FILED
JUN 26 1984
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,)

Plaintiff-Appellee,) Filed June 26, 1984 497

vs.)

HAROLD LLOYD BOYD,) 4-194
83-827

Defendant-Appellant.)

Appeal from the Iowa District Court for Marshall County - Russell J. Hill, Judge.

Defendant appeals his conviction of burglary in the second degree in violation of Iowa Code sections 713.1 and 713.3 (1981). AFFIRMED.

Charles Harrington, Appellate Defender, and LuAnn White, Assistant Appellate Defender, for defendant-appellant.

Thomas J. Miller, Attorney General, and Joseph P. Weeg, Assistant Attorney General, for plaintiff-appellee.

Considered by Snell, P.J., Hayden and Sackett, JJ.

Defendant appeals his conviction of burglary in the second degree in violation of Iowa Code sections 713.1 and 713.3 (1981). Defendant claims that there was insufficient evidence to find him guilty of the crime. We affirm.

Our review of criminal cases is ordinarily on assigned error. State v. Cullison, 227 N.W.2d 121, 126-27 (Iowa 1975). In reviewing a challenge based on insufficiency of the evidence, we consider all the evidence viewed in the light most favorable to the State. State v. Robinson, 288 N.W.2d 337, 340 (Iowa 1980). Evidence is substantial if it could convince a rational trier of fact that the defendant is guilty beyond a reasonable doubt. Id. at 339.

Defendant was charged with the burglary of the residence of Margaret Hatten on September 3, 1982, and again on September 7, 1982. Mrs. Hatten, a nursing home resident, owned a house directly across the street from Ethel Akers. On September 3, Mrs. Akers saw a red and white pickup truck in front of the Hatten house being loaded with furniture by several men. She called Hatten's conservator who reported the burglary to the police.

On September 7, Mrs. Akers noticed the same pickup at the Hatten home with two men inside and called the police. The police were dispatched at about 10:53 a.m. and arrived at the scene approximately twelve minutes later. The police discovered the truck partially loaded with furniture and the doors of the house pried open. No suspects were found at the scene. A neighbor testified that he saw defendant running across his backyard at 11:00 a.m. coming from the Hatten property.

The owner of the pickup, Terry Rhodes, testified that the defendant and Howard Stanley lived in a house owned by him. Rhodes testified that he lent his truck to the defendant and Stanley on September 7 as he had on several prior occasions. After being contacted by the police, Rhodes went to the house where defendant was living and discovered furniture which had been taken from the

Hatten residence. Defendant disappeared and was arrested three months later in another county.

The jury returned a verdict acquitting defendant of the count based on the September 3 burglary and convicting him of the count based on the September 7 burglary. We conclude that there was sufficient evidence to support the verdict. Although defendant was not apprehended or identified at the house, he was observed running away from the scene of the crime at about the time the police arrived. See State v. Duncan, 312 N.W.2d 519, 522 (Iowa 1981) (sufficient evidence of burglary of a boat when defendant is seen running away from the boat after an alarm was triggered). Furthermore, defendant was shown to be in possession of the pickup truck on the day of the crime and stolen property was found in his residence. Clearly, the evidence was sufficient to find that defendant was either the principal or an aider and abettor in the burglary.

AFFIRMED.