

**IN THE COURT OF APPEALS OF IOWA**

No. 3-340 / 12-0371  
Filed June 26, 2013

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**LAMONT MONTAY NICHOLS,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Woodbury County, John D. Ackerman, Judge.

Lamont Nichols appeals his conviction for robbery in the second degree, alleging his assault on the victim was unconnected to his companions' thefts.

**AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Nan Jennisch, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Tyler J. Buller, Assistant Attorney General, Patrick Jennings, County Attorney, and James Loomis, Assistant County Attorney, for appellee.

Considered by Eisenhauer, C.J., and Potterfield and Tabor, JJ.

**TABOR, J.**

Lamont Nichols challenges the sufficiency of the evidence for his second-degree robbery conviction. Nichols concedes he assaulted Joseph Lefebvre and his friends took property from Lefebvre's apartment. But Nichols claims the State's case was missing a connection between the assault and the thefts.

Viewing the evidence in the light most favorable to the district court's verdict, we find adequate proof Nichols had the specific intent to commit a theft and assaulted Lefebvre, at least in part, to facilitate the removal of valuables from the victim's apartment and Nichols's exit from the scene.

***I. Background Facts and Prior Proceedings***

Nichols and Lefebvre fought outside a Sioux City after-hours club in the early morning hours of May 21, 2011. Lefebvre knocked Nichols to the ground and kicked him in the head, causing him to lose consciousness. Later that day, Nichols had revenge on his mind.

Nichols and four companions drove to Lefebvre's apartment, where they encountered Lefebvre's girlfriend, Aisha Reed, outside the door. Lefebvre and his seven-year-old son were inside. Nichols told Reed "there was going to be a problem." Then Nichols, Ernest Jeffries, Rufus Stevens, and Terry Baker all entered the apartment behind Reed. Eduardo Mendez waited for Nichols and company in the car.

Lefebvre heard his son scream and then saw Nichols, Jeffries, Stevens, and Baker lined up in his hallway. Nichols demanded to know where the drugs and money were. Lefebvre replied: "[T]here's nothing here. There's nothing to

steal.” Lefebvre then recalled the intruders started to punch him in the hallway. Nichols told Lefebvre: “This is what you get from last night.”

Nichols and another man pushed Lefebvre into the bathroom and onto the floor, where they continued hitting him, as the other two intruders split off into Lefebvre’s bedroom and living room. From his vantage point in the small apartment, Lefebvre could see one intruder trying to remove the television from the living room. When Nichols and the others fled the apartment, Lefebvre—who felt “excruciating pain” in his head and back—eased himself up from the bathroom floor.

Mendez recalled Jeffries coming back to the vehicle from Lefebvre’s apartment, carrying a couple of hats and some shoes. Mendez “popped” the trunk so Jeffries could load up the items. Mendez testified that he could not see if his other companions placed goods in the trunk. Reed testified that a DVD player and television were also missing from her boyfriend’s apartment. When Mendez dropped Nichols off at a residence, Nichols asked Mendez to open the trunk. When police executed a search warrant later that day at the home of Nichols’s girlfriend, officers found Nichols hiding in a back closet with a television that had been taken from Lefebvre’s bedroom.

In a trial information filed on May 31, 2011, the State charged Nichols with burglary in the first degree, assault while participating in a felony, theft in the fourth degree, robbery in the second degree, and conspiracy to commit a forcible felony. The State also alleged Nichols to be an habitual offender.

Nichols waived his right to a jury trial—opting instead for a bench trial, which started on November 15, 2011, and lasted five days. The district court found Nichols guilty on all five counts in its verdict filed December 13, 2011. On February 7, 2012, Nichols appeared before the court and admitted his status as an habitual offender for the robbery conviction. The court merged the assault while participating in a felony and conspiracy counts into the burglary offense. The court sentenced Nichols to indeterminate terms of twenty-five years on the first-degree burglary conviction, fifteen years on the second-degree robbery conviction (including a mandatory minimum of seven years), and one year on the theft conviction, to be served concurrently. Nichols’s appeal challenges only his second-degree robbery conviction.

