight. She contends

Steven did not strike her with the lamp. When asked about her statement to the police officers that Steven had assaulted her, she replied she did not recall.

II. Discussion. The standard of review for an insufficient of evidence claim is for corrections of errors at law. *State v. Thomas*, 561 N.W.2d 37, 39 (Iowa 1997). A jury's verdict of guilt is binding upon the court unless 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. *Thomas*, 561 N.W.2d at 39. Substantial evidence does not, however, denote an elevated quantity of proof. *State v. Anderson*, 517 N.W.2d 208, 211 (Iowa 1994). 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).

The jury is in the best position to assess credibility. *State v. Knox*, 536 N.W.2d 735, 742 (Iowa 1995). It is the jury's duty to sort out the credibility of witnesses and place credibility where it belongs. *State v. Trammell*, 458 N.W.2d 862, 863 (Iowa App. 1990). The jury may believe or disbelieve the testimony of witnesses as it chooses. *State v. Blair*, 347 N.W.2d 416, 421 (Iowa 1984).

In this situation, Cody's version of the facts was consistent with the testimony of officers Abodeely and Pracher. The lamp, which Cody said Steven

used to strike Shelly and as described by the officers, appeared to be bent as if an individual had been struck over the head with it.

When the officers arrived at the residence, Shelly told him Steven began to hit her in the face with his fist then grabbed a long, metal lamp and hit her over the head with it and also hit her on her right hand in the thumb area.

The jury was able to observe the witnesses and by their verdict found the testimony of Shelly about the source of the injuries was not credible. We believe there is substantial evidence in the record to support conviction in this matter. We affirm the trial court.

AFFIRMED.