IN THE COURT OF APPEALS OF IOWA

No. 5-417 / 94-377

STATE OF IOWA,

Appellee.

vs.

SHANE SUOMALA,

Appellant.

FILED
NOV 27 1995
CLERK SUPREME COURT

Appeal from the Iowa District Court for Clayton County, John Bauercamper, Judge.

Shane Suomala appeals his conviction, following a jury trial, for the crime of attempted murder. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Patricia Reynolds Lapointe, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General; Susan M. Crawford, Assistant Attorney General; Kevin H. Clefisch, County Attorney; and Stephen D. Saunders, Assistant County Attorney, for appellee.

Considered by Donielson, C.J., and Hayden and Cady, JJ.

CADY, J.

Defendant Shane Suomala was convicted of the crime of attempted murder, in violation of Iowa Code section 707.11. He now appeals his conviction, claiming there was insufficient evidence he had an intent to kill. We affirm.

On June 16, 1993, Suomala was living with his mother and her boyfriend, John Elledge, in a farm house near Gunder, Iowa. Another family lived in a separate house on the same farm. Suomala sometimes babysat the children of this family, including ten-year old Zachary Walter. Suomala, who was then nineteen, had taken Walter fishing once or twice, and had allowed him to help work on his car.

On the evening of June 16, Suomala and Elledge were sitting in their living room, drinking beer, eating sandwiches, and watching the movie "Delta Force II." Suomala testified that in the movie some men cut sugar cane with a machete. He stated:

> Something came over me. I don't know what it was. I went into my room, and on my wall I had a machete. And I grabbed it, and I went downstairs and outside.

Suomala then went next door and asked Walter to come outside to help him work on his car. Suomala admitted he actually had no intention of working on his car when he made this request.

As Walter went with Suomala towards the garage, Suomala suddenly turned and hit Walter on the head with the machete. The blow was made with such force it dented Walter's skull. Suomala struck Walter at least one more time. Walter put up his hand

to ward off the blows, and the machete severed one finger and almost severed the thumb. Suomala testified he then got scared and ran into a corn field.

Walter cried out several times for help. Elledge and Walter's babysitter ran outside and saw Walter lying in a pool of blood. They called the police. Before police officers arrived, Suomala came back to the house. He gave his machete to Elledge and asked him to kill him. Suomala helped Elledge move Walter to the porch of their house. When police officers arrived Suomala admitted he had attacked Walter with a machete.

Suomala was charged with the crime of attempted murder. A jury found him guilty of this crime. The district court sentenced him to a term of imprisonment not to exceed twenty-five years. Suomala appeals.

I. Defendant contends there is insufficient evidence in the record to support his conviction. He claims there was insufficient evidence he had the specific intent to kill Walter. He points out there was no evidence he displayed anger either before or after the incident. He states that because no logical explanation was put forth by any of the witnesses as a reason for the attack, there is insufficient evidence of his intent to kill.

When a criminal defendant challenges the sufficiency of evidence to support a conviction, we review all the evidence in the record in a light most favorable to the State. *State v. Garr*, 461 N.W.2d 171, 173 (Iowa 1990). We must uphold the conviction if there is substantial evidence in the record to support it. *State v. Frake*, 450 N.W.2d 817, 819 (Iowa 1990). Evidence is substantial when a reasonable mind

would accept it as adequate to reach a conclusion. *State v. Robinson*, 288 N.W.2d 337, 339 (Iowa 1980).

We believe there is sufficient evidence in the record to show defendant intended to kill Walter. At the trial, Suomala testified he did not intend to kill Walter. He did testify, however, he intended to "hurt him a lot." Additionally, Suomala admitted the attack could have killed Walter.

The medical evidence showed Walter could have died if he had not received prompt medical treatment. Walter lost about one-quarter to one-third of his total blood volume. The force of defendant's attack was such that it cut into Walter's skull and dented the bone. Part of one of Walter's fingers was severed and his thumb was almost severed from the hand. From the force used in the attack, the jury could infer defendant intended to kill Walter.

An intent to kill may be inferred from defendant's use of a deadly weapon with the opportunity to deliberate. *State v. Kouri*, 503 N.W.2d 393, 395 (Iowa 1993). The supreme court has previously determined a machete is a dangerous weapon. *State v. Franklin*, 368 N.W.2d 716, 719 (Iowa 1985). The evidence also shows defendant had an opportunity to deliberate. He asked Walter to come outside to help work on his car, even though he had no real intention of working on his car, but admitted he intended to hurt Walter.

We conclude there is sufficient evidence in the record to support defendant's conviction for attempted murder.

II. Defendant contends he received ineffective assistance of counsel. He claims his counsel was ineffective by failing to file notice of the defenses of intoxication and diminished responsibility. Defendant claims the evidence shows he was not in control of himself due to alcohol intoxication or a mental condition.

We determine the record before us is insufficient to allow us to address this issue. The decision to pursue specific defenses often involves tactical reasons, as well as the relative strengths and weakness in the supporting evidence. *See State v. Epps*, 322 N.W.2d 288, 292 (Iowa 1982). We conclude this issue should be preserved for postconviction proceedings where a more complete record can be developed.

We affirm defendant's conviction for attempted murder. We preserve for postconviction proceedings his claim of ineffective assistance of counsel.

AFFIRMED.