## ***II. Analysis***

Nichols asserts “the record does not establish a sufficient nexus between the assault on the victim and the theft of the victim’s property for purposes of the robbery offense.” He argues without that nexus, he should have been acquitted. Robbery requires proof of two elements: (1) the defendant had the specific intent to commit a theft, and (2) in carrying out that intent or to assist in escaping from the scene—with or without the stolen property—the defendant committed an assault. Iowa Code §§ 711.1, .3 (2011).

The district court determined the State established by proof beyond a reasonable doubt that Nichols harbored the specific intent to commit a theft. The court highlighted evidence that Nichols entered Lefebvre’s apartment uninvited

and demanded to know where Lefebvre kept the drugs and money. Shortly thereafter, Nichols repeatedly struck Lefebvre. The court found:

[I]t was obvious to the defendant that while he was assaulting Lefebvre, Jeffries and/or Stevens were looking through the personal property in Lefebvre's bedroom and removing [it] from the bedroom. The defendant assisted Stevens and Jeffries with taking several items of property from Lefebvre's apartment and putting them in Mendez's trunk. Ultimately, the defendant was found with the DVD player and the TV at his girlfriend's apartment later that evening.

The district court further decided the State carried its burden to show Nichols committed multiple assaults upon Lefebvre to carry out his intent to commit a theft, "as well as to assist in him being able to leave the apartment with the property."

We are bound by the district court's finding of guilt unless we fail to find substantial evidence in the record to support its verdict. *State v. Abbas*, 561 N.W.2d 72, 74 (Iowa 1997). In determining whether the evidence could be considered substantial, we view the evidence in the light most favorable to the State. *Id.* "Substantial evidence means such evidence as could convince a rational trier of fact the defendant is guilty beyond a reasonable doubt." *Id.* We consider all the evidence presented, not just those facts supporting a finding of guilt. *Id.* We also accept as established all legitimate inferences that may be fairly and reasonably deduced from the record. *State v. Fink*, 320 N.W.2d 632, 633 (Iowa Ct. App. 1982).

We disagree with Nichols's assertion that his assaults on Lefebvre stand separate and distinct from his companions' simultaneous acts of taking of the victim's property. Nichols told Lefebvre he was looking for things of value (drugs

and money), and Lefebvre responded he did not have anything to steal. The district court could reasonably deduce Nichols's intent to commit a theft from his words and confrontational acts. See *State v. Radeke*, 444 N.W.2d 476, 478–79 (Iowa 1989) (finding defendant's intent may be gathered from his own words and actions in light of the surrounding circumstances).

Nichols used the circumstances of his prolonged assault on Lefebvre to effect the robbery. See *Fink*, 320 N.W.2d at 633 (upholding robbery conviction where assault was completed before defendant took victim's money). Nichols incapacitated Lefebvre while his accomplices left the apartment with the victim's belongings. The district court could reasonably infer from the evidence that Nichols returned to Mendez's car with knowledge that the group was leaving with stolen property, and indeed, Nichols shared in the ill-gotten gains. Nichols's presence at the crime scene, his immobilization of the victim, and his companionship with the other intruders before and after the thefts, provides sufficient evidence from which to infer his active participation in the robbery. See *State v. Hearn*, 797 N.W.2d 577, 581 (Iowa 2011). While Nichols's primary goal may have been to "exact revenge" by assaulting Lefebvre, a rational trier of fact could believe Nichols's attack was motivated, at least in part, by an intent to steal Lefebvre's property. See *State v. Keaton*, 710 N.W.2d 531, 535 (Iowa 2006) (holding evidence is not insubstantial because the fact finder may draw various inferences from it).

**AFFIRMED.**