FILED
SEP 21 1978
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,

Appellee,

v.

JOHN WALK,

Appellant.

Filed September 21, 1978

572
60414

Appeal from Warren District Court - M. C. Herrick, Judge.

Defendant, convicted of receiving and concealing stolen goods, claims the trial court erred in denying him a continuance when his lawyer left the employ of the law firm representing him and that certain exhibits were inadmissible because they were not goods positively identified as stolen. Affirmed.

Mike Wilson Law Firm, of Des Moines, for appellant.

Richard C. Turner, Attorney General, Thomas A. Evans, Jr., Assistant Attorney General, and John W. Criswell, Warren County Attorney, for appellee.

Submitted to Donielson, Acting C.J., Snell, Oxberger and Carter, JJ.

PER CURIAM

469

Defendant, John Walk, appeals his conviction on four counts of receiving and concealing stolen property in violation of § 712.1, The Code 1975. We affirm.

Walk claims it was error for the trial court to deny him a continuance. The granting of a continuance is within the sound discretion of the trial court. State v. Youngbear, 229 N.W.2d 728, 734 (Iowa 1977). There was no abuse of this discretion here where, although the change in counsel was beyond Walk's control, the new counsel from the same firm would have had full access to all pertinent data regarding Walk's first trial and any subsequent preparation for the second trial. Any gap in briefing by the departing attorney could, in these circumstances, be more than compensated for within the 11 days remaining before trial. The continuance was properly denied.

Walk charges that two am/fm 8-track stereo tape deck units, Exhibits 3 and 5, should not have been admitted into evidence because they could not be positively identified by serial numbers as stolen goods. These units were found in Walk's basement along with two other units, Exhibits 2 and 4, which were identified by serial numbers in Count II and Count III of the Information and at trial. The Cliff's Travel Town employee testified there had been four such units stolen. He positively identified Exhibits 2 and 4 and testified the other units were by the same maker and were the same model as the stolen units. Likewise, the speakers and fire extinguishers admitted into evidence were identified as similar to the items stolen from the respective businesses. These kinds of items did not have a serial number for recordation and tracing. All of the exhibits Walk objects to are admissible since the State established their requisite similitude to stolen items. State v. Gray, 239 N.W.2d 584, 586 (Iowa 1976) held:

> . . . [t]he possession of the same kind as the general class of goods from which the taking was done is receivable, even though the specific quantity or any quantity of the general mass cannot be identified or discovered or shown to be missing. . . .

Walk's objections to the prosecution's inquiry regarding his employment status during 1976 are without merit. State v. Sheffey, 250 N.W.2d 51, 55 (Iowa 1977) reaffirmed the permissability of questioning regarding occupation unless it appears the right must be restricted to protect a witness from embarrassment, harassment, or threats to safety. No such circumstances appear here.

Walk's final argument concerns the State's inquiry about how many keys he had made with his key-making machine. After Walk had testified without objection during cross examination that he had had a key-making machine in his basement for approximately two years, he testified he had a number of blank keys and that he had "worked" the machine. Only when asked how many keys he had made with the machine did the objection come in. The key-making machine was first mentioned in the deputy sheriff's testimony regarding items found in Walk's basement during the search. No objection was made. Testimony by the employee of Cliff's Travel Town indicated, without objection, that entry into the trailers from which items were stolen was apparently by someone with a master key. Once the key-making machine evidence was before the jury, along with evidence that at least one break-in was by key, the question of how many keys Walk had made was both relevant and material. Further, an instrumentality in a defendant's possession or available to him, even when not identified as having actually been used in the crime charged, may be received in order to complete the picture of circumstances surrounding the event. State v. Nowlin, 244 N.W.2d 596, 602 (Iowa 1976).

Finding no error, we affirm Walk's conviction.

AFFIRMED.