

IN THE COURT OF APPEALS OF IOWA

No. 2-1155 / 12-0146
Filed February 13, 2013

STATE OF IOWA,
Plaintiff-Appellee,

vs.

ERIC LEE GARRETT,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, William Price, District Associate Judge.

Eric Garrett appeals from his convictions of two counts of domestic abuse assault, and one count of false imprisonment. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Martha J. Lucey, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Martha E. Trout, Assistant Attorney General, John Sarcone, County Attorney, and Michael Salvner, Assistant County Attorney, for appellee.

Considered by Potterfield, P.J., and Danilson and Tabor, JJ.

DANILSON, J.

Eric Garrett challenges the sufficiency of the evidence of a qualifying relationship to support his convictions of domestic abuse assault—second offense, in violation of Iowa Code section 708.2A(3)(b) (2011). Garrett was convicted following a trial to the court on the minutes of testimony. Because the record includes a report by the complaining witness that she was “assaulted by her boyfriend,” that they “do reside and cohabitate” at the same address, and that Garrett was recently released from prison after “serving time for a previous domestic on her,” there is sufficient evidence to support the trial court’s findings and the resulting convictions.¹ See Iowa Code §§ 236.2(2)(a) (stating an assault, as defined in section 708.1, committed between “household members who resided together at the time of the assault” is domestic abuse), 708.2A(1) (stating that “[f]or the purposes of this chapter, ‘domestic abuse assault’ means an assault, . . . which is domestic abuse as defined in section 236.2, subsection 2, paragraph ‘a’”); *State v. Kellogg*, 542 N.W.2d 514, 518 (Iowa 1996) (discussing factors in determining cohabitation). We affirm without further opinion. See Iowa Ct. R. 21.29 (b) and (e).

AFFIRMED.

¹ The defendant executed and filed a “Waiver of Jury Trial and Stipulation to Trial on the Minutes of Testimony” that states, in part:

I am charged in my true and correct name. I have read the Trial Information and understand the charge(s) against me and I wish to waive my right to a jury trial and stipulate to a trial on the minutes of testimony. I am knowingly, voluntarily and intelligently waiving my right to a jury trial and stipulating to a trial on the minutes of testimony because the minutes of testimony would suffice for a conviction at trial and it is my best interest to agree to a stipulation on the minutes.

The defendant also executed a separate written waiver of jury trial.