

IN THE COURT OF APPEALS OF IOWA

No. 0-492 / 89-1566

FILED

OCT 23 1990

CLERK SUPREME COURT

STATE OF IOWA,

Appellee,

vs.

399

TIMOTHY JOHN TITUS,

Appellant.

Appeal from the Iowa District Court for Black Hawk County, James D. Coil and Joseph Moothart, Judges.

Timothy John Titus appeals his conviction for carrying a dangerous weapon in violation of Iowa Code section 724.4. **AFFIRMED.**

Raymond E. Rogers, State Appellate Defender, and Patricia R. Lapointe, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General; Bruce Kempkes, Assistant Attorney General; James M. Metcalf, County Attorney; and Thomas Bower, Assistant County Attorney, for appellee.

Heard by Schlegel, P.J., and Hayden and Habhab, JJ.

HABHAB, J.

Timothy Titus was accused of possessing a device which combined a three and one-half inch knife blade with a set of "brass knuckles." Titus was charged with the crime of carrying a dangerous weapon, a violation of Iowa Code section 724.4. After a bench trial, he was convicted of that crime. He has appealed.

Our standard of review is well settled. A verdict will be upheld where there is substantial evidence to support the charge. State v. LeGear, 346 N.W.2d 21, 23 (Iowa 1984). 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. Id. 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).

At trial, the parties stipulated to the fact that the Titus was in his car and upon being stopped by the police was observed in possession of a combination brass knuckles/knife. The Iowa Supreme Court has outlined a two-part test to determine whether a weapon falls within the definition of "dangerous weapon" in section 702.7 of the Iowa Code. State v. Tusing, 344 N.W.2d 253 (Iowa

1984). The first part of the test is whether this instrument was designed primarily for use in inflicting death or injury upon a human being or animal. Id. at 254. This test is complied with because in Tusing the court held as a matter of law brass knuckles are "designed primarily for use in inflicting death or injury upon a human being or animal." Id. at 255. The fact that a knife was attached to the brass knuckles only establishes the application of the test even further. The second part of the test is the capability test: whether the weapon would inflict serious injury or death. The trial court found, and we agree, the three and one-half inch blade is capable of inflicting death upon a human being when used in the manner for which it was designed. The combination brass knuckle/knife is a dangerous weapon under section 702.7 of the Code.

We find substantial evidence to support the conviction of the appellant under Iowa Code section 724.4. The appellant did go armed with a dangerous weapon concealed on or about his person and did commit an aggravated misdemeanor.

AFFIRMED.