

IN THE COURT OF APPEALS OF IOWA

No. 1-706 / 11-0062
Filed October 19, 2011

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JOSEPH PETER JACKSON,
Defendant-Appellant.

Appeal from the Iowa District Court for Scott County, Mark J. Smith,
Judge.

Defendant appeals his convictions for second-degree burglary and false
imprisonment. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Stephan J. Japuntich,
Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Darrel Mullins, Assistant Attorney
General, Michael J. Walton, County Attorney, and Will Ripley, Assistant County
Attorney, for appellee.

Considered by Eisenhauer, P.J., and Doyle and Mullins, JJ.

EISENHAUER, P.J.

Following a jury trial, Joseph Jackson was convicted of second-degree burglary, false imprisonment, and two counts of assault resulting in bodily injury. Jackson appeals the burglary and false imprisonment convictions contending there is insufficient evidence to support the jury's verdicts. We affirm.

I. Scope and Standard of Review.

We review challenges to the sufficiency of the evidence to support a conviction for corrections of errors at law. *State v. Williams*, 695 N.W.2d 23, 27 (Iowa 2005). The jury's verdict is binding upon a reviewing court unless there is an absence of substantial evidence in the record to sustain it. *Fenske v. State*, 592 N.W.2d 333, 343 (Iowa 1999). Substantial evidence is evidence upon which a rational finder of fact could find a defendant guilty beyond a reasonable doubt. *State v. Rohm*, 609 N.W.2d 504, 509 (Iowa 2000). "When reviewing a challenge to the sufficiency of the evidence, we view the evidence in the light most favorable to the State, including legitimate inferences and presumptions which may fairly and reasonably be deduced from the evidence in the record." *State v. Leckington*, 713 N.W.2d 208, 213 (Iowa 2006). Additionally, the jury is "free to reject certain evidence and credit other evidence." *State v. Nitchev*, 720 N.W.2d 547, 559 (Iowa 2006).

II. Insufficient Evidence—Burglary.

Jackson contends insufficient evidence was presented to prove he had no right, license or privilege to be or remain at Alkia Ross's apartment. He contends "despite the contradictory testimony of Langan," he did not defy an order to leave Ross's apartment nor did he enter or remain in Ross's apartment without

permission or authority. Jackson did not testify at trial. Ross was a reluctant witness, and her testimony is equivocal.

It is undisputed Ross and her friend Katie Langan were at Ross's apartment in the early morning hours of August 19, 2010. Both women testified Jackson knocked on two outside windows and then entered the locked common area of the building after a neighbor gave him access to the inside of the building.

Langan testified:

Q. What happened, then, once [Jackson's] inside? A. He was banging on the door, telling us to let him in. And I told him . . . go away or I'm going to call the police on you. And he just kept talking through the door to [Ross] and kept banging on the door, so I acted like I did call the police.

. . . .

Q. How did he react to that? A. He said he was going to break the door down.

Q. Do you recall what he said? A. He said: Oh, now you did it. I'm going to get the door down.

Q. What happened then? A. [Ross] didn't want anybody . . . breaking into her apartment, so she got scared and opened the door. She didn't want her door broke down.

Ross testified she opened the door due to the commotion Jackson was making in the hallway and, as soon as the door was open, Jackson hit Langan. Ross also testified Langan "went into the bathroom and she locked the door."

Langan testified similarly:

Q. So as [Ross is] opening the door, what did you see? A. He had backed up He was going to run—like he was about to run and kick the door down, and he came in.

Q. And so once he saw the door was opening . . . what did he do then? A. He came in and punched me in my head.

. . . .

Q. So at most he took one step inside the apartment and punched you [above the eyebrow]; is that right? A. Um-hum.

. . . .

Q. So what happened after he hit you? A. When he punched me, I fell back into the bathroom—the bathroom is right by the door—and I just locked myself in there.

Q. Did you have a phone with you at that time? A. Yes.

. . . .

Q. About how long [do] you think it was from the time you went in the bathroom and the time [the police] arrived? . . . A. Probably two and a half, three hours.

Q. What were you doing during that time? A. Trying to get service on my phone . . . [t]o call 9-1-1.

While Langan was in the bathroom, Jackson punched Ross in the head and removed the SIM card from Ross's cell phone thereby disabling the phone. After Jackson was taken into custody, the police found the SIM card in his sock.

Ross testified she wasn't as much trying to get rid of Jackson as "trying to get him to shut up." Further: "I was trying to calm him down. I probably did say leave once or twice or something." Ross testified approximately two and a half hours passed between the time Langan went into the bathroom and the time the police arrived.

Langan testified to the conversations she heard while in the bathroom:

A. Basically [Ross] was trying to . . . get [Jackson] to calm down, trying to get him to leave, trying to leave herself, just anything, trying to get away from the situation.

Q. Did you ever hear [Jackson] say anything about [Ross] leaving or not leaving? A. Yeah. He told her she couldn't leave.

Q. How many times did you hear him say that; if you recall? A. More than twice, but I couldn't give you an exact number.

Q. . . . [D]escribe for the jury how he conveyed that message to her, that message that she wasn't leaving. A. She kept acting like she wanted to leave, and he just kept saying you're not going anywhere, you can't go anywhere, you're not leaving, you're not leaving.

Q. Did you want to leave the apartment? A. Yes.

Q. Could you? A. Probably not.

Q. Were you scared? A. Yes.

Jackson urges us to set aside his burglary conviction based on the fact Ross's testimony was more equivocal than Langan's testimony. However, "resolving conflicts in the evidence is for the jury and the jury could believe all, some, or none of the testimony." *State v. Forsyth*, 547 N.W.2d 833, 836 (Iowa Ct. App. 1996). A reasonable juror could conclude Jackson was asked to leave Ross's apartment and, rather than leave, Jackson remained in the apartment without permission. Therefore, substantial evidence supports the burglary conviction.

III. Insufficient Evidence—False Imprisonment.

Jackson contends the evidence is insufficient to prove false imprisonment because Ross testified she was not afraid of Jackson and because Langdon was not required to stay in the locked bathroom. Jackson was charged with a single count of false imprisonment with both Ross and Langan named as victims. Jackson argues the State did not prove "both Ross and Langan were confined involuntarily." The jury was instructed:

Under Count 2 the State must prove the following elements of the crime of False Imprisonment:

1. . . . [Jackson] intentionally confined Alkia Ross or Katie Langan.
2. Alkia Ross or Katie Langan were confined against their will.
3. [Jackson] did not have a reasonable belief that he had a right or authority to confine Alkia Ross or Katie Langan.

After Jackson's immediate assault of Langan, she hid in the locked bathroom for over two hours while she attempted to get cell phone service to place a call to the police. After assaulting Langan, Jackson assaulted Ross, disabled Ross's cell phone, and told Ross "you're not going anywhere, you can't

go anywhere, you're not leaving, you're not leaving." The police broke down the front door to the building to gain access to the apartment building. A reasonable juror could conclude both Langdon and Ross were confined involuntarily. Accordingly, substantial evidence supports the jury's verdict.

AFFIRMED.